

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. VERONICA ATEGA NABLE, RESPONDENT.

G.R. No. 176692. June 27, 2012

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Land Bank of the Philippines (LBP) hereby assails the amount of P26,523,180.00 as just compensation for the taking of landowner Veronica Atega Nable's landholding pursuant to the Comprehensive Agrarian Reform Program (CARP) determined by the Regional Trial Court (RTC) as Special Agrarian Court (SAC) and affirmed by the Court of Appeals (CA).

Antecedents

Veronica Atega Nable (Nable) was the sole owner of a landholding consisting of three contiguous agricultural lots situated in Barangay Taligaman, Butuan City and covered by Original Certificate of Title (OCT) No. P-5 whose total area aggregated to 129.4615 hectares.[1] She had inherited the landholding from her late parents, Spouses Pedro C. Atega and Adela M. Atega. In 1993, the Department of Agrarian Reform (DAR) compulsorily acquired a portion of the landholding with an area of 127.3365 hectares pursuant to Republic Act No. 6657 (Comprehensive Agrarian Reform Law of 1988, or CARL).[2] LBP valued the affected landholding at only P5,125,036.05,[3] but Nable rejected the valuation.[4]

On January 17, 2001, the Department of Agrarian Reform Adjudication Board (DARAB) affirmed the valuation of LBP.[5] After DARAB denied her motion for reconsideration,[6] Nable instituted against DAR and LBP a petition for the judicial determination of just compensation in the RTC in Butuan City, praying that the affected landholding and its improvements be valued at ₱350,000.00/hectare, for an aggregate valuation of P44,567,775.00.[7]

During pre-trial, the parties agreed to refer the determination of just compensation to a board of commissioners,[8] who ultimately submitted a written report to the RTC on June 27, 2003 recommending P57,660,058.00 as the just compensation for Nable.[9]

On November 26, 2004, the RTC rendered its judgment, as follows:

WHEREFORE, in the light of the foregoing consideration, this Court hereby renders judgment ordering the public defendants to pay the following:

- a) The total amount of P26,523,180.00 for the land and improvements;
- b) The 6% interest based on the total amount as Just Compensation to be reckoned at the time of taking that is January 1993;
- c) Commissioner's fee in the amount of P25,000.00;
- d) Attorney's Fee which is 10% percent of the total amount awarded as Just Compensation; and

e) Litigation expenses.

SO ORDERED.[10]

The RTC later denied LBP's motion for reconsideration.[11]

On appeal, LBP urged in its petition for review that the RTC gravely erred as follows:

I

IN TOTALLY DISREGARDING DAR ADMINISTRATIVE ORDER (AO) NO. 11, S. OF 1994 AS AMENDED BY AO NO. 5, S. 1998 IN CONJUNCTION WITH SEC. 17, RA 6657 AND THE DECISION OF THE DARAB CENTRAL, QUEZON CITY [JC-RX-BUT-0055-CO-97] AND THE DECISION OF THE SUPREME COURT IN THE CASE OF VICENTE AND LEONIDAS BANAL VS. LANDBANK, G.R. NO. 143276 PROMULGATED ON 20 JULY 2004;

II

IN TAKING JUDICIAL NOTICE OF THE RESPONDENT'S CARETAKER AFFIDAVIT; FARMING EXPERIENCE" AND "RULE OF THUMB METHOD OF CONVERSION" IN DEROGATION OF THE PRODUCTION DATA FROM THE DEPARTMENT OF AGRICULTURE, AND PHILIPPINE COCONUT AUTHORITY (PCA) USED BY LBP/DAR IN THE DETERMINATION OF JUST COMPENSATION; AND

III

IN (1) AWARDING SIX (6%) PERCENT INTEREST ON THE TOTAL AMOUNT OF JUST COMPENSATION; (2) COMMISSIONER'S FEES IN THE AMOUNT OF P25,000.00; AND (3) TEN (10%) ATTORNEY'S FEES OF THE TOTAL AMOUNT AWARDED.

On August 17, 2006, the CA affirmed the RTC judgment with modifications,[12] to wit:

IN THE LIGHT OF THE FOREGOING, the petition for review is DENIED for lack of merit. The assailed decision is AFFIRMED with MODIFICATION that the just compensation of the subject property is P36,159,855.00 less the amount of P5,125,036.05 paid by petitioner to private respondent.

