

**SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS AND DISTRICT ENGINEER CELESTINO R. CONTRERAS,
PETITIONERS, VS. SPOUSES HERACLEO AND RAMONA TECSON,
RESPONDENTS.**

G.R. No. 179334. April 21, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

For resolution is the Motion for Reconsideration[1] filed by respondents-movants spouses Heracleo and Ramona Tecson imploring the Court to take a second look at its July 1, 2013 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the petition is PARTIALLY GRANTED. The Court of Appeals Decision dated July 31, 2007 in CA-G.R. CV No. 77997 is MODIFIED, in that the valuation of the subject property owned by respondents shall be P0.70 instead of P1,500.00 per square meter, with interest at six percent (6%) per annum from the date of taking in 1940 instead of March 17, 1995, until full payment.[2]

In view of the contrasting opinions of the members of the Third Division on the instant motion, and the transcendental importance of the issue raised herein, the members of the Third Division opted to refer the issue to the En Banc for resolution.

For a proper perspective, we briefly state the factual background of the case.

In 1940, the Department of Public Works and Highways (DPWH) took respondents-movants' subject property without the benefit of expropriation proceedings for the construction of the MacArthur Highway. In a letter dated December 15, 1994, respondents-movants demanded the payment of the fair market value of the subject parcel of land. Celestino R. Contreras (Contreras), then District Engineer of the First Bulacan Engineering District of the DPWH, offered to pay for the subject land at the rate of Seventy Centavos (P0.70) per square meter, per Resolution of the Provincial Appraisal Committee (PAC) of Bulacan. Unsatisfied with the offer, respondents-movants demanded the return of their property, or the payment of compensation at the current fair market value.[3] Hence, the complaint for recovery of possession with damages filed by respondents-movants. Respondents-movants were able to obtain favorable decisions in the Regional Trial Court (RTC) and the Court of Appeals (CA), with the subject property valued at One Thousand Five Hundred Pesos (P1,500.00) per square meter, with interest at six percent (6%) per annum.

Petitioners thus elevated the matter to this Court in a petition for review on certiorari. The only issue resolved by the Court in the assailed decision is the amount of just compensation which respondents-movants are entitled to receive from the government for the taking of their property. Both the RTC and the CA valued the property at One Thousand Five Hundred Pesos (P1,500.00) per square meter, plus six percent (6%) interest from the time of the filing of the complaint until full payment. We, however, did not agree with both courts and ruled instead that just compensation should be based on the value of the property at the time of taking in 1940, which is Seventy

Centavos (P0.70) per square meter.[4] In addition, and by way of compensation, we likewise awarded an interest of six percent (6%) per annum from 1940 until full payment.[5]

Aggrieved, respondents-movants hereby move for the reconsideration of said decision on the following grounds:

- THE HONORABLE COURT MAY LOOK INTO THE "JUSTNESS" OF THE MISERABLE AMOUNT OF COMPENSATION BEING AWARDED TO THE HEREIN RESPONDENTS; and
- THE HONORABLE COURT MAY SETTLE FOR A HAPPY MIDDLE GROUND IN THE NAME OF DOCTRINAL PRECISION AND SUBSTANTIAL JUSTICE.[6]

Citing the views of Justices Presbitero J. Velasco, Jr. and Marvic Mario Victor F. Leonen in their Dissenting and Concurring Opinion and Separate Opinion, respectively, respondents-movants insist that gross injustice will result if the amount that will be awarded today will be based simply on the value of the property at the time of the actual taking. Hence, as proposed by Justice Leonen, they suggest that a happy middle ground be achieved by meeting the need for doctrinal precision and the thirst for substantial justice.[7]

We maintain our conclusions in the assailed July 1, 2013 Decision with modification on the amount of interest awarded, as well as the additional grant of exemplary damages and attorney's fees.

At the outset, it should be stressed that the matter of the validity of the State's exercise of the power of eminent domain has long been settled. In fact, in our assailed decision, We have affirmed the ruling of the CA that the pre-trial order issued on May 17, 2001 has limited the issues as follows: (1) whether or not the respondents-movants are entitled to just compensation; (2) whether or not the valuation would be based on the corresponding value at the time of the taking or at the time of the filing of the action; and (3) whether or not the respondents-movants are entitled to damages.[8] Moreover, it was held that for failure of respondents-movants to question the lack of expropriation proceedings for a long period of time, they are deemed to have waived and are estopped from assailing the power of the government to expropriate or the public use for which the power was exercised.[9] What is, therefore, left for determination in the instant Motion for Reconsideration, in accordance with our Decision dated July 1, 2013, is the propriety of the amount awarded to respondents as just compensation.

At this juncture, We hold that the reckoning date for property valuation in determining the amount of just compensation had already been addressed and squarely answered in the assailed decision. To be sure, the justness of the award had been taken into consideration in arriving at our earlier conclusion.

We have in the past been confronted with the same issues under similar factual and procedural circumstances. We find no reason to depart from the doctrines laid down in the earlier cases as we adopted in the assailed decision. In this regard, we reiterate the doctrines laid down in the cases of Forfom Development Corporation (Forfom) v. Philippine National Railways (PNR),[10] Eusebio v. Luis,[11] Manila International Airport Authority v. Rodriguez,[12] and Republic v. Sarabia.[13]

In Forfom, PNR entered the property of Forfom in January 1973 for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR. In Eusebio, respondent's parcel of land was taken in 1980 by the City of Pasig and used as a municipal road without the appropriate expropriation proceedings. In 1996, respondent filed a complaint for reconveyance and/or damages against the city government and the mayor. In MIAA, in the early 1970s, petitioner implemented expansion programs for its runway, necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent initiated a case for accion reivindicatoria with damages against petitioner. In Republic, sometime in 1956, the Air Transportation Office

(ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon, including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal, and the Headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners wherein ATO intervened claiming that the storeowners were its lessees.

These cases stemmed from similar background, that is, government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation; while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. In these cases, the Court has uniformly ruled that the fair market value of the property at the time of taking is controlling for purposes of computing just compensation.

In *Forfom*, the payment of just compensation was reckoned from the time of taking in 1973; in *Eusebio*, the Court fixed the just compensation by determining the value of the property at the time of taking in 1980; in *MIAA*, the value of the lot at the time of taking in 1972 served as basis for the award of compensation to the owner; and, in *Republic*, the Court was convinced that the taking occurred in 1956 and was thus the basis in fixing just compensation.

As in the aforementioned cases, just compensation due respondents-movants in this case should, therefore, be fixed not as of the time of payment but at the time of taking in 1940 which is Seventy Centavos (P0.70) per square meter, and not One Thousand Five Hundred Pesos (P1,500.00) per square meter, as valued by the RTC and CA.

While disparity in the above amounts is obvious and may appear inequitable to respondents-movants as they would be receiving such outdated valuation after a very long period, it should be noted that the purpose of just compensation is not to reward the owner for the property taken but to compensate him for the loss thereof. As such, the true measure of the property, as upheld by a plethora of cases, is the market value at the time of the taking, when the loss resulted. This principle was plainly laid down in *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*,^[14] to wit:

x x x In *Land Bank of the Philippines v. Orilla*, a valuation case under our agrarian reform law, this Court had occasion to state:

Constitutionally, "just compensation" is the sum equivalent to the market value of the property, broadly described as 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 the one who receives and the one who desires to sell, it being fixed at the time of the actual taking by the government. Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It has been repeatedly stressed by this Court that the true measure is not the taker's gain but the owner's loss. The word "just" is used to modify the meaning of the word "compensation" to convey the idea that the equivalent to be given for the property to be taken shall be real, substantial, full and ample. [Emphasis supplied.][¹⁵]

Indeed, the State is not obliged to pay premium to the property owner for appropriating the latter's property; it is only bound to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. More, the concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.^[16]

Notwithstanding the foregoing, we recognize that the owner's loss is not only his property but also its income-generating potential.^[17] Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost.^[18] Accordingly, in *Apo*, we

held that the rationale for imposing the interest is to compensate the petitioners for the income they would have made had they been properly compensated for their properties at the time of the taking.[19] Thus:

We recognized in *Republic v. Court of Appeals* the need for prompt payment and the necessity of the payment of interest to compensate for any delay in the payment of compensation for property already taken. We ruled in this case that:

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, i[f] 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 interest[s] 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 interest[s] 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. [Emphasis supplied][20]

In other words, the just compensation due to the landowners amounts to an effective forbearance on the part of the State—a proper subject of interest computed from the time the property was taken until the full amount of just compensation is paid—in order to eradicate the issue of the constant variability of the value of the currency over time.[21] In the Court's own words:

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 x x x.[22]

On this score, a review of the history of the pertinent laws, rules and regulations, as well as the issuances of the Central Bank (CB) or *Bangko Sentral ng Pilipinas* (BSP) is imperative in arriving at the proper amount of interest to be awarded herein.

On May 1, 1916, Act No. 2655[23] took effect prescribing an interest rate of six percent (6%) or such rate as may be prescribed by the Central Bank Monetary Board (CB-MB) for loans or forbearance of money, in the absence of express stipulation as to such rate of interest, to wit:

Section 1. The rate of interest for the loan or forbearance of any money goods, or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be six per centum per annum or such rate as may be prescribed by the Monetary Board of the Central Bank of the Philippines for that purpose in accordance with the authority hereby granted.

Sec. 1-a. The Monetary Board is hereby authorized to prescribe the maximum rate or rates of interest for the loan or renewal thereof or the forbearance of any money, goods or credits, and to change such rate or rates whenever warranted by prevailing economic and social conditions.

In the exercise of the authority herein granted, the Monetary Board may prescribe higher maximum rates for loans of low priority, such as consumer loans or renewals thereof as well as such loans made by pawnshops finance companies and other similar credit institutions although the rates prescribed for these institutions need not necessarily be uniform. The Monetary Board is also authorized to prescribe different maximum rate or rates for different types of borrowings, including deposits and deposit substitutes, or loans of financial intermediaries.[24]

Under the aforesaid law, any amount of interest paid or stipulated to be paid in excess of that fixed by law is

considered usurious, therefore unlawful.[25]

On July 29, 1974, the CB-MB, pursuant to the authority granted to it under the aforequoted provision, issued Resolution No. 1622. On even date, Circular No. 416 was issued, implementing MB Resolution No. 1622, increasing the rate of interest for loans and forbearance of money to twelve percent (12%) per annum, thus:

By virtue of the authority granted to it under Section 1 of Act No. 2655, as amended, otherwise known as the "Usury Law," the Monetary Board, in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be twelve per cent (12%) per annum.[26]

The foregoing rate was sustained in CB Circular No. 905[27] which took effect on December 22, 1982, particularly Section 2 thereof, which states:

Sec. 2. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall continue to be twelve per cent (12%) per annum.[28]

Recently, the BSP Monetary Board (BSP-MB), in its Resolution No. 796 dated May 16, 2013, approved the amendment of Section 2 of Circular No. 905, Series of 1982, and accordingly, issued Circular No. 799, Series of 2013, effective July 1, 2013, the pertinent portion of which reads:

The Monetary Board, in its Resolution No. 796 dated 16 May 2013, approved the following revisions governing the rate of interest in the absence of stipulation in loan contracts, thereby amending Section 2 of Circular No. 905, Series of 1982:

Section 1. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum.

Section 2. In view of the above, Subsection X305.1 of the Manual of Regulations for Banks and Sections 4305Q.1, 4305S.3 and 4303P.1 of the Manual of Regulations for Non-Bank Financial Institutions are hereby amended accordingly.

This Circular shall take effect on 01 July 2013.[29]

Accordingly, the prevailing interest rate for loans and forbearance of money is six percent (6%) per annum, in the absence of an express contract as to such rate of interest.

In summary, the interest rates applicable to loans and forbearance of money, in the absence of an express contract as to such rate of interest, for the period of 1940 to present are as follows:

Law, Rule and Regulations, BSP Issuances

Date of Effectivity

Interest Rate

Act No. 2655 May 1, 1916 6%

CB Circular No. 416 July 29, 1974 12%

CB Circular No. 905 December 22, 1982 12%

CB Circular No. 799 July 1, 2013 6%

It is important to note, however, that interest shall be compounded at the time judicial demand is made pursuant to Article 2212[30] of the Civil Code of the Philippines, and sustained in *Eastern Shipping Lines v. Court of Appeals*,[31] then later on in *Nacar v. Gallery Frames*,[32] save for the reduction of interest rate to 6% for loans or forbearance of money, thus:

- When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 6% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.[33]

Applying the foregoing law and jurisprudence, respondents-movants are entitled to interest in the amount of One Million Seven Hundred Eighteen Thousand Eight Hundred Forty-Eight Pesos and Thirty-Two Centavos (P1,718,848.32) as of September 30, 2014,[34] computed as follows:

January 1, 1940[35] to July 28, 1974

P 10,553.49[37]

July 29, 1974 to March 16, 1995

26,126.31[38]

March 17, 1995[36] to June 30, 2013

232,070.33[39]

July 1, 2013 to September 30, 2014

250,098.19[40]

Market Value of the Property at the time of taking including interest

P 518,848.32

Market value of the property at the time of taking including interest

P 518,848.32

Add: Exemplary damages

1,000,000.00

Attorney's fees

200,000.00

Total Amount of Interest due to Respondents-Movants as of September 30, 2014

P1,718,848.16

Considering that respondents-movants only resorted to judicial demand for the payment of the fair market value of the land on March 17, 1995, it is only then that the interest earned shall itself earn interest.

Lastly, from finality of the Court's Resolution on reconsideration until full payment, the total amount due to respondents-movants shall earn a straight six percent (6%) legal interest, pursuant to Circular No. 799 and the case of *Nacar*. Such interest is imposed by reason of the Court's decision and takes the nature of a judicial debt.

Clearly, the award of interest on the value of the land at the time of taking in 1940 until full payment is adequate compensation to respondents-movants for the deprivation of their property without the benefit of expropriation proceedings. Such interest, however meager or enormous it may be, cannot be inequitable and unconscionable because it resulted directly from the application of law and jurisprudence—standards that have taken into account fairness and equity in setting the interest rates due for the use or forbearance of money.[41] Thus, adding the interest computed to the market value of the property at the time of taking signifies the real, substantial, full and ample value of the property. Verily, the same constitutes due compliance with the constitutional mandate on eminent domain and serves as a basic measure of fairness.

In addition to the foregoing interest, additional compensation shall be awarded to respondents-movants by way of exemplary damages and attorney's fees in view of the government's taking without the benefit of expropriation proceedings. As held in *Eusebio v. Luis*,[42] an irregularity in an expropriation proceeding cannot ensue without consequence. Thus, the Court held that the government agency's illegal occupation of the owner's property for a very long period of time surely resulted in pecuniary loss to the owner, to wit:

However, in taking respondents' property without the benefit of expropriation proceedings and without payment of just compensation, the City of Pasig clearly acted in utter disregard of respondents' proprietary rights. Such conduct cannot be countenanced by the Court. For said illegal taking, the City of Pasig should definitely be held liable for damages to respondents. Again, in *Manila International Airport Authority v. Rodriguez*, the Court held that the government agency's illegal occupation of the owner's property for a very long period of time surely resulted in pecuniary loss to the owner. The Court held as follows:

Such pecuniary loss entitles him to adequate compensation in the form of actual or compensatory damages, which in this case should be the legal interest (6%) on the value of the land at the time of taking, from said point up to full payment by the MIAA. This is based on the principle that interest "runs as a matter of law and follows from the right of the landowner to be placed in as good position as money can accomplish, as of the date of the taking."

The award of interest renders unwarranted the grant of back rentals as extended by the courts below. In *Republic v. Lara, et al.*, the Court ruled that the indemnity for rentals is inconsistent with a property owner's right to be paid legal interest on the value of the property, for if the condemnor is to pay the compensation due to the owners from

the time of the actual taking of their property, the payment of such compensation is deemed to retroact to the actual taking of the property; and, hence, there is no basis for claiming rentals from the time of actual taking. More explicitly, the Court held in *Republic v. Garcellano* that:

The uniform rule of this Court, however, is that this compensation must be, not in the form of rentals, but by way of interest from the date that the company [or entity] exercising the right of eminent domain take possession of the condemned lands, and the amounts granted by the court shall cease to earn interest only from the moment they are paid to the owners or deposited in court x x x.

x x x x x x x x

For more than twenty (20) years, the MIAA occupied the subject lot without the benefit of expropriation proceedings and without the MIAA exerting efforts to ascertain ownership of the lot and negotiating with any of the owners of the property. To our mind, these are wanton and irresponsible acts which should be suppressed and corrected. Hence, the award of exemplary damages and attorneys fees is in order. However, while Rodriguez is entitled to such exemplary damages and attorney's fees, the award granted by the courts below should be equitably reduced. We hold that Rodriguez is entitled only to P200,000.00 as exemplary damages, and attorney's fees equivalent to one percent (1%) of the amount due.[43]

Similarly, in *Republic v. CA*,[44] We held that the failure of the government to initiate an expropriation proceeding to the prejudice of the landowner may be corrected with the awarding of exemplary damages, attorney's fees and costs of litigation. Thus:

The Court will not award attorney's fees in light of respondent's choice not to appeal the CA Decision striking down the award. However, we find it proper to award temperate and exemplary damages in light of NIA's misuse of its power of eminent domain. Any arm of the State that exercises the delegated power of eminent domain must wield that power with circumspection and utmost regard for procedural requirements. A government instrumentality that fails to observe the constitutional guarantees of just compensation and due process abuses the authority delegated to it, and is liable to the property owner for damages.

