LAND BANK OF THE PHILIPPINES, PETITIONER, VS. ENRIQUE LIVIOCO, RESPONDENT.

G.R. No. 170685. September 22, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

When the evidence received by the trial court are irrelevant to the issue of just compensation and in total disregard of the requirements provided under Section 17 of the Comprehensive Agrarian Reform Law, the Court is left with no evidence on record that could aid in the proper resolution of the case. While remand is frowned upon for obviating the speedy dispensation of justice, it becomes necessary to ensure compliance with the law and to give everyone - the landowner, the farmers, and the State - their due.

This is a Petition for Review under Rule 45, assailing the August 30, 2005 Decision[1] of the Court of Appeals (CA), as well as its December 5, 2005 Resolution[2] in CA-GR SP No. 83138. The dispositive portion of the assailed Decision reads as follows:

> WHEREFORE, premises considered, the petition is DENIED. The Decision dated January 29, 2004 and the Order dated March 16, 2004 of the RTC, Branch 56, Angeles City in Civil Case No. 10405 are hereby AFFIRMED.[3]

Factual Antecedents

Petitioner Land Bank of the Philippines (LBP) is the government financial institution[4] established to aid in the implementation of the Comprehensive Agrarian Reform Program (CARP) as well as to act as financial intermediary of the Agrarian Reform Fund.[5]

Respondent Enrique Livioco (Livioco) was the owner of 30.6329 hectares of sugarland[6] located in Dapdap, Mabalacat, Pampanga. Sometime between 1987 and 1988,[7] Livioco offered his sugarland to the Department of Agrarian Reform (DAR) for acquisition under the CARP at P30.00 per square meter, for a total of P9,189,870.00. The voluntary-offer-to-sell (VOS) form[8] he submitted to the DAR indicated that his property is adjacent to residential subdivisions and to an international paper mill.[9]

The DAR referred Livioco's offer to the LBP for valuation.[10] Following Section 17 of Republic Act (RA) No. 6657 and DAR Administrative Order No. 17, series of 1989,[11] as amended by Administrative Order No. 3, series of 1991,[12] the LBP set the price at P3.21 per square meter or a total of P827,943.48 for 26 hectares.[13] Livioco was then promptly informed of the valuation[14] and that the cash portion of the claim proceeds have been "kept in trust pending [his] submission of the [ownership documentary] requirements."[15] It appears however that Livioco did not act upon the notice given to him by both government agencies. On September 20, 1991, LBP issued a certification to the Register of Deeds of Pampanga that it has earmarked the amount of P827,943.48 as compensation for Livioco's 26 hectares.[16]

It was only two years later[17] that Livioco requested for a reevaluation of the compensation on the ground that

its value had already appreciated from the time it was first offered for sale.[18] The request was denied by Regional Director Antonio Nuesa on the ground that there was already a perfected sale.[19]

The DAR proceeded to take possession of Livioco's property. In 1994, the DAR awarded Certificates of Land Ownership Award (CLOAs) covering Livioco's property to 26 qualified farmer-beneficiaries.[20]

Livioco filed separate complaints to cancel the CLOAs and to recover his property but the same proved futile. The first case he filed in 1995 was for quieting of title, recovery of possession and damages against the DAR, LBP, Register of Deeds, and the farmer-beneficiaries.[21] In its final and executory Decision,[22] the CA sustained the validity of the CLOAs.[23] The relevant portions of the Decision read:

> What matters most is the fact that the requirements for "Compulsory Acquisition" of private lands, especially the indispensable ones, to wit: (1) valuation of the subject property by the proper government agency which is the LBP; (2) DAR's "Notice of Land Valuation" to petitioner and; (3) most importantly, the deposit of the amount of land valuation in the name of petitioner after he rejected the said amount, were substantially complied with in the instant case.
>
> Considering therefore that there was material and substantial compliance with the requirements for the "Compulsory Acquisition" of the subject land, the acquisition of the same is indubitably in order and in accordance with law.[24]

Livioco then filed in 1998 a petition for reconveyance before the DAR Regional Office.[25] The case eventually reached the CA, which dismissed the petition on the ground that the validity of the compulsory acquisition had already been decided with finality in the earlier CA case, to wit:

> As the disputed property was eventually acquired through Compulsory Acquisition, its reconveyance to the petitioners was properly disallowed by the DAR. The certifications by other government agencies that the land was identified as a resettlement area [are] of no avail as the DAR is vested with primary jurisdiction to determine and adjudicate agrarian reform matters and has exclusive original jurisdiction over all matters involving the implementation of agrarian reform.
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> x x x x
>
> Indeed, it is to the best interest of the public that the litigation regarding the reconveyance of the disputed property between the same parties for the same grounds must come to an end, the matter having [been] already fully and fairly adjudicated by the DAR, this Court and the Supreme Court which had declined to disturb the judgment of this Court.[26]

Upon the request of DAR, LBP made two amendments to the valuation. At first, they reduced the acquired area from 30.6329 hectares to 23.9191 hectares. Later, they increased the acquired area to 24.2088 hectares. The remaining 6.4241 hectares of the property was determined as not compensable because this comprised a residential area, a creek, road, and a chapel.[27] The total value for 24.2088 hectares was P770,904.54. Livioco was informed on August 8, 2001 that the payment was already deposited in cash and agrarian reform bonds and may be withdrawn upon submission of the documentary requirements.[28]

Unable to recover his property but unwilling to accept what he believes was an outrageously low valuation of his property, Livioco finally filed a petition for judicial determination of just compensation against DAR, LBP, and the CLOA holders before Branch 56 of the Regional Trial Court (RTC) of Angeles City on December 18, 2001.[29] He maintained that between 1990 and 2000, the area where his property is located has become predominantly residential hence he should be paid his property's value as such. To prove that his property is now residential, Livioco presented a Certification from the Office of the Municipal Planning and Development Coordinator of the Municipality of Mabalacat that, as per zoning ordinance, Livioco's land is located in an area

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where the dominant land use is residential.[30] He also presented certifications from the Housing and Land Use Regulatory Board,[31] the Mt. Pinatubo Commission,[32] and the National Housing Authority[33] that his property is suitable for a resettlement area or for socialized housing. None of these plans pushed through.