Petitioner Bank is hereby ORDERED to immediately pay:

A] Respondent the remaining balance of P31,034,819.00 plus twelve (12%) percent per annum as interest (computed from the above remaining balance and from 1993 until full payment thereof); and

B] Mr. Hospicio T. Suralta, Jr., Mr. Rogelio C. Virtudazo, and Mr. Simeon E. Avila, Jr. the sum of P25,000.00 as Commissioners' fee.

The Writ of Preliminary Injunction issued is hereby DISSOLVED.

SO ORDERED.

Upon denial of its motion for reconsideration on January 30, 2007,[13] LBP has appealed by petition for review on certiorari.

Issues

LBP asserts that:

A

THE COURT OF APPEALS GRAVELY ERRED IN SUSTAINING THE SAC's DECISION WHICH TOTALLY DISREGARDED SEC. 17, RA 6657 IN CONJUNCTION WITH DAR ADMINISTRATIVE

ORDER (AO) NO. 11, S. OF 1994 AS AMENDED BY AO NO. 5, S. 1998; THE DECISION OF THE DARAB CENTRAL, QUEZON CITY [JC-RX-BUT-0055-CO-97] AND THE DECISION OF THE SUPREME COURT IN THE CASE OF VICENTE AND LEONIDAS BANAL VS. LANDBANK, G.R. NO. 143276 PROMULGATED ON 20 JULY 2004 AND LBP VS CELADA, G.R. NO. 164876 PROMULGATED ON 23 JANUARY 2006.

B

THE COURT OF APPEALS GRAVELY ERRED IN SUSTAINING THE SAC'S DECISION WHICH TAKE JUDICIAL NOTICE OF THE RESPONDENT'S OWN FACTORS OF VALUATION SUCH AS CARETAKER AFFIDAVIT; "FARMING EXPERIENCE" AND "RULE OF THUMB METHOD OF CONVERSION" WHICH ARE NOT RELATED TO OR NECESSARILY IMPLIED FROM THE FACTORS ENUMERATED UNDER SEC. 17, RA 6657 AND DAR AOs.

C

THE COURT OF APPEALS GRAVELY ERRED IN GIVING PROBATIVE VALUE AND JUDICIAL NOTICE TO THE BOARD OF COMMISSIONER'S REPORT WHICH IS NOT ONLY HEARSAY AND IRRELEVANT AS NO HEARING WAS CONDUCTED THEREON IN VIOLATION OF SEC. 3, RULE 129 OF THE RULES OF COURT AS THE PARTIES WERE REQUESTED TO SUBMIT THEIR RESPECTIVE MEMORANDA.

D

THE COURT OF APPEALS GRAVELY ERRED IN AWARDING (1) TWELVE (12%) PER CENT INTEREST PER ANNUM COMPUTED FROM THE REMAINING BALANCE OF P31,034,819.00 FROM 1993 UNTIL FULL PAYMENT THEREOF; (2) COMMISSIONER'S FEES IN THE AMOUNT OF P25,000.00; AND (3) TEN (10%) PER CENT ATTORNEY'S FEES OF THE TOTAL AMOUNT AWARDED.[14]

Ruling

The appeal lacks merit.

I.

The CA and the RTC did not disregard Section 17, Republic Act No. 6657, and DAR AO No. 5, Series of 1998

Section 4, Article XIII, of the Constitution has mandated the implementation of an agrarian reform program for the distribution of agricultural lands to landless farmers subject to the payment of just compensation to the landowners, viz:

Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary land-sharing.

The Congress has later enacted Republic Act No. 6657 to implement the constitutional mandate. Section 17 of Republic Act No. 6657 has defined the parameters for the determination of the just compensation, viz:

Section 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 nonpayment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

The Congress has thereby required that any determination of just compensation should consider the following factors, namely: (a) the cost of the acquisition of the land; (b) the current value of like properties; (c) the nature, actual use and income of the land; (d) the sworn valuation by the owner; (e) the tax declarations; (f) the assessment made by government assessors; (g) the social and economic benefits contributed to the property by the farmers and farmworkers and by the Government; and (h) the fact of the non-payment of any taxes or loans secured from any government financing institution on the land.

