PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. REMEDIOS ROSALES-BONDOC, JOSE K. ROSALES, JR., MARIA TERESA ANTOLIN-YUPANGCO, MARIA LOURDES ANTOLIN, ARSENIO ABACAN, PEDRO ALCANTARA,...

G.R. No. 173392. August 24, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Resolution[1] dated July 3, 2006 of the Court of Appeals (Tenth Division) in the following consolidated cases: CA-G.R. CV No. 77668, Philippine Ports Authority v. Remedios Rosales-Bondoc, et al.; CA-G.R. SP No. 87844, Philippine Ports Authority v. Hon. Paterno V. Tac-an, et al.; and CA-G.R. SP No. 90796, Philippine Ports Authority v. Hon. Paterno V. Tac-an.

The undisputed facts as shown by the records are:

On October 14, 1999, the Philippine Ports Authority (PPA), petitioner, filed with the Regional Trial Court, Branch 84,[2] Batangas City a complaint for expropriation of 185 lots against 231 defendants, docketed as Civil Case No. 5447. Petitioner alleged in its complaint that there is a necessity to expropriate the lots (consisting of 1,298,340 square meters) for the development of Phase II of the Batangas Port Zone pursuant to Executive Order No. 385[3] dated December 19, 1989 and Executive Order No. 431[4] dated October 19, 1990, both issued by then President Corazon C. Aquino. Petitioner also alleged that the Land Acquisition Committee for Phase II of the Batangas Port Development Project recommended that the market value of the lots be fixed at P336.83 per square meter. Petitioner prayed that an order be immediately issued placing it in possession of the properties upon its deposit with the authorized government depository of an amount equivalent to their assessed value for purposes of taxation; and that eventually, an order be also issued fixing the just compensation, deducting therefrom the initial deposit made.

Acting on the first prayer, the trial court issued a writ of possession in favor of petitioner PPA upon its payment of P400.00 per square meter. Since September 11, 2001, petitioner has been in possession of respondents' lots.

The trial court then grouped the defendants (now respondents) into three (3) sets to facilitate their reference, thus:

- The first group is represented by Atty. Reynaldo Dimayacyac;
- The second group is represented by Attys. Cesar Cruz and Gregorio Ortega; and
- The third group is represented by Atty. Emmanuel Agustin.

The groups filed their respective answers. Majority of the respondents prayed that the just compensation should be fixed at P8,000.00 per square meter.

On March 31, 2000, the trial court issued an Order appointing the following as Commissioners to ascertain the

just compensation to be paid to respondents by petitioner: (1) Provincial Engineer Antonio Magtibay, chairman; (2) Provincial Assessor Lauro Andaya, member; and (3) Provincial Treasurer Jaime Cantos, member.

Subsequently, the Commissioners conducted hearings to determine the just compensation.

On May 29, 2000, the Commissioners submitted to the trial court a Partial Report recommending the amount of P4,800.00 per square meter as just compensation or expropriation price, "subject to further review, valuation, discretion and sound judgment of this Honorable Court."

Thereupon, petitioner filed its Comment on the Partial Report maintaining that the just compensation should be lower than P4,800.00 per square meter because the lands are agricultural in nature and that they are not being used for commercial or industrial purposes.

On July 10, 2000, the trial court ordered petitioner to pay the respondents represented by Atty. Reynaldo Dimayacyac the amount of P5,500.00 per square meter as just compensation.

After the other respondents have presented their evidence as to the just compensation of their properties, the Commissioners submitted a Second Partial Report reiterating their previous recommendation of just compensation.

On August 15, 2000, the trial court conducted a hearing. However, despite notice, petitioner did not appear. Only respondents presented their evidence.

