LAND BANK OF THE PHILIPPINES, PETITIONER, VS. LUZ LIM AND PURITA LIM CABOCHAN, RESPONDENTS.

G.R. NO. 171941. August 02, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Assailed by petition for review on certiorari are the Court of Appeals Decision of November 11, 2005[1] affirming the December 21, 2001 Order of the Regional Trial Court (RTC) of Sorsogon, Branch 52 fixing the valuation for purposes of just compensation of respondents' property, and Resolution of March 13, 2006[2] denying petitioner's motion for reconsideration of said decision.

Pursuant to the Comprehensive Agrarian Reform Law of 1988 (RA 6657, as amended), the Department of Agrarian Reform (DAR) compulsorily acquired 32.8363 hectares of agricultural land situated in Patag, Irosin, Sorsogon (the property) owned by respondents Luz Lim and Purita Lim Cabochan.[3] Petitioner Land Bank of the Philippines (LBP)[4] computed the value of the property at P725,804.21.[5]

Respondents rejected petitioner's valuation. Thus, pursuant to Section 16(d) of RA 6657, as amended, a summary administrative proceeding was conducted before the Provincial Agrarian Reform Adjudicator (PARAD) to determine the valuation of the property.[6] The PARAD initially valued it at P1,174,659.60 but later reduced the amount to P725,804.21 upon motion of petitioner.[7]

Dissatisfied with the PARAD's decision, respondents filed on January 26, 1998 a petition for determination of just compensation with the RTC of Sorsogon where they prayed for a compensation of at least P150,000 per hectare, or an aggregate amount of P4,925,445.[8] The case proceeded to trial, with the RTC appointing each party's nominee as commissioner.[9]

By Report submitted on December 9, 1998, Commissioner Florencio C. Dino II, respondents' nominee, valued the property at P1,548,000.[10] Commissioner Jesus D. Empleo, petitioner's nominee, submitted his own report on February 8, 1999, valuing the property at P947,956.68.[11]

By September 14, 2001 Decision,[12] Branch 52 of the Sorsogon RTC adopted the valuation submitted by respondents' commissioner (P1,548,000). Both parties moved for reconsideration, and by December 21, 2001 Order,[13] the RTC reconsidered its earlier decision and increased the valuation to P2,232,868.40, ratiocinating as follows:

> The ground relied upon by the Plaintiff[s] is that the Award was based on the Report only of [Commissioner Dino] premised on taxation purposes and it did not consider the fact that in 1986 the same land or part of it was paid by the defendant Land Bank the amount of P68,549.00 per hectare when the rate of exchange between the peso and a dollar was only 22 pesos per dollar.
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> x x x x
>
> x x x [T]his Court finds that indeed the decision x x x did not take into consideration the comparable selling

> price of the adjoining land, which according to the plaintiff during Pre-trial, it was admitted by the defendants Land Bank and the DAR and the same was already stated in the findings of fact of the Court in its decision x x x, that the property subject of the acquisition is situated at Patag, Irosin, Sorsogon like the property of Roger Lim, brother of the plaintiff and the same was acquired by the defendant Land Bank and paid as just compensation in the amount of P68,549.01 per hectare. These facts were admitted by the defendants Land Bank and DAR x x x.
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> x x x x
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> After due consideration of the Motion for Reconsideration, and taking into consideration the Plaintiff's [sic] Commissioner's Report submitted to the Court as well as his testimony and the admission of the defendants x x x, and also other factors such as location, neighborhood, utility, size and the time element involved, the price paid by the defendant Land Bank of the property of Roger Lim, brother of the herein plaintiffs in the amount of P68,000.00 per hectare is adopted which should be the basis for the full and fair equivalent of the property taken from the owner, so that for the area of 32.8363 hectares subject of acquisition, the Court hereby fixes the total price in the amount of P2,232,868.40. (Underscoring supplied)

By Decision[14] of November 11, 2005, the Court of Appeals denied petitioner's appeal and ruled that:

> The decision of the trial court should be affirmed because the appeal of the defendant appellant Land Bank is frivolous. The compensation fixed at P68,000 per hectare or Php2,232,868.40 for the entire 32.8363 hectares is not reasonable nor just considering the evidence presented with respect to sales in the surrounding nearby areas and the trial court did not even consider other factors such as location, neighborhood, utility, size and time element. The compensation should have been higher but the plaintiffs- appellees chose no longer to appeal because they alleged that they were too old to further any appeals and they wanted the money as soon as possible and they wanted an end to the litigation as soon as possible - a wish thwarted by the appeal by the Land Bank.
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> x x x x
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> When the evidence pointed preponderantly to the fact that the trial court's computation of just compensation had already been regarded by the parties as drastically low, any appeal by the Land Bank to such already drastically low figures would be suspect. (Underscoring supplied)

The appellate court in fact ordered petitioner to pay legal interest of 12% on the P2,232,868.40 from the time of the taking of the property until actual payment, and double costs.