Pursuant to its rule-making power under Section 49 of Republic Act No. 6657,[15] the Department of Agrarian Reform (DAR) promulgated DAR Administrative Order (AO) No. 6, Series of 1992, DAR AO No. 11, Series of 1994 (to amend AO No. 6), and DAR AO No. 5, Series of 1998 (to amend AO No. 11) ostensibly to translate the factors provided under Section 17 in a basic formula. The formulae embodied in these AOs have been used in computing the just compensation upon taking into account all the factors stated in Section 17, *supra*. It is relevant to note that the Court has consistently regarded reliance on the formulae under these AOs to be mandatory.[16]

Of relevance here is DAR AO No. 5, whose formula of just compensation follows:

A. II. The following rules and regulations are hereby promulgated to govern the valuation of lands subject of acquisition whether under voluntary offer to sell (VOS) or compulsory acquisition (CA).

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

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

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 three factors are present, relevant, and applicable.

A1. When the CS factor is not present and CNI and MV are applicable, the formula shall be:

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

A2. 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 RTC found that the entire landholding was prime coconut land located along the national highway planted to 95 fruit-bearing coconut trees per hectare, more or less, or a total of 12,153 fruit-bearing coconut trees. It ascertained Nable's just compensation by considering the affected landholding's nature, location, value and the volume of the produce, and by applying the formula under DAR AO No. 5, Series of 1998, viz:

xxx

Nonetheless, the said report (commissioners' report) impliedly belied the classification made by the

defendants (DAR and LBP) by stating among others, that the land is fully cultivated contrary to the allegation that portion of which is an idle land. While this Court may affirm, modify or disregard the Commissioner's Report, the Court may consider the number of listed coconut trees and bananas actually counted by the Board during their field inspection.

xxx

The Court is of the opinion that the actual production data not the government statistics is the most accurate data that should be used if only to reflect the true and fair equivalent value of the property taken by the defendant through expropriation. Considering the number of coconut trees to a high of 12,153 all bearing fruits, it would be contrary to farming experience involving coconuts to have an average production per month of 2,057.14 kilos without necessarily stating that the said land is classified as prime coconut land. Apportioning the number of coconut trees to the total land area would yield, more or less 95 trees per hectare well within the classification of a prime coconut land.

Even the settled rule of thumb method of conversion, 1000 kilos of nuts make 250 kilos copra resecada long before adopted by coconut farmers spells substantial difference. The Court deems it more reasonable the production data submitted by the plaintiff supported by the affidavit of Mrs. Wilma Rubi, to wit:

xxx Hence, the computation of the just compensation of the subject land, to wit:

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

WHERE: LV = Land Values

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

Since the Comparable Sales factor is missing, the formula shall be as follows:

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

To compute the CNI, the following formula shall be used, to wit:

$CNI = (AGP \times SP) - CO$

0.12

The cost of operation could not be obtained or verified and since the landholdings subject in the instant case are planted to coconut which are productive at the time of Field Investigation (FI), it will continue to use the assumed NIR of 70%.

Thus, the computation, to wit:

$CNI = (AGP \times SP (70\%))$

.12

$= (5,671.3 \text{ kls.} \times 5.93) 70\%$

.12

$= 23,541.56$

.12

$CNI = 196,179.7$

$$LV = (196,179.7 \times 0.9) + (14,158 \times 0.1)$$

$$= 176,561.73 + 1,415.8$$

$$LV = P22,662,466$$

Improvements:

Computation:

xxx

Total - P3,860,714.00

Summary Computation of Total Just Compensation: 1) Land Value - P22,662,466.00 2) Improvements - P3,860,714.00

Total - P26,523,180.00

“Just compensation means the equivalent for the value of the property at the time of its taking. It means a fair and full equivalent value for the loss sustained. All the facts as to the condition of the property and its surroundings, its improvements and capabilities should be considered” (Export Processing Zone Authority vs. Dulay 149 SCRA 305 [1987]). Consistent with the said ruling, the Court considered the findings of the commissioners as to the plants/fruit tree introduced into the land constituting as valuable improvements thereto. Thus, the above computation.

