

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. JOSE MARIE M. RUFINO, NILO M. RESURRECCION, ARNEL M. ATANACIO AND SUZETTE G. MATEO, RESPONDENTS,

G.R. No. 175644. October 02, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Challenged in these consolidated Petitions for Review is the December 15, 2005 Decision of the Court of Appeals[1] in CA-G.R. CV No. 69640 affirming with modification that of Branch 52 of the Regional Trial Court (RTC) of Sorsogon in Civil Case No. 98-6438 setting the valuation of respondents' 138.4018-hectare land taken under the Comprehensive Agrarian Reform Program (CARP) at P29,926,000, exclusive of the value of secondary crops thereon.

Respondents Jose Marie M. Rufino (Rufino), Nilo M. Resurreccion (Resurreccion), Arnel M. Atanacio (Atanacio), and Suzette G. Mateo (Suzette) are the registered owners in equal share of a parcel of agricultural land situated in Barangay San Benon, Irosin, Sorsogon, with an area of 239.7113 hectares covered by Transfer Certificate of Title (TCT) No. T-22934.[2]

By respondents' claim, in 1989, they voluntarily offered the aforesaid property to the government for CARP coverage at P120,000 per hectare. Acting thereon, petitioner Department of Agrarian Reform (DAR) issued a Notice of Land Valuation and Acquisition dated October 21, 1996 declaring that out of the total area indicated in the title, 138.4018 hectares was subject to immediate acquisition at a valuation of P8,736,270.40 based on the assessment of petitioner Land Bank of the Philippines (LBP).

Respondents having found the valuation unacceptable, the matter was referred by the provincial agrarian reform officer of Sorsogon to the DAR Adjudication Board (DARAB) for the conduct of summary administrative proceedings to determine just compensation.[3]

By Decision of November 21, 1997,[4] the DARAB sustained LBP's valuation upon respondents' failure to present any evidence to warrant an increase thereof.

Meanwhile, upon the DAR's application, accompanied with LBP's certification of deposit of payment, the Register of Deeds of Sorsogon partially cancelled TCT No. T-22934 corresponding to the 138.4018-hectare covered area (hereafter the property) and issued TCT No. T-47571 in the name of the Republic of the Philippines (the Republic). The Republic thereupon subdivided the property into 85 lots for distribution to qualified farmer-beneficiaries under Republic Act No. 6657 (RA 6657) or the Comprehensive Agrarian Reform Law of 1988.[5]

On February 23, 1998, respondents lodged with Branch 52 of the Sorsogon RTC (acting as a Special Agrarian Court) a complaint for determination of just compensation against Ernesto Garilao, in his capacity as then DAR Secretary, and LBP. Respondents contended that LBP's valuation was not the full and fair equivalent of the

property at the time of its taking, the same having been offered in 1989 at P120,000 per hectare.[6]

LBP countered that the property was acquired by the DAR for CARP coverage in 1993 by compulsory acquisition and not by respondents' voluntary offer to sell; and that it determined the valuation thereof in accordance with RA 6657 and pertinent DAR regulations.[7]

The DAR Secretary argued that LBP's valuation was properly based on DAR issuances.[8]

The trial court appointed the parties' respective nominated commissioners to appraise the property.

Commissioner Jesus S. Empleo, LBP's nominee, appraised the property based on, among other things, the applicable DAR issuances, average gross production, and prevailing selling prices of the crops planted thereon which included coconut, abaca, coffee, and rice. He arrived at a valuation of P13,449,579.08.[9]

Commissioner Amando Chua of Cuervo Appraisers, Inc., respondents' nominee, used the market data approach which relies primarily on sales and listings of comparable lots in the neighborhood. Excluding the secondary crops planted thereon, he valued the property at P29,925,725.[10]

At the witness stand, Eugenio Mateo, Sr. (Mateo), attorney-in-fact of respondents Rufino, Resurreccion, and Atanacio, declared that Commissioner Chua erroneously considered the secondary crops as merely enhancing the demand for the property without them significantly increasing its value; and that the coffee intercropping on the property which yielded an estimated profit of P3,000,000, spread over a 12-year period, should be considered in the determination of just compensation.[11]