Petitioner's Motion for Reconsideration was denied by Resolution of March 13, 2006,[15] hence, this petition,[16] petitioner contending that:

- The amount of P2,232,868.40 which the Court of Appeals fixed as the just compensation of the acquired property consisting of 32.8363 hectares, is in clear violation of Section 17 of RA 6657, DAR AO No. 11, series of 1994, and the Supreme Court ruling in Land Bank of the Philippines vs. Spouses Vicente Banal and Leonidas Arenas-Banal.[17]

- The Court of Appeals seriously erred in ordering the payment of interest on the compensation, at 12% per annum reckoned from the time of taking up to the time of actual payment.[18]

- The Court of Appeals likewise erred in ordering LBP to pay double costs.[19] (Underscoring supplied)

The threshold issue is whether the RTC erred in simply adopting the price previously paid by petitioner for the land of respondents' brother, and dispensing with the formula prescribed by DAR Administrative Order No. 6, series of 1992 (DAR AO 6-92), as amended by DAR Administrative Order No. 11, series of 1994 (DAR AO

11-94).

Petitioner answers the issue in the affirmative, contending that consideration of the valuation factors under Section 17 of RA 6657 and the formula under DAR AO 11-94 is mandatory insofar as lands acquired under RA 6657 are concerned.[20] On the other hand, respondents opine otherwise, contending that Section 17 is merely a guide, the courts having recourse to other means of determining just compensation, it being a judicial function.[21]

Petitioner's position impresses.

In Land Bank of the Philippines v. Spouses Banal,[22] this Court underscored the mandatory nature of Section 17 of RA 6657 and DAR AO 6-92, as amended by DAR AO 11-94, viz:

> In determining just compensation, the RTC is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended, thus:
> "Sec. 17. Determination of Just Compensation. - In determining just compensation, the cost of 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 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."

These factors have been translated into a basic formula in [DAR AO 6-92], as amended by [DAR AO 11-94], issued pursuant to the DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

The formula stated in [DAR AO 6-92], as amended, is as follows:

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

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)

x x x x

While the determination of just compensation involves the exercise of judicial discretion, however, such discretion must be discharged within the bounds of the law. Here, the RTC wantonly disregarded R.A. 6657, as amended, and its implementing rules and regulations. ([DAR AO 6-92], as amended by [DAR AO 11-94]).

x x x x

WHEREFORE, x x x. Civil Case No. 6806 is REMANDED to the RTC x x x. The trial judge is directed to observe strictly the procedures specified above in determining the proper valuation of the subject property. (Emphasis and underscoring supplied; citations omitted)

And in LBP v. Celada,[23] this Court set aside the valuation fixed by the RTC of Tagbilaran, which was based solely on the valuation of neighboring properties, because it did not apply the DAR valuation formula. The Court

explained:

> While [the RTC] is required to consider the acquisition cost of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declaration and the assessments made by the government assessors to determine just compensation, it is equally true that these factors have been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of R.A. No. 6657. As the government agency principally tasked to implement the agrarian reform program, it is the DAR's duty to issue rules and regulations to carry out the object of the law. [The] DAR [Administrative Order] precisely "filled in the details" of Section 17, R.A. No. 6657 by providing a basic formula by which the factors mentioned therein may be taken into account. The [RTC] was at no liberty to disregard the formula which was devised to implement the said provision.
>
> It is elementary that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same. (Emphasis and underscoring supplied; citations omitted)

Consequently, as the amount of P2,232,868 adopted by the RTC in its December 21, 2001 Order was not based on any of the mandatory formulas prescribed in DAR AO 6-92, as amended by DAR AO 11-94, the Court of Appeals erred when it affirmed the valuation adopted by the RTC.

The second and more important issue is the correct valuation of the property. Petitioner asserts that the valuation of P947,956.68 computed by Commissioner Empleo is based on DAR AO 6-92, as amended by DAR AO 11-94, and should, therefore, be upheld.[24] On this score, the petition fails.

