

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER, VS.
FAR EAST ENTERPRISES, INC., ARSOL MANAGEMENT
CORPORATION, MARIA CHRISTIN...**

G.R. No. 176487. August 25, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision[1] of the Court of Appeals dated 9 November 2006 in CA-G.R. SP No. 72425 which dismissed petitioner Republic of the Philippines' Petition for Certiorari, and its Resolution[2] dated 5 February 2007 denying petitioner's motion for reconsideration. The Court of Appeals held that the Regional Trial Court of Nasugbu, Batangas, Branch 14, in Civil Case No. 674, did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolution dated 17 June 2002 ordering petitioner to make an additional payment of P425.00 per square meter for the subject properties of respondents Far East and the Bernasconis before the issuance of an Order to take possession of the subject properties, and a writ of possession.

On 23 November 2001, the Republic of the Philippines, represented by the Secretary of the Department of Public Works and Highways (DPWH), filed a Complaint[3] for Eminent Domain before the Regional Trial Court of Nasugbu, Batangas against Far East Enterprises, Inc. (Far East), Arsol Management Corporation (Arsol), Maria Christina C. Bernasconi, Jorge C. Bernasconi, Rene C. Bernasconi, Regina B. Tuason, Christian C. Bernasconi, Martin C. Bernasconi, Jaime C. Bernasconi and Christina Marie C. Bernasconi (Bernasconis).

The complaint alleged, inter alia, that:

5. Defendants are the declared owners of parcels of land situated at Barangay Balaytigue, Nasugbu, Batangas as shown in the Tax Declarations attached as Annexes "A", "B", "C", "D", "E", "F", "G", "H", "I", "J", "K", "L", "M", and "N", and certificates of title attached as annexes "O", "P", "Q", "R", "S", "T", "U", "V", "W", "X", "Y", "Z" and "AA" and more particularly described below together with the affected areas sought to be expropriated and the corresponding zonal values, to wit:

x x x x

6. To enable the plaintiff to construct the Ternate-Nasugbu Tali Batangas Road, a public purpose authorized by law to be undertaken by plaintiff, it is both necessary and urgent for plaintiff to acquire portions of the above parcels of land consisting of a total area of 29, 786 sq. m., more or less, shown in the attached sketch plan marked as Annex "CC" and made an integral part hereof.

7. The portion of above-described parcels of land sought to be expropriated have not been applied to nor expropriated for any public use and are selected by plaintiff as the site of the right-of-way in connection with the construction of the Ternate-Nasugbu Tali Batangas in a manner compatible with the greatest public good

and the least public injury.

8. Plaintiff has negotiated with defendants for the acquisition of portions of the properties for the public purpose as above-stated at a price prescribed by law, but failed to reach an agreement with them notwithstanding the negotiations.

9. Under Section 7 of the Executive Order No. 1035 dated June 25, 1985, plaintiff represented by the DPWH is authorized to institute expropriation proceedings through the Office of the Solicitor General.

10. Pursuant to Section 4 of Republic Act No. 8974[4] in relation to Section 12 of the Implementing Rules and Regulations thereof, plaintiff shall have the right to take or enter upon the possession of the real properties involves upon the issue of this Honorable Court of a Writ of Possession in favor of the plaintiff.

x x x x

11. Plaintiff is willing to deposit the total amount of P2.233M representing the zonal valuation of the affected portions of the subject parcels of land as stated in paragraphs 5 and 6 hereof and which for purposes of the issuance of the corresponding writ of possession, is required to be deposited by plaintiff with the authorized government depository, subject to the orders and final disposition of this Honorable Court.[5]

The properties subjects of this case are all located in Barangay Balaytigue, Nasugbu, Batangas. The particulars of the parcels of land are as follows:

Owner

OCT/TCT No.

Lot/Block No.

Tax Declaration No.

Area Affected in Square Meters

Far East

T-60966

Block 7[6]

014-01029

1,704

Far East

T-15189

Lot 339

014-01102

2,988

Far East

T-60540

Lot 536
014-01106
2,346
Far East

T-57762

Lot 535
014-01105
3,051
Far East

TP-1835

Lot 51
014-01313
2,317
Bernasconis

T-54825

Lot 549
014-01119
2,053
Bernasconis

T-54825

Lot 550
014-01120
190
Arsol

T-50152

Lot 534
014-00182
1,432

Arsol

T-50168

Lot 254

014-0098

1,356

Arsol

T-50158

Lot 53

014-0097

2,960

Arsol

T-51059

Lot 190

014-0088

2,398

Arsol

T-50160

Lot 191

014-0087

4,484

Arsol

T-50170

Lot 256

014-00175

457

Arsol

T-51064

Lot 250

014-00109

1,898

Arsol filed its Answer with Counterclaim[7] dated 7 January 2002. It prayed that the prayer of petitioner (plaintiff therein) for a writ of possession be denied unless full payment of just compensation would be made after trial on the merits. It likewise asked that petitioner, after trial, be ordered to pay just compensation plus interest and penalties due for a property (Lot 272) located along the Nasugbu-Ternate Road in Natipunan, Nasugbu, Batangas, which was taken from it by the petitioner and used in a previous road project without payment of just compensation.

Respondent Far East filed its Answer[8] dated 11 January 2002 which raised the following affirmative special defenses:

10.2 That answering defendant manifests that on or about March 2001, during the meeting held at its office, plaintiff made an offer to purchase the properties, of the answering defendant, subject matter of this case, at P200.00 per square meter. x x x.

10.2.1 That during the said meeting, answering defendant bargained for a higher price but Atty. Lamberto Aguilar, Legal Office of Department of Public Works and Highway (DPWH, for brevity), suggested that answering defendant accept the said amount of compensation at P75.00 per square meter because he claims that the actual use of the real estate properties, although classified as residential by the Municipal Assessor of Nasugbu, is agricultural;

10.2.2 That in compliance with the suggestion of plaintiff to put into writing our counter-offer, answering defendant wrote the former informing it of its desired amount and requesting for a copy of the revised parcellary survey plan showing the area to be affected after reduction in width of the right of way from 30 meters to 20 meters intended by the DPWH.

10.2.3 That after learning of its rights as landowner under Administrative Order No. 50 and Republic Act (RA, for brevity) No. 8974, answering defendant in a letter dated July 16, 2001, retracted the previous amount offered to plaintiff in its letter dated April 6, 2001 and, instead offered the said properties on a negotiated sale at the amount of at least P600.00 per square meter.

x x x x.