Livioco then presented evidence to prove the value of his property as of 2002. According to his sworn valuation, his property has a market value of P700.00/square meter.[34] He also presented the Bureau of Internal Revenue (BIR) zonal value for residential lands in Dapdap, as ranging from P150.00 to P200.00/square meter.[35] He then presented Franklin Olay (Olay), chief appraiser of the Rural Bank of Mabalacat, who testified[36] and certified[37] that he valued the property at P800.00 per square meter, whether or not the property is residential. Olay explained that he arrived at the said value by asking the buyers of adjacent residential properties as to the prevailing selling price in the area.[38] There was also a certification from the Pinatubo Project Management Office that Livioco's property was valued at P300.00/square meter.[39] Livioco prayed that just compensation be computed at P700.00/square meter.[40]

Only LBP filed its Answer[41] and participated in the trial. It justified the P3.21/square meter valuation of the property on the ground that it was made pursuant to the guidelines in RA 6657 and DAR Administrative Order No. 3, series of 1991. LBP objected to respondent's theory that his property should be valued as a residential land because the same was acquired for agricultural purposes, not for its potential for conversion to other uses.[42] LBP presented its agrarian affairs specialist who testified[43] that, due to the increase in the acquired area, she was assigned to amend the claim of Livioco. She computed the total value thereof at P770,904.54, using the DAR Administrative Order No. 3, series of 1991.[44] The only other witness of LBP was its lawyer, who explained the legal basis for the DAR administrative orders and the factors for land valuation provided in Section 17 of RA 6657.[45]

Ruling of the Regional Trial Court

Apparently aware that neither party presented relevant evidence for the proper computation of the just compensation, the trial court issued its April 2, 2003 Order requiring the reception of additional evidence:

> A perusal of the record of this case as well as the evidence adduced by the parties shows that the facts required for the proper computation and/or determination of just compensation for the plaintiff's property i.e., land value of the property in accordance with the Listasaka, capitalized net income, comparable sales and market value pursuant to the corresponding tax declaration, are unavailable and insufficient.
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> WHEREFORE, for the Court to properly determine and fix the just compensation to be accorded to [respondent's] property, the reopening of this case for the purpose of the presentation of additional evidence is hereby ordered.
>
> Let the reception of aforesaid additional evidence be set on April 22, 2003 at 8:30 am.
>
> x x x x[46]

Based on the records, the next hearing took place on July 10, 2003 where none of the parties presented additional evidence, whether testimonial or documentary.[47] Nevertheless, the trial court proceeded to rule in favor of Livioco:

> WHEREFORE, premises considered, the Court hereby renders judgment in favor of the [respondent], Enrique Livioco, and against the Department of Agrarian Reform and the Land Bank of the Philippines with a determination that the just compensation of Livioco's property, consisting of 24.2088 hectares located at Mabalacat, Pampanga is worth Php700.00 per square meter.
>
> Defendants Department of Agrarian Reform and Land Bank of the Philippines are, therefore, ordered to pay

> [respondent] the amount of Php700.00 per square meter multiplied by 24.2088 hectares representing the entire area taken by the government from the plaintiff.[48]

The trial court was of the opinion that Livioco was able to prove the higher valuation of his property with a preponderance of evidence. In contrast, there was a dearth of evidence to support LBP's P3.21 per square meter valuation of the property. Not a single documentary evidence was presented to substantiate its valuation.

LBP sought a reconsideration[49] of the adverse decision arguing that the court should have considered the factors appearing in Section 17. It stressed that in failing to consider the property's productive capacity (capitalized net income), the court placed the farmer-beneficiaries in a very difficult position. They would not be able to pay off the just compensation for their lands because it is valued way beyond its productive capacity. The same was denied by the trial court.[50]

Upon respondent's motion, the lower court ordered LBP on March 29, 2004 to release as initial cash down payment the amount of P827,943.48, inclusive of legal interest accruing from the time of taking on September 20, 1991 (the date when LBP informed the Register of Deeds that it has earmarked the said amount in favor of Livioco).[51]

LBP sought a reconsideration of the said order. It clarified that the just compensation deposited by LBP in the account of respondent was only P770,904.54 for the 24.2088 hectares. It likewise asked that the release of the deposit be subject to respondent's compliance with the release requirements of the ownership documents.[52] The records are silent as to the court's action on the motion as well as to the execution of this order.

Ruling of the Court of Appeals[53]

Petitioner turned to the CA to no avail. The CA affirmed the trial court's decision in toto. First it held that factual findings of the trial courts are entitled to respect. It held that the factors for determining just compensation, set out in Section 17 of RA 6657, were all considered by the trial court in arriving at its decision. It stated that among the relevant evidence considered were Livioco's sworn valuation, tax declarations, zonal value, actual use of the property, and the socio-economic benefits contributed by the government to the property. It likewise noted that the taking of Livioco's property coincided with the Mt. Pinatubo eruption in 1991, which event affected its valuation.[54] Pursuant to Section 18(1)(b) of RA 6657, the CA ordered LBP to pay 30% of the purchase price in cash, while the balance may be paid in government financial instruments negotiable at any time.[55]

A motion for reconsideration[56] was filed on September 29, 2005, which was denied in a Resolution[57] dated December 5, 2005.

Hence, this petition.