xxx

Considering therefore the actual production in addition with the desirable land attributes as a contiguous titled property fertile, with valuable intercrops, constituting as improvements, fully cultivated, proximate location along the national highway, the Court deems it just and equitable the valuation in total per Court’s computation.[17]

The CA affirmed the RTC’s valuation upon finding that the evidence on record substantiated the valuation, but saw the need to correct the amount from P26,523,180.00 to P31,034,819.00 because of the RTC’s honest error in calculation. The CA’s following explanation for its affirmance is worth noting:

To recapitulate, the Annual and Monthly Gross Production of copra on the subject property are as follows:

Average Yearly Production

Average Monthly Production

Directly Processed Copra –

15,580 kilos

1,298.3 kilos

Whole Nuts Resecada -
(converted tibook)

209,908 kilos

4,373 kilos

5,671.3 kilos

We likewise observe that in the computation of the CNI OR Capitalized Net Income, both DARAB and the

court a quo used the following formula:

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

.12

Unfortunately, DARAB and the court a quo committed an error in the calculation thereon (emphasis supplied). After multiplying the AGP (Average Gross Production) from SP (Selling Price/kilo), they multiplied the result with the CO (Cost of Operation), instead of subtracting the same as reflected in the above formula.

Thus, pursuant to Administrative Order No. 11, as amended, the correct computation should be:

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

.12

Wherein: AGP – 5,671.3 kilos (Average Gross Production)

SP - P5.93/kilo (Selling Price – from PCA data)

CO – 70% (assumed Cost of Operations, AO No. 11)

$$= (5,671.53 \text{ kilos} \times 5.93) - 70\%$$

.12

$$= 33.632.17 \text{ -.7}$$

.12

$$= 33.631.472$$

.12

$$\text{CNI} = 280,262.26$$

To compute the Land Value (LV) per hectare, we use the formula as prescribed by Administrative Order No. 11, as amended:

$$\text{LV} = (\text{CNI} \times 0.9) + (\text{CS} \times 0.3) + (\text{MV} \times 0.1)$$

WHERE: LV = Land Values

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

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

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

Wherein: CNI – 280,262.26

MV - P14,158.40 (Market Value per Tax Declaration of the subject property)

$$\text{LV} = (280,262.26 \times 0.9) + (P14,158.40 \times 0.1)$$

$$= 252,236.03 + P1,415.84$$

$$\text{LV} = P253,651.87/\text{hectare}$$

Total Land Value = P253,651.87 hectare x 127.3365 hectares

= P32,299,141.00

Summary of Valuation:

1) Total Land Value - P32,299,141.00

2) Improvements - P3,860,714.00 (as found by the court a quo)

TOTAL - P36,159,855.00

Hence, the correct just compensation that must be paid to herein respondent is Thirty Six Million One Hundred Fifty Nine Thousand Eight Hundred Fifty Five Pesos (P36,159,855.00).[18]

x x x

In the case at bench, petitioner Bank initially paid respondent the sum of P5,125,036.05 on August 26, 1993. The total just compensation payable to the latter, as computed above, is P36,159,855.00. Hence, the difference of P31,034,819.00 (emphasis supplied) must earn the interest of 12% per annum, or P3,724,178.20, from 1993 until fully paid thereon in order to place the owner in a position as good (but not better than) the position she was in before the taking occurred as mandated by the Reyes doctrine.[19] (Emphasis supplied)

We cannot fail to note that the computation by the CA closely conformed to the factors listed in Section 17 of Republic Act No. 6657, especially the factors of the actual use and income of the affected landholding. The Court has consistently ruled that the ascertainment of just compensation by the RTC as SAC on the basis of the landholding's nature, location, market value, assessor's value, and the volume and value of the produce is valid and accords with Section 17, supra.[20] The Court has likewise ruled that in appraising just compensation the courts must consider, in addition, all the facts regarding the condition of the landholding and its surroundings, as well as the improvements and the capabilities of the landholding.[21] Thus, we sustain the computation.