10.2.4 That Plaintiff never replied to answering defendant's letter under date of April 6, 2001. However, instead of commenting to the price we offered by way of negotiated sale on the July 16, 2001 letter, and acting in bad faith as well by not observing due process as evidenced by failure of the DPWH to provide the requested revised parcellary plan necessary for the defendant to make an informed final decision, plaintiff chose instead to endorse its complaint to the OSG for filing in court and, true to the statement made by Atty. Aguilar, fixed the amount of compensation at the amount of P75.00 per square meter. x x x.

10.3 That plaintiff misleads the Honorable Court in stating that the zonal valuation of the subject properties is P75.00 per square meter as the said amount corresponds only to agricultural lands, not to residential lands owned by answering defendant and subject of this complaint, as determined in the schedule of BIR zonal valuation attached as Annex "BB" in its complaint;

x x x x

10.4 That the subject properties except for one (1) property, are parts and parcels of Talibeach Subdivision, a residential subdivision, in line with the approved subdivision plans and/or by the said subdivision's Deed of Restriction, xerox copies of which are attached as annexes "4" to "4-1";

10.4.1 That, in addition, the properties are located in the same general area of other residential subdivisions such as Peninsula de Punta Fuego, and Maya-Maya Subdivisions as well as approximately 3 kilometers from

two other residential subdivisions currently being developed as sold, specifically, Terrazas de Punta Fuego and Kawayan Cove Subdivision;

10.4.2 That Per Proclamation 1801 and Zoning Ordinance No. 03 of the Municipality of Nasugbu under date of April 1982, as approved by the Human Settlements Regulatory Commission under Resolution No. 123 under date of May 4, 1983, the area is declared as a Residential, Tourism and tourism potential area and therefore, may not even moreso be considered, classified as agricultural as self-servingly claimed by the DPWH Legal Officer, Atty. Aguilar. x x x.

10.5 That as previously stated, the amount of P75.00 per square meter corresponds to agricultural lands located at Brgy. Balaytigue, Nasugbu, Batangas and not to residential lands such as those of answering defendant subject of the complaint, as determined in Annex "BB" in the complaint;

x x x x

10.6 That similarly situated developed lots in the area are sold at the range of P4,000.00 to 9,000.00 per square meter more or less. x x x.

10.7 All in all answering defendant is not objecting to the expropriation of its properties but it must be paid justly in respect to not only the final compensation but also in respect to the initial compensation to be deposited in full with the court, in conformity with R.A. No. 8974 & A.O. No. 50 x x x.[9]

Respondent Far East prayed that, after due notice and hearing, the complaint be given due course by ordering petitioner to comply with the mandate of Section 4 (a) of Republic Act No. 8974 by depositing in its name the initial amount of P7,433,600.00 or P600.00 per square meter for the total area of 12,406 sq.m. of its properties to be used in the construction of the Ternate-Nasugbu Tali Batangas Road. It also asked that said amount be released to it and that the just compensation for its lands be fixed.

In their Joint Answer[10] dated 11 January 2002, the Bernasconis admitted they were the lawful and registered owners of parcels of land - Lots Nos. 549 and 550 - covered by Transfer Certificates of Title (TCTs) No. T-54825, containing a total area of 2,243 sq.m., being expropriated by petitioner. They denied that petitioner made an offer to purchase the properties, subject matter of the case. They further adopted all the claims and defenses that were interposed by Far East and were applicable to their properties. Thus, they prayed that the complaint be given due course and petitioner be ordered to comply with Section 4(a) of Republic Act No. 8974 by depositing in their names the initial amount of P 1,345,800.00 or P600.00 per square meter for the 2,243 sq.m. of their property being expropriated. They asked that said amount be released to them, and that the just compensation for their properties be fixed.

Petitioner filed separate replies to the Answers of Arsol and Far East/the Bernasconis.[11] Far East and the Bernasconis submitted their respective rejoinders to the reply filed by petitioner.[12]

On 7 February 2002, respondent Arsol filed a Motion to Release Deposit, praying that the amount that may properly accrue for its lands sought to be expropriated be released as partial payment, to be taken from the funds deposited by petitioner for the benefit of all the defendants.[13]

In its Order dated 8 February 2002, the trial court ordered petitioner to comply and manifest its compliance with the guidelines of Section 12 of the Implementing Rules and Regulations of Republic Act No. 8974, within ten days from receipt thereof, before it would issue an order for petitioner to take possession of the affected properties, so it may commence the implementation of the project mentioned in the complaint.[14]

On 15 March 2002, petitioner filed its Compliance and Motion for Issuance of Order and Writ of Possession.[15] It stated that DPWH Region IV certified that the amount of two million two hundred twenty-two thousand five

hundred fifty pesos (P2,222,550.00) had been allotted and made available to cover payment of properties sought to be expropriated as follows:

1.

Arsol Management Corporation

P1,123,875.00

14,985 sq.m. @ P75.00/sq.m.

2.

Maria Christina Bernasconi, et al.

P 168,225.00

2,243 sq.m. @ P75.00/sq.m.

3.

Far East Enterprises

P 930,450.00

12,406 sq.m. @ P75.00/sq.m.

P 2,222,550.00

It informed the trial court that DPWH Regional Director Nestor V. Agustin sent separate letters to the defendants tendering the price equivalent of 100% of the zonal valuation declared by the Bureau of Internal Revenue (BIR) for their respective properties to be expropriated. Far East and the Bernasconis disagreed with the price offered by petitioner. In view thereof, petitioner was constrained to deposit with the trial court the total amount of P2,222,550.00 in three Land Bank checks in the names of the defendants, for its proper disposition.