Petitioner's arguments

In this Petition before us, LBP assails the CA's assent to the valuation of Livioco's property as a residential land. It maintains that it is not the State's policy to purchase residential land. Since the property was acquired under the CARP, it had to be valued as an agricultural land.[58] Moreover, the assumption that Livioco's property has a residential use is entirely speculative and baseless because none of the government plans to use it as a residential land was carried out.[59]

LBP also assails the Decision of the trial court which valued the land as of 1997 when the rule is that just compensation must be valued at the time of taking, which in this case was in 1988. By considering events that transpired after 1988, the court obviously relied on factors that were not in existence at the time of taking.[60]

LBP further argues that the trial court should have given more weight to its land valuation because it is the

authorized agency recognized by the legislature as having expertise on the matter.[61]

LBP insists that the Claim Valuation and Processing Form that it presented before the appellate court "clearly established the area covered, the land use or crop planted, the average price/hectare and the total value of the subject land." LBP describes this document as clear and convincing evidence of the correctness of its valuation.[62]

LBP likewise assails the lower courts' valuation on the ground that they disregarded the factors set out in Section 17 of RA 6657 for the determination of just compensation. It argues that the factors stated in that provision are exclusive and the courts cannot consider factors that are not included therein.[63]

Respondent's arguments

Respondent argues that by seeking a review of the just compensation, LBP is raising a question of fact, which entails an examination of the probative value of the evidence presented by the parties.[64] He points out that LBP is merely reiterating the arguments already presented in its motion for reconsideration before the CA, which makes the instant petition dilatory.[65]

Respondent then argues that, with respect to the determination of just compensation, courts are not bound by the findings of administrative agencies such as LBP. Courts are the final authority in this matter. LBP's valuation is only preliminary and it has the duty to prove to the trial courts the veracity of its valuation. In the instant case, the trial court decided based on the evidence presented but found LBP's valuation unsubstantiated.[66] He then prays for the dismissal of the instant petition for review.[67]

Issue

Was the compensation for respondent's property
determined in accordance with law?

Our Ruling

For purposes of just compensation, the fair market value of an expropriated property is determined by its character and its price at the time of taking.[68] There are three important concepts in this definition - the character of the property, its price, and the time of actual taking. Did the appellate court properly consider these three concepts when it affirmed the trial court's decision? We find that it did not.

As to the character of the property

The trial and appellate courts valued respondent's property as a residential land worth P700.00 per square meter. They considered the use for the property as having changed from agricultural in 1988 (when Livioco offered it to DAR) to residential by 2002 (allegedly due to the eruption of Mt. Pinatubo). Both courts erred in treating the land as residential and accepting the change in the character of the property, without any proof that authorized land conversion had taken place.

In expropriation cases (including cases involving lands for agrarian reform), the property's character refers to its actual use at the time of taking,[69] not its potential uses.[70] Respondent himself admitted that his property was agricultural at the time he offered it for sale to DAR in 1988. In his letter to the DAR in 1988, respondent manifested that his land is agricultural and suitable for agricultural purposes, although it stood adjacent to residential properties.[71] Moreover, it has been conclusively decided by final judgment in the earlier cases[72] filed by respondent that his property was validly acquired under RA 6657 and validly distributed to agrarian reform beneficiaries. Since the coverage of RA 6657 only extends to agricultural lands, respondent's property should be conclusively treated as an agricultural land and valued as such.

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The lower courts erred in ruling that the character or use of the property has changed from agricultural to residential, because there is no allegation or proof that the property was approved for conversion to other uses by DAR. It is the DAR that is mandated by law to evaluate and to approve land use conversions[73] so as to prevent fraudulent evasions from agrarian reform coverage. Even reclassification[74] and plans for expropriation[75] by local government units (LGUs) will not ipso facto convert an agricultural property to residential, industrial or commercial. Thus, in the absence of any DAR approval for the conversion of respondent's property or an actual expropriation by an LGU, it cannot be said that the character or use of said property changed from agricultural to residential. Respondent's property remains agricultural and should be valued as such. Hence, the CA and the trial court had no legal basis for considering the subject property's value as residential.

Respondent's evidence of the value of his land as residential property (which the lower courts found to be preponderant) could, at most, refer to the potential use of the property. While the potential use of an expropriated property is sometimes considered in cases where there is a great improvement in the general vicinity of the expropriated property,[76] it should never control the determination of just compensation (which appears to be what the lower courts have erroneously done). The potential use of a property should not be the principal criterion for determining just compensation for this will be contrary to the well-settled doctrine that the fair market value of an expropriated property is determined by its character and its price at the time of taking, not its potential uses. If at all, the potential use of the property or its "adaptability for conversion in the future is a factor, not the ultimate in determining just compensation."[77]

The proper approach should have been to value respondent's property as an agricultural land, which value may be adjusted in light of the improvements in the Municipality of Mabalacat. Valuing the property as a residential land (as the lower courts have done) is not the correct approach, for reasons explained above. It would also be contrary to the social policy of agrarian reform, which is to free the tillers of the land from the bondage of the soil without delivering them to the new oppression of exorbitant land valuations. Note that in lands acquired under RA 6657, it is the farmer-beneficiaries who will ultimately pay the valuations paid to the former land owners (LBP merely advances the payment).[78] If the farmer-beneficiaries are made to pay for lands valued as residential lands (the valuation for which is substantially higher than the valuation for agricultural lands), it is not unlikely that such farmers, unable to keep up with payment amortizations, will be forced to give up their landholdings in favor of the State or be driven to sell the property to other parties. This may just bring the State right back to the starting line where the landless remain landless and the rich acquire more landholdings from desperate farmers.

The CA also erroneously considered the Mt. Pinatubo eruption in 1991 as converting the use for respondent's property from agricultural to residential. We find no basis for the appellate court's conclusion. First, as already explained, there was no conversion order from DAR, or even an application for conversion with DAR, to justify the CA's decision to treat the property as residential. Second, respondent himself testified that his property was not affected by the volcanic ashfall,[79] which can only mean that its nature as an agricultural land was not drastically affected. The Mt. Pinatubo eruption only served to make his property attractive to government agencies as a resettlement area, but none of these government plans panned out; hence, his property remained agricultural. Third, the circumstance that respondent's property was surrounded by residential subdivisions was already in existence when he offered it for sale sometime between 1987 and 1988. The VOS form that respondent accomplished described his property as being located adjacent to residential subdivisions. It was not therefore a drastic change caused by volcanic eruption. All together, these circumstances negate the CA's ruling that the subject property should be treated differently because of the natural calamity.