We also stress that the factual findings and conclusions of the RTC, when affirmed by the CA, are conclusive on the Court. We step in to review the factual findings of the CA only when we have a compelling reason to do so, such as any of the following:

- When the factual findings of the CA and the RTC are contradictory;
- When the findings are grounded entirely on speculation, surmises, or conjectures;
- When the inference made by the CA is manifestly mistaken, absurd, or impossible;
- When there is grave abuse of discretion in the appreciation of facts;
- When the CA, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- When the judgment of the CA is premised on a misapprehension of facts;
- When the CA fails to notice certain relevant facts that, if properly considered, will justify a different conclusion;
- When the findings of fact are themselves conflicting;
- When the findings of fact are conclusions without citation of the specific evidence on which they are based; and,
- When the findings of fact of the CA are premised on the absence of evidence, but such findings are contradicted by the evidence on record.[22]

Considering that LBP has not shown and established the attendance of any of the foregoing compelling reasons to justify a review of the findings of fact of the CA, we do not disturb the findings of fact of the CA and the RTC.

Nonetheless, LBP urges that the CA should have relied on the rulings in *Land Bank of the Philippines v. Banal*[23] and *Land Bank of the Philippines v. Celada*[24] in resolving the issue of just compensation.

In *Banal*, the Court invalidated the land valuation by the RTC because the RTC did not observe the basic rules of procedure and the fundamental requirements in determining just compensation cases. In *Celada*, the Court set aside the land valuation because the RTC had used only one factor in valuing the land and had disregarded the formula under DAR AO No. 5, Series of 1998. The Court stated that the RTC “was at no liberty to disregard the formula which was devised to implement the said provision.”[25] Thus, LBP submits that the RTC’s land valuation, as modified by the CA, should be disregarded because of the failure to consider the factors listed in Section 17 of RA 6657 and the formula prescribed under DAR AO No. 5, Series of 1998, amending DAR AO No. 11, Series of 1994.

LBP’s submission is grossly misleading. As the Court has already noted, the CA and the RTC did not disregard but applied the formula adopted in DAR AO No. 5. Moreover, the reasons for setting aside the RTC’s determinations of just compensation in *Banal* and *Celada* did not obtain here. In *Banal*, the RTC as SAC did not conduct a hearing to determine the landowner’s compensation with notice to and upon participation of all the parties, but merely took judicial notice of the average production figures adduced in another pending land case and used the figures without the consent of the parties.[26] The RTC did not also appoint any commissioners to aid it in determining just compensation. In contrast, the RTC as SAC herein conducted actual hearings to receive the evidence of the parties; appointed a board of commissioners to inspect and to estimate the affected landholding’s value; and gave due regard to the various factors before arriving at its valuation. In *Celada*, the Court accepted the valuation by LBP and set aside the valuation determined by the RTC because the latter valuation had been based “solely on the observation that there was a patent disparity between the price given to the respondent and the other landowners.”[27] Apparently, the RTC had used only a single factor in determining just compensation. Here, on the other hand, the RTC took into consideration not only the board of commissioners’ report on the affected landholding’s value, but also the several factors enumerated in Section 17 of Republic Act No. 6657 and the applicable DAR AOs as well as the value of the improvements.

II.

Farming Experience and Rule of Thumb Method of

Conversion are relevant to the statutory factors

for determining just compensation

The RTC elucidated:

The Court is of the opinion that the actual production data not the government statistics is the most accurate data that should be used if only to reflect the true and fair equivalent value of the property taken by the defendant through expropriation. Considering the number of coconut trees to a high of 12,153 all bearing fruits, it would be contrary to farming experience involving coconuts to have an average production per month of 2,057.14 kilos without necessarily stating that the said land is classified as prime coconut land. Apportioning the number of coconut trees to the total land area would yield, more or less 95 trees per hectare well within the classification of a prime coconut land.