In their respective comments on petitioner's compliance, both Far East and the Bernasconis claimed that petitioner intentionally and wantonly disregarded and misled the trial court by stating that their properties were classified as agricultural to justify the deposit it made. The documents it submitted stated, however, that the properties sought to be expropriated were classified as residential with a zonal valuation of P600.00 per square meter. They prayed that the issuance of the writ of possession be deferred until petitioner had deposited with the trial court the correct amounts of P1,345,800.00 (for the Bernasconis) and P7,443,600.00 (for Far East), and that the previous amounts (P168,225.00 for the Bernasconis and P930,450.00 for Far East) deposited be withdrawn by them under protest without prejudice to the ruling of the trial court on the correct amount of zonal valuation of residential lands in Balaytigue, Nasugbu, Batangas.[16]

In an Order dated 2 April 2002, the trial court ordered petitioner to correct its zonal valuation with respect to Far East and the Bernasconis and to make the corresponding deposit therefor. It added that the motion for the issuance of an order and a writ of possession filed by petitioner shall be acted upon after the correct deposit was made. It found that the amounts deposited as regards Far East and the Bernasconis were not sufficient because these were based on a zonal valuation of P75.00 per square meter. It said that the deposit should be based on P500.00 per square meter, because the subject lands were residential lands. As to Arsol, the trial court found the deposit of petitioner at P75.00 per square meter was correct and directed Arsol to claim the check for P1,123,875.00 from the Clerk of Court, under a proper receipt.[17] On the same day, Arsol received the check in the amount of P1,123,875.00 representing the initial payment of just compensation for its lands which were subject of the

expropriation proceedings.[18]

Far East and the Bernasconis filed a Joint Motion to Release Deposits.[19] The trial court granted the same per its Order dated 15 April 2002 ordering the release to Far East and the Bernasconis the amounts of P930,450.00 and P168,225.00, respectively, without prejudice to the final determination of just compensation for the affected properties.[20] On 17 April 2002, Far East and the Bernasconis received the checks corresponding to said amounts.[21]

Petitioner filed its Motion for Reconsideration dated 17 April 2002, arguing that the trial court erred in ordering it to correct the zonal valuation of Far East and the Bernasconis' properties at P500.00 per square meter instead of P75.00 per square meter. It prayed that the trial court reconsider its Order dated 2 April 2002 and a new one be issued declaring that the deposit made by it was sufficient compliance with Section 4 of Republic Act No. 8974 and Section 8 of its Implementing Rules and Regulations. It further asked that an order be issued for the conduct of an ocular inspection of the subject properties of Far East and the Bernasconis to determine their actual classifications.[22] Far East and the Bernasconis filed their Joint Opposition to/Comment on the Motion for Reconsideration.[23] Arsol likewise filed its Comment, arguing that petitioner must deposit the additional amount to obtain the writ of possession.[24]

In a Resolution dated 26 April 2002, the trial court granted petitioner's motion for reconsideration. The trial court found the deposit (at P75.00 per square meter) made by petitioner sufficient and substantial compliance with Section 4 of Republic Act No. 8974 and Section 8 of its Implementing Rules and Regulations, and that Far East and the Bernasconis had already received the checks as deposits for their properties under expropriation. It ordered the petitioner to take possession of the affected properties and to start the implementation of the road project. It likewise ordered the issuance of a writ of possession commanding the proper officer to place petitioner in possession of the affected portions of said properties.[25]

Far East and the Bernasconis filed their Joint Motion for Reconsideration dated 2 May 2002 praying that the Order dated 26 April 2002 be reconsidered, and that the court order petitioner to deposit the balance of P425.00 per square meter in order to comply with the required deposit of the zonal value of P500.00 per square meter, as correctly ordered by respondent court in its Order dated 2 April 2002.[26]

Petitioner filed its Opposition to Defendants' Joint Motion for Reconsideration,[27] to which Far East and the Bernasconis filed a Reply dated 14 June 2002.[28]

The trial court issued a Resolution[29] dated 17 June 2002, the relevant portions of which read:

After a re-assessment of the respective arguments of both parties, the Court finds merit in the joint motion for reconsideration.

For one, the definition of agricultural land is clear and leaves nothing for any other interpretation. The plaintiff has not shown any other definition of agricultural land, different from the above definition. The fact, as claimed by the plaintiff, that the lands of the movants are idle, raw and undeveloped, with no houses thereon, does not unmake the same as residential because they were already classified as such long before this case was filed. The fact that the subject properties may be suitable for agricultural uses does not make it agricultural because they were classified as residential per plaintiff's Annexes "A" to "G" of the Complaint. The very tax declarations of the movants' properties (Annexes "A" to "G", Complaint) show that subject properties are indeed residential and not agricultural.

In this connection, tax declarations do not prove ownership of the property. It is only an evidence of possession. It is the titles of the properties that show their ownership (Annexes "O" to "T" of the Complaint). The Court realizes its lack of discretion to substitute its judgment for the authority of the Municipality of

Nasugbu, Batangas, on land reclassification, on the mere premise that the properties of the movants and of Arsol adjoin each other.

RA 8974 gives no discretion to the Court to determine the classification of the expropriated properties.

Plaintiff cannot question the very contents of its documents which are parts and parcels of its complaint. It is a cardinal rule in adjective law that pleadings are binding on the pleader.

In fine, the Court is fully convinced to give weight to the contents of plaintiff's Exhs. "A" to "G" and "BB", Complaint. Therefore, the deposit of P75.00 per square meter made by plaintiff as regards movants' properties is insufficient because the zonal valuation of the same is fixed at P500.00 per square meter.

WHEREFORE, foregoing premises considered, the order of April 26, 2002 is reconsidered and set aside. Plaintiff is ordered to make the additional deposit of P425.00 per square meter for the properties of the movants before the order to possess and writ of possession issue.

Respondents Far East and the Bernasconis filed a Joint Motion for Compliance dated 21 June 2002 asking the trial court to order petitioner to comply with the Resolution dated 17 June 2002 by depositing the additional amount of P425.00 per square meter.[30]

In its Manifestation and Urgent Motion for Issuance of Writ of Possession dated 10 July 2002, petitioner informed the trial court that it would elevate the Order requiring it to deposit the additional P425.00 per square meter to a higher court. It also said that in the interest of expediting the implementation of the project the completion of which was of utmost urgency, it had already made in protest a deposit of the additional amount of P425.00 per square meter as specified in the trial court's Resolution dated 17 June 2002. As proof thereof, it said it attached the Certificate as to Availability of Funds wherein the total amount of P6,225,825.00 (P953,275.00 in favor of the Bernasconis and P5,272,550.00 in favor of Far East) had been allotted for the purpose. Thus, it prayed that a writ of possession be immediately issued.[31]

The trial court found that petitioner did not attach the Certificate as to Availability of Funds in its Manifestation and Urgent Motion dated 10 July 2002. Thus, in its Order dated 23 July 2002, the trial court ordered petitioner to submit said certification within ten days from receipt of its Order.[32] In their Joint Comment on and Opposition to petitioner's manifestation and motion dated 26 July 2002, Far East and the Bernasconis prayed that the writ of possession be issued to petitioner only after payment of the balance of the zonal values of their properties had been made.[33]

Petitioner filed its Compliance dated 12 August 2002 with the Order dated 23 July 2002 attaching therewith the Certificate as to Availability of Funds in the amount of P6,225,825.00. It also apologized for its failure to attach said certificate in its Manifestation and Urgent Motion dated 10 July 2002.