On the same day, August 15, 2000, the trial court issued an Order fixing the fair market value or just compensation at P5,500.00 per square meter of respondents' lots and the lots of those similarly situated and of those who did not file their answers. The Order reads:

> For resolution is the Second Report on Appraisal of the Fair Market Valuation dated August 2, 2000 submitted by Commissioners Arturo V. Magtibay, (Chairman), Jessie E. Cantos and Lauro C. Andaya. Said report reiterated its recommendation in that Partial Report dated May 30, 2000, that the expropriation price shall be P4,800.00 per square meter.
>
> The Court, acting on the Partial Report, issued an Order dated July 10, 2000, modifying said recommendation and pegged the price at P5,500.00 per square meter, as to the properties of the defendants named therein.
>
> Mentioned in the second report is the findings and recommendation of Amicus Curiae, Cuervo Appraisers, Inc., thru Manager/Appraiser Salvador D. Oscianas. He rendered an opinion that the fair market value per square meter ranges from P5,500.00 to a maximum of P6,000.00 (Report as Exhibit "97", supplemented by his testimony in Court on July 18, 2000). He mentioned three (3) prior landsales/transactions within the zone, to wit:
>
> - Deed of Absolute Sale between Demetrio Marasigan in favor of Phil. Ports Authority (PPA for brevity) dated December 11, 1996, price per square meter was P5,000.00.
>
> - Judgment by compromise agreement dated September 23, 1997 (Exhibit "100-2") between Andrea Palacios and the City Government of Batangas, wherein the expropriation price per square meter for the road right of way (By-pass road) was agreed upon at P5,200.00.
>
> - Purchase by First Gas at Sta. Rita (fronting Batangas Bay) for P10,000.00 per square meter (industrial zone) a little further than Sta. Clara into the seashore in 1997.
>
> Mr. Oscianas stated that the lands in the area in question are for commercial/light industrial purposes. These are developed areas as per his ocular inspection. It is accessible by National highways (Calicanto) from Batangas City Hall and the Bauan/Diversion Road as well as Municipal Road (the bypass road), and by the sea

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> (Port of Batangas). It has water, lighting, communications and garbage facilities. Batangas City and province enjoy continuous boom of industrial and commercial developments. It has not experienced recession, unlike other regions, although it has experienced also the depreciation of the peso and the rise of the prices of prime commodities and real properties, much higher than P15,000.00 per square meter than the recorded past sales prices. He recommended for a maximum price of P6,000.00 per square meter as fair market value of the properties in question.
>
> Atty. Emmanuel Agustin in behalf of his clients submitted a Decision by Compromise Agreement dated January 20, 1999 in the Court of Appeals in that case of Dimaano vs. PPA pegging the price per square meter at P10,000.00 involving a similarly situated lot (Exh. "47").
>
> Jurisprudence on expropriation pricing has shown that the fair market valuation is greatly guided by prior sales near the date of expropriation (Toledo City vs. Fernandos, et al., G.R. L-45144, April 15, 1998 and prior Supreme Court decisions).
>
> Based on the foregoing considerations, the Court hereby sets the fair market value at P5,500.00 per square meter of the lots of the above-named defendants and those similarly situated, including those who did not file answer.
>
> SO ORDERED.

Subsequently, the trial court issued several Orders directing petitioner to pay respondents, represented by their respective counsel, just h compensation computed at P5,500.00 per square meter pursuant to its Order dated August 15, 2000, thus:

- Order dated August 17, 2000 for respondents represented by Atty. Emmanuel Agustin, thus:

> Pursuant to the order of 15 August 2000, plaintiff is required to pay by way of just compensation to the following defendants, represented by Atty. Emmanuel D. Agustin, to wit:

Names of Defendants

TCT/Tax Dec. No.

Area of Property Owned by them. Likewise, as mentioned in the complaint and in the Answer

Amount Just compensation due them based on P5,500.00/sq.m. per August 15, 2000 partial Judgment Order

1. Felipa D. Acosta married to Honesto Hernella; Heirs of Eleuterio D. Acosta married to Martha Galang; Pacita D. Acosta married to Emilio Berberabe; Lamberto D. Acosta married to Angelina Ituralde

TD No. 90-00010

13,131 sq. m.

P72,220,500.00

xxx

xxx

xxx

24 Heirs of Francisco Sumanga

TD No. 033-02504

856 sq. m.

4,708,000.00

TD No. 033-02475

1,305 sq. m.

7,177,500.00

GRAND TOTAL ..... P 854,293,000.00
= = = = = = = = =

SO ORDERED.

