

AMOS P. FRANCIA, JR., CECILIA P. FRANCIA, AND HEIRS OF BENJAMIN P. FRANCIA PETITIONERS, VS. MUNICIPALITY OF MEYCAUAYAN, RESPONDENT.

G.R. No. 170432. March 24, 2008

Ponente: CORONA, J.

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CORONA, J.:

On February 6, 2003, respondent Municipality of Meycauayan, Bulacan filed a complaint for expropriation[1] against petitioners Amos P. Francia, Jr., Cecilia P. Francia and Benjamin P. Francia[2] in the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 16. Respondent needed petitioners' 16,256 sq. m. idle property at the junction of the North Expressway, Malhacan-Iba-Camalig main road artery and the MacArthur Highway.[3] It planned to use it to establish a common public terminal for all types of public utility vehicles with a weighing scale for heavy trucks.

In their answer,[4] petitioners denied that the property sought to be expropriated was raw land. It was in fact developed[5] and there were plans for further development. For this reason, respondent's offer price of P2,333,500 (or P111.99 per square meter) was too low.

After trial, the RTC ruled that the expropriation was for a public purpose. The construction of a common terminal for all public utility conveyances (serving as a two-way loading and unloading point for commuters and goods) would improve the flow of vehicular traffic during rush hours. Moreover, the property was the best site for the proposed terminal because of its accessibility. Thus, on November 8, 2004, the RTC issued the following order:[6]

WHEREFORE, premises considered, after [respondent] has deposited with this Court the fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated, it may take immediate possession of the property upon issuance of writ of possession that this court will issue for that purpose.

Further, the purposes of assessment and determination of the area needed that will suit the purpose of expropriation and just compensation of the lot sought to be expropriated, the court hereby appoints commissioners to be composed of the officer-in-charge of this court, Lerida Socorro E. Joson and one each from [respondent] and [petitioners].

Notify all parties concerned.

SO ORDERED.[7]

Petitioners moved for the reconsideration of the November 8, 2004 order but the motion was denied in an order dated January 31, 2005.

Aggrieved, petitioners filed a petition for certiorari in the Court of Appeals (CA) contending that the RTC committed grave abuse of discretion in issuing its November 8, 2004 and January 31, 2005 orders. They claimed

that the trial court issued the orders without conducting a hearing to determine the existence of a public purpose.

On July 28, 2005, the CA rendered a decision[8] partially granting the petition. Finding that petitioners were deprived of an opportunity to controvert respondent's allegations, the appellate court nullified the order of expropriation except with regard to the writ of possession. According to the CA, a hearing was not necessary because once the expropriator deposited the required amount (with the Court), the issuance of a writ of possession became ministerial.

Petitioners moved for partial reconsideration but their motion was denied. Hence, this recourse.

Petitioners essentially aver that the CA erred in upholding the RTC's orders that, in expropriation cases, prior determination of the existence of a public purpose was not necessary for the issuance of a writ of possession.

We deny the petition.

Section 19 of Republic Act 7160[9] provides:

Section 19. Eminent Domain. "A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose, or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws; Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and that such offer was not accepted; Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated; Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property. (emphasis supplied)[10]

Before a local government unit may enter into the possession of the property sought to be expropriated, it must (1) file a complaint for expropriation sufficient in form and substance in the proper court and (2) deposit with the said court at least 15% of the property's fair market value based on its current tax declaration.[11] The law does not make the determination of a public purpose a condition precedent to the issuance of a writ of possession.[12]

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Docketed as Civil Case No. 296-M-2003. Annex "G," rollo, pp. 146-152. The complaint was filed pursuant to Municipal Ordinance No. 2002-14 authorizing the Municipality of Meycauayan to institute expropriation proceedings for the acquisition of petitioners' property. The said ordinance was approved by the Sangguniang Panlalawigan of the Province of Bulacan in Kapasiyahan Blg. 376-T on August 15, 2002.

[2] Petitioner Benjamin P. Francia was substituted by his heirs upon his death pursuant to Rule 3, Section 16 of the Rules of Court.

[3] Covered by TCT No. 123604 (M).

[4] Annex "H," rollo, pp. 153-160.

[5] Among its improvements were a Caltex gasoline station and a hollow blocks factory.

[6] Penned by Judge Thelma R. Pinero-Cruz. Annex "B," rollo, pp. 124-126.

[7] *Id.*, p. 126.

[8] Penned by Associate Justice Marina L. Buzon and concurred in by Associate Justices Mario L. Guariña III and Santiago Javier Ranada (retired) of the Tenth Division of the Court of Appeals. Dated July 28, 2005. *Id.*, pp. 106-123.

[9] The Local Government Code of 1991.

[10] Cf. Rules and Regulations Implementing RA 7160, Rule VI, Art. 36:

Article 36. Expropriation proceedings. (a) If the [local government unit (LGU)] fails to acquire a private property for public use, purpose or welfare through purchase, LGU may expropriate said property through a resolution of the sanggunian authorizing its chief executive to initiate expropriation proceedings.

(b) The local chief executive shall cause the provincial, city, or municipal attorney concerned or, in his absence, the provincial or city prosecutor, to file expropriation proceedings in the proper court in accordance with the Rules of Court and other pertinent laws.

(c) The LGU may immediately take possession of the property upon filing of expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated. (emphasis supplied)

[11] See *Robern Development Corporation v. Judge Quitain*, 373 Phil. 773, 794-801 (1999). See also *Biglang-awa v. Hon. Bacalla*, 399 Phil. 308, 317-325 (2000).

[12] *City of Iloilo v. Legaspi*, G.R. No. 154614, 25 November 2004, 444 SCRA 269, 283 citing *City of Manila v. Serrano*, 412 Phil. 754, 763 (2001).

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