By Decision of July 4, 2000,[12] the trial court found the market data approach to be more realistic and consistent with law and jurisprudence on the full and fair equivalent of the property. Applying the average rate of P216,226 per hectare, it arrived at a valuation of the 138.4018-hectare property at P29,926,000, to which it added P8,000,000 representing 50% of the value of trees, plants, and other improvements thereon, bringing the total to P37,926,000. It disposed thus:

WHEREFORE, premises considered, judgment is hereby rendered to wit:

- a) Fixing the Just Compensation of the entire 138.4018 hectares for acquisition covered by TCT No. T-22934 in the total amount of THIRTY SEVEN MILLION NINE HUNDRED TWENTY-SIX THOUSAND (Php37,926,000.00) Pesos Philippine Currency, less the amount previously deposited in trust with the Land Bank which was already received by the plaintiffs.
- b) The Land Bank of the Philippines is hereby ordered to pay the landowners-plaintiffs the afore-cited amount less the amount previously paid to them in the manner provided by law.
- c) Without pronouncement as to costs.

LBP filed a Motion for Reconsideration, while the DAR filed a Notice of Appeal. By Order dated August 21, 2000, the trial court denied the motion of LBP,[13] prompting it to also file a Notice of Appeal.[14]

By consolidated Decision of December 15, 2005,[15] the Court of Appeals sustained the trial court's valuation of P29,926,000 as just compensation.

The appellate court found that, among other things, it would be specious to rely on the DAR's computation in ostensible compliance with its own issuances; that Commissioner Empleo failed to consider available sales data of comparable properties in the locality; and that the value of secondary crops should be excluded as the same is inconclusive in view of conflicting evidence.

Petitioners and respondents filed their respective Motions for Reconsideration which were denied by the appellate

court by Resolution of November 28, 2006.[16] Hence, petitioners LBP and DAR separately sought recourse to this Court through the present Petitions for Review, which were consolidated in the interest of uniformity of rulings on related cases.

In G.R. No. 175644, LBP maintains that its valuation of the property at P13,449,579.08 was based on the factors mentioned in RA 6657 and formula prescribed by the DAR; that its determination should be given weight as it has the expertise to do the same; and that the taking of private property for agrarian reform is not a traditional exercise of the power of eminent domain as it also involves the exercise of police power, hence, part of the loss is not compensable.[17]

In G.R. No. 175702, the DAR avers that the valuation sustained by the appellate court was determined in contravention of the criteria set by RA 6657 and relevant jurisprudence.[18]

Respondents, for their part, posit in their consolidated Comment[19] that factual findings of the trial court, when affirmed by the appellate court, are conclusive; and that the just compensation due them should be equivalent to the market value of the property.

In determining the just compensation due owners of lands taken for CARP coverage, the RTC, acting as a Special Agrarian Court, should take into account the factors enumerated in Section 17 of RA 6657, as amended, to wit:

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. (Emphasis supplied)

The DAR, being the government agency primarily charged with the implementation of the CARP, issued 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), translating the factors mentioned in Section 17 of RA 6657 into a basic formula, presented as follows:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

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:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

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

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

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

$$LV = MV \times 2$$

The threshold issue then is whether the appellate court correctly upheld the valuation by the trial court of the property on the basis of the market data approach, in disregard of the formula prescribed by DAR AO 6-92, as amended.

The petitions are partly meritorious.

While the determination of just compensation is essentially a judicial function which is vested in the RTC acting as a Special Agrarian Court, the Court, in *LBP v. Banal*,^[20] *LBP v. Celada*,^[21] and *LBP v. Lim*,^[22] nonetheless disregarded the RTC's determination thereof when, as in the present case, the judge did not fully consider the factors specifically identified by law and implementing rules.