- Order dated August 18, 2000 for respondents, represented by Atty. Gregorio Ortega, reproduced as follows:

Pursuant to the Order dated 15 August 2000, plaintiff is required to pay by way of just compensation to the following defendants, represented by Atty. Gregorio Ortega and Atty. Simon T. Agbing, to wit:

Names of Defendants

TCT/Tax Dec. No.

Area of Property owned by them. Likewise, as mentioned in the complaint and in the Answer

Amount Just compensation due them based on P5,500.00/sq.m. per August 15, 2000 partial Judgment Order

1. Pedro Alcantara md to Dorotea Macatangay.

TD 090-00003

1,581

P 8,695,500.00

xxx

72 Heirs of Basilio Macaraeg

TD 033-02525

1/7 of 5,088=726.85

3,997,675.00

and Pacencia del Mundo

TD 033-02528

1/7 of 4,926=703.7

3,870,350.00

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TOTAL...

P3,384,212,425.00

- Order dated August 23, 2000 for respondent Pastor Realty Corporation, thus:

> Pursuant to the Order dated 15 August 2000, plaintiff is required to pay by way of just compensation to the following defendants, to wit:

Names of Defendants

TCT/Tax Dec. No.

Area of Property owned by them. Likewise, as men-tioned in the com-plaint and in the Answer

Amount Just compensation due them based on P5,500.00/sq.m. per August 15, 2000 partial Judgment Order

1. Pastor Realty Corp.

TCT RT-627
(37429)
TCT RT-626
(137428)

41,389

398

P227,639,500.00

2,189,000,000.00

xxx

xxx

xxx

13. Florendo Macatangay

TD-033-02476

1,250

6,875,000.00

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TOTAL..

P556,879,500.00

= = = = = = = = =

- Order dated August 23, 2000 for respondents represented by Atty. Cesar Cruz, thus:

Names of Defendants

TCT/Tax Dec. No.

Area of Property owned by them. Likewise, as mentioned in the complaint and in the Answer

Amount Just compensation due them based on P5,500.00/sq.m. per August 15, 2000 partial Judgment Order

Counsel: Atty. Cesar C. Cruz

1. Remedios Rosales

Bondoc & Jose K. Rosales

TCT No. T-43534

106,720

P586,960,000.00

2. Heirs of Lumin Antolin

TD-035-01704

54,681

30,745,500.00

P887,705,500.00

= = = = = = = = =

xxx

xxx

xxx

Defendants Baliwag (no counsel)

1. Gregorio Baliwag, Eliseo

TD 035-02501

740

P 4,103,000.00

Baliwag, Crisanta Baliwag

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TD 033-02691

483

2,656,500.00

TD 033-02533

1,220.5

6,712,750.00

P 13,472,250.00

= = = = = = = =

OVERALL TOTAL P1,526,109,750.00
= = = = = = = = = =

- Order dated September 7, 2000 with respect to the respondents-intervenors Carolina B. Acosta, et al., also represented by Atty. Emmanuel Agustin, thus:

> The motion further prays that they (respondents represented by Atty. Emmanuel Agustin) be allowed to adopt the Orders of the Court dated July 10, 2000 and August 15, 2000 setting the fair market value at P5,500.00 per square meter. There being no opposition, the same is GRANTED.

Records show that petitioner interposed an appeal from this Order to the Court of Appeals, docketed as CA-G.R. CV No. 70023.

Petitioner also appealed to the Court of Appeals from the Order dated August 15, 2000 setting the fair market value or expropriation price at P5,500.00 per square meter. The appeal was docketed as CA-G.R. CV No. 77668. Respondents filed their respective appellees' briefs, except those represented by Atty. Cesar Cruz. On October 14, 2004, said respondents filed with the Court of Appeals a Motion to Dismiss petitioner's appeal.

Meanwhile, respondents, represented by Atty. Cesar Cruz, filed a Motion for Execution of the Order dated August

23, 2000 which has become final and executory as petitioner did not appeal therefrom. To reiterate, this Order required petitioner to pay said respondents just compensation pursuant to the Order of August 15, 2000 fixing the amount of P5,500.00 per square meter.

On May 29, 2001, the trial court granted the motion for the issuance of a writ of execution. As admitted by petitioner, it received a copy of the Order on June 4, 2001.