As to the price: Applying Section 17 of RA 6657

The trial and appellate courts also erred in disregarding Section 17 of RA 6657[80] in their determination of just

compensation. Section 17 of RA 6657 provides:

> Sec. 17. Determination of Just Compensation. -- In determining just compensation, the cost of acquisition of the land, the current value of the like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessments 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 non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

Jurisprudence is replete with reminders to special agrarian courts to strictly adhere to the factors set out in Section 17 of RA 6657.[81]

By issuing its April 2, 2003 Order requiring the reception of additional evidence, the trial court revealed its awareness of the importance of adhering to Section 17 of RA 6657. It recognized that the evidence presented by the parties were insufficient to arrive at the just compensation and that the necessary evidence were unavailable for its consideration. For some reason, however, the trial court proceeded to rule on the case without actually receiving such relevant evidence. Instead, the trial court, as affirmed by the CA, ruled in favor of respondent based on preponderance of evidence, regardless of the fact that the evidence presented by respondent were not really relevant to the factors mentioned in section 17 of RA 6657.

The CA ruled that the trial court took into account all the factors in Section 17 of RA 6657. We disagree. Going over the factors in Section 17, it is clear that almost all were not properly considered and some positively ignored. For instance: (a) The "cost of acquisition" was not even inquired into. It would not have been difficult to require respondent to present evidence of the property's price when he acquired the same. (b) As to the "nature" of the property, it has already been explained that the lower courts erroneously treated it as residential rather than agricultural. (c) Also, no heed was given to the "current value of like properties." Since respondent's property is agricultural in nature, "like properties" in this case would be agricultural lands, preferably also sugarcane lands, within the municipality or adjacent municipalities. But the chief appraiser of the Rural Bank of Mabalacat testified that he considered the value of adjacent residential properties, not "like properties" as required under the law. Comparing respondent's agricultural property to residential properties is not what the law envisioned. (d) The factor of "actual use and income of the property" was also ignored; what was instead considered was the property's potential use.

Thus, we cannot accept the valuation by the lower courts, as it is not in accordance with Section 17 of RA 6657. It was based on respondent's evidence which were irrelevant or off-tangent to the factors laid down by Section 17.

However, we also cannot accept the valuation proffered by LBP for lack of proper substantiation.

LBP argues that its valuation should be given more weight because it is the recognized agency with expertise on the matter, but this same argument had been struck down in Landbank of the Philippines v. Luciano.[82] The Court ruled that LBP's authority is only preliminary and the landowner who disagrees with the LBP's valuation may bring the matter to court for a judicial determination of just compensation. The RTCs, organized as special agrarian courts, are the final adjudicators on the issue of just compensation.[83]

We have ruled in several cases that in determining just compensation, LBP must substantiate its valuation. In Luciano, the Court held:

> LAND BANK's valuation of lands covered by CARL is considered only as an initial determination, which is not conclusive, as it is the RTC, sitting as a SAC, that should make the final determination of just compensation, taking into consideration the factors enumerated in Section 17 of RA 6657 and the applicable DAR regulations. Land Bank's valuation had to be substantiated during the hearing before it could be

considered sufficient in accordance with Section 17 of RA 6657 and DAR AO No. x x x[84]

It is not enough that the landowner fails to prove a higher valuation for the property; LBP must still prove the correctness of its claims.[85] In the absence of such substantiation, the case may have to be remanded for the reception of evidence.[86]

In the case at bar, we find that LBP did not sufficiently substantiate its valuation. While LBP insists that it strictly followed the statutory provision and its relevant implementing guidelines in arriving at its valuation, the Court notes the lack of evidence to prove the veracity of LBP's claims. LBP merely submitted its computation to the court without any evidence on record, whether documentary or testimonial, that would support the correctness of the values or data used in such computation.

LBP presented two of its officials, but their testimonies were hardly of any use. The first witness only testified that she prepared the documents, computed the value, and had the same approved by her superior. The other testified that LBP follows Section 17 of RA 6657 and the relevant administrative orders in arriving at its valuations. LBP also offered in evidence the Claims Valuation and Processing Form "to show the total valuation"[87] of the property. The effort was however futile because LBP did not prove the correctness of the values or data contained in the said Form. The computation in the Form may be mathematically correct, but there is no way of knowing if the values or data used in the computation are true. For this Court to accept such valuation would be jumping to a conclusion without anything to support it.[88]

Remand of the case

Given that both parties failed to adduce evidence of the property's value as an agricultural land at the time of taking, it is premature for the Court to make a final decision on the matter. The barren records of this case leave us in no position to resolve the dispute. Not being a trier of facts, the Court cannot also receive new evidence from the parties that would aid in the prompt resolution of this case. We are thus constrained to remand the case to the trial court for the reception of evidence and determination of just compensation in accordance with Section 17 of RA 6657.

Guidelines in the remand of the case

The trial court should value the property as an agricultural land.

