

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. KUMASSIE PLANTATION COMPANY INCORPORATED, RESPONDENT.

G.R. No. 177404. December 04, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For resolution is a Motion[1] and Supplement to the Motion[2] filed in these consolidated cases by Kumassie Plantation Co., Inc. (KPCI), seeking reconsideration of our Decision dated 25 June 2009, the dispositive part of which reads:

WHEREFORE, in view of the foregoing:

1) The Petition of Land Bank of the Philippines in G.R. No. 177404 is GRANTED. The Decision, dated 24 November 2005, and Resolution, dated 30 March 2007, of the Court of Appeals in CA-G.R. CV No. 65923, are REVERSED and SET ASIDE. The valuation of the subject land at P41,792.94 per hectare, for a total of P19,140,965.91, by the Land Bank of the Philippines is APPROVED, and such amount is DECLARED PAID IN FULL; and

2) The Petition of Kumassie Plantation Company Incorporated is DENIED. No costs.[3]

In the said Decision, we reversed the Court of Appeals' ruling on the amount of just compensation to be paid KPCI, pursuant to the compulsory acquisition of its 457-hectare landholding located in Basiawan, Santa Maria, Davao del Sur. We based our decision on the fact that the appellate court, as well as the Regional Trial Court (RTC), failed to consider the factors mentioned in Section 17 of Republic Act No. 6657, and to apply the formula stated in Department of Agrarian Reform Administrative Order (DAO) No. 6, Series of 1992, as amended by DAO No. 11, Series of 1994. In accordance with our rulings in *Land Bank of the Philippines v. Banal*[4] and *Land Bank of the Philippines v. Lim*,[5] we held that the factors laid down in Section 17 of Republic Act No. 6657 and the formula stated in DAO No. 6, Series of 1992, as amended, must be adhered to by courts in fixing the valuation of lands subject to acquisition under agrarian reform laws. These factors and formula are mandatory and not mere guides that the courts may disregard. Considering that the Land Bank of the Philippines (LBP) applied the factors and formula prescribed by law for the determination of just compensation, we rejected the RTC's valuation of KPCI's land at P100,000.00 per hectare, and approved the valuation made by LBP in the amount of P41,792.94 per hectare.

KPCI is now before us pleading for reconsideration of our decision. It insists that the DAR valuation formula should not bind the courts, as the determination of just compensation is primarily a judicial function. It also claims that the LBP erred in its computation of the just compensation to be paid, since it did not include the cacao production of the property as part of its valuation. It further asserts that it should be compensated for the cacao trees planted on the land because, even if the same were planted by its lessee, the Philippine Cocoa Estates Corporation (PCEC), the same belong to KPCI under the terms of their lease contract. It prays for the reinstatement of the RTC and the Court of Appeals' decision in the present cases.

Anent the first ground cited by KPCI, suffice it to state that while the determination of just compensation involves the exercise of judicial discretion, such discretion must nonetheless be discharged within the bounds of law.[6] It must be stressed that DAO No. 6, Series of 1992, as amended, partakes of the nature of a statute, as it was issued to carry out the provisions of Republic Act No. 6657. The DAR valuation formula embodied in the said administrative order was devised to implement Section 17 of Republic Act No. 6657. Thus, courts are bound by the formula unless and until the same is invalidated in appropriate proceedings.[7]

With respect to the second ground raised by KPCI, however, there is indeed a cogent reason to reconsider our earlier decision. We have taken a second hard look at the computation made by LBP and found that it mistakenly excluded figures pertaining to the land's cacao production.

In computing for the value of the land subject to acquisition, the formula provided in DAO No. 6, Series of 1992, as amended, requires that figures pertaining to the Capitalized Net Income (CNI) and Market Value (MV) of the property be used as inputs in arriving at the correct land valuation. Thus, the applicable formula, as correctly used by the LBP in its valuation, is $LV (Land Value) = (CNI \times 0.9) + (MV \times 0.1)$. [8]

To arrive at the figure for the CNI of lands planted to a combination of crops, Item II B.5 of the said administrative order provides that the same should be computed based on the combination of actual crops produced on the covered land. The said provision states:

B.5. Total income shall be computed from the combination of crops actually produced on the covered land whether seasonal or permanent.

a. Landholdings planted to permanent crop with another permanent crop/s:

a.1. In case all the permanent crops are productive or fruit-bearing at the time of the ocular inspection, CNI per Hectare is derived by dividing TNI/Hectare by the capitalization rate.