After the lapse of more than three (3) years, or on November 4, 2004, respondents, represented by Atty. Cesar Cruz, filed a Motion for Issuance of a writ of execution. In its Order dated November 18, 2004, the trial court directed the issuance of a writ of execution and ordered petitioner to immediately pay said respondents the just compensation for their expropriated lots at P5,500.00 per square meter with 12% interest per annum "computed from the date possession of herein defendants' properties were delivered to the plaintiff (petitioner)."

On November 22, 2004, the Clerk of Court issued a writ of execution.

On November 23, 2004, Notices of Garnishment signed by Sheriff Rolando Quinio were issued by the trial court.

On December 14, 2004, petitioner then filed with the Court of Appeals a Petition for Certiorari with prayer for the issuance of a temporary restraining order (TRO) to enjoin the trial court from implementing the 1) Order dated May 29, 2001 granting respondents' motion for execution of the August 23, 2000 Order; 2) Order dated November 18, 2004 directing the issuance of a writ of execution; 3) writ of execution dated November 22, 2004; and 4) Notices of Garnishment dated November 23, 2004 addressed to the National Treasury, the Development Bank of the Philippines, the Philippine National Bank, and the Veterans Bank of the Philippines. The petition was docketed as CA-G.R. SP No. 87844.

Meanwhile, on November 10, 2004, respondents, represented by Atty. Cesar Cruz, filed a "Motion for Immediate Payment of Deficiency in the Zonal Valuation" because the zonal valuation unilaterally determined by petitioner was only P400.00, the lots being agricultural, when it should be P4,250.00 per square meter as the same lots are classified as industrial.

In an Order dated November 24, 2004, the trial court granted the motion. Hence, petitioner filed a Supplemental Petition for Certiorari in the same CA-G.R. CV No. 77668 contending that the said Order was issued with grave abuse of discretion and praying that a TRO be issued by the Court of Appeals to enjoin the trial court from implementing it.

In its Resolution dated April 19, 2005, the Court of Appeals issued the TRO prayed for.

Respondents filed their opposition to petitioner's initial Petition for Certiorari dated December 14, 2004, maintaining that it was filed beyond the 60-day reglementary period and praying for the denial of petitioner's application for a writ of preliminary injunction. The trial court heard the parties' oral arguments. In sum, it is petitioner's contention that the trial court has no jurisdiction to issue the assailed Orders and issuances for lack of jurisdiction in view of its (petitioner's) appeal from the Order dated August 15, 2000.

On April 27, 2005, petitioner filed with the Court of Appeals an Urgent Motion for Clarification in view of Judge Tac-an's determination to continue hearing the case despite his court's lack of jurisdiction considering its (petitioner's) appeal to the appellate court.

On June 3, 2005, the Court of Appeals promulgated a Resolution directing Judge Tac-an to "forthwith CEASE and DESIST from further proceeding with Civil Case No. 5447 until further orders from the Honorable Court."

However, according to petitioner, Judge Tac-an still continued hearing the case.

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Hence, petitioner filed with the Court of Appeals a "Petition to Cite Respondent Judge Paterno V. Tac-an in Contempt," docketed as CA-G.R. SP No. 90796.

These three cases: CA-G.R. CV No. 77668 (appeal from the Order dated August 15, 2000 filed by petitioner); CA-G.R. SP No. 87844 (petition for certiorari filed by petitioner); and CA-G.R. SP No. 90796 (petition to cite Judge Tac-an in contempt of court, also filed by petitioner) were all consolidated in the Tenth Division of the Court of Appeals.

On July 3, 2006, the appellate court issued its assailed Resolution, the dispositive portion of which reads:

> WHEREFORE, premises considered, the instant Motion to Dismiss Appeal is GRANTED. The Petition and Supplemental Petitions are DISMISSED and the writs of preliminary injunction are hereby LIFTED. The 'Petition to Cite Respondent Paterno V. Tac-an In Contempt' is DENIED for lack of merit.
>
> SO ORDERED.

Acting on the instant Petition for Review on Certiorari with prayer for the issuance of a TRO, we issued a Resolution on August 7, 2006 requiring respondents to comment thereon within ten (10) days from notice and ordering the issuance of a TRO enjoining the trial court and its agents or representatives from implementing and enforcing the Orders dated May 29, 2001, November 18, 2004 and November 24, 2004 issued in Civil Case No. 5447, effective immediately until further orders from this Court.