It is reminded to adhere strictly to the doctrine that just compensation must be valued at the time of taking. The "time of taking"[89] is the time when the landowner was deprived of the use and benefit of his property, such as when title is transferred to the Republic. In the instant case, the records are silent as to the date when title was transferred to the Republic. However, we can take guidance from the findings contained in the final and executory decision in CA-GR SP No. 45486, which ruled on the validity of the DAR acquisition and is binding on both Livioco and LBP. The said Decision states that between 1993 and 1994, "the Republic[,] through DAR[,] took possession of the subject portion of [Livioco's] land and awarded the same to [agrarian reform beneficiaries] who were issued Certificates of Land Ownership Award sometime in 1994."[90]

So as not to lose time in resolving this issue, the Court declares that

the evidence to be presented by the parties before the trial court for the valuation of the property must be based on the values prevalent in 1994 for like agricultural lands. The evidence must conform to Section 17 of RA 6657 and, as far as practicable, to DAR Administrative Order No. 6, series of 1992, as amended by DAR Administrative Order No. 11, series of 1994.[91]

Given the expertise of the DAR on the matter, due reliance on DAR Administrative Orders is encouraged; but, as

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the Administrative Orders themselves recognize, there are situations where their application is not practicable or possible. If the cited factors in the DAR Administrative Order are absent, irrelevant, or unavailable, the trial court should exercise judicial discretion and make its own computation of the just compensation based on the factors set in Section 17 of RA 6657.

The trial court may impose interest on the just compensation[92] as may be warranted by the circumstances of the case and based on prevailing jurisprudence.

The trial court is reminded that the practice of earmarking funds and opening trust accounts has been rejected by the Court for purposes of effecting payment;[93] hence, it must not be considered as valid payment.

In the event that the respondent had already withdrawn the amount deposited in the LBP as required by the trial court's March 29, 2004 Order,[94] the withdrawn amount should be deducted from the final land valuation to be paid by LBP.

In case the release required by the trial court's March 29, 2004 Order has not yet been effected, the trial court's first order of business should be to require LBP's immediate compliance therewith.[95]

WHEREFORE, premises considered, the petition is DENIED insofar as it seeks to have the Land Bank of the Philippines' valuation of the subject property sustained. The assailed August 30, 2005 Decision of the Court of Appeals and its December 5, 2005 Resolution in CA-G.R. SP No. 83138 are REVERSED and SET ASIDE for lack of factual and legal basis. Civil Case No. 10405 is REMANDED to Branch 56 of the Regional Trial Court[96] of Angeles City for reception of evidence on the issue of just compensation. The trial court is directed to determine the just compensation in accordance with the guidelines set in this Decision. The trial court is further directed to conclude the proceedings and to submit to this Court a report on its findings and recommended conclusions within sixty (60) days from notice of this Decision.[97]

SO ORDERED.

Corona, C.J., (Chairperson), Carpio Morales, Velasco, Jr., and Perez, JJ., concur.

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[*] In lieu of Associate Justice Teresita J. Leonardo-De Castro per Special Order No. 884 dated September 1, 2010.

[1] Rollo, pp. 57-64. Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Rosmari D. Carandang and Monina Arevalo Zenarosa.

[2] Id. at 66.

[3] CA Decision, p. 8; id. at 64.

[4] Section 74, REPUBLIC ACT NO. 3844, AGRICULTURAL LAND REFORM CODE (effective August 8, 1963), reads:

> Section 74. Creation. - To finance the acquisition by the Government of landed estates for division and resale to small landholders, as well as the purchase of the landholding by the agricultural lessee from the landowner, there is hereby established a body corporate to be known as the "Land Bank of the Philippines," hereinafter called the "Bank," which shall have its principal place of business in Manila x x x

[5] Section 64, REPUBLIC ACT NO. 6657, READS:

> Sec. 64. Financial Intermediary for the CARP. - The Land Bank of the Philippines shall be the financial

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> intermediary for the CARP, and shall insure that the social justice objectives of the CARP shall enjoy a preference among its priorities.

[6] Transfer Certificate of Title No. 155279-R.

[7] Testimony of Enrique Livioco taken on October 17, 2002, p. 26.

[8] CA rollo, p. 125.

[9] Id.

[10] Records, Vol. II, pp. 476-477.

[11] Rules and Regulations Amending the Valuation of Lands Voluntarily Offered Pursuant to Executive Order No. 229 and Republic Act No. 6657 and those Compulsorily Acquired Pursuant to Republic Act No. 6657.

[12] Rules and Regulations Amending Certain Provisions of Administrative Order No. 17 which Governs the Valuation of Lands Voluntarily Offered Pursuant to Executive Order No. 229 and Republic Act No. 6657 and Compulsorily Acquired Pursuant to Republic Act No. 6657.

[13] Land Valuation Worksheet, CA rollo, pp. 158-162.

[14] Livioco received the Notice of Land Valuation from DAR Regional Director Antonio M. Nuesa on August 8, 1991 (Id. at 129).

[15] Livioco was informed by LBP's Land Valuation and Landowners Compensation Office on August 19, 1991 (Id. at 130).

[16] Decision in CA-G.R. SP No. 61529, p. 3; id. at 167.

[17] On April 4, 1993.

[18] Decision in CA-G.R. SP No. 61529, p. 3; CA rollo, p. 167.

[19] Exhibit 1, Defendant's Formal Offer of Exhibits, p. 3.

[20] Enrique Livioco v. Department of Agrarian Reform, CA-G.R. SP No. 45486 (Plaintiff's Formal Offer of Evidence, p. 5). The TCT CLOA-Numbers do not appear on record. There is likewise no record showing the date when title was transferred to the Republic.

[21] Sps. Enrique Livioco and Beatriz M. Livioco v. Department of Agrarian Reform, CA-G.R. SP No. 61529, p. 4; id. at 17.

[22] Id. The relevant portions read:

> "The DARAB decision was affirmed by the Court of Appeals on May 12, 1998 in CA-G.R. SP No. 45486 entitled "Enrique M. Livioco vs. Department of Agrarian Reform, et al."
>
> The Court of Appeals' decision was then challenged before the Supreme Court through a petition for review on certiorari docketed as G.R. No. 133837 (Enrique Livioco vs. Department of Agrarian Reform, et al.) The Supreme Court however denied the petition in a Resolution dated July 6, 1998 for "failure of the petitioner to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision as to warrant the exercise by the Court of its discretionary appellate jurisdiction in this case."