Expressed in equation form:

$CNI/Ha. = TNI/Ha.$

.12

Where:

$TNI/Ha. = (NI\ 1 + NI\ 2 + \dots NI_n)$

Total Area

NI 1, NI 2 and NI_n represent the annual net income of each crop.

Total area is the hectareage of the land where all the crops are commonly planted.

a.2. In case one or more of the permanent crops are productive or fruit-bearing and the other permanent crops are not yet fruit-bearing, CNI shall be the sum of the CNI per Hectare of the productive crop as defined in Item B.5-a.1 and the cumulative cost per hectare of the non-fruit bearing permanent trees as defined in Item B.4.

It is an undisputed fact that the land subject of these consolidated cases was planted to coconuts and cacao.[9] Thus, the LBP should have based its computation of the CNI on the combined net incomes from the crops produced on KPCI's land. However, the LBP did not include cacao in its computation because there allegedly was "no production data available." Moreover, the LBP justified its non-inclusion of figures pertaining to cacao production on the ground that the cacao trees were "introduced by the lessees," PCEC.[10]

Under DAO No. 6, Series of 1992, as amended, LBP cannot simply exclude figures pertaining to the land's cacao production on the pretext that there was "no production data available." In arriving at a just valuation of the land,

the LBP could have obtained the necessary information from various sources, adopted any available industry data or even caused an industry study to be conducted in order to arrive at the proper figures. Items B.1 and B.2 of DAO No. 6, Series of 1992, as amended, are explicit in this point, to wit:

B.1.

Industry data on production, cost of operations and selling price shall be obtained from government/private entities. Such entities shall include, but not limited to the Department of Agriculture (DA), the Sugar Regulatory Authority (SRA), the Philippine Coconut Authority (PCA) and other private persons/entities knowledgeable in the concerned industry.

B.2.

The landowner shall submit a statement of net income derived from the land subject of acquisition. This shall include among others, total production and cost of operations on a per crop basis, selling price/s (farm gate) and such other data as may be required. These data shall be validated/verified by the Department of Agrarian Reform and Land Bank of the Philippines field personnel. The actual tenants/farmworkers of the subject property will be the primary source of information for purposes of verification or if not available, the tenants/farmworkers of adjoining property.

In case of failure by the landowner to submit the statement within fifteen (15) days from the date of receipt of letter-request as certified by the Municipal Agrarian Reform Office (MARO) or the data stated therein cannot be verified/validated from the farmers, LBP may adopt any available industry data or, in the absence thereof, conduct an industry study on the specific crop which will be used in determining the production, cost and net income of the subject landholding.

Ergo, the LBP cannot simply brush aside the subject land's cacao production on the flimsy excuse that there were no available data relative to this particular produce. As the agency primarily charged with the determination of land valuation and compensation in acquisition proceedings relative to agrarian reform, the LBP has at its disposal all possible resources to come up with the necessary data in order to ensure the proper valuation of lands acquired for the purpose. The LBP should be mindful that the compulsory acquisition of lands under agrarian reform laws involves the forcible taking by government of private property for distribution to farmer-beneficiaries. It should thus exert all efforts to diligently ascertain the value of lands, if only to avoid recriminations from landowners and farmer-beneficiaries alike.

Also, we cannot accept LBP's position that the subject land's cacao production should be excluded from the computation of the CNI, since the cacao trees were planted by KPCI's lessee, PCEC. DAO No. 6, Series of 1992, as amended, does not differentiate between crops planted by the landowner and those planted by a lessee in computing for the CNI. To our mind, this is only logical since the crops produced by the land will undoubtedly contribute to its net income regardless of who planted the same. The sum of incomes derived from all crops planted on the land is representative of the land's over-all productivity and naturally comprises part of its value.

Notably, KPCI earlier submitted to us a copy of a Memorandum[11] dated 25 July 2000 in which it appears that the LBP approved the upward adjustment of the subject land's value to include a "2% Cacao Gross Sale" in the computation of the CNI. The "2% Cacao Gross Sale" presumably represents KPCI's share in, and thus the income from, the gross sale of cacao under its lease contract with PCEC. It also appears that the cacao trees themselves have been valued by LBP at P18,541,635.00. The latter amount was made payable to PCEC as planter and supposed owner of the cacao trees.