Temperate or moderate damages may be recovered if pecuniary loss has been suffered but the amount cannot be proved with certainty from the nature of the case. Here, the trial and appellate courts found that the owners were unable to plant palay on 96,655 square meters of the Property for an unspecified period during and after NIA's construction of the canals in 1972. The passage of time, however, has made it impossible to determine these losses with any certainty. NIA also deprived the owners of the Property of possession of a substantial portion of their land since 1972. Considering the particular circumstances of this case, an award of P150,000 as temperate damages is reasonable.

NIA's irresponsible exercise of its eminent domain powers also deserves censure. For more than three decades, NIA has been charging irrigation fees from respondent and other landowners for the use of the canals built on the Property, without reimbursing respondent a single cent for the loss and damage. NIA exhibits a disturbingly cavalier attitude towards respondent's property rights, rights to due process of law and to equal protection of the laws. Worse, this is not the first time NIA has disregarded the rights of private property owners by refusing to pay just compensation promptly. To dissuade NIA from continuing this practice and to set an example for other agencies exercising eminent domain powers, NIA is directed to pay respondent exemplary damages of P250,000.[45]

Applying the aforequoted doctrines to the present case, considering that respondents-movants were deprived of beneficial ownership over their property for more than seventy (70) years without the benefit of a timely expropriation proceedings, and to serve as a deterrent to the State from failing to institute such proceedings within the prescribed period under the law, a grant of exemplary damages in the amount of One Million Pesos

(P1,000,000.00) is fair and reasonable. Moreover, an award for attorney's fees in the amount of Two Hundred Thousand Pesos (P200,000.00) in favor of respondents-movants is in order.

In sum, respondents-movants shall be entitled to an aggregate amount of One Million Seven Hundred Eighteen Thousand Eight Hundred Forty-Eight Pesos and Thirty-Two Centavos (P1,718,848.32) as just compensation as of September 30, 2014, computed as follows:

Market value of the property at the time of taking in 1940 including interest

P 518,848.32

Add: Exemplary Damages

1,000,000.00

Attorney's fees

200,000.00

Total Amount due to Respondents- movants as of September 30, 2014

P1,718,848.32

This Court is not unaware that at present, stringent laws and rules are put in place to ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation. Specifically, Section 4 of Republic Act No. 8974 (R.A. 8974),^[46] which took effect on November 26, 2000, provides sufficient guidelines for implementing an expropriation proceeding, to wit:

Section 4. Guidelines for Expropriation Proceedings. - Whenever it is necessary to acquire real property for the right-of-way 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 (I) 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 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.

Failure to comply with the foregoing directives shall subject the government official or employee concerned to administrative, civil and/or criminal sanctions, thus:

Section 11. Sanctions. - Violation of any provisions of this Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture of benefits.

While the foregoing provisions, being substantive in nature or disturbs substantive rights, cannot be retroactively applied to the present case, We trust that this established mechanism will surely deter hasty acquisition of private properties in the future without the benefit of immediate payment of the value of the property in accordance with Section 4 of R.A. 8974. This effectively addresses J. Velasco's concerns that sustaining our earlier rulings on the matter would be licensing the government to dispense with constitutional requirements in taking private properties. Moreover, any gap on the procedural aspect of the expropriation proceedings will be remedied by the aforequoted provisions.

In effect, R.A. 8974 enshrines a new approach towards eminent domain that reconciles the inherent unease attending expropriation proceedings with a position of fundamental equity.[47]

Despite the foregoing developments, however, We emphasize that the government's failure, to initiate the necessary expropriation proceedings prior to actual taking cannot simply invalidate the State's exercise of its eminent domain power, given that the property subject of expropriation is indubitably devoted for public use, and public policy imposes upon the public utility the obligation to continue its services to the public. To hastily nullify said expropriation in the guise of lack of due process would certainly diminish or weaken one of the State's inherent powers, the ultimate objective of which is to serve the greater good. Thus, the non-filing of the case for expropriation will not necessarily lead to the return of the property to the landowner. What is left to the landowner is the right of compensation.[48]

All told, We hold that putting to rest the issue on the validity of the exercise of eminent domain is neither tantamount to condoning the acts of the DPWH in disregarding the property rights of respondents-movants nor giving premium to the government's failure to institute an expropriation proceeding. This Court had steadfastly adhered to the doctrine that its first and fundamental duty is the application of the law according to its express

terms, interpretation being called for only when such literal application is impossible.[49] To entertain other formula for computing just compensation, contrary to those established by law and jurisprudence, would open varying interpretation of economic policies — a matter which this Court has no competence to take cognizance of. Time and again, we have held that no process of interpretation or construction need be resorted to where a provision of law peremptorily calls for application.[50] Equity and equitable principles only come into full play when a gap exists in the law and jurisprudence.[51] As we have shown above, established rulings of this Court are in place for full application to the case at bar, hence, should be upheld.

WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-De Castro, Del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, and Jardeleza, JJ., concur.

Velasco, Jr., and Leonen, JJ., see dissenting opinion.

Brion, J., see separate concurring opinion.

Bersamin, and Perlas-Bernabe, JJ., no part.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on April 21, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on June 15, 2015 at 1:25 p.m.

Very truly yours,

(SGD.)

ENRIQUETA ESGUERRA-VIDAL

Clerk of Court

[1] Rollo, pp. 255-259.

[2] Id. at 237.

[3] Id. at 230.

[4] Id. at 236.

[5] Id.

[6] Id. at 256.

[7] Id. at 257.

[8] Secretary of the Department of Public Works and Highways v. Tecson, G.R. No. 179334, July 1, 2013, 700 SCRA 243, 254.

[9] *Id.* at 255.

[10] 594 Phil. 10 (2008).

[11] G.R. No. 162474, October 13, 2009, 603 SCRA 576.

[12] 518 Phil. 750, 757 (2006).

[13] 505 Phil. 253 (2005).

[14] G.R. No. 164195, October 12, 2010, 632 SCRA 727.

[15] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, *supra*, at 741. (Italics supplied)

[16] *Republic v. Court of Appeals*, 494 Phil. 494, 510 (2005).

[17] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, *supra* note 14, at 747.

[18] *Id.*

[19] *Id.* at 754-755.

[20] *Id.* at 743-744 (Citations omitted; italics ours)

[21] *Id.* at 745.

[22] *Republic of the Philippines v. Court of Appeals*, 433 Phil. 106, 123 (2002). (Emphasis ours; citations omitted)

[23] *An Act Fixing Rates of Interest on Loans Declaring the Effect of Receiving or Taking Usurious, Rates and For Other Purposes*.

[24] Emphasis supplied.

[25] *Spouses Puerto v. Court of Appeals*, 432 Phil. 743, 752 (2002).

[26] Emphasis supplied.

[27] CB Circular 905 was issued by the Central Bank's Monetary Board pursuant to P.D. 1684 empowering them to prescribe the maximum rates of interest for loans and certain forbearances, to wit:

Sec. 1. Section 1-a of Act No. 2655, as amended, is hereby amended to read as follows:

Sec. 1-a. The Monetary Board is hereby authorized to prescribe the maximum rate of interest for the loan or renewal thereof or the forbearance of any money, goods or credits, and to change such rate or rates whenever warranted by prevailing economic and social conditions: Provided, That changes in such rate or rates may be effected gradually on scheduled dates announced in advance.

In the exercise of the authority herein granted, the Monetary Board may prescribe higher maximum rates for loans of low priority, such as consumer loans or renewals thereof as well as such loans made by pawnshops, finance companies and other similar credit institutions although the rates prescribed for these institutions need not necessarily be uniform. The Monetary Board is also authorized to prescribe different maximum rate or rates for different types of borrowings, including deposits and deposit substitutes, or loans of financial intermediaries.

[28] Emphasis supplied.

[29] Emphasis supplied.

[30] Art. 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

[31] G.R. No. 97412, July 12, 1994, 234 SCRA 78 (1994).

[32] G.R. No. 189871, August 13, 2013, 703 SCRA 439 (2013).

[33] *Id.* 457-458.

[34] The amount of interest shall be computed from the time of actual taking until full payment. Considering that the date of full payment cannot be determined at the moment, We ought to peg the same on September 30, 2014 for purposes of illustration and to assign an absolute value to the same.

[35] Considering that the actual date of taking cannot be determined from the records of the case, the date of taking is pegged on January 1, 1940. Consequently, the interest accruing therefrom shall be for the entire year of 1940.

[36] This pertains to the date of the Complaint filed by respondents-movants to recover the possession of their property with damages.

[37] $[(P5,087.60 * 6\% * 34 \text{ years}) + (P5,087.60 * 6\% * 209 \text{ days}/365 \text{ days})]$. For accuracy, the period from January 1, 1940 to December 31, 1973 is determined by number of years, while the period from January 1, 1974 to July 28, 1974 is determined by number of days.

[38] $[(P10,553.49 * 12\% * 155 \text{ days}/365 \text{ days}) + (P10,553.49 * 12\% * 20 \text{ years}) + (P10,553.49 * 12\% * 75 \text{ days}/365 \text{ days})]$. For accuracy, the periods from July 29, 1974 to December 31, 1974 and January 1, 1995 to March 16, 1995 is determined by number of days while the period from January 1, 1975 to December 31, 1994 is determined by number of years.

[39] $[P26,126.31 * (1 + 1\%)^{2195 \text{ months}}]$. For accuracy and in view of the complications of compounding the interest, the period from March 17, 1995 to June 30, 2013 is determined by number of months. Accordingly, the rate of interest of 12% is divided by 12 to get the applicable monthly interest rate. The formal equation to calculate monthly compounded interest is $P_1 = P(1+m)^t$, where P is the starting or average balance; m is the monthly interest rate; t is the number of months; and P₁ is the balance after monthly interest is added.

[40] $[P232,070.33 * (1 + 0.5\%)^{15 \text{ months}}]$. For accuracy and in view of the complications of compounding the interest, the period from July 1, 2013 to September 30, 2014 is determined by number of months. Accordingly, the rate of interest of 6% is divided by 12 to get the applicable monthly interest rate. The formal equation to calculate monthly compounded interest is $P_1 = P(1+m)^t$, where P is the starting or average balance; m is the monthly interest rate; t is the number of months; and P₁ is the balance after monthly interest is added.

[41] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, *supra* note 14 at 758.

[42] *Supra* note 11, at 585.

[43] *Eusebio v. Luis*, *supra*, at 587-588. (Italics ours; emphasis in the original; citations omitted)

[44] 494 Phil. 494 (2005).

[45] *Republic v. CA*, *supra*, at 512-513. (Emphasis ours; citations omitted)

[46] AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR

NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES.

[47] Republic v. Gingoyon, G.R. No. 166429, December 19, 2005.

[48] Forom Development Corporation (Forom) v. Philippine National Railways (PNR), supra note 10.

[49] Quijano v. Development Bank of the Philippines, 146 Phil. 283, 291 (1970).

[50] Id.

[51] Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines, supra note 14, at 758-759.

SEPARATE CONCURRING OPINION

BRION, J.:

I write this Separate Concurring Opinion to reflect my former Dissent (to the circulated Opinion of Justice Marvic Leonen) and to express my position and concurrence with the ponencia's position.

In the deliberations of the Court, the original ponencia of Justice Peralta - on the motion for reconsideration (Motion)[1] filed by the respondents Spouses Heracleo and Ramona Tecson (respondents) from the Court's July 1, 2013 decision - was not resolved but for some reason Justice Leonen circulated an Opinion (Leonen Opinion) that was intended to be a ponencia to which I dissented.

The Leonen Opinion proposed to resolve the respondents' Motion by using economic principles and financial data that Justice Leonen gathered. Specifically, he proposed to award the respondents compounded interests, on the property's 1940 fair market value, at the rate of 8.328% per annum (based on the actual and assumed annual rate of return on treasury bills) counted from 1940 until 2013. He justified this approach under the economic concept of present value which he earlier proposed in his dissent to the July 1, 2013 decision.

My dissent to the Leonen Opinion was largely on the reason that economic concepts and theories cannot apply in the determination of just compensation, specifically in the computation of interests, when the law itself, by regulation, provides for the imposable interest rates.

In the subsequent deliberations, Justice Peralta reclaimed the role of Member-in-Charge and reported to the Court his proposed resolution of the respondent's Motion.

Based on these developments, I file this Separate Concurring Opinion to the ponencia of Justice Peralta (ponencia) to register what I believe is the proper approach in fixing the just compensation for expropriated property, that is fair and equitable to the respondents, as owners, and to the public, as the ultimate expropriator. This approach is proper as it is grounded on the law, the rules and on established jurisprudence, and is guided and influenced by reason and equity in resolving the gaps not fully covered by the applicable law, rules and jurisprudence.

The Case

For proper perspective, I reiterate briefly the key facts and events of the case.

The respondents filed a motion for reconsideration from the July 1, 2013 Decision of this Court, that resolved the July 31, 2007 decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 77997.

In this July 1, 2013 Decision, the Court partially granted the petition and reduced to P0.70, from P1,500, per

square meter the valuation that the CA fixed for the respondents' property. The Court also imposed a straight 6% interest per annum on the just compensation due counted from 1940 until actual payment.

The Court reasoned out that the just compensation, which must be "the fair market value of the property between one who receives and one who desires to sell," should be "fixed at the time of the actual taking by the government." "Taking," the Court explained, occurs when the expropriator enters private property permanently (i.e., not only for a momentary period), or for the purpose of devoting the property to public use in a manner indicative of the intent to oust and deprive its owner all beneficial enjoyment thereof.[3]

The Court pointed out in this regard that the Department of Public Works and Highways (DPWH) entered and took the respondents' property for the construction of the MacArthur Highway in 1940. At the time of taking, the property's fair market value was P0.70 per square meter. Thus, the just compensation for the property should be fixed with this 1940 value as the base.

While recognizing the disparity between these two valuations and the seeming inequity that results against the respondents' favor, the Court quickly pointed out that the concept of "just compensation" applies equally to the public who must ultimately bear the cost of the expropriation. The respondents, after all, had been equally remiss in guarding against the effects of the belated claim.

Lastly, the Court considered as illegal the DPWH's act of taking the respondents' property without prior expropriation proceedings and prior payment of just compensation. Hence, it awarded the respondents, as actual or compensatory damages, 6% interest per annum on the property's value fixed at the time of the taking in 1940 until full payment.

The Dissents to the July 1, 2013 Decision

1. Justice Velasco

In his Dissenting and Concurring Opinion, Justice Velasco voted to deny the petition and affirm the CA decision that fixed the just compensation at P1,500, per square meter.

Justice Velasco submitted that the circumstances surrounding the case and the attendant inequity and prejudice to the respondents resulting from the illegal taking of their property warrants and justifies a deviation from the general rule in reckoning the just compensation on the property's time-of-taking valuation.

He reasoned that the DPWH violated the respondents' constitutional right to due process as well as their property rights when it took their property without first instituting condemnation proceedings and paying just compensation. This taking, too, that is illegal for violation of the respondents' constitutional rights, was made more than fifty-five years before the respondents were finally forced to institute the court action to vindicate their rights. Finally, the P0.70 per square meter is highly unjust and inequitable given that the property's valuation in 2001 was already P10,000.00 per square meter; hence, the P1,500 per square meter valuation is reasonable and just under the circumstances.

2. Justice Leonen

In his Separate Opinion, Justice Leonen voted to grant the petition. He agreed with the Court that the property's 1940 fair market value should be used as basis for fixing the just compensation.

Nevertheless, he submitted, in the way that Justice Velasco did, that the amount the Court fixed as just compensation for the respondents' property is very low and is consequently inequitable.