[23] Enrique Livioco v. Department of Agrarian Reform, CA-G.R. SP No. 45486 (supra note 20 at 2-13). Penned by Associate Justice Quirino D. Abad Santos, Jr. and concurred in by Associate Justices Ruben T. Reyes and Eloy

R. Bello, Jr.

[24] Decision in CA-G.R. SP No. 45486, p. 12; id. at 13.

[25] Decision in CA-G.R. SP No. 61529, p. 4; id. at 17.

[26] Id. at 8-10; id. at 21-23. Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Bienvenido L. Reyes and Amelita G. Tolentino.

[27] Exhibit "4," Defendant's Formal Offer of Exhibits, p. 7.

[28] Exhibit "5;" id. at 10.

[29] Records, Vol. I, pp. 1-5.

[30] Exhibit D-1, Plaintiff's Formal Offer of Evidence, p. 24.

[31] Exhibit "E;" id. at 25.

[32] Exhibit "F;" id. at 26.

[33] Exhibit "G;" id. at 27.

[34] Exhibit "I;" id. at 31.

[35] Exhibit "K-1;" id. at 34.

[36] Duplicate TSN Folder, Testimony of Franklin Olay dated October 17, 2002, pp. 34-39.

[37] Exhibit "J," Plaintiff's Formal Offer of Evidence, p. 32.

[38] Duplicate TSN Folder, Testimony of Franklin Olay dated October 17, 2002, pp. 36-38.

[39] Exhibit L, Plaintiff's Formal Offer of Evidence, p. 36.

[40] Records, Vol. I, p. 4.

[41] Id. at 51-54.

[42] Id. at 53.

[43] Duplicate TSN Folder, Testimony of Teresie Pineda Garcia dated November 26, 2002, pp. 2-10.

[44] Id. at 5.

[45] Duplicate TSN Folder, Testimony of Alfredo B. Pandico dated November 26, 2002, pp. 11-17.

[46] Records, Vol. I, p. 127.

[47] Duplicate TSN Folder, Proceedings of July 10, 2003, pp. 2-5.

[48] Records, Vol. I, pp. 191-196.

[49] Id. at 197-207.

[50] Id. at 245-248.

[51] Id. at 261.

[52] Id. at 283-284.

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[53] CA rollo, pp. 317-324.

[54] CA Decision, p. 7; id. at 323.

[55] Id. at 7-8; rollo, pp. 63-64.

[56] Records, Vol. II, pp. 370-385.

[57] Id. at 398.

[58] Petitioner's Memorandum, p. 28; rollo, p. 333.

[59] Id. at 34-37; id. at 339-342.

[60] Id. at 32-35; id. at 337-340.

[61] Id. at 21-22; id. at 326-327.

[62] Id. at 23; id. at 328.

[63] Id. at 24-28; id. at 329-333.

[64] Respondent's Memorandum, pp. 12-14; id. at 360-362.

[65] Id. at 15-17; id. at 363-365.

[66] Id. at 17-22; id. at 363-370.

[67] Id. at 23; id. at 371.

[68] Heirs of Francisco R. Tantoco, Sr. v. Court of Appeals, G.R. No. 149621, May 5, 2006, 489 SCRA 590, 613.

[69] Id.

[70] Curata v. Philippine Ports Authority, G.R. Nos. 154211-12, June 22, 2009, 590 SCRA 214, 318-319.

[71] CA rollo, p. 125.

[72] CA-G.R. SP Nos. 61529 and 45486. Both cases also involve the parties herein, Livioco and the LBP, hence the factual and legal conclusions in these two decisions are binding on the two parties.

[73] Section 65, REPUBLIC ACT NO. 6657, reads:

> Section 65. Conversion of Lands. - After the lapse of five years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner, with due notice to the affected parties, and subject to existing laws, may authorize the reclassification or conversion of the land and its disposition: Provided, That the beneficiary shall have fully paid his obligation.

Executive Order No. 129-A, series of 1987, (Reorganization Act of the Department of Agrarian Reform) is also instructive on the matter:

> Section 4. Mandate. The Department shall be responsible for implementing the Comprehensive Agrarian Reform Program and for such purpose, it is authorized to:
>
> x x x x
>
> k) Approve or disapprove the conversion, restructuring or readjustment of agricultural lands into

non-agricultural uses;

x x x x

Section 5. Powers and Functions. Pursuant to the mandate of the Department, and in order to ensure the successful implementation of the Comprehensive Agrarian Reform Program, the Department is hereby authorized to:

x x x x

l) Have exclusive authority to approve or disapprove conversion of agricultural lands for residential, commercial, industrial, and other land uses as may be provided for by law;

x x x x

[74] Section 20, Republic Act No. 7160, The Local Government Code:

Sec. 20. Reclassification of Lands. - (a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearing for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned: Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area, at the time of the passage of the ordinance:

(1) For highly urbanized and independent component cities, fifteen percent (15%);

(2) For component cities and first to third class municipalities, ten percent (10%); and

(3) For fourth to sixth class municipalities, five percent (5%): Provided, further, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-Six fifty-seven (R.A. No. 6657), otherwise known as the "The Comprehensive Agrarian Reform Law," shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.