The pertinent portions of Item II of DAR AO 6-92, as amended by DAR AO 11-94, provide:

> - There shall be one basic formula for the valuation of lands covered by [Voluntary Offer to Sell] or [Compulsory Acquisition] 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 [25] and CNI and MV are applicable, the formula shall be:
>
> LV = (CNI x 0.9) + (MV x 0.1)
>
> x x x x
>
> 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.
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> A.6 The basic formula in the grossing-up of valuation inputs such as x x x Market Value per Tax Declaration (MV) shall be:
>
> Grossed-up Valuation Input

=

Valuation input x Regional Consumer Price Index (RCPI) Adjustment Factor

The RCPI Adjustment Factor shall refer to the ratio of RCPI for the month issued by the National Statistics Office as of the date when the claimfolder (CF) was received by LBP from DAR for processing or, in its absence, the most recent available RCPI for the month issued prior to the date of receipt of CF from DAR and the RCPI for the month as of the date/effectivity/registration of the valuation input. Expressed in equation form:

RCPI Adjustment Factor

=

RCPI for the Month as of the Date of Receipt of Claimfolder by LBP from DAR or the Most recent RCPI for the Month Issued Prior to the Date of Receipt of CF

_____

RCPI for the Month Issued as of the Date / Effectivity / Registration of the Valuation Input

- Capitalized Net Income (CNI) - This shall refer to the difference between the gross sales (AGP x SP) and total cost of operations (CO) capitalized at 12%.

Expressed in equation form:

CNI = (AGP x SP) - CO

.12

Where: CNI = Capitalized Net Income

AGP

=

Latest available 12-month's gross production immediately preceding the date of offer in case of VOS or date of notice of coverage in case of CA.

SP

=

The average of the latest available 12-month's selling prices prior to the date of receipt of the claimfolder by LBP for processing, such prices to be secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. If possible, SP data shall be gathered from the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

CO

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Cost of Operations

Whenever the cost of operations could not be obtained or verified, an assumed net income rate (NIR) of 20% shall be used. Landholdings planted to coconut which are productive at the time of offer/coverage shall continue to use the 70% NIR. DAR and LBP shall continue to conduct joint industry studies to establish the applicable NIR for each crop covered under CARP.

.12

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Capitalization Rate

x x x x

D. In the computation of Market Value per Tax Declaration (MV), the most recent Tax Declaration (TD) and Schedule of Unit Market Value (SMV) issued prior to receipt of claimfolder by LBP shall be considered. The Unit Market Value (UMV) shall be grossed up from the date of its effectivity up to the date of receipt of claimfolder by LBP from DAR for processing, in accordance with item II.A.A.6. (Emphasis and underscoring supplied)

Thus, in computing Capitalized Net Income (CNI), the Average Gross Production (AGP) of the latest available 12 months immediately preceding the date of notice of coverage, and the average Selling Price (SP) of the latest available 12 months prior to the date of receipt of the claimfolder by LBP for processing, should be used.

While both dates are not indicated in the records, the date of notice of coverage would have to be sometime prior to February 1994, which is the date of the Field Investigation Report,[26] because under DAR Administrative Order No. 9, series of 1990,[27] as amended by DAR Administrative Order No. 1, series of 1993, the field investigation is conducted after the notice of coverage is issued to the landowner. Also, the claimfolder would have been received by LBP on or before 1996, the year the property was distributed to the agrarian reform beneficiaries,[28] because land distribution is the last step in the procedure prescribed by the said administrative orders. Thus, the data for the AGP should pertain to a period prior to February 1994, while the data for the SP should pertain to 1996 or earlier.

However, Commissioner Empleo instead used the "available data prior to [January 1999, the] date of [his ocular inspection]"[29] for the AGP, and the "[a]verage selling price for the period January 1998 to December 1998"[30] for the SP, contrary to DAR AO 6-92, as amended by DAR AO 11-94.

Secondly, the Regional Consumer Price Index (RCPI) Adjustment Factor, which is used in computing the market value of the property, is the ratio of the RCPI for the month when the claimfolder was received by LBP, to the RCPI for the month of the registration of the most recent Tax Declaration and Schedule of Unit Market Value[31] issued prior to receipt of claimfolder by LBP. Consistent with the earlier discussion, the applicable RCPIs should therefore be dated on or before 1996.

However, Commissioner Empleo instead used the RCPIs for December 1998 and January 1997 in computing the RCPI Adjustment Factor,[32] again, contrary to DAR AO 6-92, as amended by DAR AO 11-94.

Parenthetically, Commissioner Empleo testified[33] that his computations were based on DAR Administrative Order No. 5, series of 1998.[34] However, as this administrative order took effect only on May 11, 1998, the

applicable valuation rules in this case remain to be those prescribed by DAR AO 6-92, as amended by DAR AO 11-94.

In any event, even if the 1998 valuation rules were applied, the data for the AGP would still pertain to a period prior to February 1994,[35] the revised reference date being the date of the field investigation, while the data for the SP and the RCPIs would still pertain to 1996 or earlier, there being no substantial revisions in their reference dates.

Finally, while the Field Investigation Report[36] shows that the representatives of petitioner, the DAR, and the Barangay Agrarian Reform Committee, all observed that, except for seven hectares, the whole area of the property was planted with coconut intercropped with abaca or vice- versa, Commissioner Empleo did not take this into account in his computation, contrary to DAR AO 6-92, as amended by DAR AO 11-94 which provides that the "[t] otal income shall be computed from the combination of crops actually produced on the covered land whether seasonal or permanent."[37]

For all the above reasons, the valuation asserted by petitioner must be rejected.