In *LBP v. Banal*,^[23] the Court ruled that the factors laid down in Section 17 of RA 6657 and the formula stated in DAR AO 6-92, as amended, must be adhered to by the RTC in fixing the valuation of lands subjected to agrarian reform:

In determining just compensation, the RTC is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended, thus:

x x x x

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

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. ([DAO 6-92], as amended by [DAO 11-94]).

x x x x

WHEREFORE, . . . The trial judge is directed to observe strictly the procedures specified above in determining the proper valuation of the subject property. (Underscoring supplied)

And in *LBP v. Celada*,^[24] the Court was emphatic that the RTC is not at liberty to disregard the DAR valuation formula which filled in the details of Section 17 of RA 6657, it being elementary that rules and regulations issued by administrative bodies to interpret the law they are entrusted to enforce have the force of law.

In fixing the just compensation in the present case, the trial court, adopting the market data approach on which Commissioner Chua relied,^[25] merely put premium on the location of the property and the crops planted thereon which are not among the factors enumerated in Section 17 of RA 6657. And the trial court did not apply the formula provided in DAR AO 6-92, as amended. This is a clear departure from the settled doctrine regarding the mandatory nature of Section 17 of RA 6657 and the DAR issuances implementing it.

Not only did Commissioner Chua not consider Section 17 of RA 6657 and DAR AO 6-92, as amended, in his appraisal of the property. His conclusion that the market data approach conformed with statutory and regulatory requirements is bereft of basis.

Resolving in the negative the issue of whether the RTC can resort to any other means of determining just compensation, aside from Section 17 of RA 6657 and DAR AO 6-92, as amended, this Court, in *LBP v. Lim*,^[26] held that Section 17 of RA 6657 and DAR AO 6-92, as amended, are mandatory and not mere guides that the RTC may disregard.

Petitioners maintain that the correct valuation of the property is P13,449,579.08 as computed by Commissioner Empleo.

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

A. 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:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

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:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

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.

A.6 The basic formula in the grossing-up of valuation inputs such as . . . Market Value per Tax Declaration (MV) shall be:

Grossed-up = Valuation input x

Valuation Input 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 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

RCPIA

djustment = -----

Factor

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

B. 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:

$$\text{CNI} = (\text{AGP} \times \text{SP}) - \text{CO}$$

.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

=

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

=

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 italics supplied)

In thus computing Capitalized Net Income (CNI), the Average Gross Production (AGP) of the latest available 12 months immediately preceding the date of offer in case of voluntary offer to sell or date of notice of coverage in

case of compulsory acquisition, 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 these dates-bases of computation are not clearly indicated in the records (as the mode of acquisition is in fact disputed), the date of offer (assuming the acquisition was by voluntary offer to sell) would have to be sometime in 1989, the alleged time of voluntary offer to sell; whereas the date of notice of coverage (assuming the acquisition was compulsory) would be sometime prior to October 21, 1996, which is the date of the Notice of Land Valuation and Acquisition, because under DAR Administrative Order No. 9, series of 1990,[27] as amended by DAR Administrative Order No. 1, series of 1993, the notice of coverage precedes the Notice of Land Valuation and Acquisition.

And the claimfolder would have been received by LBP in or before 1997, the year the property was distributed to agrarian reform beneficiaries,[28] because land distribution is the last step in the procedure prescribed by the above-said DAR administrative orders. Hence, the data for the AGP should pertain to a period in 1989 (in case of voluntary offer to sell) or prior to October, 1996 (in case of compulsory acquisition), while the data for the SP should pertain to 1997 or earlier.

Commissioner Empleo, however, instead used available data within the 12-month period prior to his ocular inspection in October 1998 for the AGP,[29] and the average selling price for the period January 1998 to December 1998 for the SP,[30] contrary to DAR AO 6-92, as amended.

Furthermore, 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 previous discussion, the applicable RCPIs should therefore be dated 1997 or earlier.

Again, Commissioner Empleo instead used RCPI data for January 1999 in computing the RCPI Adjustment Factor,[32] contrary to DAR AO 6-92, as amended.

Parenthetically, Commissioner Empleo testified[33] that his computations were based on DAR Administrative Order No. 5, series of 1998.[34] This Administrative Order took effect only on May 11, 1998, however, hence, the applicable valuation rules in this case remain to be those prescribed by DAR AO 6-92, as amended by DAR AO 11-94.