In its Memorandum filed in G.R. No. 178097, LBP urged us to ignore the Memorandum dated 25 July 2000, because KPCI did not present and offer the same in evidence before the RTC when the case was pending trial on

the merits. According to LBP, we should not consider said memorandum in determining the just compensation due to KPCI, as it was not formally offered in evidence and was merely attached for the first time by KPCI to its petition in G.R. No. 178097. Moreover, LBP alleges that the issue of who is entitled to just compensation for the cacao trees is a matter that should be separately resolved between KPCI and PCEC in accordance with the terms of their lease contract.

In view of our earlier observation that LBP erroneously excluded figures pertaining to the subject land's cacao production in the computation of the CNI, it is difficult to ignore the Memorandum dated 25 July 2000 even if the same was not formally offered in evidence during the trial of the case. It should first be pointed out that KPCI could not have presented the said memorandum before the RTC, since it was apparently issued long after trial on the merits had already been concluded.[12] The said memorandum would also seem to indicate that LBP in fact committed a mistake in its original computation that excluded income from cacao production in the CNI. Under this memorandum, the LBP approved the payment of an additional P8,116,919.09 to KPCI, over and above the P19,140,965.91 that the former had already paid as original valuation of the subject land. We cannot simply turn a blind eye and not take this document into account, especially as it reinforces our independent observation that LBP's computation was indeed erroneous.

At any rate, while we view the said memorandum as an indication that LBP committed a mistake in its computation, we are not prepared to accept the actual amount specified in said document as the true and final sum owed to KPCI as just compensation for its property. Although it would seem that the additional value of the land appearing in said document took into consideration the "2% Cacao Gross Sale" in computing for the CNI, the memorandum does not clearly show how the LBP arrived at the aggregate sum of P8,116,919.09. In other words, while the document fortifies our finding that LBP erroneously omitted figures relative to the cacao production of the subject land, we cannot conclusively determine the accuracy and correctness of the computation and figures from an examination of said document.

In light of the foregoing, we are compelled to remand the instant consolidated cases to the RTC for the proper computation of just compensation, based on the formula and parameters provided in DAO No. 6, Series of 1992, as amended. While this Court wants to write *finis* to these consolidated cases by computing the just compensation due to KPCI, the evidence on record is not sufficient for the Court to do so in accordance with DAO No. 6, Series of 1992, as amended.[13] We are thus left with no choice but to return these cases to the RTC for a determination of the correct valuation of the subject land.

Lastly, the matter of who is entitled to the value of the cacao trees should be resolved in separate proceedings between KPCI and its lessee, PCEC. Underlying this matter is the determination of who properly owns the cacao trees under the lease contract between the parties. The RTC had no authority to resolve this issue, which involves the interpretation of contractual stipulations, as it merely acted as a Special Agrarian Court with limited jurisdiction over these consolidated cases. It is thus premature for KPCI to claim compensation for the cacao trees, which its lessee admittedly planted.

WHEREFORE, after due deliberation, the Motion for Reconsideration, dated 30 July 2009, and Supplement to the Motion for Reconsideration, dated 24 August 2009, filed by Kumassie Plantation Co., Inc. are hereby **PARTIALLY GRANTED**. The instant consolidated cases are **REMANDED** to the court of origin, Branch 15 of the Regional Trial Court, Davao City, which is directed to determine with dispatch the just compensation due to KPCI in accordance with the formula prescribed in DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and Bersamin[*], JJ., concur.

[*] Associate Justice Lucas P. Bersamin was designated to sit as additional member replacing Associate Justice Renato C. Corona per Raffle dated 19 October 2009.

[1] Dated 30 July 2009; rollo (G.R. No. 177404), pp. 415-441.

[2] Dated 24 August 2009; rollo (G.R. No. 177404), pp. 479-503.

[3] Rollo (G.R. No. 177404) p. 413.

[4] 478 Phil. 701 (2004).

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

[6] Land Bank of the Philippines v. Banal, *supra* note 4 .

[7] Land Bank of the Philippines v. Celada, G.R. No. 164876, 23 January 2006, 479 SCRA 495, 507.

[8] CA rollo, pp. 45-46.

[9] Rollo (G.R. No. 177404), p. 394.

[10] *Id.*

[11] Rollo (G.R. No. 178097), pp. 277-279.

[12] The RTC rendered its Decision on 18 February 1999.

[13] Land Bank of the Philippines v. Lim, *supra* note 5 at 141.

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