Justice Leonen proposed the use of the economic concept of present value, i.e., that money that should have been

paid in the past, has a different value today. He reasoned that money earns more money throughout time, and had the government paid the respondents the just compensation due for the property immediately at the time of its taking in 1940, the latter would have invested this money in some guaranteed-return investments that would, in turn, have earned them more money.

Thus, he proposed the use of the formula $PV_t = V \cdot (1+r)^t$ in computing for the present value of the respondents' property. Under this formula, the interests due and earned shall be compounded annually to arrive at what he believed as the happy middle ground that meets the need for the doctrinal precision urged in the decision, and the substantial justice that J. Velasco advocated in his Opinion.

The Motion for Reconsideration

The respondents argue that using the property's 1940 value of P0.70 per square meter is "arbitrary and confiscatory" and is equivalent to the condonation of the acts of the DPWH in disregarding their property and due-process-of-the-law rights.

They add, reiterating Justice Leonen's suggestion in his Separate Opinion that gross injustice will result if the amount to be awarded will simply be based on the property's 1940 value; hence, they seek the "happy middle ground" that Justice Leonen advocated.

The respondents specifically raise the following grounds:

- The Honorable Court may look into the "justness" of the miserable amount of compensation being awarded to the herein respondents; and
- The Honorable Court may settle for a happy middle ground in the name of doctrinal precision and substantial justice.[4]

Petitioners Secretary of the DPWH and District Engineer Celestino R. Contreras dispute these arguments in favor of the established rule that the amount of just compensation should be the fair market value of the property at the time of its taking in 1940, i.e., P0.70 per square meter, and not its present value as the respondents' tax declarations (TDs) indicate.

The Issues

The case presents to the Court the question of whether it can fairly adjust the just compensation fixed in its July 1, 2013 decision without violating the established rule that just compensation in expropriation cases should be computed at the time of taking.

My Position

The power of the State to take private

property: power of eminent domain

The taking of private property for public use - the power of eminent domain - is inherent to the State. It exists as a necessity and as a power the State cannot do without in the course of ensuring its existence.

As an inherent power, it does not need to be expressly provided for or reserved in the Constitution. If at all mentioned, the purpose is to limit what would otherwise be a limitless State power. The limitations to the State's exercise of its eminent domain power are found in the Bill of Rights (Article III) - the provisions that aim at the protection of individuals against the State's exercise of its powers.

A necessary starting point in the eminent domain's limitations is Section 9 of Article III - the provision

immediately and primarily affecting the power of eminent domain. Section 9 provides two limitations: (1) the taking of private property must be for public use; and (2) the payment to the owner of just compensation. Section 9, in turn, should be viewed together with the basic and most fundamental right under the Bill of Rights — the Due process clause under Section 1 - "[n]o person shall be deprived of life, liberty or property without due process of law."

As these provisions operate, the individual, whose power is puny compared to that of the State, is protected from an arbitrary confiscation of his property by the guarantee of: (1) the observance of the due process of law before his property is "taken;" (2) the public purpose of the taking, not private interests even of those charged with the task of exercising the power; and (3) the payment of "just compensation."

Just compensation as a limitation on the

State's exercise of its eminent domain

power

"Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain but the owner's loss. The word 'just' is used to stress the meaning of the word 'compensation,' and to convey the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full and ample." [5]

The "just compensation" within the constitutional limitation is considered as the sum equivalent to the market value of the property. It is described as "the price fixed by the seller in the 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." [6]

Stated differently, this constitutional limitation guarantees to the owner the value of his property. This limitation ensures that the State balances the injury that the taking caused to the owner by a compensation that approximates value for value what has been taken. [7]

1. The time of taking as an element of

just compensation

A necessary and vital component of the determination of just compensation is the determination of when the "taking" occurred. This determination is necessary as the owner is entitled to receive, and the State is obligated to pay, only the full and fair equivalent of what has been taken.

An unavoidable consequence of the "taking" is the change in the character of the property, its use, value and condition. The value of the property taken by the State may greatly appreciate overtime and its character largely changed due to the developments introduced on the property or in the surrounding area. In certain cases, the value of course may depreciate.

To approximate this full and fair equivalent of the property, the primary standard is to look into the status, nature and condition of the property at the time of "taking." [8] The changes in the property's character, use and value occur after the property is taken and therefore should not be factored in, in the determination of the compensation due. In other words, the "taking" serves as the reckoning event in giving the owner only the value for value of what has been taken.

Jurisprudence provides that there is "taking" when the expropriator enters private property for more than a momentary period, under color or warrant of authority, devoting the property for public use or otherwise

informally appropriating or injuriously affecting it in such a way as to oust the owner and deprive him of all its beneficial enjoyment.[9]

The undisputed facts show that the DPWH took the respondents' property (for the construction of the MacArthur Highway) in 1940. Accordingly, and as the July 1, 2013 decision previously resolved, the just compensation for the respondents' property should be determined as of its taking in 1940. Consequently, the property's 1940 value - P0.70 per square meter - should serve as basis for computing just compensation.

2. Prompt payment as a vital component of just compensation

Another indispensable requisite of just compensation is its prompt payment. Apart from being fair and reasonable, the compensation, to be "just" must be made without delay. Without prompt payment, the compensation cannot be considered "just" if the property is taken immediately as the owner suffers the immediate deprivation of both his land and its fruits or income.[10]

In cases where the property is taken before compensation is paid to the owner or, at the least, deposited in court having jurisdiction over the case, the final computation of the just compensation must include the income that the owner would have received from the property had it not been immediately taken. This income to be paid — in addition to the unpaid principal of the just value of the property - shall be in the nature of interest(s) to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court.[11] In other words, "between the taking of the property and the actual payment, legal interest(s) accrue in order to place the owner in a position as good as (but not better) than he was in before the taking occurred." [12]

This requisite of prompt payment is at the core in resolving the present Motion. The respondents' property was taken in 1940; they had to wait for seventy-four (74) years after the taking of their property before they are finally paid for its just value. Worse or equally as bad, they had to go to court and file the necessary action to secure the compensation due them - an act that the State, as the expropriator, is duty bound to undertake in the first place. All the while, the State had made use of and had profited from the respondents' property. Under these circumstances, the State is indisputably in delay and must pay the respondents interests on the just compensation due them.

In sum, what the respondents have not received to date is the just compensation for their property and the income, in terms of the interest due on the unpaid principal, that they would have received had no uncompensated taking of their property been immediately made.

3. Interest award as forbearance of money on the part of the State

a. The Early Rulings

In the early case of *National Power Corporation v. Angas*, [13] the Court awarded a 6% legal interest on the just compensation due for the expropriated property. The Court declared that the just compensation is not a loan or forbearance of money, but indemnity for damages for the delay in payment. As the interest involved was in the nature of damages, Article 2209 of the Civil Code of the Philippines (Civil Code), which provides for a 6% legal interest, was applied.

In *Republic v. Court of Appeals* [14] (that followed in 2002), the Court overturned the *Angas* ruling. The Court recognized that the just compensation due to the landowners for their expropriated property amounted to an effective forbearance on the part of the State. The Court then applied its earlier ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals* [15] where it awarded a 12% interest per annum on awards made by way of the actual or

compensatory damages (in the context of the present case, on just compensation, computed from the time the property was taken until the full amount of just compensation is paid).

The Eastern Shipping Lines ruling provided for the following guidelines in the imposition of compensatory interest rates:

I. When an obligation, regardless of its source, i.e., law, contracts, quasi-contracts, delicts or quasi-delicts is breached, the contravenor can be held liable for damages. The provisions under Title XVIII on "Damages" of the Civil Code govern in determining the measure of recoverable damages.

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

The Court upheld the imposition of the 12% interest rate in just compensation cases, as ruled in *Republic, in Reyes v. National Housing Authority*,^[16] *Land Bank of the Philippines v. Wycoco*,^[17] *Republic v. Court of Appeals*,^[18] *Land Bank of the Philippines v. Imperial*,^[19] *Philippine Ports Authority v. Rosales-Bondoc*,^[20] and *Curata v. Philippine Ports Authority*.^[21]

b. The Recent and Governing Rulings

In *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*,^[22] the Court established that the government's delay in the payment of the just compensation due to the owners of expropriated property is effectively a forbearance of money by the State.

Subsequent to *Apo Fruits*, the Court reiterated the *Republic* ruling in *Land Bank of the Philippines v. Rivera*,^[23] *Department of Agrarian Reform v. Goduco*,^[24] and *Land Bank of the Philippines v. Santiago, Jr.*^[25]

c. The Ponencia's Application of the Rulings

In light of these established rulings, the Court cannot but consider the government's long delay in the payment of the just compensation due to the respondents in this case to be forbearance on money.

In computing for the interest award, the Court must, as the ponencia correctly and appropriately does, determine

the applicable law or applicable Central Bank of the Philippines (CB)/BSP issuance prescribing the interest rates on loans and forbearance of money. In this regard, the Court must also consider the time of the taking of the property in 1940 that serves as the start, as well, of the computation of the interest award.

Summarized below are the various laws and CB/BSP issuances that the Court should consider, as the ponencia properly does, in this case in computing for the total amount that should be paid to the respondents as just compensation:

Interests on loans or forbearance of money are primarily governed by Act No. 2655[26] which took effect on May 1, 1916. Section 1 of this Act provides that the "rate of interest for the loan or forbearance of money of any money, x x x in the absence of express contract as to such rate of interest, shall be six per centum per annum x x x." Section 1 likewise grants the Monetary Board of the Central Bank of the Philippines to set an interest rate different from the 6% interest rate.

On July 29, 1974, the CB Monetary Board (MB), pursuant to its granted authority under Section 1 of Act No. 2655, issued Resolution No. 1622. On even date, the CB issued Circular No. 416[27] implementing MB Resolution No. 1622. MB Resolution No. 1622 and CB Circular No. 416 increased to 12% the rate of interest for loans and forbearance of money.

On December 10, 1982, the CB issued Circular No. 905[28] pursuant to MB Resolution No. 2224 dated December 3, 1982, maintaining the 12% interest rate established in CB Circular No. 416. CB Circular No. 905 took effect on December 22, 1982.

On June 21, 2013, the BSP issued Circular No. 799,[29] pursuant to MB Resolution No. 796 dated May 16, 2013, reducing to 6% the interest rate on loans and forbearance of money. CB Circular No. 799 took effect on July 1, 2013.

Finally, as the ponencia does, the Court should also take note of Article 2212 of the Civil Code. Article 2212 provides that "interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point."

Under these terms, I submit that the proper approach in computing the interest award should be as follows:

- The just compensation due on the property shall earn straight legal interest from the time of taking in 1940 until March 16, 1995, the day before the respondents filed the case in court. Given this 55-year period, the Court must consider the law and CB issuances prevailing at the particular time/s, i.e., Act No. 2655, CB Circular No. 416 and CB Circular No. 905;
- The just compensation due with its accrued interests shall, beginning March 17, 1995 (when the respondents filed the court action) until June 30, 2013, earn compounded interests at the rate of 12% per annum, pursuant to CB Circular No. 416, as amended by CB Circular No. 905, and Article 2212 of the Civil Code;
- The just compensation with all its accrued interests as of June 30, 2013 shall earn further interests at the rate of 6% compounded annually from July 1, 2013 until the finality of the Court's resolution on the Motion, pursuant to BSP Circular No. 799 and Article 2212 of the Civil Code; and
- The total amount of just compensation shall earn a straight 6% interest per annum from finality of the Court's resolution until full payment, pursuant to BSP Circular No. 799.

These are the approaches that the ponencia used in this case in computing the final just compensation (the principal and the accrued interests) due to the respondents on account of the government's delay in its payment. Hence, I concur with the ponencia.

The use of economic concepts in the determination of just compensation is inappropriate as it contravenes the law and established jurisprudence: my dissent on Justice Leonen's Opinion

As I earlier mentioned, I expressed my objection to Justice Leonen's approach for being inappropriate and illegal: economic theories, particularly on the computation of interests, cannot be used when applicable rules on interests are in place. I reiterate my discussion on this point if only to emphasize that the Court is a court of law, not of equity, and should be aware of this role in adjudicating cases, and to stress as well the distinctions in the legal and equitable approaches in awarding interests in just compensation cases.

I objected to the Leonen Opinion as it deviated from the law and the established jurisprudence to the extent that it used what it called the economic concept of present value, an economic concept that is not found in the law, in the rules and regulations, or in jurisprudence.

1. The Leonen Opinion

To provide for a better understanding of my position against the Leonen Opinion, I recite below its key points.

Justice Leonen considered as too low the straight 6% interest per annum, on the P5,087.60 (P0.70 per square meter) valuation for the property, (or a total interest rate of only P22,588.944), which the Court awarded in the July 1, 2013 decision as actual or compensatory damages counted from 1940 until actual payment. To him, the Court's use of this 6% legal interest rate, or even of a 12% legal interest rate, is arbitrary and without clear legal basis.

Hence, he proposed the use of historical data or the historical average of year-to-year interest rates. Based on this approach, he obtained the 8.328% interest rate by averaging the combined actual (based on the official data of the BSP) and assumed (by him in the absence of available historical data) annual rate of return on treasury bills counted from 1940 up to 2013.

Justice Leonen explained that the CB (now the BSP) began offering one-year treasury bills with a 1.5% annual rate of return only in 1949. For lack of official historical rate of returns for the year 1940 up to and until the year the BSP issued the one-year treasury bills, he thus assumed that the 1.5% rate of return in 1949 was the same for the prior years.

For the years 1957-1965, he explained that no recorded data are available; hence, he used the savings deposit rates as substitute and assumed that these rates are the same.

Justice Leonen justified this approach under the economic concept of present value, i.e., that money that should have been paid in the past has a different value today. He explained that under this concept of present value, what is simply considered are the historical interest rates recorded in the Philippines and the expropriated property's fair market value at the time of taking.

He emphasized that money earns more money throughout time, and had the government paid the respondents the just compensation due for the property immediately at the time of its taking in 1940, the latter would have invested this money in some guaranteed-return investments that would, in turn, have earned them more money.

To Justice Leonen, courts should consider these facts especially when a significant amount of time has elapsed

between the time of taking and the time of actual payment. In his view, the use of present values merely enforces a method to determine intergenerational fairness.

2. My arguments against Justice Leonen's

position: a reiteration with emphasis

of the ponencia's position

a. The Court is a court of law, not of

equity; the Court should exercise its

equity jurisdiction only in the absence

of, not in lieu of positive law

I submit that we, the Court, cannot and should not forget that ours is a court of law, where the guideposts and standards are the Constitution and its principles, the statutes, applicable rules and regulations, and jurisprudence from this Court which forms part of the law of the land.[30]

The first recourse of courts in adjudication is to look up to applicable laws, rules and jurisprudence and to apply these to the dispute. Only when these legal instruments or standards are absent or lacking can the courts decide on the basis, among others, of equity or economic theories supporting an equitable disposition of the dispute at hand.

When we rule on the basis of equity, we rule in accordance with the natural rules of fairness and justice in the absence of positive laws governing the disputed issues.[31] We can do so only when no positive law would thereby be violated as equitable principles must remain subordinate to positive law and must not be allowed to subvert it; nor should these principles give to the courts authority to make it possible to allow the subversion of positive law.[32]

In *Chavez v. Bonto*,[33] the Court said:

We have ruled in *Arsenal v. Intermediate Appellate Court* xxx that it is a long standing principle that equity follows the law. Courts exercising equity jurisdiction are bound by rules of law and have no arbitrary discretion to disregard them. In *Zabat, Jr. v. Court of Appeals* xxx, this Court was more emphatic in upholding the rules of procedure. We said therein:

As for equity, which has been aptly described as "justice outside legality," this is applied only in the absence of and never against, statutory law or, as in this case, judicial rules of procedure. *Aequetas nunquam contravenit legis*. This pertinent positive rules being present here, they should preempt and prevail over all abstract arguments based only on equity. [Italics supplied.]

In my view, Justice Leonen's use of the economic concept of present values in order to approximate and return to the respondents the "fair equivalent" of their property, considering the 74-year time lapse, has no basis in law and jurisprudence and was an unnecessary and misplaced approach.[34]

b. The Court would have exceeded its

granted jurisdiction by venturing into

economic policy-making and applying

the concept of present values and the

8.328% interest rate

Significantly, this Court has traditionally been wary of ruling on matters involving economic policy-making. *Tanada v. Angara*[35] is one of the cases where we strongly implied this wariness by the thought that we would be sailing into "unchartered waters" when we venture into economics and economic policy-making an area where we may not be able to competently rule.

Implied in this case, too, is the reality that in the presence of applicable laws, we may exceed our jurisdiction by ruling on the basis of economics and its policies. *Manila Memorial Park, Inc. v. Secretary of DPWH*[36] is another case where we expressed our misgivings by saying that "the Court is not the proper forum to debate economic theories and realities."