Pursuant to our Resolution, respondents Remedios R. Bondoc, et al. filed their Comment raising the following arguments:

> THE COURT OF APPEALS COMMITTED NO ERROR WHEN IT RULED THAT THE TRIAL COURT'S ORDER OF AUGUST 23, 2000 HAD BECOME FINAL AND EXECUTORY, HENCE, PETITIONER'S APPEAL WAS CORRECTLY DISMISSED.
>
> THE COURT OF APPEALS COMMITTED NO ERROR, DID NOT MISAPPREHEND THE FACTS, NOR COMMIT GRAVE ABUSE OF DISCRETION WHEN IT HELD THAT THE TRIAL COURT'S ORDER FIXING JUST COMPENSATION WAS IN ACCORD WITH LAW AND JURISPRUDENCE, ESPECIALLY IN THE ABSENCE OF COUNTERVAILING EVIDENCE FOR THE PETITIONER.

For our resolution are the following issues:

- Whether the Court of Appeals erred in dismissing petitioner's appeal from the trial court's Order dated August 15, 2000 setting the fair market value or expropriation price at P5,500.00 per square meter of the expropriated lots;

- Whether the December 14, 2004 Petition for Certiorari assailing the trial court's Orders and issuances specified earlier has merit;

- Whether the trial court gravely abused its discretion in issuing the Order dated November 24, 2004 granting respondents' "Motion for Immediate Payment of Deficiency in the Zonal Valuation" from P400 per square meter to P4,250.00 per square meter; and

- Whether Judge Paterno V. Tac-an should be cited in contempt of court for further hearing Civil Case No. 5447 despite the Resolution dated June 3, 2005 of the Court of Appeals directing him to cease and desist from doing so.

On the first issue, Section 1, Rule 41 of the 1997 Rules of Civil Procedure, as amended, provides:

> Section 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

> No appeal may be taken from:
>
> (a) An order denying a motion for new trial or reconsideration;
> (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
> (c) An interlocutory order;
>
> xxx xxx xxx

The above Rule clearly states that only a judgment or final order that completely disposes of the case, or of a particular matter therein declared by the Rules to be appealable, may be subject of an appeal; and that no appeal may be taken from an interlocutory order.

In resolving whether the trial court's Order dated August 15, 2000 is appealable, we should first determine whether it is a final order or merely interlocutory.

In Investments, Inc. v. Court of Appeals,[5] this Court distinguished a final order or resolution from an interlocutory one, thus:

> A final judgment or order is one that finally disposes of a case leaving nothing more to be done by the Court in respect thereto, e.g., an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of res judicata or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move (which, among others, may consist of the filing of a motion for new trial or reconsideration, or the taking of an appeal) and ultimately, of course, to cause the execution of the judgment once it becomes 'final' or, to use the established and more distinctive term, 'final and executory.'
>
> xxx xxx xxx
>
> Conversely, an order that does not finally dispose of the case, and does not end the court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is 'interlocutory,' e.g., an order denying a motion to dismiss under Rule 16 of the Rules, or granting a motion for extension of time to file a pleading, or authorizing amendment thereof, or granting or denying applications for postponement, or production or inspection of documents or things, etc. Unlike a 'final' judgment or order, which is appealable, as above pointed out, an 'interlocutory' order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in this case.
>
> The rule is founded on considerations of orderly procedure, to forestall useless appeals and avoid undue inconvenience to the appealing party by having to assail orders as they are promulgated by the court, when all such orders may be contested in a single appeal.

Here, the assailed Order dated August 15, 2000 merely fixed the fair market value of the lots at P5,500.00 per square meter. The Order is not an adjudication on the merits and does not declare the rights and obligations of the parties. Nor does it rule who between the parties is right. In other words, the trial court has yet to decide the case on its merits. Clearly, the challenged Order being interlocutory is not appealable.