The Court notes that this case has been pending for almost a decade, and commiserates with respondents. However, while the Court wants to write finis to this case by computing the just compensation due to respondents, the evidence on record is not sufficient for the Court to do so in accordance with DAR AO 6-92, as amended by DAR AO 11-94.

The Court is thus compelled to remand the case for determination of the valuation of the property by the RTC which is mandated to consider the factors provided under above quoted Section 17 of RA 6657, as amended, as translated into the formula prescribed in DAR AO 6-92, as amended by DAR AO 11-94.[38]

Furthermore, upon its own initiative, or at the instance of any of the parties, the RTC may again appoint one or more commissioners to examine, investigate and ascertain facts relevant to the dispute including the valuation of properties, and to file a written report thereof with the RTC.[39]

The amount determined by the RTC would be the basis of the interest income on the cash and bond deposits due respondents from the time of the taking of the property up to the time of actual payment of just compensation.[40]

WHEREFORE, the November 11, 2005 Decision and March 13, 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 73881 are REVERSED and SET ASIDE.

Civil Case No. 98-6432 is REMANDED to the court of origin, Branch 52 of the Regional Trial Court of Sorsogon, Sorsogon, which is directed to determine with dispatch the just compensation due respondents strictly in accordance with the procedures specified above.

SO ORDERED.

Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.

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[1] CA rollo, pp. 98 to 107. Penned by Justice Vicente Q. Roxas with the concurrence of Justices Conrado M. Vasquez, Jr. and Juan Q. Enriquez, Jr.

[2] Id. at 159-160. Also penned by Justice Vicente Q. Roxas with the concurrence of Justices Conrado M. Vasquez, Jr. and Juan Q. Enriquez, Jr.

[3] Records, pp. 1-2.

[4] Executive Order No. 405, dated June 14, 1990, vests the Land Bank of the Philippines the primary responsibility to determine the land valuation and compensation for all private lands covered by R.A. 6657, as amended. Vide Philippine Veterans Bank v. Court of Appeals, G.R. No. 132767, January 18, 2000, 322 SCRA 139, 145.

[5] Rollo, p. 15.

[6] Id. at 16.

[7] Records, p. 2.

[8] Id. at 1-4. Docketed as Civil Case No. 98-6432.

[9] Id. at 31.

[10] Id. at 47-50.

[11] Id. at 57-59.

[12] Id. at 141-46-a.

[13] Id. at 155-157.

[14] CA rollo, pp. 98-107. Penned by Justice Vicente Q. Roxas with the concurrence of Justices Conrado M. Vasquez, Jr. and Juan Q. Enriquez, Jr.

[15] Id. at 159-160. Also penned by Justice Vicente Q. Roxas with the concurrence of Justices Conrado M. Vasquez, Jr. and Juan Q. Enriquez, Jr.

[16] Rollo, pp. 9-41.

[17] Id. at 20.

[18] Id. at 31.

[19] Id. at 36.

[20] Id. at 20-31.

[21] Id. at 136-137.

[22] G.R. No. 143276, July 20, 2004, 434 SCRA 543, 549-554.

[23] G.R. No. 164876, January 23, 2006, 479 SCRA 495, 505-507, citing LBP v. Spouses Banal, G.R. No. 143276, July 20, 2004, 434 SCRA 543.

[24] Rollo, p. 27.

[25] None of the sales transactions proffered by respondents as "Comparable Sales" qualify as such under DAR AO 6-92, as amended by DAR AO 11-94, which requires, inter alia, that such sales transactions: (a) be executed and registered within the period of January 1, 1985 to June 15, 1988; (b) involve land with similar topography and use; and (c) involve land whose area is at least ten percent (10%) of the area being acquired.

[26] Records, p. 123.

[27] Revised Rules Governing the Acquisition of Agricultural Lands Subject of Voluntary Offer to Sell and

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Compulsory Acquisition Pursuant to RA 6657.

[28] TSN, March 15, 2000, p. 3.

[29] Records, p. 57. Vide also TSN February 14, 2001, p. 4.

[30] Id. at 57, 59.

[31] The Tax Declaration and Schedule of Unit Market Value being the relevant valuation inputs with respect to market value.

[32] Records, pp. 57, 58.

[33] TSN, February 14, 2001, p. 7.

[34] Which superseded DAR AO 6-92, as amended by DAR AO 11-94.

[35] Records, p. 123. The date of the Field Investigation Report.

[36] Ibid.

[37] Item II B.5.

[38] Supra note 22 at 554.

[39] Section 58, RA 6657, as amended.

[40] Land Bank of the Philippines v. Wycoco, G.R. No. 140160, January 13, 2004, 419 SCRA 67, 81.

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