I was against Justice Leonen's approach for the following specific reasons:

First, in using the 8.328% annual rate of interest, Justice Leonen made several assumptions that were unwarranted and without clear legal and/or jurisprudential bases. These are the "comprehensive assumptions about human beings, society and the courts" that, as footnoted, Chief Judge Patricia Wald spoke of.

For one, in using this annual interest rate (obtained from the average of the actual and assumed annual rate of return on treasury bills counted from 1940 up to 2013), Justice Leonen assumed that, had the respondents been immediately paid the just compensation, they would have immediately, or soon thereafter, invested this money in secure monetary instruments like treasury bills.

This assumption presupposed, in turn, that the respondents, at least desired to invest, or would have definitely invested the money in some money-making venture, not necessarily limited to secure monetary instruments. It also further assumed that, had the respondents indeed invested their money, the investment would absolutely have earned them more money.

Second, Justice Leonen likewise assumed that the treasury bills were actively invested into, traded or were the preferred mode of investment at the time of the property's taking in 1940 or, at the least, several years or a decade afterwards.

Note, however, that the CB began offering treasury bills only in 1949. Even then, only commercial and investment banks, followed remotely by other private banks, largely participated in the treasury bills market; private companies and individuals comprised a very small percentage of the participation. It was also only in 1966 that the treasury bills market began to fully grow and achieve a considerable share in the overall government securities market.[37]

In making these assumptions, Justice Leonen appeared to have conveniently disregarded the considerable probability that the respondents could have invested the money on a losing venture; simply kept the money to themselves; or used the money to purchase property that would have been destroyed during the ensuing war years.

Third, contrary to Justice Leonen's position, the Court's past use of the 6% or 12% legal interest rates in approximating an equitable award of "just compensation" when the government expropriates property without timely payment, has been anchored in law.

As I pointed out above, the award of a 6% legal interest, on the just compensation due, was based on Article 2209 of the Civil Code. In the cases where the Court applied this 6% interest rate, it considered the award in the nature of an indemnity for damages.

The award of a 12% legal interest, on the other hand, was based on CB Circular No. 416, as amended by CB Circular No. 905. In the cases where the Court applied this interest rate, it treated the government's delay and its obligation to pay as one of forbearance of money.

Regardless of the treatment, however, the purpose of the award is to address or eliminate the issue of the constant fluctuation and inflation of the currency's value over time. It also addresses the obligation on the part of the government to account for any incremental value on the just compensation that should have accrued to the owner had he or she been paid on time.

Conclusion

In sum, I fully agree with the ponencia that the compensation due for the respondents' property based on its 1940's value, as the Court determined in its July 1, 2013 Decision, is proper and should be upheld.

I believe, too, that the interest award, in the manner now determined by the ponencia, is proper in law and jurisprudence. More importantly, I believe that the total just compensation, with its accumulated interests, due to the respondents under the ponencia formulation approximates, in a very real sense, the fair and equitable compensation that the law requires and which the respondents properly deserve.

[1] Rollo, pp. 255-259.

[2] Penned by Associate Justice Lucas P. Bersamin (now a Supreme Court Associate Justice), and concurred in by Associate Justices Portia Alino-Hormachuelos and Estela M. Perlas-Bernabe (now a Supreme Court Associate Justice), rollo, pp. 124-137.

[3] Citing *Manila International Airport Authority v. Rodriguez*, 51 8 Phil. 750, 757 (2006).

[4] Rollo, p. 256.

[5] *NPC v. Manubay Agro-Industrial Development Corp.*, G.R. No. 150936, 480 Phil. 470, 479 (2004), citing *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343; *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, G.R. No. 164195, October 12, 2010, 632 SCRA 727, 744, Resolution.

[6] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, supra note 5.

[7] Id.

[8] See *National Power Corp. v. Henson*, 360 Phil. 922, 929 (1998), citations omitted; and *NAPOCOR v. Spouses Igmedio*, 452 Phil. 649, 664 (2003).

[9] See *Rep of the Philippines v. Vda. de Castelvi*, 157 Phil. 329, 344 (1974); and *Manila International Airport Authority v. Rodriguez*, supra note 3.

[10] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, supra note 5.

[11] Id., citing *Republic v. CA*, 43 Phil. 106 (2002). See also *Sy v. Local Government of Quezon City*, G.R. No. 202690, June 5, 2013, 697 SCRA 621.

[12] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, supra note 5.

[13] G.R. Nos. 60225-26, May 8, 1992, 208 SCRA 542, 548.

[14] Supra note 11.

[15] G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95.

[16] 443 Phil. 603 (2003).

[17] 464 Phil. 83 (2004).

[18] 494 Phil. 494 (2005).

[19] 544 Phil. 378 (2007).

[20] 557 Phil. 737 (2007).

[21] 608 Phil. 9 (2009).

[22] *Supra* note 5.

[23] G.R. No. 182431, November 17, 2010, 635 SCRA 285.

[24] G.R. No. 174007, June 27, 2012, 675 SCRA 187.

[25] G.R. No. 182209, October 3, 2012, 682 SCRA 264.

[26] An Act Fixing Rates of Interest on Loans Declaring the Effect of Receiving or Taking Usurious Rates and For Other Purposes. Enacted February 24, 1916.

[27] The pertinent portion of CB Circular No. 416 reads:

By virtue of the authority granted to it under Section 1 of Act No. 2655, as amended, otherwise known as the "Usury Law," the Monetary Board, in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in its judgments, in the absence of express contract as to such rate of interest, shall be twelve per cent (12%) per annum. [Emphasis and italics supplied.]

[28] CB Circular No. 905 pertinently provides:

Sec. 2. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall continue to be twelve per cent (12%) per annum. [Emphasis and italics supplied.]

[29] Circular No. 799 reads in part:

Section 1. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be six per cent (6%) per annum. [Emphasis and italics supplied.]

[30] Article 8 of the Civil Code of the Philippines.

See *Caltex v. Palomar*, 124 Phil. 763 (1966), where the Court held that "judicial decisions assume the same authority as the statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria which must control the actuations not only of those called upon to abide thereby but also of those in duty bound to enforce obedience thereto."

In *Chavez v. Bonto*, 312 Phil. 88, 98 (1995), the Court declared that "[o]ur courts are basically courts of law and not courts of equity."

[31] Willard Riano, *Civil Procedure (A Restatement for the Bar)*, 2007, p. 30.

[32] J.B.L. Reyes, *The Trend towards Equity versus Positive Law in Philippine Jurisprudence*, 58 Phil. L.J. 1,4. See also *Agra v. PNB*, 368 Phil. 829 (1999). In *Philippine Rabbit v. Arciaga*, 232 Phil. 400, 405 (1987), the Court declared that:

The rule is, 'equity follows the law' and as discussed in Pomeroy's Equity Jurisprudence Vol. 2 pp. 188-189 (as cited in Appellant's Brief p. 20), the meaning of the principle is stated as follows:

There are instances, indeed, in which a court of equity gives a remedy, where the law gives none; but where a particular remedy is given by the law, and that remedy is bounded and circumscribed by particular rules, it would be very improper for the court to take it up where the law leaves it and to extend it further than the law allows. [Italics supplied.]

[33] Supra note 30.

[34] Patricia Wald (Chief Judge, United States Court of Appeals for the District of Columbia), Limits on the Use of Economic Analysis in Judicial Decision Making (Law and Contemporary Problems, Vol. 50, No. 4, 1988), had this to say:

The most troublesome limitation on judicial use of economic analysis is the limits of a judge's ability to analyze its techniques and ascertain the extent to which they incorporate assumptions that she is not ready to accept. It may not be easy, or even sensible, for judges to use economic analysis here and there—"on the margin," if you will—to the extent that analysis is fueled by controversial, powerful, and purposefully comprehensive assumptions about human beings, society, and courts.

Because some of the economists' assumptions are neither intuitively persuasive, nor documented to any degree. I would find it premature to adopt them as tenets for a comprehensive jurisprudential philosophy. [Italics supplied.]

Thus, although economic analysis/theories may be useful in decision-making, she concludes that the application of economic theories and/or analysis in jurisprudential philosophy is premature, partly because these economic theories are still consistently being debated. See <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3928&context=lcp>

[35] 328 Phil. 546 (1997).

[36] G.R. No. 175356, December 3, 2013.

[37] See The Treasury Bill Market by Mamerto C. Singson, Jr., <http://pre.econ.upd.edu.ph/index.php/pre/article/viewFile/804/114>

DISSENTING OPINION

VELASCO, JR., J.:

The Case

For resolution is the Motion for Reconsideration filed by respondents herein, praying for the modification of the Decision^[1] rendered by the Court's Third Division on July 1, 2013. Said Decision declared respondents as entitled to just compensation after their beneficial ownership over the subject 7,268-square meter lot was taken by the government, but only at the unit price of 70/100 pesos (PhP0.70) per square meter.

The Facts

The pertinent antecedent facts, as recited in my earlier dissent, are simple and undisputed:^[2]

Respondent spouses Heracleo and Ramona Tecson (respondents) are the co-owners of a 7,268-square meter lot located in San Pablo, Malolos, Bulacan, and covered by Transfer Certificate of Title (TCT) No. T-43006. This

parcel of land is among the private properties traversed by the Mac Arthur Highway, a government project undertaken sometime in 1940. The taking appears to have been made absent the requisite expropriation proceedings and without respondents' consent.

After the lapse of more than forty (40) years, respondents, in a letter dated December 15, 1994, demanded payment equivalent to the fair market value of the subject property from the Department of Public Works and Highways (DPWH). Petitioner Celestino R. Contreras (petitioner Contreras), then District Engineer of the First Bulacan Engineering District of DPWH, responded with an offer to pay just compensation at the rate of PhP0.70 per square meter based on Resolution No. XII dated January 15, 1950 of the Provincial Appraisal Committee (PAC) of Bulacan. Respondents made a counter-offer that the government either return the subject property or pay just compensation based on the current fair market value.

As the parties failed to reach any agreement on the price, respondents filed a suit for recovery of possession with damages against DPWH and petitioner Contreras (collectively referred to as "petitioners") on March 17, 1995. In their Complaint, docketed as Civil Case No. 208-M-95 and raffled to Branch 80 of the RTC of Malolos City, respondents claimed that the subject property was assessed at PhP2,543,800.

On March 22, 2002, the RTC, Br. 80, of Malolos City rendered a Decision,[3] directing the Department of Public Works and Highways (DPWH) to compensate respondents for the value of the property taken at the rate of one thousand five hundred pesos (PhP1,500.00) per square meter, adopting the recommendation of the PAC.[4] On appeal by petitioners, the CA affirmed with modification the RTC Decision, adding 6% interest computed from the time of the suit's filing on March 17, 1995 until full payment.[5]

Aggrieved, petitioner came to this Court, whose Third Division, by its July 1, 2013 assailed Decision, granted, in part, petitioner's appeal to the effect of reducing the amount to be paid to respondents, from PhP1,500.00 to PhP.070 to be precise, as just compensation. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, the petition is PARTIALLY GRANTED. The Court of Appeals Decision dated July 31, 2007 in CA-G.R. CV No. 77997 is MODIFIED, in that the valuation of the subject property owned by respondents shall be P 0.70 instead of P1,500.00 per square meter, with interest at six percent (6%) per annum from the date of taking in 1940 instead of March 17, 1995, until full payment.

In its ruling, the Court invoked the teaching in *Republic v. Lara*,[6] which considered the date of taking as the crucial point in determining just compensation. The Court wrote:

xxx "[T]he value of the property should be fixed as of the date when it was taken and not the date of the filing of the proceedings." For where property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken xxx.

On the theory that the reduced valuation of the property is inequitable, respondents timely moved for reconsideration.

The Issues

In resolving the pending motion, the ponencia ventures to simplify the case and narrows the issue down to the amount of just compensation respondents are entitled to, without delving into what perhaps is the more basic question of the validity of the taking. It is my humble submission that the standard for determining just

compensation rests, in context, on whether or not the respondents' right to due process was violated, this fundamental matter being determinative, at the first instance, of the validity of the exercise of the power of eminent domain and, consequently, the reckoning date for property valuation for purposes of determining the amount of just compensation. Plainly, the core issue is whether or not the taking of private property is legal. If it is illegal, then the compensation shall be determined at the time of judicial demand. Consequently, the doctrine thus enunciated in *Republic v. Lara* has to be modified accordingly.

The power of eminent domain

is subject to constitutional

restraints

The power of eminent domain is inseparable from sovereignty, being essential to the existence of the State and inherent in government even in its most primitive forms.[7] It is usually understood to be an ultimate right of the sovereign power to appropriate any property in every form within its territorial sovereignty that it needs for a public purpose. As an old case so puts it, all separate interests of individuals in property are held under a tacit agreement or implied reservation vesting upon the sovereign the right to resume the possession of the property whenever the public interest so requires it.[8]

The government's exercise of eminent domain is not absolute. It is subject, first and foremost, to constitutional restrictions enshrined in the Bill of Rights, viz:

Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

x x x x x x x x

Section 9. Private property shall not be taken for public use without just compensation.

Exactly the same sequential restrictive provisions were likewise found in Art. III of the 1935 Constitution, then in force at the time the property in issue was taken.[9]

The Bill of Rights aims to protect the people against arbitrary and discriminatory use of political power. The basic rights and restrictions enumerated therein guarantee the preservation of our natural rights, which include personal liberty and security against invasion by the government or any of its branches or instrumentalities.[10] In relation to the present controversy, it extends to the citizens a sense of security in their property rights, despite the implied understanding that the sovereign can, at any time, reclaim from them the possession and ownership over portions of its territory. It, in fine, affords the citizens a mantle of protection from indiscriminate land-grabbing by the government, through the installation of defined safeguards from expropriation, without which, the exercise of the power of eminent domain can become oppressive.

Respondents were deprived of

their property rights without

due process of law

a. The government failed to

discharge its burden of initiating

condemnation proceedings prior to

taking private property

The language of the Constitution is clear as it is categorical. The unequivocal declaration under Sec. 1, Art. III imposes a negative obligation on the state—it cannot proceed with depriving its citizens of property rights without first ensuring that compliance with due process requirements is duly observed.

At its most basic, procedural due process is described in *Albert v. University Publishing Co., Inc.*, [11] as follows:

By "due process of law" we mean "a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial....." (4 Wheaton, U.S. 518, 581.); or, as this Court has said, "Due process of law" contemplates notice and opportunity to be heard before judgment is rendered, affecting one's person or property (*Lopez vs. Director of Lands*, 47 Phil. 23, 32)." (*Sicat vs. Reyes*, L-1 1023, Dec. 14, 1956.) And it may not be amiss to mention here also that the "due process" clause of the Constitution is designed to secure justice as a living reality; not to sacrifice it by paying undue homage to formality, (emphasis added)

Evidently, Sec. 1, Art. III of the Constitution requires that the act of deprivation should be preceded by compliance with procedural due process, part and parcel of which includes the filing of an expropriation case. This is so because by filing the action for expropriation, the government, in effect, serves notice that it is taking title and possession of the property.[12] Hence, without an expropriation suit, private property is being taken without due notice to the landowner, in violation of his constitutional right.

Moreover, initiating the requisite condemnation proceeding is essential for purposes of (1) determining whether or not the property is indeed being devoted or will be devoted for public use and (2) ascertaining the amount of just compensation due the private property owner. Otherwise stated, this is the avenue for the landowners to contest, with the proper forum, the validity of the taking, and for the government to prove that the requirements under Sec. 9, Art. III of the Constitution are satisfied.