As aptly stated by the Court of Appeals:

> Even if we consider the Order dated 15 August 2000 to be a final order that is the proper subject of appeal to this Court, we cannot sustain the appeal. PPA's contention that its evidence were completely ignored by the trial court is without merit. As the defendants-appellees pointed out in their respective Briefs and Motion to Dismiss Appeal, PPA never presented any evidence. When the defendants-appellees were presenting their

> respective evidence, PPA was not even present during these proceedings although it was properly notified of the said hearings. Despite ample opportunity to do so, PPA did not ask the trial court that it be given the opportunity to present its evidence. Neither did the PPA present any rebuttal evidence to the evidence presented by the defendants-appellees. The "Comment on Commissioners' Partial Report" dated 3 July 2000 submitted by PPA merely states:
>
> - The commissioners submitted their Partial Report on the just compensation of the properties involved, recommending a valuation of P4,800.00 per square meter.
>
> - The just compensation for the properties should be lower than the foregoing valuation.
>
> - The lands are agricultural in nature. They are not being used for commercial or industrial purposes.

In the aforesaid "Comment on Commissioners' Partial Report," PPA did not even attach any document why "(t) he just compensation for the properties should be lower" and failed to present evidence that the lands involved "are agricultural in nature" or "are not being used for commercial or industrial purposes" in the face of the testimony by defendants-appellees' witness, Mr. Oscianas, that the highest and best use of the property is industrial (TSN dated 18 July 2000, pp. 15-17). The Court notes that even before the filing by the PPA of its complaint for expropriation on 14 October 1999, the Bureau of Internal Revenue (BIR) has already promulgated in 1997 a zonal valuation for the properties located in Batangas which classified defendants-appellees' properties as industrial and agricultural. In other words, PPA's arguments are mere legal conclusions devoid of any factual justification.

The Land Valuation Report of the PPA Land Acquisition Committee, tax declarations and zonal valuations that the PPA urges this Court to consider are mere attachments to their complaint which were not marked, much less formally offered before the trial court. Nobody from the PPA even identified these documents. Rule 132, Section 34 of the Revised Rules on Evidence provides that: "The Court shall consider no evidence which has not been formally offered. x x x."

Even assuming that PPA's evidence can be considered to form part of the record despite the lack of formal offer of evidence, the same can only serve as factors to be considered. Thus, in Section 5 (Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale) of Republic Act No. 8974, the Court may consider the following relevant standards "among other well-established factors," to wit:

> In order to facilitate the determination of just compensation, the Court may consider, among other well established factors, the following relevant standards:
>
> (a) The classification and use for which the property is suited;
>
> (b) The developmental costs for improving the land;
>
> (c) The value declared by the owners;
>
> (d) The current selling price of similar lands in the vicinity;
>
> (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon;
>
> (f) The size, shape or location, tax declaration and zonal valuation of the land;
>
> (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
>
> (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of the government, and thereby rehabilitate themselves as early as possible.

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We have examined the Order dated 15 August 2000 and find the same to be consistent with the aforesaid statutory standards.

There is likewise no merit in PPA's contention that the lack of pre-trial voided the proceedings. First. PPA is estopped from raising lack of pre-trial because it failed to set the case for pre-trial which was its duty under Rule 18, Section 1 of the 1997 Rules of Civil Procedure. Second. In the case of Spouses Martinez v. Hon. De la Merced, et al., 174 SCRA 182, 189 (1989), the Supreme Court ruled that "(a) party's failure to object to the absence of a pre-trial is deemed a waiver of his right thereto" and that the "trial court's inadvertent failure to calendar the case for a pre-trial or a preliminary conference cannot render the proceedings illegal or void ab initio." In the present case, PPA failed to object to the absence of a pre-trial. Third. There is no showing that the trial court disregarded the provisions of Rule 67 of the Rules of Court specifically Sections 5, 6, 7 and 8 which to Our mind already serve the purposes of pre-trial in expediting the ascertainment of facts. Under the aforesaid provisions, the trial court appoints not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the trial court the just compensation for the property sought to be taken. Evidence may be introduced by either party before the commissioners and the commissioners shall assess the consequential damages to the property as well as consequential benefits derived by the owner from the property. Thereupon, the commissioners make full and accurate report of all their proceedings, which report the court may, after all interested parties shall have been given the time to file their objections thereto and after hearing shall have been conducted, either accept and render judgment in accordance therewith or for cause shown, recommit said report to the commissioners for further report of facts; or set aside said report and appoint new commissioners; or accept said report in part and reject it in part, and ultimately make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation and to the defendant just compensation for the property so taken.