In an Order dated 20 August 2002, the trial court ordered petitioner to pay the amounts of P953,775.00 and P5,272,550.00 to the Bernasconis and Far East, respectively, or to deposit said amounts in court for payment to respondents within ten days from receipt, after which a writ of possession shall be issued.[34]

On 28 August 2002, petitioner filed a Petition for Certiorari with the Court of Appeals seeking the reversal of the trial court's Resolution dated 17 June 2002 requiring it to make the additional deposit of P425.00 per square meter. It further asked the appellate court to require the trial court to conduct an ocular inspection of the expropriated properties to determine their actual use and to allow it to present its evidence of the classification of said lands.[35] The appeal was docketed as CA-G.R. SP No. 72425.

While CA-G.R. SP No. 72425 was pending before the Court of Appeals, petitioner filed its Motion for Reconsideration of the Order of the trial court dated 20 August 2002, arguing that it sufficiently complied with the

law when it issued the certificate of availability of funds. It further argued that the trial court's directive to pay the zonal valuation based on the residential classification of the properties would render moot the issue before the Court of Appeals.[36] Far East and the Bernasconis filed a Joint Comment on/Opposition to the motion.[37]

In its Resolution dated 28 November 2002, the trial court reconsidered its Resolution dated 20 August 2002 and granted petitioner's motion for reconsideration. It ordered that a writ of possession be issued and that petitioner be placed in possession of the properties subject of the expropriation case.[38] Far East and the Bernasconis filed a Joint Motion for Reconsideration[39] of said resolution, which the trial court denied in an Order dated 12 September 2003.[40]

Far East and the Bernasconis filed a Joint Petition for Certiorari before the Court of Appeals praying that the Order of the trial court dated 12 September 2003 be set aside.[41] The petition was docketed as CA-G.R. SP No. 80278.

Far East and the Bernasconis then filed a Joint Motion for Clarification and Suspension of Proceedings dated 16 February 2004.[42] In an Order dated 11 August 2004, the trial court granted the motion and suspended the proceedings of the case pending resolution of CA-G.R. SP No. 72425 and CA-G.R. SP No. 80278 before the Court of Appeals.[43]

On 28 February 2005, the Court of Appeals, in CA-G.R. SP No. 80278, denied the petition for certiorari filed by Far East and the Bernasconis. Their Joint Motion for Reconsideration[44] was likewise denied in a Resolution dated 31 August 2005.[45] Far East and the Bernasconis appealed to this Court via a Joint Petition for Certiorari.[46] The case was docketed as G.R. No. 170178. This Court dismissed the petition for being the wrong mode of appeal.[47] Far East and the Bernasconis moved to reconsider the dismissal, but we denied their motion with finality stating that even if the petition were to be treated as a petition for review on certiorari under Rule 45, the same should nevertheless be denied for being filed out of time.[48]

On 9 November 2006, the Court of Appeals in CA-G.R. SP No. 72425 rendered its decision dismissing, for lack of merit, the petition filed by petitioner DPWH.[49] The appellate court found that the trial court did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in ordering petitioner to make the additional payment of P425.00 per square meter for the subject properties of Far East and the Bernasconis before the issuance of the order to take possession, and the writ of possession. The pertinent portions of the decision read:

Petitioner submitted to respondent court the Land Bank checks payable to private respondents, as well as to Arsol, and a certification as to availability of funds. However, private respondents Far East and the Bernasconis disagreed with the amount of petitioner's deposit and prayed in their Joint Motion for Reconsideration of the Resolution dated 26 April 2002 that petitioner be ordered to deposit the balance of Php425.00 per square meter in order to comply with the zonal value of Php500.00 per square meter, as contained in the Order dated 02 April 2002. They argued that their land is residential and that the zonal value of P500.00 per square meter should be paid to them, instead of the zonal value of P75.00 per square meter for agricultural lands. This Joint Motion of private respondents was granted by respondent court in the Resolution dated 17 June 2002. The said Resolution is now being assailed by petitioner.

We sustain the ruling of respondent court in the assailed Resolution. However, to be more precise, petitioner should make the additional initial payment (not deposit) of Php425.00 per square meter for the properties of private respondents before the order to take possession and writ of possession can be issued.

Petitioner itself attached to its Complaint as Annex "BB" a certified photocopy of the BIR's Schedule of Zonal Values of Real Properties in the Municipality of Nasugbu, Batangas. The zonal valuation of properties in Brgy. Balaytigue were classified as follows:

BRGY. BALAYTIGUE

ALL LOTS[50]

RR

500.00

600.00

A

75.00

80.00

CR

1,500.00

1,700.00

GP

200.00

Further, petitioner also appended to its Complaint as Annexes "A" to "G" the Tax Declarations of private respondent Far East and Maria Christina C. Bernasconi showing that the properties sought to be expropriated are classified as "Residential." Petitioner's very own attachments to its Complaint show that private respondents' properties are residential and not agricultural.

Thus, based on Section 4 of R.A. No. 8974 and Section 8 of the Implementing Rules and Regulations of R.A. No. 8974, petitioner should have paid immediately to private respondents the amount equivalent to the sum of 100% of the value of the property based on the BIR zonal valuation of private respondents' residential lots in Barangay Balaytigue, Nasugbu, Batangas in the amount of Php500.00 per square meter, and not Php75.00 per square meter which is the BIR current zonal valuation for agricultural lots in said barangay. R.A. No. 8974 and its Implementing Rules and Regulations are clear as to the amount of payment which petitioner, through DPWH, the implementing agency, has to make, even as early as the filing of petitioner's Complaint. No amount of verbiage on petitioner's part can alter the plain and unequivocal provisions of the law and the implementing rules. Thus, respondent court did not act with grave abuse of discretion when it relied upon private respondents' tax declarations (Complaint's Annexes "A" to "G"), and the BIR zonal valuation of real properties in Nasugbu, Batangas (Complaint's Annex "BB"); found the amount of Php75.00 per square meter insufficient as regards private respondents' subject residential properties, the zonal valuation of which is Php500.00 per square meter; and ordered petitioner to make the additional payment of Php425.00 per square meter before the order to take possession and writ of possession can be issued in petitioner's favor. As held in *Republic v. Gingoyon* [G.R. No. 166429, 19 December 2005, 478 SCRA 474, 520], R.A. No. 8974 provides, as the relevant standard for initial compensation, the market value of the property as stated in the tax declaration or the current relevant zonal valuation of the BIR, whichever is higher.