It behoves the state to commence the necessary proceedings since the adverted constitutional provisions, as couched, place on the government the correlative burden of proving compliance with the imperatives of due process and just compensation prescribed under Secs. 1 and 9, Art. III of the Constitution. The rationale behind the responsibility thus placed on the government is explained in the ensuing eloquent pronouncement in *Alfonso v. City of Pasay*:[13]

This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay. The private owner is usually at a great and distinct disadvantage. He has against him the whole Government, central or local, that has occupied and appropriated his property, summarily and arbitrarily, sometimes, if not more often, against his consent. There is no agreement as to its price or its rent. In the meantime, the landowner makes requests for payment, rent, or even some understanding, patiently waiting and hoping that the Government would soon get around to hearing and granting his claim. The officials concerned may promise to consider his claim and come to an agreement as to the amount and time for compensation, but with the not infrequent government delay and red tape, and with the change in administration, specially local, the claim is pigeon holed and forgotten and the papers lost, mislaid, or even destroyed as happened during the last war. And when finally losing patience and hope, he brings a court action and hires a lawyer to represent him in the vindication of his valid claim, he faces the government represented by no less than the Solicitor General or the Provincial Fiscal or City Attorney, who blandly and with self-assurance, invokes prescription. The litigation sometimes drags on for years. In our opinion, that is neither just nor fair. When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are first initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean

delay and difficulty for the Government, but all of its own making, (emphasis added)

Unfortunately, the bleak picture painted in *Alfonso* does not stray far from the factual milieu of the extant case. It is not disputed herein that the DPWH took the subject lot without the respondents' consent. Worse, it has been almost 70 years since the time of taking, yet the DPWH has failed, during that stretch, to institute the expropriation case as necessary, let alone pay respondents just compensation. Instead, it was the respondents themselves who, ironically, initiated the proceedings to recover just compensation while the DPWH had the audacity to traverse respondents' claim of ownership over the subject lot. What is more, as this Court has foreshadowed in *Alfonso*, petitioner made much of the fact that the respondents only filed their claim in 1995, or about 55 years from the time of taking and argued that their right to just compensation has already prescribed, as though unmindful of its obligation to initiate the proceedings itself.

Guilty of repetition, it is the government that is mandated to satisfy the constitutional due process requirement, including initiating the condemnation proceedings. It bears stressing that expropriation partakes of an involuntary sale, and as such, it is absurd to expect that the unwilling seller would also be the one required to additionally spend time, money, and effort to secure payment. As aptly observed in *Alfonso*, the private landowners, compared to the state, may not have the financial capacity to initiate the proceedings for just compensation themselves. The government, on the other hand, has the legal personnel and the access to the necessary funds to prosecute its case. These realities lead to the inevitable conclusion that respondents should not be the ones to suffer the adverse economic effects of the government's failure to file the expropriation proceedings. On the contrary, in such a scenario, it is the government that should bear the brunt of failing to comply with its constitutional mandate and of the prejudicial effects of an illegal, if not criminal, act of usurping real property of a private person.

b. Failure to initiate condemnation

proceedings leads to the consequent

failure to lawfully take possession of

the property

The need for the government to commence condemnation proceedings as required has far-reaching ramifications that are legal as they are practical. Aside from operating as due notice to the landowner, initiating the case likewise entitles the government to acquire possession of the property, subject to the posting of a deposit. Thus, absent an expropriation case, the requirement of posting a deposit will not come into play and, consequently, the right of the government to acquire possession over the subject land will never arise.

As prescribed under Section 2, Rule 67 of the Rules of Court:

Section 2. Entry of plaintiff upon depositing value with authorized government depository. — Upon the filing of the complaint or at any time thereafter and after due notice to the defendant, the plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the authorized government depository an amount equivalent to the assessed value of the property for purposes of taxation to be held by such bank subject to the orders of the court. Such deposit shall be in money, unless in lieu thereof the court authorizes the deposit of a certificate of deposit of a government bank of the Republic of the Philippines payable on demand to the authorized government depository, (emphasis added)

A similar requirement of posting a deposit is likewise demanded under Sec. 19 of the Local Government Code, with respect to the exercise of a local government unit's power of eminent domain.^[14] The purpose of the deposit is explained in *City of Manila v. Alegar Corporation*,^[15] thusly:

But the advance deposit required under Section 19 of the Local Government Code constitutes an advance

payment only in the event the expropriation prospers. Such deposit also has a dual purpose: as pre-payment if the expropriation succeeds and as indemnity for damages if it is dismissed. This advance payment, a prerequisite for the issuance of a writ of possession, should not be confused with payment of just compensation for the taking of property even if it could be a factor in eventually determining just compensation. If the proceedings fail, the money could be used to indemnify the owner for damages, (emphasis added)

As expounded in *City of Manila*, the deposit serves as security in favor of the landowner—that if expropriation prospers, the landowner would promptly receive, at least, partial payment based on the property's assessed value; and that if the expropriation case is dismissed, the landowner will immediately receive indemnity for having been deprived of his property. In either case, the landowner is assured that he will receive some form of compensation since the deposit, in a way, can be construed as earnest money for the sale. Stated in the alternate, the filing of a deposit is an indication on the part of the government that it will not renege on its obligation to pay, whatever the outcome, when it entered into an involuntary sale.

This further magnifies the significance of the prior filing of an expropriation case since without it, the required deposit can never be filed in court. To demonstrate, the protection accorded by the deposit requirement to the private landowners becomes illusory if it can easily be circumvented by neglecting or refusing to initiate condemnation proceedings. As in the case at bar, no amount of deposit was ever filed, owing to the absent requisite condemnation proceedings, yet this did not prevent the government from taking possession over the property.

It is then beyond cavil that prior filing of an expropriation case is a condition sine qua non before the government is allowed to enter the property being reclaimed and without which, the government's possession over the subject property becomes illegal. Without the necessary expropriation suit filed and the consequent deposit made, title over the land in issue cannot properly vest in favor of the government. Viewed under this perspective, the respondents remain until now, for all intents and purposes, the legitimate owners of the lot in issue. Under what authority or fiction of law then is the government occupying the same?

c. It was the intention of the framers of the

Constitution to require a deposit prior to

taking as an indispensable component of

"just compensation"

To be sure, the concept of "just compensation," as a requirement for valid taking, can likewise be found in the provisions of the Constitution on agrarian reform, particularly its Art. XIII, Sec. 4, which provides:

Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the rights of the farmers and regular farmworkers, who are landless, to own directly or collectively the land 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 the retention limits, the State shall respect the right of small landowners. The state shall further provide incentives for voluntary land-sharing. (emphasis added)

During deliberations on the subject at hand, the members of the Constitutional Commission discussed the then proposed amendment to include the word "just" to describe "compensation," thusly:

MR. CONCEPCION. Thank you.

I think the thrust of the amendment of Commissioner Treñas is that the term "just compensation" is used in

several parts of the Constitution, and, therefore, it must have a uniform meaning. It cannot have in one part a meaning different from that which appears in the other portion. If, after all, the party whose property is taken will receive the real value of the property on just compensation, that is good enough. Any other qualification would lead to the impression that something else other than that meaning of just compensation is used in other parts of the Constitution.

x x x x x x x x

MR. RODRIGO. I was about to say what Commissioner Concepcion said. I just want to add that the phrase "just compensation" already has a definite meaning in jurisprudence. And, of course, I would like to reiterate the fact that "just compensation" here is not the amount paid by the farmers. It is the amount paid to the owner, and this does not necessarily have to come from the farmer. x x x

x x x x x x x x

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, I propose an amendment to the proposed amendment of Commissioner Treñas. I support him in his statement that the words "just compensation" should be used there because it has jurisprudentially settled meaning, instead of putting in other ambivalent and ambiguous phrases which may be misconstrued, especially considering the fact that the words "just compensation" appear in different parts of the Constitution. However, my proposed amendment would read: "subject to THE PRIOR PAYMENT OF JUST COMPENSATION." Let me explain. The purpose of this land distribution scheme is that those whose properties may be under land reform may be thereby placed in a position after they have relinquished a portion of their property to invest in other gainful occupation. That was one of the purposes mentioned by the Committee. If we just provide for payment of just compensation without stating at what particular time that payment should be made, what happens to the landowners who has now been dispossessed of his property? Where can he make investments since he has not been given payment? We are aware of the Land Bank bond wherein the amount is realizable only after the lapse of 20 years. It cannot be even used to pay PNB or DBP loans; it can only be used to pay taxes.

Furthermore, it is also established in jurisprudence, in the case of Commissioner of Public Highways vs. San Diego, L-30098, February 18, 1970, that where a property has already been thereby condemned - I used the word "condemned" in the sense of expropriation, because that is the other term - even if there is already an award, such an award, even by a judicial order, is not realizable upon execution; so the poor landowners will have to wait patiently until such time as Congress appropriates the amount.

In the case of Commissioner of Public Highways vs. San Diego, it was specifically stated that the judgment rendered requiring payment of the award determined as just compensation for the condemned property, and as a condition precedent for the transfer of the title to the government, cannot be realized upon execution, as the legislative must first appropriate the amount over and above the provisional deposit.

So my question here is: If we do not require prior payment, what happens to the landowner now? Must he wait indefinitely? While in the meantime we have given priority to the landless, we have created another problem for the erstwhile landed gentry since they cannot, in any way, use either the property or the supposed proceeds from the property of which they were dispossessed. If the landless have rights, even the landed also have rights; or, as Clarence Darrow says, "Even the rich also have rights."

We are not talking about the rich here. He is already parting with his property, and yet we go into an ephemeral, indefinite statement, "subject to the payment of just compensation." And the question is: Where in point of time will that compensation be made? That is why I ask that this amendment be accepted subject to prior payment of just compensation.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. There is no need to get excited, Madam President, because the Committee is not insensitive to the needs of the landowners. When the Committee placed this paragraph or statement here, it was the sense that the landowner would be immediately paid the just compensation. Otherwise, that compensation would not really be compensation at all.

x x x x x x x x

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, two points only. First, after listening to the observations of the Commissioner Ople and on the understanding that it does not exclude the possibility of subsidy, I would gladly remove that because I want to avoid a situation where we make acquisition of land so easy that, in effect, it may encourage the inefficient use of resources. So, provided that it is understood that we are not excluding subsidy whenever it is necessary, then I would be willing to limit the matter to the phrase "just compensation."

MS. NIEVA. Madam President, the Committee accepts.

THE PRESIDENT. Will the Committee please allow Commissioner Bernas to finish his statement?

FR. BERNAS. My second point is: I would object to the addition of the phrase "PRIOR COMPENSATION" because even if one looks at existing jurisprudence on expropriation, there is no requirement of immediate, prior compensation. Just compensation simply requires that there is an assurance that compensation will be given. Jurisprudence has not required prior compensation. So, if at this stage when we are trying to do something for the underprivileged, we make expropriation more difficult, then again we will be retrogressing.

Thank you, Madam President.

THE PRESIDENT. The original amendment of Commissioner Treñas stands.

x x x x x x x x

MR. MONSOD. Madam President, may we just read the phrase as now accepted by the Committee?

THE PRESIDENT. Please proceed.

MR. MONSOD. The phrase shall read: "and subject to the payment of just compensation."

VOTING

THE PRESIDENT. We will not on the first, and then later on, if Commissioner Regalado insists on his amendment of inserting the word "PRIOR," we will vote on that later.

As many as are in favour of the Treñas amendment, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand)

The results show 39 votes in favor and none against, the amendment is approved.

As many as are in favor of inserting the word "PRIOR" . . .

MR. REGALADO. Before we do that, Madam President, may I just explain?

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. It is not correct to state that jurisprudence does not require prior payment. Even the recent presidential decrees of the President always require a partial deposit of a certain percentage and the rest by a guaranteed payment. What I am after here is that, as Commissioner Bernas has said, there must at least be an assurance. That assurance may be in the form of a bond which may be redeemable later. But to say that there has never been a situation where prior payment is not required, that is not so even under the Rules of Court as amended by presidential decrees. Even the government itself, upon entry on the land, has to make a deposit and the rest thereafter will be guaranteed under the judgment of a court, but which judgment, as I have pointed out, is not even realizable by executor process. Does it mean to say that the government can take its own time at determining when the payment is to be made? At least simultaneously, there should be an assurance in the form of partial payment in cash or other modes of payment, and the rest thereof being guaranteed by bonds, the issuance whereof should be simultaneous with the transfer. That is my only purpose in saying that there should be prior payment - not payment in cash physically but, at least, contract for payment in the form of an assurance, a guarantee or a promissory undertaking.

THE PRESIDENT. Will Commissioner Regalado please restate his proposed amendment?

MR. REGALADO. The proposed amendment will read: "and subject to THE PRIOR PAYMENT OF just compensation."

THE PRESIDENT. It was accepted by the Committee.

MR. REGALADO. The word "payment" there should be understood in the sense that I have explained, that there must at least be an assurance on the part of the government.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I must say, I did misunderstand Commissioner Regalado. I read him as requiring prior full compensation. But if the intention is merely to maintain what obtains now, mainly, that it is enough that there is a partial deposit as it exists under existing law, I would agree with him that that is fine. But then I would still oppose putting it down in writing by itself because it can be construed as requiring prior full compensation.

THE PRESIDENT. What does the Committee say?

MR. REGALADO. Madam President, Commissioner Bengzon has just told me that anyway those remarks are already in the Record. And my remarks, according to Commissioner Bengzon, have already been taken into account and have been accepted in the sense in which they were intended. Then, provided it appears in the Record that that is the purpose of the amendment and such explanation in the Record shall stay, I withdraw the proposed amendment to the amendment.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. If the withdrawal is based on what was supposedly agreed with the Committee, I will still object because we will have the concept of just compensation for the farmers and farm workers more difficult than those in other cases of eminent domain. So, we should not make a distinction as to the manner of the exercise of eminent domain or expropriations and the manner that just compensation should be paid. It should be uniform in all others because if we now allow the interpretation of Commissioner Regalado to be the concept of just compensation, then we are making it hard for the farmers and the farm workers to enjoy the benefits allowed them under the agrarian reform policy.

MR. BENGZON. Madam President, as we stated earlier, the term "just compensation" is as it is defined by the Supreme Court in so many cases and which we have accepted. So, there is no difference between "just

compensation" as stated here in Section 5 and "just compensation" as stated elsewhere. There are no two different interpretations.[16] (emphasis added)

Clearly then, it was the intention of the framers that (1) the concept of just compensation in the country's agrarian reform programs should be the same as in other cases of eminent domain; and that (2) the concept of just compensation requires that partial payment in the form of a deposit be made, consistent with Our ruling in *City of Manila*.

The deposit, as earlier discussed, serves as the assurance Commissioners Regalado and Bernas speak of that would guarantee that the landowner will be paid. This is so because in sales transactions, the consideration is usually based on the price that, in all probability, resulted from fair negotiations wherein the seller is willing to sell and the buyer is willing to buy. Given the involuntary nature of expropriation, however, willingness to sell on the part of the vendor landowner becomes immaterial, while the willingness to actually buy remains present. In this regard, the said willingness to buy should be evidenced at least by complying with the requisite amount of deposit. Without it, the taking of private property should be deemed illegal for lack of just compensation, in violation of the landowner's constitutional right to due process. And to reiterate, this deposit requirement would only arise once the proper condemnation proceeding has been filed.

Moreover, strict observance of and compliance with the deposit requirement was the condition agreed upon by the members of the Constitutional Commission for the withdrawal of the proposed amendment requiring "prior" payment of just compensation. As per the deliberations of the Commission, they have agreed that there ought to be an assurance, in the form of deposit, that the landowner will be paid. However, to remove any ambiguity in the provision, so that it would not be misconstrued as requiring prior payment in full, the proposed amendment was withdrawn, provided that the phrase just compensation be accepted in the sense and for the purpose it was intended, which includes the prior posting of a deposit.

Just compensation should be
determined at the time of
judicial demand if the private
property was illegally taken

We have, in a long line of jurisprudence, tolerated the practice of filing expropriation proceedings after the fact of taking and sustained the validity of the state's occupancy over the subject property in spite of not depositing the necessary amount in court. These forbearances, however, should ought not be taken as a license or considered as an unbridled authority on the part of the government to file the requisite case at any time it pleases or, worse, dispense with the requirement altogether. Not every taking of private property that redounds to the benefit of the public should automatically be considered as a valid exercise of eminent domain, which justifies the payment of just compensation at the time of taking. At some point, the line should be drawn between belated compliance on the one hand, and the virtual deprivation of property in violation of due process rights, crossing into the realm of illegal taking, on the other.

Pertinently, taking of property is illegal if it is without the benefit of expropriation proceedings and without payment of just compensation,[17] as in the instant case. To recapitulate, taking possession of the "expropriated" property without first filing condemnation proceedings violates the landowner's right to procedural due process under Art. III, Sec. 1 of the Constitution. Additionally, without prompt payment of just compensation, or at least the required deposit under the rules, there is no sign on the part of the government that it is willing to, and will in fact, pay just compensation after taking private property, in contravention of Art. III, Sec. 9. Moreover, both

constitutional safeguards will be rendered inutile if the Court will be permitted to brush them aside in every instance to uphold the primacy of the state's power of eminent domain.

These considerations command deviation from established jurisprudence in the following wise:

- If there is a case filed and a deposit made, just compensation should be determined from the time of taking; and
- If there was no case filed, just compensation should be determined from the time of judicial demand by the lot owner.