Relative to the second issue, the Court of Appeals ruled that the Petition for Certiorari can not be sustained for having been filed late. Petitioner is assailing the first Order dated May 29, 2001 granting respondents' motion for execution of the August 23, 2000 Order and subsequent Orders of the trial court stated earlier. Petitioner received a copy of the Order dated May 29, 2001 as early as June 4, 2001. However, petitioner filed its Petition for Certiorari with the Court of Appeals only on December 14, 2004. Obviously, it was late by more than three years and six months. Under Section 4, Rule 65 of the 1997 Rule of Civil Procedure, as amended, a petition for certiorari should be filed not later than 60 days from notice of the judgment, order or resolution.

Moreover, even if certiorari is in order, we hold that the trial court did not commit grave abuse of discretion when it issued a writ of execution implementing the Order dated August 23, 2000. It must be emphasized that petitioner did not challenge this Order before the Court of Appeals, hence, it attained finality and may be executed. What it raised on appeal was only the Order of August 15, 2000.

Anent the third issue, in their "Motion for Immediate Payment of Deficiency in the Zonal Valuation," respondents alleged that the zonal value of P400.00 per square meter of their expropriated lots deposited by petitioner and paid to them was made on the basis of petitioner's classification of their lots as agricultural. But actually, they are classified as industrial with zonal valuation of not less that P4,250.00 per square meter as shown by:

1) Zonal valuation of real properties in Batangas City made by the Bureau of Internal Revenue (BIR) in 1997;

2) Executive Order Nos. 385 and 431 issued by then President Corazon C. Aquino on December 19, 1989 and October 19, 1990 declaring the subject lots as industrial/port zone; and

3) The Comprehensive Land Use and Zoning Plan prepared by the Batangas City Planning and Development Office on May 22, 1993 reclassifying the lots as industrial port zone.

In its objection to respondents' Formal Offer of Evidence in support of their motion, petitioner claimed that their documentary evidence are irrelevant because Republic Act (R.A.) No. 8974[6] "speaks of the Bureau of Internal Revenue's, not the local governments' zonal valuation as basis for the payment of the provisional deposit to the land owner."

Section 4 of R.A. No. 8974 provides inter alia that the amount equivalent to the sum of one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue x x x shall be paid to the owner of the property.

It bears stressing that one of the documents relied upon by the trial court was the zonal valuation of the properties in Batangas City made by the BIR in 1997.

On this point, the Court of Appeals held:

> We also note that in the Supplemental Order, herein respondent Judge merely used the zonal valuation for industrial lots at Barangay Sta. Clara at P4,250.00 per square meter instead of the higher zonal valuation for industrial lots for Provincial Road to Manila, Calicanto-Junction Hilltop at P6,080.00 or at M.H. del Pilar-Calicanto-Junction at P9,500.00, which conforms to the guidelines in the implementation of zonal valuation of real properties for RDO No. 58-Batangas City, notwithstanding the fact that defendants-appellees' properties are located in Barangay Calicanto itself. In other words, herein respondent Judge conservatively applied the lower zonal valuation in enforcing the statutory requirement of requiring the payment of the current relevant zonal valuation of the BIR upon filing of the complaint.

It should be emphasized that the determination of zonal valuation involves questions of fact or evaluation of evidence which is not proper in a petition for certiorari. The only issue involved therein is whether the trial court, in issuing the questioned order, acted without jurisdiction or with grave abuse of discretion which does not exist in this case.

