JOSEFINA S. LUBRICA, IN HER CAPACITY AS ASSIGNEE OF FEDERICO C. SUNTAY, NENITA SUNTAY TAÑEDO AND EMILIO A.M. SUNTAY III, PETITIONERS, VS. LAND BANK OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 170220. November 20, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails the October 27, 2005 Amended Decision[1] of the Court of Appeals in CA-G.R. SP No. 77530, which vacated its May 26, 2004 Decision affirming (a) the Order of the Regional Trial Court of San Jose, Occidental Mindoro, Branch 46, acting as Special Agrarian Court, in Agrarian Case Nos. R-1339 and R-1340, dated March 31, 2003 directing respondent Land Bank of the Philippines (LBP) to deposit the provisional compensation as determined by the Provincial Agrarian Reform Adjudicator (PARAD); (b) the May 26, 2003 Resolution denying LBP's motion for reconsideration; and (c) the May 27, 2003 Order requiring Teresita V. Tengco, LBP's Land Compensation Department Manager, to comply with the March 31, 2003 Order.

The facts of the case are as follows:

Petitioner Josefina S. Lubrica is the assignee[2] of Federico C. Suntay over certain parcels of agricultural land located at Sta. Lucia, Sablayan, Occidental Mindoro, with an area of 3,682.0285 hectares covered by Transfer Certificate of Title (TCT) No. T-31 (T-1326)[3] of the Registry of Deeds of Occidental Mindoro. In 1972, a portion of the said property with an area of 311.7682 hectares, was placed under the land reform program pursuant to Presidential Decree No. 27 (1972)[4] and Executive Order No. 228 (1987).[5] The land was thereafter subdivided and distributed to farmer beneficiaries. The Department of Agrarian Reform (DAR) and the LBP fixed the value of the land at P5,056,833.54 which amount was deposited in cash and bonds in favor of Lubrica.

On the other hand, petitioners Nenita Suntay-Tañedo and Emilio A.M. Suntay III inherited from Federico Suntay a parcel of agricultural land located at Balansay, Mamburao, Occidental Mindoro covered by TCT No. T-128[6] of the Register of Deeds of Occidental Mindoro, consisting of two lots, namely, Lot 1 with an area of 45.0760 hectares and Lot 2 containing an area of 165.1571 hectares or a total of 210.2331 hectares. Lot 2 was placed under the coverage of P.D. No. 27 but only 128.7161 hectares was considered by LBP and valued the same at P1,512,575.05.

Petitioners rejected the valuation of their properties, hence the Office of the Provincial Agrarian Reform Adjudicator (PARAD) conducted summary administrative proceedings for determination of just compensation. On January 29, 2003, the PARAD fixed the preliminary just compensation at P51,800,286.43 for the 311.7682 hectares (TCT No. T-31) and P21,608,215.28 for the 128.7161 hectares (TCT No. T-128).[7]

Not satisfied with the valuation, LBP filed on February 17, 2003, two separate petitions[8] for judicial

determination of just compensation before the Regional Trial Court of San Jose, Occidental Mindoro, acting as a Special Agrarian Court, docketed as Agrarian Case No. R-1339 for TCT No. T-31 and Agrarian Case No. R-1340 for TCT No. T-128, and raffled to Branch 46 thereof.

Petitioners filed separate Motions to Deposit the Preliminary Valuation Under Section 16(e) of Republic Act (R.A.) No. 6657 (1988)[9] and Ad Cautelam Answer praying among others that LBP deposit the preliminary compensation determined by the PARAD.

On March 31, 2003, the trial court issued an Order[10] granting petitioners' motion, the dispositive portion of which reads:

> WHEREFORE, Ms. Teresita V. Tengco, of the Land Compensation Department I (LCD I), Land Bank of the Philippines, is hereby ordered pursuant to Section 16 (e) of RA 6657 in relation to Section 2, Administrative Order No. 8, Series of 1991, to deposit the provisional compensation as determined by the PARAD in cash and bonds, as follows:
>
> - In Agrarian Case No. R-1339, the amount of P 51,800,286.43, minus the amount received by the Landowner;
>
> - In Agrarian Case No. R-1340, the amount of P 21,608,215.28, less the amount of P 1,512,575.16, the amount already deposited.
>
> Such deposit must be made with the Land Bank of the Philippines, Manila within five (5) days from receipt of a copy of this order and to notify this court of her compliance within such period.
>
> Let this order be served by the Sheriff of this Court at the expense of the movants.
>
> SO ORDERED.[11]

LBP's motion for reconsideration was denied in a Resolution[12] dated May 26, 2003. The following day, May 27, 2003, the trial court issued an Order[13] directing Ms. Teresita V. Tengco, LBP's Land Compensation Department Manager, to deposit the amounts.