Rep. Act No. 8974 represents a significant change from previous expropriation laws such as Rule 67, or even Section 19 of the Local Government Code. In both cases, the private owner does not receive compensation prior to the deprivation of property. On the other hand, Rep. Act No. 8974 mandates immediate payment of the initial just compensation prior to the issuance of the writ of possession in favor of the Government. Rep. Act No. 8974 is plainly clear in imposing the requirement of immediate prepayment, and no amount of statutory deconstruction can evade such requisite. It enshrines a new approach towards eminent domain that reconciles the inherent unease attending expropriation proceedings with a position of fundamental equity. While

expropriation proceedings have always demanded just compensation in exchange for private property, the previous deposit requirement impeded immediate compensation to the private owner, especially in cases wherein the determinations of the final amount of compensation would prove highly disputed. Under the new modality prescribed by Rep. Act No. 8974, the private owner sees immediate monetary recompense with the same degree of speed as the taking of his/her property.

While eminent domain lies as one of the inherent powers of the State, there is no requirement that it undertake a prolonged procedure, or that the payment of the private owner be protracted as far as practicable. In fact, the expedited procedure of payment, as highlighted under Rep. Act No. 8974, is inherently more fair, especially to the layperson who would be hard-pressed to fully comprehend the social value of expropriation in the first place. Immediate payment placates to some degree whatever ill-will that arises from expropriation, as well as satisfies the demand of basic fairness.

It is therefore erroneous for petitioner to contend that respondent court abdicated its authority in determining just compensation. The compensations to private respondents based on the BIR zonal valuation of the properties sought to be expropriated at Php500.00 per square meter is merely the immediate payment of the initial just compensation prior to the issuance of the writ of possession in order to effectuate the transfer of possession in favor of petitioner.

The issuance of the writ of possession does not write finis to the expropriation proceedings. Expropriation is not completed until payment to the property owner of just compensation. To effectuate transfer of ownership, it is necessary of the Government to pay the property owner the final just compensation.

Indeed, the determination of just compensation in expropriate proceedings is a judicial function. Section 5 of R.A. No. 8974 enumerates certain relevant standards which respondent court may consider, in order to facilitate the determination of just compensation.

x x x x

Thus, it is at this stage of the expropriation proceedings where the judicial function of determining just compensation is to be exercised by respondent court. It is also at this point when petitioner's evidence regarding the use of the subject properties, value declared by the owners, current selling price, ocular findings, etc. will into play.[51]

Petitioner filed its Motion for Reconsideration dated 4 December 2006.[52] On 5 February 2007, the Court of Appeals denied the same.[53]

Hence, this petition for review.

Petitioner raises the following grounds in support of the petition:

I

IN RULING THAT PETITIONER SHOULD IMMEDIATELY PAY THE BIR ZONAL VALUATION OF THE PROPERTY BEFORE TAKING POSSESSION, THE COURT OF APPEALS FAILED TO RESOLVE THE LIS MOTA OF THE CASE, THAT IS, WHICH FACTORS SHOULD CONTROL IN DETERMINING THE CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF PAYMENT OF THE BIR ZONAL VALUATION; COROLLARY THERETO, THE HONORABLE COURT'S RELIANCE IN REPUBLIC VS. GINGOYON ("GINGOYON"), IS NOT CONTROLLING IN THIS CASE, BECAUSE THE CLASSIFICATION OF THE PROPERTY SOUGHT TO BE EXPROPRIATED IS NOT IN AN ISSUE IN GINGOYON, AS IT IS IN THIS PETITION.

II

THE COURT A QUO GRAVELY ERRED IN REFUSING TO APPLY THE STANDARDS SET IN R.A.

NO. 8974 IN DETERMINING THE CLASSIFICATION OF THE PROPERTIES SUBJECT OF EXPROPRIATION.

- TAX DECLARATIONS AND THE MUNICIPAL ZONING ORDINANCE ARE NOT CONTROLLING BUT ARE MERE FACTORS AMONG SEVERAL OTHER FACTORS IN DETERMINING THE CLASSIFICATION OF THE EXPROPRIATED PROPERTY.

- THE CLASSIFICATION OF THE SURROUNDING PROPERTIES AND THE ACTUAL USE OF THE PROPERTY SOUGHT TO BE EXPROPRIATED AT THE TIME OF THE TAKING, PARTICULARLY IN THIS CASE WHERE THE LAND IS RAW, UNCULTIVATED, AGRICULTURAL PROPERTY, SHOULD BE CONSIDERED IN DETERMINING THE CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF PAYMENT OF THE BIR ZONAL VALUATION;

- ACCORDINGLY, IN CASE OF DOUBT AS TO THE CLASSIFICATION OF THE PROPERTY, THE COURT SHOULD MAKE A JUDICIAL DETERMINATION OF THE CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF PAYMENT OF THE BIR ZONAL VALUATION;

III

COROLLARY THERETO, AND IN ACCORDANCE WITH THE RULE ON MULTIPLE ADMISSIBILITY OF EVIDENCE, THE FACT THAT PETITIONER INTRODUCED TAX DECLARATIONS OF THE EXPROPRIATED PROPERTIES SOLELY AS PROOF OF OWNERSHIP OF THE EXPROPRIATED PROPERTY DOES NOT PRECLUDE PETITIONER FROM QUESTIONING RESPONDENTS' UNILATERAL STATEMENT IN THEIR TAX DECLARATIONS THAT THE PROPERTIES ARE RESIDENTIAL.

In paying a property owner 100% of the value of a property based on the current relevant zonal valuation of the BIR for the purpose of an issuance of a writ of possession, under which classification of the expropriated property should petitioner, as the implementing agency, be required to make such payment? This, according to petitioner, is the issue in this petition.