But even if the 1998 valuation rules were applied, the data for the AGP would still pertain to a period prior to October 1996, the revised reference date being the date of the field investigation which precedes the Notice of Land Valuation and Acquisition; while the data for the SP and the RCPIs would still pertain to 1997 or earlier, there being no substantial revisions in their reference dates.

Finally, as reflected earlier, Commissioner Empleo did not consider in his computation the secondary crops planted on the property (coffee, pili, cashew, etc.), contrary to DAR AO 6-92, as amended, 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." [35]

In fine, the valuation asserted by petitioners does not lie.

While the Court is minded to write finis to this protracted litigation by itself computing the just compensation due respondents, the evidence on record is not sufficient for the purpose. The Court is thus constrained to remand the case for determination of the valuation of the property by the trial court, which is mandated to consider the factors

provided under Section 17 of RA 6657, as amended, and as translated into the formula prescribed in DAR AO 6-92, as amended by DAR AO 11-94.

The trial court may, *motu proprio* or at the instance of any of the parties, again appoint one or more commissioners to ascertain facts relevant to the dispute and file a written report thereof. The amount determined by the trial court would then be the basis of 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.[36]

WHEREFORE, the challenged Decision of the Court of Appeals is REVERSED and SET ASIDE. Civil Case No. 98-6438 is REMANDED to Branch 52 of the Sorsogon RTC which is directed to determine with dispatch the just compensation due respondents strictly in accordance with the procedures specified above.

SO ORDERED.

Ynares-Santiago,[*] Peralta,[**] Del Castillo, and Abad, JJ., concur.

[*] Additional member per Special Order No. 691.

[**] Per Special Order No. 690 in lieu of the sabbatical leave of Senior Associate Justice Leonardo A. Quisumbing.

[**] Additional member per Special Order No. 711.

[1] Penned by Associate Justice Rebecca De Guia-Salvador, with the concurrence of then Associate Justice of the Court of Appeals, now a retired member of this Court, Ruben T. Reyes and Associate Justice Aurora Santiago-Lagman; CA rollo, pp. 204-218.

[2] Records, pp. 5-9.

[3] Id. at 1-2.

[4] Id. at 16-18.

[5] Id. at 7-8.

[6] Id. at 1-4.

[7] Id. at 26-29.

[8] Id. at 33-34.

[9] TSN of March 15, 2000, pp. 3-27.

[10] Folder of Exhibits, Exhibit "D," pp. 11-24.

[11] TSN of August 12, 1999, pp. 13-23.

[12] Records, pp. 108-116.

[13] Id. at 132-134.

[14] Id. at 140.

[15] *Supra* note 1.

[16] CA rollo, pp. 274-276.

[17] Rollo (G.R. No. 175644), pp. 26-40.

[18] Rollo (G.R. No. 175702), pp. 19-21.

[19] Id. at 73-93.

[20] G.R. No. 143276, July 20, 2004, 434 SCRA 543.

[21] G.R. No. 164876, January 23, 2006, 479 SCRA 495.

[22] G.R. No. 171941, August 2, 2007, 529 SCRA 129.

[23] Supra note 20 at 549-554.

[24] Supra note 21 at 507.

[25] Records, pp. 111-115.

[26] Supra note 22 at 134-136.

[27] Revised Rules Governing the Acquisition of Agricultural Lands Subject of Voluntary Offer to Sell and Compulsory Acquisition Pursuant to R.A. No. 6657.

[28] TSN of August 12, 1999, p. 18.

[29] Records, p. 69; TSN of March 15, 2000, p. 5.

[30] TSN of March 15, 2000, p. 17.

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

[32] Records, p. 66.

[33] TSN of March 15, 2000, p. 8.

[34] Which superseded DAR A.O. No. 6-92, as amended by DAR A.O. No. 11-94.

[35] Item II B.5.

[36] Vide LBP v. Lim, supra note 22 at 142.

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