Thus, on June 17, 2003, LBP filed with the Court of Appeals a Petition for Certiorari and Prohibition under Rule 65 of the Rules of Court with application for the issuance of a Temporary Restraining Order and Writ of Preliminary Injunction docketed as CA-G.R. SP No. 77530.[14]

On June 27, 2003, the appellate court issued a 60-day temporary restraining order[15] and on October 6, 2003, a writ of preliminary injunction.[16]

On May 26, 2004, the Court of Appeals rendered a Decision[17] in favor of the petitioners, the dispositive portion of which reads:

> WHEREFORE, premises considered, there being no grave abuse of discretion, the instant Petition for Certiorari and Prohibition is DENIED. Accordingly, the Order dated March 31, 2003, Resolution dated May 26, 2003, and Order dated May 27, 2003 are hereby AFFIRMED. The preliminary injunction We previously issued is hereby LIFTED and DISSOLVED.
>
> SO ORDERED.[18]

The Court of Appeals held that the trial court correctly ordered LBP to deposit the amounts provisionally determined by the PARAD as there is no law which prohibits LBP to make a deposit pending the fixing of the final amount of just compensation. It also noted that there is no reason for LBP to further delay the deposit considering that the DAR already took possession of the properties and distributed the same to farmer-beneficiaries as early as 1972.

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LBP moved for reconsideration which was granted. On October 27, 2005, the appellate court rendered the assailed Amended Decision,[19] the dispositive portion of which reads:

> Wherefore, in view of the prescription of a different formula in the case of Gabatin which We hold as cogent and compelling justification necessitating Us to effect the reversal of Our judgment herein sought to be reconsidered, the instant Motion for Reconsideration is GRANTED, and Our May 26, 2004 Decision is hereby VACATED and ABANDONED with the end in view of giving way to and acting in harmony and in congruence with the tenor of the ruling in the case of Gabatin. Accordingly, the assailed rulings of the Special Agrarian Court is (sic) commanded to compute and fix the just compensation for the expropriated agricultural lands strictly in accordance with the mode of computation prescribed (sic) Our May 26, 2004 judgment in the case of Gabatin.
>
> SO ORDERED.[20]

In the Amended Decision, the Court of Appeals held that the immediate deposit of the preliminary value of the expropriated properties is improper because it was erroneously computed. Citing Gabatin v. Land Bank of the Philippines,[21] it held that the formula to compute the just compensation should be: Land Value = 2.5 x Average Gross Production x Government Support Price. Specifically, it held that the value of the government support price for the corresponding agricultural produce (rice and corn) should be computed at the time of the legal taking of the subject agricultural land, that is, on October 21, 1972 when landowners were effectively deprived of ownership over their properties by virtue of P.D. No. 27. According to the Court of Appeals, the PARAD incorrectly used the amounts of P500 and P300 which are the prevailing government support price for palay and corn, respectively, at the time of payment, instead of P35 and P31, the prevailing government support price at the time of the taking in 1972.

Hence, this petition raising the following issues:

> - THE COURT A QUO HAS DECIDED THE CASE IN A WAY NOT IN ACCORD WITH THE LATEST DECISION OF THE SUPREME COURT IN THE CASE OF LAND BANK OF THE PHILIPPINES VS. HON. ELI G.C. NATIVIDAD, ET AL., G.R. NO. 127198, PROM. MAY 16, 2005; and[22]
>
> - THE COURT A QUO HAS, WITH GRAVE GRAVE ABUSE OF DISCRETION, SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, DECIDING ISSUES THAT HAVE NOT BEEN RAISED, AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION.[23]

Petitioners insist that the determination of just compensation should be based on the value of the expropriated properties at the time of payment. Respondent LBP, on the other hand, claims that the value of the realties should be computed as of October 21, 1972 when P.D. No. 27 took effect.