The case of Ros v. Department of Agrarian Reform (G.R. No. 132477, August 31, 2005, 468 SCRA 471, 478-483) explains the effect of reclassification and the necessity for conversion in this wise:

After the passage of Republic Act No. 6657, otherwise known as Comprehensive Agrarian Reform Program, agricultural lands, though reclassified, have to go through the process of conversion, jurisdiction over which is vested in the DAR. However, agricultural lands already reclassified before the effectivity of Rep. Act No. 6657 are exempted from conversion.

x x x x

The requirement that agricultural lands must go through the process of conversion despite having undergone reclassification was underscored in the case of Alarcon v. Court of Appeals, where it was held that reclassification of land does not suffice:

In the case at bar, there is no final order of conversion. The subject landholding was merely reclassified. Conversion is different from reclassification. Conversion is the act of changing the current use of a piece of agricultural land into some other use as approved by the Department of Agrarian Reform. Reclassification, on the other hand, is the act of specifying how agricultural lands shall be utilized for non-agricultural uses such as residential, industrial, commercial, as embodied in the land use plan, subject to the requirements and procedure for land use conversion. Accordingly, a mere reclassification of agricultural land does not automatically allow a landowner to change its use and thus cause the ejectment of the tenants. He has to undergo the process of

> conversion before he is permitted to use the agricultural land for other purposes.
>
> x x x x

The authority of the DAR to approve conversions of agricultural lands covered by Rep. Act No. 6657 to non-agricultural uses has not been pierced by the passage of the Local Government Code. The Code explicitly provides that "nothing in this section shall be construed as repealing or modifying in any manner the provisions of Rep. Act No. 6657." (Emphasis supplied; citations omitted)

[75] A DAR Conversion Clearance is no longer necessary when the LGUs expropriate agricultural lands for a public purpose (Province of Camarines Sur v. Court of Appeals, G.R. No. 103125, May 17, 1993, 222 SCRA 173, 181). The expropriation of agricultural lands by LGUs was further clarified by DAR in its Administrative Order No. 2, series of 2009, which reads:

> 17. Pursuant to Section 4 of RA 9700, an LGU may, through its Chief Executive and/or an ordinance, exercise the power of eminent domain on agricultural lands for public use, purpose or welfare of the poor and the landless, upon payment of just compensation to agrarian reform beneficiaries (ARBs) on these lands, pursuant to the provisions of the Constitution and pertinent laws. The power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the ARBs, and such offer was not accepted. In cases where the land sought to be acquired has been issued with a Notice of Coverage or is already subject to voluntary offer to sell (with letter-offer submitted to the DAR) the concerned LGU shall suspend the exercise of its power of eminent domain until after the LAD process has been completed and the title to the property has been transferred to ARBs.

[76] National Power Corporation v. Manubay Agro-Industrial Development Corporation, 480 Phil. 470, 480 (2004).

[77] Curata v. Philipppine Ports Authority, supra note 70 at 319.

[78] Section 26, Republic Act No. 6657 reads:

> Sec. 26. Payment by Beneficiaries. - Lands awarded pursuant to this Act shall be paid for by the beneficiaries to the LBP in 30 annual amortizations at 6 percent interest per annum. The payments for the first three years after the award may be at reduced amounts as established by the PARC x x x
>
> The LBP shall have a lien by way of mortgage on the land awarded to the beneficiary; and this mortgage may be foreclosed by the LBP for non-payment of an aggregate of three annual amortizations. The LBP shall advise the DAR of such proceedings and the latter shall subsequently award the forfeited landholding to other qualified beneficiaries. A beneficiary whose land, as provided herein, has been foreclosed shall thereafter be permanently disqualified from becoming a beneficiary under this Act.

[79] Duplicate TSN folder, Testimony of Enrique Livioco dated October 17, 2002, pp. 28-30.

[80] While this case was pending, a supervening event occurred with the advent of RA 9700, the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER). In this new law which became effective on July 1, 2009, Congress saw fit to declare that "all previously acquired lands wherein valuation is subject to challenge by landowners shall be computed and finally resolved pursuant to Section 17 of RA 6657, as amended." In turn, Section 17 of RA 6657 was amended to read as follows:

> In determining just compensation, the cost of acquisition of the land, the value of the standing crop, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, the assessment made by government assessors, and seventy (70%) percent of the zonal valuation of the BIR, translated into a basic formula by the DAR shall be considered, subject to the final decision of the

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> proper court. 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. (Emphasized portions show the amendments.)

Pursuant to this authority, the DAR issued Administrative Order No. 2, series of 2009, which provided in D(2) thereof that "all previously acquired lands wherein valuation is subject to challenge by landowner shall be completed and finally resolved pursuant to Section 17 of RA 6657, as amended." In its transitory provisions in Chapter VI, however, the administrative order makes an exception to the application of the amended Section 17. It states: "x x x with respect to land valuation, all claim folders received by LBP prior to July 1, 2009 shall be valued in accordance with Section 17 of RA 6657 prior to its amendment by RA No. 9700."

Thus, the amended Section 17 has no retroactive effect insofar as the claim folders already received by LBP prior to the effectivity of RA 9700 are concerned. The prospective application of the amended provision is proper in order to avoid possibly prejudicing vested rights of parties.

In the case at bar, the claim folder was first forwarded by DAR to the LBP in 1990 and the amended claim folder must have been received by LBP before August 2001 (the date when they notified Livioco of the amended valuation). Since both dates of receipt occurred prior to July 1, 2009, it is Section 17 of RA 6657 that should control the challenged valuation.

[81] Landbank of the Philippines v. Rufino, G.R. Nos. 175644 and 175702, October 2, 2009, 602 SCRA 399, 406-412; Landbank of the Philippines v. Heirs of Eleuterio Cruz, G.R. No. 175175, September 29, 2008, 567 SCRA 31, 39-41; Landbank of the Philippines v. Dizon, G.R. No. 160394, November 27, 2009, 606 SCRA 66, 76-78; Lee v. Landbank of the Philippines, G.R. No. 170422, March 7, 2008, 548 SCRA 52, 59; Landbank of the Philippines v. Lim, G.R. No. 171941, August 2, 2007, 529 SCRA 129, 134; Allied Banking Corporation v. Landbank of the Philippines, G.R. No. 175422, March 13, 2009, 581 SCRA 301, 311-312.

[82] G.R. No. 165428, November 25, 2009, 605 SCRA 426, 439.

[83] Heirs of Francisco R. Tantoco, Sr. v. Court of Appeals, supra note 68 at 611.

[84] Landbank of the Philippines v. Luciano, supra note 82.