Even the settled rule of thumb method of conversion, 1000 kilos of nuts make 250 kilos copra resecada long before adopted by coconut farmers spells substantial difference. The Court deems it more reasonable the production data submitted by the plaintiff supported by the affidavit of Mrs. Wilma Rubi, to wit:

COPRA RESECADA:

Months

No. of Kilos

Sales

a.) November 1992

No copra

-0-

b.) October 1992

1,416

P 9,345.60

c.) September 1992

2,225

P14,540.65

d.) August 1992

No copra

-0-

e.) July 1992

323.5

P 2,523.30

f.) June 1992

1,867

P15,946.10

g.) May 1992

713

P 5,940.60

h.) April 1992

746

P 6,490.20

i.) March 1992

1,962.5

P16,485.00

j.) February 1992

2,652.5

P 22,281.00

k.) January 1992

495.5

P 4,558.00

l.) December 1991

3,178.5

P27,419.05

15,580

P125,080.10

xxx

The defendant (LBP) did not bother to disprove the aforestated documentary evidence submitted by the plaintiff (Nable). However, the selling price/kilo (SP/Kg.) used by the defendants (DAR and LBP) in their computation is more reasonable/fair price per kilo of copra during the time of taking. The time of taking must have relevance on the determination of the selling price (SP) prevailing when expropriation was effected. xxx[28]

LBP protests the use by the RTC of the farming experience and the thumb method of conversion as gauges of the justness of LBP and DARAB's valuation of the affected landholding.

The Court finds nothing objectionable or irregular in the use by the RTC of the assailed the farming experience and the thumb method of conversion tests. Such tests are not inconsistent or incompatible with the factors listed in Section 17 of Republic Act No. 6657, as the aforequoted elucidation of the RTC shows.

Although Section 17 of Republic Act No. 6657 has not explicitly mentioned the farming experience and the thumb method of conversion as methods in the determination of just compensation, LBP cannot deny that such methods were directly relevant to the factors listed in Section 17, particularly those on the nature, actual use and income of the landholding.

III.

LBP was allowed the opportunity to refute the Commissioners' Report and Rubi's affidavit

LBP insists that the CA and the RTC both erred in relying on the Commissioners' Report and on caretaker Wilma Rubi's affidavit because the RTC did not conduct a hearing on the motion to approve the Commissioners' Report; and because it (LBP) was deprived of the opportunity to contest the Commissioners' Report and Wilma Rubi's affidavit.

LBP's insistence is factually and legally unwarranted.

It appears that upon its receipt of the Commissioners' Report, LBP submitted to the RTC on July 30, 2003 an opposition to the Commissioners' Report and to Nable's motion to approve the Commissioners' Report;[29] and that the RTC later sent to LBP a notice for the hearing on September 19, 2003 of the motion to approve the Commissioner's Report.[30] LBP's counsel received the notice of hearing on August 28, 2003.[31] Yet, neither

LBP's counsel nor its representative appeared at the hearing held on September 19, 2003; instead, only Nable's counsel attended.[32] Even so, the RTC still directed the parties to submit their respective memoranda on the Commissioners' Report.[33] On its part, LBP filed its memorandum (with supporting documents attached).[34]

Under the circumstances, LBP had no justification to complain that it had not been allowed the opportunity to oppose or comment on the Commissioners' Report.

Anent Wilma Rubi's affidavit, LBP did not object to its presentation during the trial. LBP objected to the affidavit for the first time only on appeal in the CA. Expectedly, the CA rejected its tardy objection, and further deemed LBP's failure to timely object to "respondent's introduction of (the) affidavit" as an implied admission of the affidavit itself.[35]

The Court agrees with the CA's rejection of LBP's objection to the affidavit.

Any objection to evidence must be timely raised in the course of the proceedings in which the evidence is first offered.[36] This enables the adverse party to meet the objection to his evidence, as well as grants to the trial court the opportunity to pass upon and rule on the objection. The objection to evidence cannot be made for the first time on appeal, both because the party who has failed to timely object becomes estopped from raising the objection afterwards; and because to assail the judgment of the lower court upon a cause as to which the lower court had no opportunity to pass upon and rule is contrary to basic fairness and procedural orderliness.[37]

IV.

Awarding of interest and commissioners' fee, and deletion of attorney's fee are proper

The CA correctly prescribed 12% interest per annum on the unpaid balance of P31,034,819.00 reckoned from the taking of the land in 1993 until full payment of the balance. This accords with our consistent rulings on the matter of interest in the expropriation of private property for a public purpose.[38] The following justification for that rate of interest rendered in *Republic v. Reyes*[39] is now worthy of reiteration, viz:

The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be the price fixed by the seller in open market in the usual and ordinary course of legal action and competition or the fair value of the property as between one who receives, and one who desires to sell, it fixed at the time of the actual taking by the government. Thus, if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, the final compensation must include interests on its just value to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court. In fine, between the taking of the property and the actual payment, legal interests accrue in order to place the owner in a position as good as (but not better than) the position he was in before the taking occurred.