As to the last issue, referring to the petition to cite respondent Judge Tac-an in contempt of court, the Court of Appeals held:

> With respect to the "Petition to Cite Respondent Paterno V. Tac-an in Contempt," the same must be denied for lack of merit. According to PPA, herein respondent Judge committed indirect contempt of Court when he conducted a hearing on 20 April 2005 and heard a motion on 21 June 2005 despite the issuance of a temporary restraining order by this Court contained in its Resolution of 19 April 2005. Herein respondent Judge explained that there was no hearing scheduled or conducted on 20 April 2005 with regard to Civil Case No. 5447 although an Order dated 20 April 2005 was issued in connection with the Manifestation and Motion dated 14 April 2005 filed by the Bureau of Treasury represented by the Office of the Solicitor General setting the same for hearing on 21 April 2005. The Order dated 20 April 2005 issued by herein respondent Judge merely states that" "(t) here being no proof of receipt by the opposing counsel, schedule the Manifestation and Motion filed by the Bureau of Treasury on 25 April 2005 at 10:00 in the morning. The scheduled hearing on 25 April 2005 did not push through because the Bureau of Treasury filed a Manifestation and Motion dated 21 April 2005 praying that it be excused from attending the hearing. We see no contumacious act in regard to this instance on the part of herein respondent Judge. Neither can We rule as contumacious the act of herein respondent Judge in hearing a motion filed by defendants not parties in the Main and Supplemental Petitions of the PPA on 21 June 2005.

At any rate, the petition to cite Judge Tac-an in contempt of court has become moot and academic. He has resigned compulsorily from the Judiciary.

In fine, since what was appealed by petitioner was the trial court's interlocutory Order dated August 15, 2000 setting the just compensation at P5,500.00 per square meter of the expropriated lots, which is dismissible, then the

various Orders directing petitioner to pay respondents just compensation at P5,500.00 per square meter have become final and executory. Obviously, respondents have communality of interest and rights which are interwoven. Consequently, it is the trial court's ministerial duty to implement the said Orders, except the Order dated September 7, 2000 which was appealed by petitioner to the Court of Appeals, docketed as CA-G.R. CV No. 70023.

WHEREFORE, we DENY the petition. The assailed Resolution of the Court of Appeals in these consolidated cases: CA-G.R. CV No. 77668, CA-G.R. SP No. 87844, and CA-G.R. SP No. 90796 is AFFIRMED.

The TRO we issued on August 7, 2006 is LIFTED.

The trial court is directed to implement its final and executory Order dated August 23, 2000 requiring petitioner to pay respondents, represented by Atty. Cesar Cruz, just compensation at P5,500.00 per square meter of their expropriated lots, with 12% interest per annum from the date of petitioner's entry on the lots or on September 11, 2001 until fully paid.[7]

Likewise, the trial court is directed to implement the following final and executory Orders requiring petitioner to pay respondents just compensation at P5,500.00 per square meter pursuant to its Order dated August 15, 2000, with 12% interest per annum from the date of expropriation on September 11, 2001 until fully paid:[8]

- Order dated July 10, 2000 for respondents represented by Atty. Reynaldo Dimayacyac;

- Order dated August 17, 2000 for respondents represented by Atty. Emmanuel Agustin;

- Order dated August 18, 2000 for respondents represented by Atty. Gregorio Ortega; and

- Order dated August 23, 2000 for respondent Pastor Realty Corporation.

It is understood that the zonal value per square meter of the expropriated lots, classified as industrial, is increased from P400.00 to P4,250.00 per square meter. The initial deposit paid by petitioner to respondents shall be deducted from the total amount of just compensation payable to them.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Justice Andres B. Reyes, Jr. and concurred in by Justice Hakim S. Abdulwahid and Justice Estela M. Perlas-Bernabe.

[2]Presided by Judge Paterno V. Tac-an.

[3] Expanding and Delineating the Batangas Port Zone and Placing the same Under the Administrative Jurisdiction of the Philippine Ports Authority.

[4] Further Expanding and Increasing the Coverage of the Batangas Port Zone.

[5]No. L-60036, January 27, 1987, 147 SCRA 334, cited in Rudecon Management Corporation v. Singson, 454 SCRA 612 (2005) and Ramiscal, Jr. v. Sandiganbayan, 446 SCRA 166 (2004).

[6] An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes.

[7] Sec. 10, Rule 67, 1997 Rules of Civil Procedure, as amended; Benguet Consolidated, Inc. v. Republic of the

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Philippines, No. L-71412, August 15, 1986, 143 SCRA 466; Republic of the Philippines v. Court of Appeals, G.R. No. 146587, July 2, 2002, 383 SCRA 611, 623, citing Eastern Shipping Lines, Inc. v. Court of Appeals, 234 SCRA 78 (1994).

[8]Id.

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