The rationale for the above distinction is that it is only when an expropriation case is filed that it becomes crystal clear that the government is acquiring property in the exercise of its power of eminent domain, and is not doing so in contravention of the constitutional guarantees in favor of the landowner. Consequently, it is under this backdrop when the landowner becomes entitled to just compensation computed at the time of taking. On the other hand, in the absence of condemnation proceedings, especially after a significant lapse of time as in this case, the authority under which the government occupies the subject property becomes questionable. It does not become apparent, as in this situation, that expropriation, as a function of eminent domain, is being exercised by the government since compliance with Secs. 1 and 9 of Article III was not duly observed. Thus, the amount of just compensation, in such instances, should be determined from when payment was judicially demanded.

The foregoing disquisitions are in consonance with Republic Act No. 8974 (RA 8974),^[18] which evinces that Congress intends that the government's practice of illegally taking property be curbed, if not entirely eliminated. As provided under RA 8974:

Section 4. Guidelines for Expropriation Proceedings. - Whenever it is necessary to acquire real property for the right-of-way 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 (1) 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 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.

As can be gleaned, the above-quoted provision echoes the requirement of a filed expropriation case prior to takeover. Additionally, Congress guaranteed, under the declared policy of RA 9874, that "the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation,"[19] emphasizing the immediacy of initiating condemnation proceedings for without which, payment of just compensation, or at least the posting of a security deposit, cannot be made.

Further, in determining what constitutes just compensation, RA 8974 enumerates the following factors to be taken into consideration:

Section 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 improvement on the land and for the value of improvements thereon;
- (f) This 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. (emphasis added)

Additionally, the uniformity of the concept of just compensation under the agrarian reform program with that in other eminent domain cases, as contemplated by the Constitutional Commission, becomes demonstrable by a comparison of RA 8974 with the Comprehensive Agrarian Reform Law. Similar with RA 8974, RA 9700,[20] which amended Sec. 17 of RA 6657,[21] requires that just compensation be based, in part, on the current value of like properties. As elucidated in *Land Bank of the Philippines v. Spouses Costo*: [22]

x x x In determining just compensation, the RTC is required to consider several factors enumerated in Section 17 of R.A. No. 6657.

Section 17 of R.A. No. 6657 has defined the parameters for the determination of the just compensation, to wit: 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.

Thus, in determining just compensation, the RTC is required to consider the following factors: (1) the acquisition cost of the land; (2) the current value of the properties; (3) its nature, actual use, and income; (4) the sworn valuation by the owner; (5) the tax declarations; (6) the assessment made by government assessors; (7) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property; and (8) the non-payment of taxes or loans secured from any government financing institution on the said land, if any.[23]

From the above-cited statutes, it becomes apparent that what Congress clearly intends to be considered as just compensation is the amount with which the private landowners will be able to rehabilitate themselves from the property loss suffered. With this in mind, it is plain to see that it is difficult, nay impossible, for respondents to acquire at this time similarly-situated lands if they are merely going to be paid at a measly unit price of PhP0.70 per square meter 70 years after their property has been taken from them, when the value of similarly-situated lands has already skyrocketed to PhP1,500.00 per square meter after a significant lapse of time. As a corrective measure, the law indicates that the current selling price of similar lands in the vicinity should be considered in determining just compensation. "Current" should be understood to pertain to the time that the subject property comes within the jurisdiction of the court since it is only at that time that the property becomes susceptible to scrutiny and more accurate valuation for purposes of just and equitable compensation, rendering rehabilitation more attainable and realizable for the landowners.

The determination of the proper valuation of the land upon any other basis would not only be unjust, but would also be bordering on absurdity. For years, respondents have been deprived of the actual use and enjoyment of their landholding, yet to date, they have not received just compensation therefor.[24] To demonstrate in palpable terms, the ponencia awards in favor of herein respondents mere pittance in spite of having been deprived of their property for over 70 years without the state commencing condemnation proceedings and without being paid just compensation, as follows:

Property Valuation

70/100 pesos per sqm based on 1940 prices

Total Market Value of the 7,268 square meter property

PhP5,087.60

Interests

January 1, 1940 to July 28, 1974

PhP10,248.23

July 29, 1974 to March 16, 1995

12,594.95

March 17, 1995 to June 30, 2013

220,167.99

July 1, 2013 to September 30, 2014

19,272.99

262,284.16

Total amount due to respondents

Php267,371.76

The ponencia's additional award of exemplary damages and attorney's fees, although a positive approach, does not cure the basic infirmity. Exemplary or corrective damages are imposed upon the wrongdoer as a deterrent to the commission of similar acts in the future.[25] On the other hand, the award of attorney's fees in this case is justified by the fact that respondents were compelled to litigate in view of the government's own failure to initiate, as it should have, condemnation proceedings. Lest we be misled, these awards are more akin to penalties imposed on the government for its omission and they do not, in any way, form part of just compensation which respondents are entitled to at any event. Without including the award for damages in the sum, it becomes readily apparent that what was awarded to respondents does not constitute real, substantial, full and ample value of the property, less than just compensation for the property unlawfully taken 70 years prior.

The inequitable outcome above demonstrated is what is now being rectified by qualifying what constitutes "just" compensation based on observance of the constitutional restraints on eminent domain. To be clear, the contention is not that the act of taking be nullified and that possession of the property be returned to the respondents, for recovery of possession, as a remedy, is already lost through the considerable lapse of time from taking. What is left to the landowner, as jurisprudence elucidates, is the right of compensation.[26] Hence, the position herein advanced is that the valuation of just compensation be determined at the time the condemnation proceeding has been commenced or when the landowners judicially demanded payment. As correctly determined by the RTC and the CA, just compensation should be computed as follows:

Property Valuation

Php1,500 pesos per sqm based on 1995 prices

Total Market Value of the 7,268 square meter property

Php10,902,000.00

Interests from March 17, 1995 to January 12, 2015

12,973,380.00

Total amount due to respondents

Php23,875,380.00

Guilty of reiteration, this point is consistent with our pronouncement in Alfonso:[27]

This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay, x x x When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are first initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean delay and difficulty for the Government, but all of its own making. (emphasis added)

The ponencia has already cited a plethora of cases in all fours with the present scenario wherein this Court has sustained the validity of expropriation sans condemnation proceedings and the requisite deposit. To continue

condemning such acts would be licensing the government to dispense with constitutional requirements in taking private property and converting into reality and norm what was then a mere foreshadowing of an evil divined in Alfonso, inimical to a democratic state, if not criminal. The RTC and the CA, therefore, rightly ruled that the value of the land, for purposes of just compensation, ought to be determined from the time respondents filed the initiatory complaint, earning interest therefrom. To hold otherwise, as the ponencia did, would validate the state's act as one of expropriation in spite of procedural infirmities, which, in turn, would amount to unjust enrichment on its part.

In view of the foregoing, I respectfully reiterate my dissent, and vote to grant the motion for reconsideration.

[1] Secretary of Public Works and Highways v. Tecson, G.R. No. 179334, 700 SCRA 243.

[2] Id. at 260-261.

[3] Rollo, p. 165.

[4] Id. at 40.

[5] Id. at 124.

[6] Republic v. Lara, 96 Phil. 170, 177-178 (1954).

[7] Heirs of Juancho Ardon v. Reyes, Nos. L-60549, 60553 & 60555, October 26, 1983, 125 SCRA 220, 230-231.

[8] Republic v. Court of Appeals, G.R. No. 146587, July 2, 2002, 383 SCRA 611, 619.

[9] Section

- No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

- Private property shall not be taken for public use without just compensation

[10] Sales v. Sandiganbayan, G.R. No. 143802, November 16, 2011, 269 SCRA 293, 310.

[11] Albert v. University Publishing Co., Inc., No. L-19118, January 30, 1965, 13 SCRA 84.

[12] Air Transportation Office (ATO) v. Gopuco, Jr., G.R. No. 158563, June 30, 2005, 462 SCRA 544, 557.

[13] No. L-12754, January 30, 1960.

[14] Section 19. Eminent Domain. - A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property.

[15] G.R. No. 187604, June 25, 2012.

[16] Record of the Constitutional Commission Proceedings and Debates, Vol. 3, pp. 16-21; Minutes of the Constitutional Commission dated August 7, 1986.

[17] J. Velasco, Jr., Dissenting Opinion, Secretary of Public Works and Highways v. Tecson, supra note 1, at 270; citing Eusebio v. Luis, G.R. No. 162474, October 13, 2009, 603 SCRA 576.

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

[19] Section 2, RA 8974.

[20] An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of All Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, as Amended, and Appropriating Funds Therefor.

[21] An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for Its Implementation, and for Other Purposes.

[22] G.R. No. 174647, December 5, 2012.

[23] In Land Bank of the Philippines v. Celada (G.R. No. 164876, January 23, 2006), the Court ruled that the factors enumerated under Section 17 of R.A. No. 6657 had already been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of R.A. No. 6657. Thus, the Court held that the formula outlined in DAR AO No. 5, series of 1998, should be applied in computing just compensation. DAR AO No. 5, series of 1998, provides:

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:

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

A3. When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

In no case shall the value of idle land using the formula $MV \times 2$ exceed the lowest value of land within the same estate under consideration or within the same barangay or municipality (in that order) approved by LBP within one (1) year from receipt of claimfolder;

See also Land Bank of the Philippines v. Spouses Costo, G.R. No. 174647, December 5, 2012.

[24] Landbank of the Philippines v. Vda. de Abello, G.R. No. 168631, April 7, 2009, 584 SCRA 342, 354.

[25] Rotea v. Halili, G.R. No. 12030, September 30, 1960.

[26] Forform Development Corporation v. Philippine National Railways, G.R. No. 124795 December 10, 2008.

[27] Supra note 13.

DISSENTING OPINION

LEONEN, J.:

I dissent.

The concept of payment of the "fair market value at the time of taking" in expropriation cases is squarely raised in this case. The landowners are being paid compensation seventy-five years after the actual taking of their property. Thus, judicial doctrine should approximate the present or replacement value of the property had the compensation been paid at the time of the taking. I dissent with the mechanical application of arbitrary interest rates. Instead, we should adopt the economic concept of present value, which is widely used in business and in financial circles. By doing so, we remain consistent with the doctrine that just compensation is the fair market value at the time of taking.

Before us is a Motion for Reconsideration[1] filed by respondents Spouses Heracleo and Ramona Tecson (Tecson spouses) of this court's Decision[2] dated July 1, 2013. The Decision held that the Tecson spouses are entitled to P0.70 per square meter, the fair market value of their expropriated property in 1940, and legal interest.[3]

I

The Tecson spouses were registered owners of a 7,268-square-meter property located in San Pablo, Malolos, Bulacan. This property was covered by Transfer Certificate of Title No. 43006.[4]

In 1940, government used the Tecson spouses' property without securing their consent and commencing the necessary expropriation proceedings. The property now forms part of MacArthur Highway.[5]

In 1994, the Tecson spouses demanded payment for the property taken from them. The Department of Public Works and Highways, through Celestino R. Contreras (Engineer Contreras), District Engineer of the First Bulacan Engineering District, offered to pay the Tecson spouses the amount based on Provincial Appraisal Committee Resolution No. XII dated January 15, 1950. The Provincial Appraisal Committee estimated the value of the Tecson spouses' property at P0.70 per square meter.[6]

The Tecson spouses rejected Engineer Contreras' offer. They demanded the return of their property or, in the alternative, the payment of compensation at its current market value. At that time, based on the most recent tax declaration, the property was valued at P2,543,800.00.[7]

The Department of Public Works and Highways ignored the Tecson spouses' offer. On May 17, 1995, the Tecson spouses filed a Complaint[8] against Gregorio R. Vigilar, Department of Public Works and Highways Secretary, and Engineer Contreras (collectively referred here as the government) for recovery of possession with damages. The case was raffled to Branch 80 of the Regional Trial Court in Malolos.[9]

Government filed a Motion to Dismiss.[10] It argued that the Complaint filed by the Tecson spouses is a suit against the state, and is barred by prescription.[11] In the Order[12] dated June 28, 1995, the trial court dismissed

the Tecson spouses' Complaint for being a suit against the state filed without the state's consent. The trial court no longer resolved the second ground in filing the Motion to Dismiss.[13]

The Tecson spouses filed an appeal.[14] In the Decision[15] dated February 11, 1999, the Court of Appeals decided in favor of the Tecson spouses. It ruled that the "immunity of the State from suit may not be applied with rigidity . . . because [the Tecson spouses'] property was converted into a highway without the benefit of expropriation proceedings and its restoration is not feasible because it has been in use as a public highway since the 1940s." [16] The Court of Appeals ordered that the case be remanded to the trial court to determine just compensation.[17]

Upon remand, the Regional Trial Court appointed commissioners to determine just compensation.[18] The commissioners referred the matter to the Provincial Appraisal Committee.[19] The Provincial Appraisal Committee issued Resolution No. 99-007 and resolved that the Tecson spouses are entitled to P1,500.00 per square meter.[20] In the Decision[21] dated March 22, 2002, the Regional Trial Court resolved that P1,500.00 per square meter was the just compensation to be awarded to the Tecson spouses.[22]

Government filed an appeal assailing the amount determined by the trial court as just compensation for the property taken.[23] In the Decision[24] dated July 31, 2007, the Court of Appeals affirmed the Decision of the Regional Trial Court with modification. The Court of Appeals included an award of "interest of 6% per annum computed from the time of the filing of this action on March 17, 1995 until full payment." [25]

Government filed a Petition for Review on Certiorari[26] before this court. In the Decision dated July 1, 2013, the majority of the Third Division of this court decided:

WHEREFORE, premises considered, the petition is PARTIALLY GRANTED. The Court of Appeals Decision dated My 31, 2007 in CA-GR. CV No. 77997 is MODIFIED, in that the valuation of the subject property owned by respondents shall be P0.70 instead of P1,500.00 per square meter, with interest at six percent (6%) per annum from the date of taking in 1940 instead of March 17, 1995, until full payment.[27]

The majority based this Decision on the doctrine that "[j]ust compensation is 'the fair value of the property as between one who receives, and one who desires to sell, . . . fixed at the time of the actual taking by the government.'" [28] Based on the majority's appreciation of the facts, the value of the property in 1940 was P0.70 per square meter.[29]

On September 10, 2013, the Tecson spouses filed the Motion for Reconsideration raising the following grounds:

- The honorable court may look into the "just-ness" of the miserable amount of compensation being awarded to the herein respondents; [and]
- The honorable court may settle for a happy middle ground in the name of doctrinal precision and substantial justice.[30]

Elevated for this court en bane's consideration is the issue of whether the just compensation awarded in the Decision dated July 1, 2013 can be made fair without transgressing the doctrine that just compensation for expropriation cases should be computed at the time of taking.

II

I vote to grant the Tecson spouses' Motion for Reconsideration.

The Tecson spouses correctly argue that pegging the value of the property to its 1940 value of P0.70 per square meter is "arbitrary and confiscatory[.]" [31] It condones the Department of Public Works and Highways' acts of

disregarding the Tecson spouses' property rights and of violating the due process of law.

Moreover, the Tecson spouses reiterated the statement in our Separate Opinion that "gross injustice w[ould] result if the amount [to] be awarded today w[ould] be based simply on the value of the property at the time of actual taking." [32] Hence, the Tecson spouses seek the "happy middle ground" as proposed in our Separate Opinion.

Government, on the other hand, agrees that the determination of just compensation is a judicial function. [33] However, it argues that the amount of just compensation should be the fair market value of the property at the time of its taking in 1940 and not its present market value as indicated in the Tecson spouses tax declaration. [34]

Government argues that the Provincial Appraisal Committee that recommended the payment of P1,500.00 per square meter stated that the fair market value of the property at the time of taking was P0.70 per square meter. Therefore, it is the rate of P0.70 per square meter that should be made the basis for just compensation to be awarded to the Tecson spouses. [35]

III

The value of just compensation must be determined as of the time of the taking: not before or after the coercive state action.

The Constitution provides that an individual's "[p]rivate property shall not be taken for public use without just compensation." [36] Rule 67, Section 4 of the Rules of Court, among others, provides that just compensation is "to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first."

The taking of the property of the Tecson spouses happened in 1940 or 75 years ago. Just compensation is the fair market value of the property at the time of taking. After government takes a property, its value can appreciate [37] or depreciate significantly. [38] If government's use of the property enhances commerce and productivity, the property's value appreciates. If contiguous landowners fear that their property would likewise be expropriated, the area may become unfavorable for landownership, thus adversely affecting its real estate prices.