The petition is impressed with merit.

In the case of Land Bank of the Philippines v. Natividad,[24] the Court ruled thus:

> Land Bank's contention that the property was acquired for purposes of agrarian reform on October 21, 1972, the time of the effectivity of PD 27, ergo just compensation should be based on the value of the property as of that time and not at the time of possession in 1993, is likewise erroneous. In Office of the President, Malacañang, Manila v. Court of Appeals, we ruled that the seizure of the landholding did not take place on the date of effectivity of PD 27 but would take effect on the payment of just compensation.

The Natividad case reiterated the Court's ruling in Office of the President v. Court of Appeals[25] that the expropriation of the landholding did not take place on the effectivity of P.D. No. 27 on October 21, 1972 but seizure would take effect on the payment of just compensation judicially determined.

Likewise, in the recent case of Heirs of Francisco R. Tantoco, Sr. v. Court of Appeals,[26] we held that expropriation of landholdings covered by R.A. No. 6657 take place, not on the effectivity of the Act on June 15, 1988, but on the payment of just compensation.

In the instant case, petitioners were deprived of their properties in 1972 but have yet to receive the just compensation therefor. The parcels of land were already subdivided and distributed to the farmer-beneficiaries thereby immediately depriving petitioners of their use. Under the circumstances, it would be highly inequitable on the part of the petitioners to compute the just compensation using the values at the time of the taking in 1972, and not at the time of the payment, considering that the government and the farmer-beneficiaries have already benefited from the land although ownership thereof have not yet been transferred in their names. Petitioners were deprived of their properties without payment of just compensation which, under the law, is a prerequisite before the property can be taken away from its owners.[27] The transfer of possession and ownership of the land to the government are conditioned upon the receipt by the landowner of the corresponding payment or deposit by the DAR of the compensation with an accessible bank. Until then, title remains with the landowner.[28]

Our ruling in Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform[29] is instructive, thus:

> It is true that P.D. No. 27 expressly ordered the emancipation of tenant-farmer as October 21, 1972 and declared that he shall "be deemed the owner" of a portion of land consisting of a family-sized farm except that "no title to the land owned by him was to be actually issued to him unless and until he had become a full-fledged member of a duly recognized farmer's cooperative." It was understood, however, that full payment of the just compensation also had to be made first, conformably to the constitutional requirement.
>
> When E.O. No. 228, categorically stated in its Section 1 that:
> All qualified farmer-beneficiaries are now deemed full owners as of October 21, 1972 of the land they acquired by virtue of Presidential Decree No. 27 (Emphasis supplied.)

it was obviously referring to lands already validly acquired under the said decree, after proof of full-fledged membership in the farmers' cooperatives and full payment of just compensation. x x x

The CARP Law, for its part, conditions the transfer of possession and ownership of the land to the government on receipt by the landowner of the corresponding payment or the deposit by the DAR of the compensation in cash or LBP bonds with an accessible bank. Until then, title also remains with the landowner. No outright change of ownership is contemplated either.

We also note that the expropriation proceedings in the instant case was initiated under P.D. No. 27 but the agrarian reform process is still incomplete considering that the just compensation to be paid to petitioners has yet to be settled. Considering the passage of R.A. No. 6657 before the completion of this process, the just compensation should be determined and the process concluded under the said law. Indeed, R.A. No. 6657 is the applicable law, with P.D. No. 27 and E.O. No. 228 having only suppletory effect.[30]

In Land Bank of the Philippines v. Court of Appeals,[31] we held that:

> RA 6657 includes PD 27 lands among the properties which the DAR shall acquire and distribute to the landless. And to facilitate the acquisition and distribution thereof, Secs. 16, 17 and 18 of the Act should be adhered to.