The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time. Article 1250 of the Civil Code, providing that, in case of extraordinary inflation or deflation, the value of the currency at the time of the establishment of the obligation shall be the basis for the payment when no agreement to the contrary is stipulated, has strict application only to contractual obligations. In other words, a contractual agreement is needed for the effects of extraordinary inflation to be taken into account to alter the value of the currency. (Emphasis supplied)

The charging of P25,000.00 as commissioners' fees against LBP is likewise upheld. Section 16, Rule 141 of the

Rules of Court, expressly recognizes such fees, to wit:

Section 16. Fees of commissioners in eminent domain proceedings. – The commissioners appointed to appraise land sought to be condemned for public uses in accordance with the rules shall each receive a compensation to be fixed by the court of not less than (P300.00) Pesos per day for the time actually and necessarily employed in the performance of their duties and in making their report to the court which fees shall be taxed as a part of costs of the proceedings.

Applying the rule, the Court finds the amount of P25,000.00 as fair and commensurate to the work performed by the commissioners, which the CA summed up as follows:

We observe that in the Commissioners' Report, the three (3) appointed Commissioners actually inspected 127 hectares of the subject property. It took them five (5) days to complete the ocular inspection and individually counted 12,153 coconut trees, 28,024 bananas, 4,928 Tundan, 821 Falcata, 1,126 Temani, 298 Bamboos, Jackfruit, 90 Santol, 51 Rombuon, 260 Ipil-Ipil, 5,222 Abaca plant, 68 Star Apple, 1,670 Antipolo, 67 Narra trees, 23 Durian trees, 139 Mango trees, 83 Avocado trees, 23 Lanzones trees, 84 Cacao, 18 Marang, and 13 trees of Lawaan.

Hence, for the actual time spent and thoroughness of its Report, it is proper for the said commissioners to be compensated in the amount of P25,000.00, which is only P1,666.66 per day.[40]

We sustain the CA's deletion of the RTC's award of 10% attorney's fees. Under Article 2208, Civil Code, an award of attorney's fees requires factual, legal, and equitable justifications. Clearly, the reason for the award must be explained and set forth by the trial court in the body of its decision. The award that is mentioned only in the dispositive portion of the decision should be disallowed.[41]

Considering that the reason for the award of attorney's fees was not clearly explained and set forth in the body of the RTC's decision, the Court has nothing to review and pass upon now. The Court cannot make its own findings on the matter because an award of attorney's fees demands the making of findings of fact.

WHEREFORE, the Court AFFIRMS the decision promulgated on August 17, 2006 by the Court of Appeals; and ORDERS petitioner to pay the costs of suit.

SO ORDERED.

Leonardo-De Castro, (Acting Chairperson), Del Castillo, Villarama, Jr., and Perlas-Bernabe, JJ., concur.

[1] Records, pp. 2-3 and 16-19 (Folio 1).

[2] Id. at 20.

[3] Id. at 21.

[4] Id. at 4.

[5] Id. at 25-35.

[6] Id. at 582-583 (Folio 2).

[7] Id. at 1-15 (Folio 1).

[8] Id. at 123-124.

[9] Id. at 169-174.

[10] Id. at 426-434.

[11] Records, pp. 472-473 (Folio 1).

[12] Rollo, pp. 74-102.

[13] Id. at 103.

[14] Id. at 28-31.

[15] Section 49. Rules and Regulations. — The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.