In *Municipality of La Carlota v. Spouses Gan*: [39]

The expropriation stands, and the owner as is the constitutional intent, is paid what he is entitled to according to the value of the property so devoted to public use as of the date of the taking. From that time, he had been deprived thereof. He had no choice but to submit. He is not, however, to be despoiled of such a right. No less than the fundamental law guarantees just compensation. It would be an injustice to him certainly if from such a period, he could not recover the value of what was lost. [40] (Emphasis supplied)

Just compensation approximates the value of the property determined in a fair and unencumbered transaction. It is that "sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as a price to be given and received therefor." [41]

IV

It is the state's duty, in exercising its inherent power of eminent domain, to initiate expropriation proceedings at the earliest time. The owners suffer as the payment value of the property equivalent to just compensation is delayed.

If, as in this case, the state does not take action, the private property owner has no other recourse but to file a suit for the recovery of possession of the property taken or for payment of just compensation. Unnecessarily, additional costs — apart from the opportunity costs for the compensation seasonably paid — in the form of expenses to pursue litigation are incurred. Delayed or uncompensated takings "[distort] people's incentives and [cause]

economic inefficiency[.] . . . Individual owners will go to great expense to prevent the state from taking their property without compensation. Indeed, the possibility of uncompensated takings would divert effort and resources away from production and toward the politics of redistribution." [42]

The costs of delay should not be borne by the owner of the property taken but belatedly paid by government. Unless these costs are recovered, delay diminishes the full amount of just compensation to be paid to the owner. This is an unconstitutional outcome. Besides, between the State and the landowner, the former is generally able to bear the costs of making the proper payment. It is its duty to ensure that just compensation makes up for the ownership of the property taken for public use.

The Tecson spouses found themselves in a situation where the government takes property without proper expropriation proceedings, thus delaying the payment of just compensation. In a similar case, this court emphatically noted:

This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay. The private owner is usually at a great and distinct disadvantage. He has against him the whole Government, central or local, that has occupied and appropriated his property, summarily and arbitrarily, sometimes, if not more often, against his consent. There is no agreement as to its price or its rent. In the meantime, the landowner makes requests for payment, rent, or even some understanding, patiently waiting and hoping that the Government would soon get around to hearing and granting his claim. The officials concerned may promise to consider his claim and come to an agreement as to the amount and time for compensation, but with the not infrequent government delay and red tape, and with the change in administration, specially local, the claim is pigeonholed and forgotten and the papers lost, mislaid, or even destroyed as happened during the last war. And when finally losing patience and hope, he brings a court action and hires a lawyer to represent him in the vindication of his valid claim, he faces the government represented by no less than the Solicitor General or the Provincial Fiscal or City Attorney, who blandly and with self-assurance, invokes prescription. The litigation sometimes drags on for years. In our opinion, that is neither just nor fair. When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are first initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean delay and difficulty for the Government, but all of its own making. [43]

In *Apo Fruits Corporation, et al. v. Land Bank of the Philippines*, [44] this court discussed the need to impose a 12% interest rate for late payment of just compensation:

Apart from the requirement that compensation for expropriated land must be fair and reasonable, compensation, to be "just," must also be made without delay. Without prompt payment, compensation cannot be considered "just" if the property is immediately taken as the property owner suffers the immediate deprivation of both his land and its fruits or income.

This is the principle at the core of the present case where the petitioners were made to wait for more than a decade after the taking of their property before they actually received the full amount of the principal of the just compensation due them. What they have not received to date is the income of their landholdings corresponding to what they would have received had no uncompensated taking of these lands been immediately made. . . .

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The owner's loss, of course, is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the

property and the potential income lost. The just compensation is made available to the property owner so that he may derive income from this compensation, in the same manner that he would have derived income from his expropriated property. If full compensation is not paid for property taken, then the State must make up for the shortfall in the earning potential immediately lost due to the taking, and the absence of replacement property from which income can be derived[.][45] (Emphasis in the original, citations omitted)

The main concern in *Apo Fruits* was that the downpayment of the principal amount of "fair market value at the time of taking" was "not enough to compensate the petitioners for the potential income the landholdings could have earned for them if no immediate taking had taken place." [46] The time difference between taking and payment in *Apo Fruits* was merely 10 to 12 years, as opposed to the seventy-five-year gap in this case. Obviously, the Tecson spouses were denied a greater amount of potential income stream for not having been paid back in 1940. This inequity needs to be corrected.

V

That just compensation — equivalent to its fair market value — should be paid at the time of taking remains a hypothetical ideal. In reality, we recognize that expropriation takes some time. The concept of present value [47] can assist courts in approximating the ideal of paying the right amount to the landowner considering the delay while honoring the doctrine that the value of the property should be reckoned at the time of taking.

Money that should have been paid in the past has a different value today. [48] Economists derived a formula to account for the value and the income stream the money generates across time.

To place the concept of present value in the context of expropriation, let us suppose that the Tecson spouses were paid immediately for the use of their property at P0.70 per square; meter. They would have received P5,087.60 in 1940. They could have used the money to start a business or spend it for themselves to improve their welfare. Either way, this amount of money would have generated utility for them.

We can assume that the money, if timely paid, would have been used reasonably by the Tecson spouses. A fair assumption would be that, at the very least, they would have invested it in the safest investment available, such as treasury bills. Treasury bills produce a steady income stream of money through interest rates. The interest earned can be reinvested, hence, interest rates have a compounding effect. Through compounded interests, the principal amount of money and the interest it would earn subsequently earns additional interest. The P5,087.60 that should have been paid in 1940 would not be the same amount in 2015.

To compute for the value of P5,087.60 in 2015, we apply this formula: [49]

$$PV_t = V \cdot (1+r)^t$$

PV stands for the present value of the fair market value at the time of taking. V stands for the fair market value of the property at the time of the taking, taking in all the considerations that courts may use in accordance with law.

This is multiplied to $(1+r)$ where r equals the implied rate of return (average year-to-year interest rate). We propose the use of the treasury bill interest rate as r . $(1+r)$ is raised to the exponent t . The exponent t is the period or the number of years that has passed between the time of taking and the time of payment. It is treated as an exponent because it is the number of times you have to multiply $(1+r)$ to capture the effect of compounding interest rates. The derivation of this formula is discussed in greater detail in the July 1, 2013 Separate Opinion. [50]

VI

The use of present value and the application of the proper interest rates are crucial in determining just compensation for private property owners whose properties were taken from them without immediate payment or the appropriate expropriation proceedings. Had they kept the possession of the property until such time they would be paid by government, they could have earned rent from it. Once land has been transformed into a financial asset, it should earn interest.

In jurisprudence, we consider two (2) kinds of interests: monetary interest and compensatory interest. In *Sun Life of Canada (Philippines), Inc. v. Sandra Tan Kit*:^[51]

"Monetary interest refers to the compensation set by the parties for the use or forbearance of money." No such interest shall be due unless it has been expressly stipulated in writing. "On the other hand, compensatory interest refers to the penalty or indemnity for damages imposed by law or by the courts."^[52] (Citations omitted)

These types of interest rates are not the same as the interest rate used to determine the present value of money.

First, monetary interest rate is something determined by two parties entering into a contract of loan or any other contract involving the use or forbearance of money. Hence, monetary interest represents the cost of letting another person use or borrow money. On the other hand, interest rates used to determine the present value of money reflect the economic history that has affected the purchasing power of money. The interest rate in the present value formula represents the opportunity cost of the untimely payment of the sum of money already due and demandable.

Second, compensatory interest rates have been determined by this court as a penalty or indemnity for damages in monetary judgments. This is not the same interest rate used in determining the present value of money, which finds significance even outside monetary judgments. The interest rate in present value is not a penalty against the payor; rather, it reflects the fair amount the payor should pay considering the passage of time in our economic history.

There is no law imposing interest rates in determining present value. Hence, in cases of delay in the payment of just compensation of expropriated property, the interest to be considered should be the conservative annual year-on-year average of treasury bill rates.

This is different from this court's previous practice of imposing interest rates to compensate the landowner for government's delay in payment.^[53] Such interest rate is a form of compensatory interest often referred to as legal interest.

VII

Using present value is different from applying legal interest rates imposed for the use or forbearance of money.^[54] Legal interest rates are simple interest rates and, hence, are not compounded. Simple interest rates fail to capture the economic reality that money earns more money. With simple interest rates, the interest earned is the product of the principal amount multiplied by the interest rate, and that product is multiplied further by the number of periods involved. This is opposed to compounded interest rates, where the interest earned from the first period is also subject to interest earnings in a subsequent period, with the amount subjected to the interest rate increasing each period.^[55] Consequently, interest earnings increase every year as well.

For example: If P100.00 is subjected to a simple interest of 10% per year, then the interest earned will be P10.00 after one year, and another P10.00 will be earned on the second year. After two years of being subjected to a

simple interest rate, the P100.00 will be P120.00. In contrast, if the P100.00 is subjected to a compounded interest rate of 10%, the amount will earn P10.00 after the first year. On the second year, the principal will now include the P10.00 interest earned the previous year, so P110.00 will be the amount subject to the 10% interest earning. Hence, the interest earned will be P11.00. After two years of being subjected to a compounded interest rate, the P100.00 will be P121.00. In simple interest rates, the amount added remains fixed at a nominal value, while in compounded interest rates, the amount added increases over time.

The use of compounded interest rates is intrinsic in the determination of present value. It is not anchored on Article 2212 of the Civil Code. Article 2212 states that "[i]nterest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point." It is inaccurate to use this law because it contemplates a situation where the payee goes to court to collect payment. In expropriation cases, it is not the obligation of the payee to initiate proceedings to determine just compensation. It is the obligation of the state to initiate these proceedings in order not to violate the rights of the private property owner. The private property owner only files a court action as a matter of last resort in order not to be denied of his or her constitutional right to just compensation.

Interest rates are compounded to determine the present value of the amount of money due to property owners. Compounded interest rates are part of the value of the property itself and not merely the interest given by two parties entering into a loan or an interest rate given together with a monetary judgment.

The use of economics, or any other discipline, in aid of judicial decisions does not violate the judicial temperament. Economics can be a tool for this court to approximate the constitutional ideal of "just compensation." Judge Richard A. Posner recommends that:

we need a new style of judicial opinion writing (really a return to an older style), in which formalistic crutches — such as the canons of statutory construction and the pretense of deterministic precedent — exaggerate the autonomous elements in legal reasoning are replaced by a more candid engagement with the realistic premises of decision. Judicial decisionmaking must also become more receptive to the insights of social science. Lawyers and judges must overcome the prevalent (and disgraceful) math-block that afflicts the legal profession.[56] (Emphasis supplied)

Furthermore, legal interest rates is fixed at 6% or 12% depending on which prevailing Central Bank circular has been enacted. Meanwhile, computation of present value is dependent on the historical average of year-to-year interest rates.[57]

Using fixed interest rates does not reflect the historical and contemporary economic realities. Contrary to the position of Justice Brion, this court has arbitrarily selected this in order to satisfy the need to give an equitable award of "just compensation" within the bounds of jurisprudence when it feels that the original landowner has been unduly deprived by government.

There is no clear basis as to why interest rates fixed at 6% or 12% will be able to approximate the replacement Value of the property and, thus, result to just compensation for the landowners.

Previous jurisprudence[58] cited the use of Act No. 2655 and Central Bank circulars issued in relation to that law as basis for the use of 6% and 12%. Act No. 2655 is a law that determines a ceiling interest rate to avoid usurious loans. Throughout the text of the law, reference is made to a "person" or "corporation." This law is not nuanced to fit the purposes of determining just compensation in favor of a private property owner. The transaction involved here is not a loan or forbearance of money between two private parties but expropriation, an exercise of eminent domain powers of the state. The use of usury laws and circulars in order to determine "just compensation" in case of delay is as crude as it is imprecise.

Shifting from the method used in earlier jurisprudence to a more accurate method of using present value is more in keeping with the constitutional character of the concept of just compensation. For purposes of determination of just compensation, statutes and executive enactments are merely recommendatory. In *Export Processing Zone Authority v. Judge Dulay*:^[59]

The determination of "just compensation" in eminent domain cases is a judicial function. The executive department or the legislature may make the initial determinations but when a party claims a violation of the guarantee in the Bill of Rights that private property may not be taken for public use without just compensation, no statute, decree, or executive order can mandate that its own determination shall prevail over the court's findings. Much less can the courts be precluded from looking into the "justness" of the decreed compensation.^[60]

Instead of using 6% or 12%, we recommend that historical data be used in order to stay true to the constitutional mandate of "just compensation."

One of the most recorded interest rates in our economic history has been the treasury bill interest rates.^[61] The Bangko Sentral ng Pilipinas, with its predecessor, Central Bank, has been offering treasury bills to the public since the Central Bank was created in 1949.^[62] Treasury bills are short-term debt instruments. They mature in 91, 182, or 364 days. These instruments are currently offered by the Bangko Sentral ng Pilipinas through weekly auctions. These are actively traded and preferred due to their liquidity. No possibility of default exists since these are guaranteed by the national government.^[63] The rate of return on treasury bills is considered the bellwether interest rate because it is completely market-determined, and other interest rates such as the overnight repurchasing rates and bank interest rates are consistently correlated with the rates set in the market for treasury bills.^[64]

In addition, the use of treasury bills provides a situational analogy to the delay in the payment of government of just compensation. It is as if government paid the private property owner in treasury bills and re-invested the returns on a yearly basis until the value of the bills could be liquidated.

In this case, we have to consider treasury bill rates from 1949 to 2014. This is acquired from the official data of the Bangko Sentral ng Pilipinas,^[65] thus:

Table 1. Treasury Bill Rates Across Time

Year

Annual Rate of Return for All Maturities

1940

1.500

1941

1.500

1942

1.500

1943

1.500

1944

1.500

1945

1.500

1946

1.500

1947

1.500

1948

1.500

1949

1.500

1950

2.000

1951

2.000

1952

1.875

1953

2.125

1954

2.250

1955

1.750

1956

1.750

1957

1.879

1958

2.549

1959

2.599

1960
3.000
1961
3.000
1962
3.000
1963
3.500
1964
3.500
1965
4.000
1966
6.603
1967
6.348
1968
6.944
1969
8.566
1970
13.372
1971
12.038
1972
12.154
1973
9.664
1974
10.260
1975

10.475
1976
10.406
1977
11.161
1978
10.950
1979
12.178
1980
12.316
1981
12.914
1982
14.415
1983
14.544
1984
36.985
1985
27.048
1986
16.040
1987
12.888
1988
15.510
1989
19.678
1990
24.742

1991
22.489
1992
17.008
1993
13.141
1994
13.750
1995
12.457
1996
13.014
1997
13.297
1998
16.283
1999
11.025
2000
10.904
2001
11.054
2002
6.038
2003
6.654
2004
8.127
2005
7.528
2006

6.196

2007

4.210

2008

6.355

2009

4.456

2010

4.034

2011

1.867

2012

1.826

2013

0.564

2014

1.495

AVERAGE

8.237

With the enactment of Republic Act No. 245 in 1948, the Secretary of Finance was authorized to issue, among others, "[t]reasury bills issued on a discount basis and payable at maturity without interest. Treasury bills may be offered for sale either on a competitive basis or at a fixed rate of discount and may be made payable at any date not later than one year from the date of issue." [66] The Central Bank began offering one-year treasury bills in 1949. Prior to that, upon the Central Bank's creation, it assumed the liability of the treasury certificate fund offered by the Treasurer of the Philippines. [67] Considering that treasury certificates are also short-term money instruments, they can be said to be the predecessor of treasury bills as we know them now.

The historical event before 1949 was World War II, a time when no reasonable investments could be made. There were no historical rates of return officially recorded in the 1940s. For our purposes, we assume that the rate of return in 1949 would have been the rate in the past decade that was affected by the war. After all, the rate in 1949 was set by the Central Bank and was not market-determined. From 1957 to 1965, there were also no available recorded data, so the savings deposit rate [68] was used as a substitute figure.

The way the treasury bill was offered to the public changed in 1966. [69] Since 1966, the Central Bank offered two (2) maturities for the treasury bills. The Central Bank no longer determined the rate of return for these money instruments. In 1969, the Central Bank began offering a 273-day bill, which was eventually replaced by the 364-day bill.

Considering all these, the average year-to-year interest rate based on treasury bills from the 1940s to 2014 is 8.237%. I believe that this is the interest rate that we should use to determine the present value of the fair market value at the time of taking in this case.

VIII

Applying the formula and using 8.237% as the average year-to-year interest rate, the present value of P5,087.60 is P1,926,167.01. In other words, had the landowners been paid in 1940 the right amount of compensation, its value today should be P1,926,167.01, not P5,087.60.