Section 18 of R.A. No. 6657 mandates that the LBP shall compensate the landowner in such amount as may be agreed upon by the landowner and the DAR and the LBP or as may be finally determined by the court as the just compensation for the land. In determining just compensation, the cost of the acquisition of the land, the current

value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the government to the property as well as the nonpayment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.[32]

Corollarily, we held in Land Bank of the Philippines v. Celada[33] that the above provision was converted into a formula by the DAR through Administrative Order No. 05, S. 1998, to wit:

Land Value (LV) = (Capitalized Net Income x 0.6) + (Comparable Sales x 0.3) + (Market Value per Tax Declaration x 0.1)

Petitioners were deprived of their properties way back in 1972, yet to date, they have not yet received just compensation. Thus, it would certainly be inequitable to determine just compensation based on the guideline provided by P.D. No. 227 and E.O. No. 228 considering the failure to determine just compensation for a considerable length of time. That just compensation should be determined in accordance with R.A. No. 6657 and not P.D. No. 227 or E.O. No. 228, is important considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample.[34]

WHEREFORE, premises considered, the petition is GRANTED. The assailed Amended Decision dated October 27, 2005 of the Court of Appeals in CA-G.R. SP No. 77530 is REVERSED and SET ASIDE. The Decision dated May 26, 2004 of the Court of Appeals affirming (a) the March 31, 2003 Order of the Special Agrarian Court ordering the respondent Land Bank of the Philippines to deposit the just compensation provisionally determined by the PARAD; (b) the May 26, 2003 Resolution denying respondent's Motion for Reconsideration; and (c) the May 27, 2003 Order directing Teresita V. Tengco, respondent's Land Compensation Department Manager to comply with the March 31, 2003 Order, is REINSTATED. The Regional Trial Court of San Jose, Occidental Mindoro, Branch 46, acting as Special Agrarian Court is ORDERED to proceed with dispatch in the trial of Agrarian Case Nos. R-1339 and R-1340, and to compute the final valuation of the subject properties based on the aforementioned formula.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 30-35. Penned by Associate Justice Rosmari D. Carandang and concurred in by Associate Justices Godardo A. Jacinto and Elvi John S. Asuncion.

[2] CA rollo, p. 157.

[3] Id. at 65-88.

[4] DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR.

[5] DECLARING FULL LAND OWNERSHIP TO QUALIFIED FARMER BENEFICIARIES COVERED BY PRESIDENTIAL DECREE NO. 27: DETERMINING THE VALUE OF REMAINING UNVALUED RICE AND CORN LANDS SUBJECT TO P.D. NO. 27; AND PROVIDING FOR THE MANNER OF PAYMENT BY THE FARMER BENEFICIARY AND MODE OF COMPENSATION TO THE LANDOWNER.

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[6] CA rollo, pp. 89-95.

[7] Id. at 96-118.

[8] Id. at 119-133.

[9] Comprehensive Agrarian Reform Law of 1988.

[10] CA rollo, pp. 51-54. Penned by Judge Ernesto P. Pagayatan.

[11] Id. at 53-54.

[12] Id. at 55-62.

[13] Id. at 63-64.

[14] Id. at 2-50.

[15] Id. at 220-222.

[16] Id. at 355-356.

[17] Id. at 481-491.

[18] Id. at 490-491.

[19] Id. at 514-518.

[20] Rollo, p. 34.

[21] G.R. No. 148223, November 25, 2004, 444 SCRA 176.

[22] Rollo, p. 18.

[23] Id. at 22.

[24] G.R. No. 127198, May 16, 2005, 458 SCRA 441, 451.

[25] 413 Phil. 711 (2001).

[26] G.R. No. 149621, May 5, 2006, SC E-Library.

[27] Id.

[28] Roxas & Co., Inc. v. Court of Appeals, 378 Phil. 727, 755 (1999).

[29] G.R. Nos. 78742, 79310, 79744 & 79777, July 14, 1989, 175 SCRA 343, 390-391.

[30] Land Bank of the Philippines v. Natividad, supra note 24 at 451-452; Paris v. Alfeche, 416 Phil. 473, 488 (2001); Land Bank of the Philippines v. Court of Appeals, 378 Phil. 1248, 1260-1261.

[31] Id. at 1261.

[32] Republic Act No. 6657 (1988), Sec. 17.

[33] G.R. No. 164876, January 23, 2006, 479 SCRA 495, 508-509.

[34] Land Bank of the Philippines v. Natividad, supra note 24 at 452, citing Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform, supra note 29.

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