Section 4 of Republic Act No. 8974 (An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes) provides the guidelines for expropriation proceedings. Said section reads:

SECTION 4. Guidelines for Expropriation Proceedings. -- Whenever it is necessary to acquire real property for the right-of-way, site or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property 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 (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

(b) In provinces, cities, municipalities and other areas where there is no zonal valuation, the BIR is hereby mandated within the period of sixty (60) days from the date of filing of the expropriation case, to come up with a zonal valuation for said area; and

(c) In case the completion of a government infrastructure project is of utmost urgency and importance, and there is no existing valuation of the area concerned, the implementing agency shall immediately pay the owner of the property its proffered value taking into consideration the standards prescribed in Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing

agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a Writ of Possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court. (Underscoring supplied)

Under said law, the requirements for authorizing immediate entry in expropriation proceedings involving real property are: (1) the filing of a complaint for expropriation sufficient in form and substance; (2) due notice to the defendant; (3) payment of an amount equivalent to 100% of the value of the property based on the current relevant zonal valuation of the BIR including payment of the value of the improvements and/or structures if any, or if no such valuation is available and in cases of utmost urgency, the payment of the proffered value of the property to be seized; and (4) presentation to the court of a certificate of availability of funds from the proper officials.[54]

Upon compliance with the requirements, a complainant in an expropriation case is entitled to a writ of possession as a matter of right, and it becomes the ministerial duty of the trial court to forthwith issue the writ of possession. No hearing is required, and the court exercises neither its discretion nor its judgment in determining the amount of the provisional value of the properties to be expropriated, as the legislature has fixed the amount under Section 4 of Republic Act No. 8974.[55]

In the instant case, petitioner does not dispute that the provisional value to be paid before a writ of possession can be issued is 100% of the value of the property based on the current relevant zonal valuation by the BIR. What it questions is the classification of the properties sought to be expropriated, which will then be used in determining the 100% value of the property based on the current relevant zonal valuation of the BIR.

Petitioner contends that the subject properties are agricultural for the following reasons: (1) the BIR Zonal Valuation classifies properties in Barangay Balaytigue, Nasugbu, Batangas as Residential, Agricultural, Commercial and Industrial; (2) the properties involved are actually used for agricultural purposes (raw, undeveloped with no houses); and (3) all the adjoining properties are classified as agricultural. On the other hand, respondents Far East and the Bernasconis assert that their properties are residential pursuant to Municipal Ordinance No. 3 enacted by the Sangguniang Bayan of Nasugbu, Batangas on 3 May 1982, and that said reclassification was reflected in their corresponding tax declarations for the properties.

Petitioner argues that in cases where there is a dispute on the classification of the property, the trial court is under obligation to judicially determine the classification of the property prior to requiring the payment of the amount based on the BIR zonal value. It should be allowed to present evidence of the proper classification of the properties. Petitioner adds that nothing in Republic Act No. 8974 compels it or the Court to classify the property based on tax declarations, for the latter has judicial discretion to ascertain the classification and nature of the property based on the standards set under Section 5 of Republic Act No. 8974. Petitioner states that the expropriation court is not bound by a property owner's statement in the tax declaration that his property is residential or by a municipal zoning ordinance that classifies the property as such, when there exists controverting evidence to the contrary. Thus, petitioner faults both the trial court and the appellate court for ruling that the lands involved are residential, notwithstanding petitioner's claim that there is evidence to show that the same are agricultural.

It is clear from the foregoing that petitioner is questioning the classification of the lands involved.

We agree with petitioner that the courts have judicial discretion to determine the classification of lands, because such classification is one of the relevant standards for the assessment of the value of lands, subject of expropriation proceedings. It is one factor that the courts consider in determining just compensation. The determination of just compensation is a function addressed by the courts of justice and may not be usurped by any other branch or official of the government.[56] However, we would like to make it clear that Section 5 of Republic Act No. 8974 lists the relevant standards that are to be considered in determining just compensation for and not classification of lands, as petitioner would like us to believe.

Section 5 of Republic Act No. 8974 enumerates the standards that assist in the determination of just compensation:

SEC. 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. - 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 approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

The more important query to be resolved is: Are the courts, in the first instance, the proper venue in which to resolve any dispute involving the classification of lands?

We do not think so.

By questioning the classification of the lands involved, petitioner is, in effect, questioning the propriety, wisdom and legality of the act of the Municipal Council of Nasugbu, Batangas of reclassifying the subject lands as Residential. Per certification of the Office of the Municipal Planning and Development Coordinator/Zoning Administrator of the Municipality of Nasugbu, Batangas, the lands of Far East and the Bernasconis sought to be expropriated were classified as Residential, pursuant to Municipal Zoning Ordinance No. 3 dated 3 May 1982, as approved under Resolution No. 123, series of 1983 dated 4 May 1983 by the Human Settlement Regulatory Commission (now HLURB[57]).

This Court recognizes the power of a local government to reclassify and convert lands through local ordinance, especially if said ordinance is approved by the HLURB.[58] In *Pasong Bayabas Farmers Association, Inc. v. Court Appeals*,[59] we acknowledged the power of local government units to adopt zoning ordinances. Discretion is vested in the appropriate government agencies to determine the suitability of a land for residential, commercial,

industrial or other purposes.[60] It is also a settled rule that an ordinance enjoys the presumption of validity.[61] Having the power to classify lands, the local government unit may consider factors that are just, reasonable and legal, for it is within the local government unit's power to determine these. However, if they abuse their authority in the performance of this duty, the courts, if prompted, can step in.

Section 20 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, empowers the local government units to reclassify agricultural lands:

Sec. 20. Reclassification of Lands. - (a) A city or municipality may, through an ordinance passed by the Sanggunian after conducting public hearings 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 No. 6657, otherwise known as "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.

x x x x

(c) The local government units shall in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: Provided, That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.

x x x x

(e) Nothing in this section shall be construed as repealing, amending or modifying in any manner the provisions of R.A. No. 6657.

In the case before us, the lands in question had long been (almost 20 years) reclassified as residential before the instant case was filed. All those years, no one questioned the ordinance reclassifying the lands. If petitioner would like to have the reclassification of the lands involved changed to agricultural, the just and reasonable way of doing it is to go to the municipal council -- not the courts - that enacted the ordinance and to ask that the lands be reclassified again as agricultural. Technical matters such as zoning classifications and building certifications should be primarily resolved first by the administrative agency whose expertise relates therein.[62] The jurisprudential trend is for courts to refrain from resolving a controversy involving matters that demand the special competence of administrative agencies, "even if the question[s] involved [are] also judicial in character." [63] In this manner, we give the respect due to these agencies (the municipal council and the Human Settlement Regulatory Commission [now HLURB]), which unquestionably have primary jurisdiction to rule on

matters of classification of lands.