To show it more clearly:

$$PV_t = V * (1+r)^t$$

$$PV_{74} = P5,087.60 * (1 + 8.237\%)^{75}$$

$$PV_{74} = P5,087.60 * (1.08237)^{75}$$

$$PV_{74} = P5,087.60 * 378.600325229417$$

$$PV_{74} = P\ 1,926,167.01$$

Applying the same formula, we compute that the present value of P0.70 per square meter in 1940 is P265.02 per square meter in 2015.

If legal interest of only 6% per annum were added to the fair market value at the time of taking, the Tecson spouses would only be entitled to P27,676.54.[70] Even if we consider the higher interest rate for expropriation cases[71] of 12% per annum, the Tecson spouses would only receive P50,876.00.[72] This is severely disproportionate to the present value of the fair market value of the property at the time of taking. It would not be just if the Tecson spouses were simply paid that amount of money.

IX

In balancing the interests of the landowners, the public, and government, we should be mindful that the value of money is not static. Otherwise, we diminish the true economic value of the land taken. In *Republic v. Vda. De Castellvi*:[73]

The Court has weighed all the circumstances relating to th[ese] expropriations proceedings, and in fixing the price of the lands that are being expropriated the Court arrived at a happy medium between the price as recommended by the commissioners and approved by the court, and the price advocated by the Republic. This Court has also taken judicial notice of the fact that the value of the Philippine peso has considerably gone down since the year 1959.[74] (Emphasis supplied, citation omitted)

In *Commissioner of Public Highways v. Judge Burgos*,[75] government took privately-owned property in 1924 to construct Mango Avenue and Gorordo Avenue in Cebu City.[76] The taking was made without proper expropriation proceedings. When the original landowner instituted recovery proceedings in the trial court, this court ordered that just compensation be computed by the trial court and awarded to the landowner.[77] The trial court computed for just compensation only in 1973. The commissioners arrived at the value of P2.37 per square meter as the prevailing value of the property at the time of taking in 1924.[78]

However, during trial, the former landowner presented a newspaper clipping showing that the peso depreciated

relative to the dollar. The trial court took into account the deflated value of the peso by virtue of Article 1250 of the Civil Code, which states that "[i]n case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of payment, unless there is an agreement to the contrary." The trial court considered a value higher than P2.37 per square meter in arriving at the final award.[79] In rejecting the amount awarded by the trial court, this court ruled that the Civil Code provision does not apply to expropriation proceedings:

It is clear that the foregoing provision applies only to cases where a contract or agreement is involved. It does not apply where the obligation to pay arises from law, independent of contract. The taking of private property by the Government in the exercise of its power of eminent domain does not give rise to a contractual obligation. ...

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We hold, therefore, that under the law, in the absence of any agreement to the contrary, even assuming that there has been an extraordinary inflation within the meaning of Article 1250 of the New Civil Code, a fact We decline to declare categorically, the value of the peso at the time of the establishment of the obligation, which in the instant case is when the property was taken possession of by the Government, must be considered for the purpose of determining just compensation. Obviously, there can be no "agreement to the contrary" to speak of because the obligation of the Government sought to be enforced in the present action does not originate from contract, but from law which, generally is not subject to the will of the parties. And there being no other legal provision cited which would justify a departure from the rule that just compensation is determined on the basis of the value of the property at the time of the taking thereof in expropriation by the Government, the value of the property as it is when the Government took possession of the land in question, not the increased value resulting from the passage of time which invariably brings unearned increment to landed properties, represents the true value to be paid as just compensation for the property taken.[80] (Citation omitted)

As in this case, the payment of just compensation in Commissioner of Public Highways was made several years after the time of taking.

I agree with this court's refusal to adjust just compensation based simply on the relative deflation of the Philippine peso. The value of currency is dependent on each individual economy, and there is no legal, rational, or historical basis for assigning the U.S. dollar as a more stable currency as opposed to the Philippine peso. The concept of present value does not rely on an arbitrary selection of a foreign currency peg. It simply considers historical interest rates recorded in the Philippines and the fair market value of the property expropriated at the time of taking.

There is no "extraordinary inflation" to be accounted for in this case. Article 1250 does not apply. The lapse of time between 1940 and 2015 was an amalgamation of ordinary inflation spread throughout an extraordinary length of time. This is not the same as extraordinary inflation, which can be characterized as hyperinflation[81] in economics. This court can take judicial notice that between 1940 and 2015, despite several economic setbacks, the only hyperinflation recorded was in 1944, during World War II.[82] The extraordinary inflation in 1944 is almost negligible considering that the approximate value of the property in the 1940s was computed by the Provincial Appraisal Committee in 1950.

Commissioner of Public Highways was implicitly overturned in Republic v. Court of Appeals.[83] In Republic, this court allowed the imposition of a 12% per annum interest on just compensation to "help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time." [84]

X

Ever since government took the property in 1940, the public's welfare increased due to the construction of MacArthur Highway. Government, however, did not pay for the property. This is akin to unjust enrichment in our Civil Code. Compensation is not merely about payment in the financial sense. It is the thing exchanged for the benefit derived by the community as a whole. Using the concept of present value will be a fair means for the public to shoulder the costs of expropriation to compensate the owners for their property.

There will be injustice for the Tecson spouses if we maintain this court's previous Decision of awarding only the 1940 value of the property. It is also a mistake to make government pay at the fair market value computed 50 years after the taking.

A balance of interests that can truly approximate replacement value for the landowners, as well as capture the true economic costs and benefits for the public, could have been achieved in this case. Similar problems caused by the delay in paying just compensation could also have been properly guided by this decision. The costs of delay would be internalized by government: the amount paid would have to consider the landowner's opportunity costs. Government, thus, would be provided with a powerful incentive to settle just compensation claims soonest. The timely settlement would then give an opportunity for landowners to use the payment productively and, thus, contribute to a more robust domestic economy.

Judicial interpretation should be both consistent and relevant. Remaining consistent with past judicial doctrines that fail to consider contemporary factors results in absurdity. It does not result in a stable and just environment for all economic actors to thrive. In other words, a doctrine now shown to be absurd cannot be good precedent.

Our task, as we judicially interpret the text of the Constitution and the law, is to examine our precedents in context. This means that we should also attempt to view the basis and consequences of doctrine through the lenses provided by the best of our sciences and arts. Blind repetition of precedents hopelessly condemns our people's hopes that justice should not only remain an unrealistic curiosity but a value that can be lived. Law has never been an autonomous discipline. It is also a social institution that matters.

ACCORDINGLY, I vote that the Motion for Reconsideration be GRANTED. The Decision dated July 1, 2013 should be REVERSED and SET ASIDE. The Tecson spouses should be entitled to P1,926,167.01 as just compensation, subject to adjustments in the event that they are not paid by government within this year.

[1] Rollo, pp. 255-258.

[2] Id. at 229-238.

[3] Id. at 237.

[4] Id. at 124.

[5] Id. at 125.

[6] Id. at 142.

[7] Id. at 125.

[8] Id. at 138-141.

[9] Id. at 124.

[10] Id. at 143-145.

[11] Id. at 143.

[12] Id. at 147-148.

[13] Id.

[14] Id. at 149.

[15] Id. at 62-68. The Decision was penned by Associate Justice Artemon D. Luna (Chair) and concurred in by Associate Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico of the Second Division.

[16] Id. at 155.

[17] Id.

[18] Id. at 162.

[19] Id. at 163.

[20] Id. at 164.

[21] Id. at 165-167.

[22] Id. at 167.

[23] Id. at 168-182.

[24] Id. at 37-49. The Decision was penned by Associate Justice Lucas P. Bersamin (now Supreme Court Associate Justice) and concurred in by Associate Justices Portia Aliño Hormachuelos (Chair) and Estela M. Perlas-Bernabe (now Supreme Court Associate Justice) of the Third Division.

[25] Id. at 136.

[26] Id. at 14-35.

[27] Secretary of the Department of Public Works and Highways v. Tecson, G.R.No. 179334, July 1, 2013, 700 SCRA 243, 259 [Per J. Peralta, Third Division].

[28] Id. at 255, citing Republic v. Court of Appeals, 494 Phil. 494, 509 (2005) [Per J. Carpio, First Division].

[29] Id. at 258.

[30] Rollo, p. 256.

[31] Id.

[32] J. Leonen, Separate Opinion in Secretary of the Department of Public Works and Highways v. Tecson, G.R. No. 179334, July 1, 2013, 700 SCRA 243, 274 [Per J. Peralta, Third Division].

[33] Rollo, p. 30.

[34] Id. at 31-32.

[35] Id.

[36] CONST., art. III, sec. 9.

[37] See *National Power Corporation v. Court of Appeals*, 325 Phil. 29 (1996) [Per J. Panganiban, Third Division] and *Municipality of La Carlota v. Spouses Gan*, 150-A Phil. 588 (1972) [Per J. Fernando, En Banc].

[38] See *Republic v. Lara, et al.*, 96 Phil. 170 (1954) [Per J. J.B.L. Reyes, En Banc] and *Provincial Government of Rizal v. Caro de Araullo*, 58 Phil. 308 (1933) [Per J. Vickers, En Banc].

[39] 150-A Phil. 588 (1972) [Per J. Fernando, En Banc].

[40] *Id.* at 596.

[41] See *National Power Corporation v. Ong Co*, 598 Phil. 58, 65 (2009) [Per J. Tinga, Second Division].

This court summarized: "Just compensation is the fair market value of the property. Fair market value is that 'sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as a price to be given and received therefor.'"

[42] ROBERT COOTER AND THOMAS ULEN, *LAW AND ECONOMICS* 175 (4th ed., 2004).

[43] *Alfonso v. Pasay City*, 106 Phil. 1017, 1020-1021 (1960) [Per J. Montemayor En Banc].

[44] 647 Phil. 251 (2010) [Per J. Brion, En Banc].

[45] *Id.* at 273-276.

[46] *Id.* at 272.

[47] PAUL A. SAMUELSON AND WILLIAM D. NORDHAUS, *ECONOMICS* 748 (18th Edition). Present value (of an asset) is defined as "the value for an asset that yields a stream of income over time."

[48] N. GREGORY MANKIW, *PRINCIPLES OF ECONOMICS* 567 (2007). Stated otherwise, "[m]oney today is more valuable than the same amount of money in the future."

[49] N. GREGORY MANKIW, *ESSENTIALS OF ECONOMICS* 414-415 (4th ed., 2007).

[50] J. Leonen, Separate Opinion in *Secretary of the Department of Public Works and Highways v. Tecson*, G.R. No. 179334, July 1, 2013, 700 SCRA 243, 276-278 [Per J. Peralta, Third Division].

[51] G.R. No. 183272, October 15, 2014
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/183272.pdf>> [Per J. Del Castillo, Second Division].

[52] *Id.* at 7.

[53] *National Power Corporation v. Angus*, G.R. Nos. 60225-26, May 8, 1992, 208 SCRA 542, 549 [Per J. Paras, Second Division] used 6% legal interest rate. *Republic v. Court of Appeals*, 433 Phil. 106 (2002) [Per J. Vitug, First Division] used 12% interest rate by way of actual or compensatory damages, following the ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, July 12, 1994, 234 SCRA 78 [Per J. Vitug, En Banc]. The Decision of this case dated July 1, 2013 reverted back to the 6% legal interest rate.

[54] See *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, July 12, 1994, 234 SCRA 78 [Per J. Vitug, En Banc].

[55] N. GREGORY MANKIW, *PRINCIPLES OF ECONOMICS* 532 (2007). Compounding is "the accumulation of a sum of money in, say, a bank account, where the interest earned remains in the account to earn additional interest in the future."

[56] Richard A. Posner, The Decline of Law as an Autonomous Discipline: 1962-1987, 100 HARV. L. Rev. 761,778 (1987).

[57] The Bangko Sentral ng Pilipinas has been compiling Selected Domestic Interest Rates since 1949 <<http://www.bsp.gov.ph/statistics/excel/sdir.xls>> (visited April 10, 2014).

[58] National Power Corporation v. Angas, G.R. Nos. 60225-26, May 8, 1992, 208 SCRA 542, 548-549 [Per J. Paras, Second Division] used the 6% interest rate on the basis of Central Bank Circular No. 416 and Act No. 2655.

[59] 233 Phil. 313 (1987) [Per J. Gutierrez, Jr., En Banc].

[60] Id. at 326.

[61] Technically speaking, these "interest rates" are actually "rates-of-return" or "yield." Government sells these treasury bills at a discount, and the bills are redeemed at face value. The "interest rate" here accounts for the difference between what the investor pays and the face value of the treasury bill.

[62] Mamerto C. Singson Jr., The Philippine Treasury Bill Market, 8 PHILIPPINE REVIEW OF ECONOMICS 2, 43-44 (1971).

[63] FREDERIC S. MISHKIN, THE ECONOMICS OF MONEY, BANKING AND FINANCIAL MARKETS, Appendix to Chapter 2, p. 1 (7[th] ed).

[64] Mario B. Lamberte, Central Banking in the Philippines: Then, Now and the Future, Philippine Institute for Development Studies Discussion Paper Series No. 2002-10 <<http://dirp3.pids.gov.ph/ris/dps/pidsdps0210.pdf>> 30 (footnote 33).

[65] Selected Domestic Interest Rates, Bangko Sentral ng Pilipinas <<http://www.bsp.gov.ph/statistics/excel/sdir.xls>> (visited April 10, 2014).

[66] Rep. Act No. 245 (1948), sec. 1(a).

[67] Rep. Act No. 265(1948), sec. 135.

[68] See Selected Domestic Interest Rates, Bangko Sentral ng Pilipinas <<http://www.bsp.gov.ph/statistics/excel/sdir.xls>> (visited April 10, 2014). The Bangko Sentral ng Pilipinas explains that the savings deposit rate "[r]efer[s] to the annual percentage equivalent of commercial banks' actual monthly interest expenses on peso-savings deposits to the total outstanding levels of these deposits." It represents the interest rate that all commercial banks pay to their depositors per year.

[69] Mamerto C. Singson Jr., The Philippine Treasury Bill Market, 8 PHILIPPINE REVIEW OF ECONOMICS 2, 43-44 (1971).

[70] This amount was computed by finding 6% of P5,087.60, which is P305.26. This amount was multiplied by 75, assuming that government will pay in the year 2015 or 75 years after the land was taken. This yielded the amount of P22,894.20. With this added to the principal amount due and considering only the fair market value at the time of taking plus legal interest, the spouses will only be entitled to P27,891.80.

[71] This higher interest rate for expropriation cases was defended by Justice Brion in the Resolution to the second Motion for Reconsideration in Apo Fruits (647 Phil. 251, 275-277 (2010) [Per J. Brion, En Banc]). The case cited several other expropriation cases that used 12% as the legal interest rate for delay in the payment of just compensation: Republic v. Court of Appeals, 433 Phil. 106 (2002) [Per J. Vitug, First Division]; Reyes v.

National Housing Authority, 443 Phil. 603 (2003) [Per J. Puno, Third Division]; Land Bank of the Philippines v. Wycoco, 464 Phil. 83 (2004) [Per J. Ynares-Santiago, First Division]; Republic v. Court of Appeals, 494 Phil. 494 (2005). [Per J. Carpio, First Division]; Land Bank of the Philippines v. Imperial, 544 Phil. 378 (2007) [Per J. Quisumbing, Second Division]; Philippine Ports Authority v. Rosales-Bondoc, 557 Phil. 737 (2007) [Per J. Sandoval-Gutierrez, First Division]; and Spouses Curata, et al. v. Philippine Ports Authority, 608 Phil. 9 (2009) [Per J. Velasco, Jr., En Banc].

[72] 12% of P5,087.60 is P610.51. If interest is paid annually for the past 75 years, this will amount to P45,788.40. With this added to the principal amount, the Tecson spouses will only be entitled to P50,876.00.

[73] 157 Phil. 329 (1974) [Per J. Zaldivar, En Banc].

[74] Id. at 359.

[75] 185 Phil. 606 (1980) [Per J. De Castro, First Division].

[76] Id. at 607.

[77] Id. at 607-608.

[78] Id. at 608-609.

[79] Id. The case stated that the trial court awarded P49,459.34 for the 6,167-square-meter property. From this, it appears that the price computed, considering currency devaluation, was at P8.02 per square meter.

[80] Id. at 610-611.

[81] PAUL A. SAMUELSON AND WILLIAM D. NORDHAUS, ECONOMICS 741 (Eighteenth Edition). "Hyperinflation is inflation at extremely high rates (say, 1000, 1 million, or even 1 billion percent a year)."

[82] TEODORO A. AGONCILLO, HISTORY OF THE FILIPINO PEOPLE 402 (1990).

[83] 433 Phil. 106 (2002) [Per J. Vitug, First Division].

[84] Id. at 123.

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