[85] Landbank of the Philippines v. Dizon, supra note 81; Landbank of the Philippines v. Luciano, supra note 82; Allied Banking Corporation v. Landbank of the Philippines, supra note 81 at 319.

[86] Landbank of the Philippines v. Dizon, supra note 81 at 80; Landbank of the Philippines v. Luciano, supra note 82 at 439-440; Allied Banking Corporation v. Landbank of the Philippines, supra note 81 at 319.

[87] Defendant Land Bank of the Philippines' Formal Offer of Exhibits, pp. 1 and 6-8.

[88] Landbank of the Philippines v. Luciano, supra note 82; Allied Banking Corporation v. Landbank of the Philippines, supra note 81 at 319.

[89] Eusebio v. Luis, G.R. No. 162474, October 13, 2009, 603 SCRA 576, 586-587, citing Ansaldo v. Tantuico, Jr. (G.R. No. 50147, August 3, 1990, 188 SCRA 300):

> "The reason for the rule, as pointed out in Republic v. Lara is that -
>
> ... where property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the

> time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just, i.e., `just not only to the individual whose property is taken,' but to the public, which is to pay for it."

Although there are agrarian cases which hold that just compensation should be valued at the "time of payment," (Office of the President v. Court of Appeals, 413 Phil. 711, 716 (2001); Landbank of the Philippines v. Estanislao, G.R. No. 166777, July 10, 2007, 527 SCRA 181, 187; Landbank of the Philippines v. JL Jocson and Sons, G.R. No. 180803, October 23, 2009, 604 SCRA 373, 380-381) these decisions are not applicable in the case at bar. Said cases involved the issue of choosing between an earlier law (Presidential Decree No. 27, by which the property was acquired) and a later law (RA 6657, which was enacted while the issue of just compensation in these cases was still pending). The Court ruled that the seizure of the properties covered by PD No. 27 did not occur upon the effectivity of PD 27 but upon the actual payment of just compensation. Since the prevailing law at the time of payment was already RA 6657, the landowners have the right to be compensated under the new law. As aptly summarized in Landbank of the Philippines v. Natividad (G.R. No. 127198, May 16, 2005, 458 SCRA 441, 451-452):

> "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.
>
> Under the factual circumstances of this case, the agrarian reform process is still incomplete as the just compensation to be paid private respondents has yet to be settled. Considering the passage of Republic Act No. 6657 (RA 6657) before the completion of this process, the just compensation should be determined and the process concluded under the said law. x x x"

Unlike the above-cited cases, Livioco's property was acquired and to be paid under only one law, i.e., RA 6657. There is no situation here which requires the Court to choose between the law prevailing at the time of acquisition and the law prevailing at the time of payment.

Since Livioco's property was acquired under RA 6657 and will be valued under RA 6657, the question regarding the "time of taking" should follow the general rule in expropriation cases where the "time of taking" is the time when the State took possession of the same and deprived the landowner of the use and enjoyment of his property.

[90] Decision in CA-GR SP No. 45486, p. 4; Plaintiff's Formal Offer of Evidence, p. 5. The Court cannot consider September 20, 1991 (the date when LBP informed the Register of Deeds that it has earmarked the amount in favor of Livioco) as the date of taking because there is no indication on record that Livioco's title was cancelled and a new one issued in favor of the Republic on that date. What is clear from the records is the year when CLOAs were awarded, which conclusively shows an actual "taking" of Livioco's property.

[91] A. There shall be one basic formula for the valuation of lands covered by VOS or CA regardless of the date of offer or coverage of the claim:

LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)

Where: LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant, and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

LV = (CNI x. 0.9) + (MV x 0.1)

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

LV = (CS x 0.9) + (MV x 0.1)

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

LV = MV x 2

In no case shall the value of idle land using the formula MV x 2 exceed the lowest value of land within the same estate under consideration or within the same barangay or municipality (in that order) approved by LBP within one (1) year from receipt of claimfolder.

A.4 In all of the above, the computed value using the applicable formula shall in no case exceed the LOs offer in case of VOS.

The LOs offer shall be grossed up from the date of the offer up to the date of receipt of claimfolder by LBP from DAR for processing.

A.5 For purposes of this Administrative Order, the date of receipt of claimfolder by LBP from DAR shall mean the date when the claimfolder is determined by the LBP to be complete with all the required documents and valuation inputs duly verified and validated, and is ready for final computation/ processing.

A.6 The basic formula in the grossing-up of valuation inputs such as LOs offer, Sales Transaction (ST), Acquisition Cost (AC), Market Value Based on Mortgage (MVM) and Market Value per Tax Declaration (MV) shall be:

Grossed-up
Valuation Input = Valuation input x

Regional Consumer Price
Index (RCPI) Adjustment
Factor

x x x x

[92] Landbank of the Philippines v. Wycoco, 464 Phil 83, 100 (2004); Curata v. Philippine Ports Authority, supra note 70 at 358.

[93] Roxas & Co., Inc. v. Court of Appeals, 378 Phil. 727, 756 (1999); Landbank of the Philippines v. Court of Appeals, 319 Phil. 246, 257-258 (1995); Heirs of Francisco R. Tantoco, Sr. v. Court of Appeals, supra note 68 at 609-610.

[94] Records, Vol. I, p. 261.

[95] See Landbank of the Philippines v. Gallego, Jr., G.R. No. 173226, January 20, 2009, 576 SCRA 680, 694-695.

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[96] See Landbank of the Philippines v. Dizon, supra note 81 at 80; Allied Banking Corporation v. Landbank of the Philippines, supra note 81 at 319.

[97] See Heirs of Lorenzo v. Landbank of the Philippines, G.R. No. 166461, April 30, 2010. In this case, Agrarian Case No. 210632 was remanded to the Court of Appeals and was directed to submit to this Court a report on its findings and recommended conclusions within forty-five (45) days from notice of the Decision.

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