In *Solmayor v. Arroyo*,^[64] we declared:

Well settled is the principle that by reason of the special knowledge and expertise of administrative agencies over matters falling under their jurisdiction, they are in a better position to pass judgment thereon; thus their findings of fact in that regard are generally accorded great respect, if not finality, by the courts. Accordingly, since specialized government agencies tasked to determine the classification of parcels of land, such as the Bureau of Soils and the HLURB, among other agencies, have already certified that the subject land is residential/commercial, the Court must accord such conclusions great respect, if not finality, in the absence of evidence to the contrary.^[65]

Under Section 3(m), Rule 131 of the Rules of Court, there is a presumption that official duty has been regularly performed. Thus, in the absence of evidence to the contrary, there is a presumption that public officers performed their official duties regularly and legally and in compliance with applicable laws, in good faith, and in the exercise of sound judgment.^[66] This presumption applies to this case.

If after going to the local government unit or government agencies that made the classification of the lands and the implementing agency fails to obtain the redress they seek (proper classification), despite evidence clearly showing erroneous classification, it is only then that it can go to the court to ask for intervention.

In the case at bar, the trial court and the Court of Appeals based their classification of the lands concerned, not only on the tax declarations, but more importantly on the certification issued by the Office of the Municipal Planning and Development Coordinator/Zoning Administrator of the Municipality of Nasugbu, Batangas that said lands had been (re)classified as residential pursuant to Municipal Zoning Ordinance No. 3 dated 3 May 1982 as approved under Resolution No. 123, series of 1983 dated 4 May 1983 by the Human Settlement Regulatory Commission (now HLURB). The tax declarations adduced and the certification show that the lands concerned are classified as residential. There is no discrepancy between the two as regards classification. Even if there is any inconsistency, what prevails is the determination for zoning purposes.^[67]

There is no question that a local government unit can determine the suitability of a land for residential, commercial, industrial or for other purposes. It can do this through an ordinance passed by the Sanggunian for the purpose.^[68] Moreover, under Section 447 of Republic Act No. 7160, the Sangguniang Bayan or the Municipal Council, as the legislative body of the municipality, has the power to enact ordinances for the general welfare of the municipality and its inhabitants. Among the functions of the Sangguniang Bayan enumerated under Section 447 of Republic Act No. 7160 are:

(2)

Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto, shall:

x x x x

(vii)

Adopt a comprehensive land use plan for the municipality: Provided, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;

(vii)

Reclassify land within the jurisdiction of the municipality subject to the pertinent provision of this Code; x x x.

Under the facts obtaining, this Court agrees with both lower courts that the classification of the lands concerned is residential. No other certification from the municipal council has been presented to show that a new zoning ordinance has been passed by it changing the present classification of the lands, subject of the expropriation case. Even if we consider the allegations of petitioner that said lands are actually used for agriculture, and that the lands adjoining the same are all classified as agricultural, the same will not necessarily change said classification to agricultural.

Even assuming that the lands are still used for agricultural purposes, this will not cause the reversion of the classification of the lands to agricultural. In *Pasong Bayabas Farmers Association, Inc. v. Court Appeals*,^[69] we ruled that the failure of the landowner to complete the housing project did not have the effect of reverting the property to its former classification. In *De Guzman v. Court of Appeals*,^[70] we held that the continuous tillage of the land and the non-commencement of the construction of the market complex did not strip the land of its classification as commercial. Furthermore, even assuming that all the adjoining lands are still classified as agricultural, this does not mean that lands involved cannot be classified differently, as in this case. In the certification issued by the Office of the Municipal Planning and Development Coordinator/Zoning Administrator of the Municipality of Nasugbu, Batangas, the parcels of land reclassified, including those of Far East and the Bernasconis which petitioner seeks to expropriate, were individually listed.

We note that petitioner, in its Complaint, classified the lands of Far East and the Bernasconis as Residential/Agricultural, while the properties of Arsol were classified as Agricultural.^[71] Petitioner uniformly pegged the zonal valuation of all the lands sought to be expropriated at P75.00 per square meter. The classification it made for the lands of Far East and the Bernasconis was residential/agricultural, but the zonal valuation was for agricultural lands. From the tax declarations^[72] it attached to the complaint, it is clear that the lands of Far East and the Bernasconis were classified as Residential. Why not use then the zonal valuation for residential, which was P500.00 per square meter? As to the lands of Arsol, they were classified as agricultural in the tax declarations, so petitioners used the zonal valuation for agricultural lands, which was P75.00 per square meter. From the foregoing, it can be gathered that from the very inception of this case, petitioner, though knowing that the lands of Far East and the Bernasconis were classified as residential, still used the zonal valuation for agricultural lands (P75.00 per square meter). Petitioner knew that the lands of Far East and the Bernasconis were classified as residential, and this was why it indicated in its complaint the classification "Residential/Agricultural." It cannot simply do away with the classification made in the tax declaration. It also used the said classification ("Residential/Agricultural") to justify the zonal value it indicated in the complaint. Thus, petitioner classified the lands of Far East and the Bernasconis in its own way, contrary to the documents it had. What further militates against petitioner's claim that the lands of Far East and the Bernasconis are agricultural is the certification of the Office of the Municipal Planning and Development Coordinator/Zoning Administrator of the Municipality of Nasugbu, Batangas that the said lands have been classified as residential by Municipal Zoning Ordinance No. 3 dated 3 May 1982 as approved under Resolution No. 123, series of 1983 dated 4 May 1983 by the Human Settlement Regulatory Commission (now HLURB).

Inasmuch as what is involved in this case is the payment of the amount equivalent to 100% of the value of the property based on the current relevant zonal valuation of the BIR, we must distinguish the same from just compensation. In *Capitol Steel Corporation v. Phividec Industrial Authority*,^[73] we ruled:

To clarify, the payment of the provisional value as a prerequisite to the issuance of a writ of possession differs from the payment of just compensation for the expropriated property. While the provisional value is based on the current relevant zonal valuation, just compensation is based on the prevailing fair market value of the property. As the appellate court explained:

The first refers to the preliminary or provisional determination of the value of the property. It serves a double-purpose of pre-payment if the property is fully expropriated, and of an indemnity for damages if the proceedings are dismissed. It is not a final determination of just compensation and may not necessarily be equivalent to the prevailing fair market value of the property. Of course, it may be a factor to be considered in the determination of just compensation.