[16] Land Bank of the Philippines v. Escandor, G. R. No. 171685, October 11, 2010, 632 SCRA 504, 515; Land Bank of the Philippines v. Barrido, G.R. No. 183688, August 18, 2010, 628 SCRA 454, 460; Land Bank of the Philippines v. Kumassie Plantation Company Incorporated, G.R. No. 177404, December 4, 2009, 607 SCRA 365, 369; Land Bank of the Philippines v. Belista, G.R. No. 164631, June 26, 2009, 591 SCRA 137; Land Bank of the Philippines v. Heirs of Honorato De Leon, G.R. No. 164025, May 8, 2009, 587 SCRA 454, 462; Allied Bank Corporation v. Land Bank of the Philippines, G.R. No. 175422, March 13, 2009, 581 SCRA 301, 310; Land Bank of the Philippines v. Dumlao, G.R. No. 167809, November 27, 2008, 572 SCRA 108; Land Bank of the Philippines v. Heirs of Eleuterio Cruz, G.R. No. 175175, September 29, 2008, 567 SCRA 31; Meneses v. DAR Secretary, G. R. No. 156304, October 23, 2006, 505 SCRA 90; Land Bank of the Philippines v. Wycoco, G.R. No. 140160, January 13, 2004, 419 SCRA 67.

[17] Records (Folio 1), pp. 428-433 (emphases supplied).

[18] Rollo, pp. 89-91.

[19] Id. at 97.

[20] See, e.g., Land Bank of the Philippines v. Chico, G.R. No. 168453, March 13, 2009, 581 SCRA 226, 242; Land Bank of the Philippines v. Heirs of Angel T. Domingo, G.R. No. 168533, February 4, 2008, 543 SCRA 627, 643; Apo Fruits Corporation v. Court of Appeals, G.R. No. 164195, February 6, 2007, 514 SCRA 537, 566; Land Bank of the Philippines v. Natividad, G.R. No. 127198, May 16, 2005, 458 SCRA 441, 452-453.

[21] Apo Fruits Corporation v. Court of Appeals, G.R. No. 164195, December 19, 2007, 541 SCRA 117, 132; National Power Corporation v. Manubay Agro-Industrial Development Corporation, G.R. No. 150936, August 18, 2004, 437 SCRA 60, 69; Export Processing Zone Authority v. Dulay, No. L-59603, April 29, 1987, 149 SCRA 305, 315.

[22] Fuentes v. Court of Appeals, G. R. No. 109849, February 26, 1997, 268 SCRA 703, 708-709; Sta. Maria v. Court of Appeals, G. R. No. 127549, January 28, 1998, 285 SCRA 351, 357-358; Reyes v. Court of Appeals (Ninth Division), G. R. No. 110207, July 11, 1996, 258 SCRA 651, 659; Floro v. Llenado, G.R. No. 75723, June 2, 1995, 244 SCRA 713, 720; Remalante v. Tibe, No. L-59514, February 25, 1988, 158 SCRA 138, 145.

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

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

[25] Id.

[26] Supra, note 23, pp. 550-551.

[27] Supra, note 24, pp. 505-506.

[28] Records (Folio 1), pp. 429-430 (emphases supplied).

[29] Id. at 211-213.

[30] Id. at 217.

[31] Id. at 218.

[32] Id. at 223.

[33] Id. at 225.

[34] Id. at 328-341.

[35] Rollo, p. 95.

[36] On when an objection to evidence is to be made, Rule 132, Rules of Court, states:

Section 36. Objection. - Objection to evidence offered orally must be made immediately after the offer is made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

In any case, the grounds for the objections must be specified.(36 a)

[37] See, e.g., *Heirs of Lorenzo v. Land Bank of the Philippines*, G.R. No. 166461, April 30, 2010, 619 SCRA 609, 623-624.

[38] E.g., *Land Bank of the Philippines v. Rivera*, G.R. No. 182431, November 17, 2010, 635 SCRA 285, 294-295; *Apo Fruits Corporation v. Land Bank of the Philippines*, G.R. No. 164195, October 12, 2010, 632 SCRA 727, 743-748; *Curata v. Philippine Ports Authority*, G.R. Nos. 154211-12, June 22, 2009, 590 SCRA 214, 358; *Philippine Ports Authority v. Rosales-Bondoc*, G.R. No. 173392, August 24, 2007, 531 SCRA 198, 222; *Land Bank of the Philippines v. Imperial*, G.R. No. 157753, February 12, 2007, 515 SCRA 449, 458.

[39] G.R. No. 146587, July 2, 2002, 383 SCRA 611, 622-623.

[40] Rollo, pp. 99-100.

[41] *Nazareno v. City of Dumaguete*, G.R. No. 177795, June 19, 2009, 590 SCRA 110, 146.

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