Just compensation, on the other hand, is the final determination of the fair market value of the property. It has been described as "the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of the expropriation." Market values, has also been described in a variety of ways as the "price fixed by the buyer and seller in the open market in the usual and ordinary course of legal trade and competition; the price and value of the article established as shown by sale, public or private, in the ordinary way of business; the fair value of the property between one who desires to purchase and one who desires to sell; the current price; the general or ordinary price for which property may be sold in that locality.

As the preliminary or provisional determination of the value of the property equivalent to 100% of the value of the property based on the current relevant zonal valuation of the BIR, said amount serves a double purpose of pre-payment if the property is fully expropriated, and of indemnity for damages if the proceedings are dismissed. Said provisional value must be paid to the owner of the land before a writ of possession may be issued. The issuance of a certificate of availability of funds will not suffice for the purpose of issuance of a writ of possession.

After payment of the provisional amount, the court may now proceed to determine the amount of just compensation. Petitioner can now present its evidence relative to the properties' fair market value as provided in Section 5 of Republic Act No. 8974.[74]

WHEREFORE, premises considered, the decision of the Court of Appeals dated 9 November 2006 in CA-G.R. SP No. 72425 is hereby AFFIRMED. No costs.

SO ORDERED.

Puno,[**] C.J., Carpio Morales,[***] Velasco, Jr., and Peralta, JJ., concur.
Chico-Nazario,[****] J., acting Chairperson.

[*] Though named as respondent by petitioner, Arsol Management Corporation said it is not a party to be directly affected by the issue resolved in this case.

The Hon. Antonio de Sagun, Presiding Judge, Regional Trial Court, Branch 14, Nasugbu, Batangas was removed from the title of the action, he being a nominal party in this case.

[**]' Chief Justice Reynato S. Puno was designated to sit as additional member replacing Associate Justice Antonio Eduardo B. Nachura per Raffle dated 13 February 2009.

[***] Per Special Order No. 679 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Conchita Carpio Morales to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[****] Per Special Order No. 681 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Minita V. Chico-Nazario as Acting Chairperson to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[1] Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Rodrigo V. Cosico and Edgardo F. Sundiam, concurring; CA rollo, pp. 249-270.

[2] Id. at 351-357.

[3] Records, Vol. 1, pp. 1-46.

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

[5] Records, Vol. 1, pp. 3, 5-6, 8-9.

[6] Part of Lots 263 and 340. See description of TCT No. T-60966.

[7] Records, Vol. 1, pp. 71-76-B.

[8] Id. at 82-121-A.

[9] Id. at 83-87.

[10] Id. at 77-81.

[11] Id. at 122-125, 126-128.

[12] Id. at 136-140, 141-142.

[13] Id. at 130-132.

[14] Id. at 133.

[15] Id. at 154-189.

[16] Id. at 191-198, 199-208.

[17] Id. at 210-211.

[18] Id. at 209.

[19] Id. at 212-214.

[20] Id. at 217.

[21] Id. at 223 and 227.

[22] Id. at 228-232.

[23] Id. at 233-235.

[24] Id. at 246-247.

[25] Id. at 237-238.

[26] Id. at 239-243.

[27] Id. at 251-256.

[28] Id. at 260-268.

[29] Id. at 270-274.

[30] Id. at 275-276.

[31] Id. at 284-286.

- [32] Id. at 288.
- [33] Id. at 289-292.
- [34] Id. at 303.
- [35] CA rollo, pp. 1-31.
- [36] Records, Vol. 2, pp. 468-474.
- [37] Id. at 475-478.
- [38] Id. at 525.
- [39] Id. at 528-532.
- [40] Id. at 587-588.
- [41] Id. at 592-615.
- [42] Records, Vol. 3, pp. 815-817.
- [43] Id. at 855.
- [44] Id. at 900-904.
- [45] Id. at 912.
- [46] Id. at 917-941.
- [47] Records, Vol. 4, p. 1137.
- [48] Id. at 1146.
- [49] CA rollo, pp. 249-269.
- [50] RR-Regular Residential; A-Agricultural; CR-Commercial Regular; GP-General Purpose.
- [51] Rollo, pp. 57-61.
- [52] CA rollo, pp. 271-285.
- [53] Id. at 351-357.
- [54] Capitol Steel Corporation v. Phividec Industrial Authority, G.R. No. 169453, 6 December 2006, 510 SCRA 590, 602.
- [55] Id.
- [56] Land Bank of the Philippines v. Dumlao, G.R. No. 167809, 27 November 2008, 572 SCRA 108, 122.
- [57] Housing Land Use and Regulatory Board.
- [58] Sta. Rosa Realty Development Corporation v. Amante, G.R. Nos. 112526 and 118838, 453 SCRA 432, 459.
- [59] 473 Phil. 64, 95 (2004).
- [60] De Guzman v. Court of Appeals, G.R. No. 156965, 12 October 2006, 504 SCRA 238, 250.
- [61] Social Justice Society v. Atienza, Jr., G.R. No. 156052, 13 February 2008, 545 SCRA 92, 115.

[62] *Sadang v. Court of Appeals*, G.R. No. 140138, 11 October 2006, 504 SCRA 137, 145-146.

[63] *Department of Agrarian Reform v. Cuenca*, 482 Phil. 208, 226 (2004).

[64] G.R. No. 153817, 31 March 2006, 486 SCRA 326.

[65] *Id.* at 347.

[66] *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor, Parañaque City*, G.R. 141010, 7 February 2007, 515 SCRA 1, 12.

[67] *Junio v. Garilao*, G.R. 147146, 29 July 2005, 465 SCRA 173, 189.

[68] Section 20, Local Government Code.

[69] *Supra* note 59 at 96.

[70] *Supra* note 60 at 251.

[71] Table, Records, Vol. 1, p. 4.

[72] Annexes "A" to "N"; *id.* at 15-28.

[73] *Supra* note 54 at 602-603.

[74] *Republic v. Cancio*, G.R. No. 170147, 30 January 2009.

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