

NATIONAL POWER CORPORATION, PETITIONER, VS. TERESITA DIATO-BERNAL, RESPONDENT.

G.R. No. 180979. December 15, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

At bar is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking the reversal of the September 28, 2007 Decision[1] and the December 17, 2007 Resolution[2] of the Court of Appeals (CA).

The assailed issuances affirmed the January 14, 2000 Order[3] of the Regional Trial Court (RTC), Branch 20, Imus, Cavite, which fixed the just compensation at P10,000.00 per square meter (sq m), in relation to the expropriation suit, entitled "National Power Corporation v. Teresita Diato-Bernal."

The factual antecedents are undisputed.

Petitioner National Power Corporation (NAPOCOR) is a government owned and controlled corporation created by Republic Act No. 6395,[4] as amended, for the purpose of undertaking the development of hydroelectric power throughout the Philippines. To carry out the said purpose, NAPOCOR is authorized to exercise the power of eminent domain.[5]

Respondent Teresita Diato-Bernal (respondent) is the registered owner of a 946 sq m parcel of land situated along General Aguinaldo Highway, Imus, Cavite, covered by Transfer Certificate of Title No. T-384494.[6]

In order to complete the construction of structures and steel posts for NAPOCOR's "Dasmariñas-Zapote 230 KV Transmission Line Project," it had to acquire an easement of right of way over respondent's property.[7]

Thus, on January 8, 1997, NAPOCOR filed an expropriation suit against respondent, alleging, inter alia, that: the project is for public purpose; NAPOCOR negotiated with respondent for the price of the property, as prescribed by law, but the parties failed to reach an agreement; and NAPOCOR is willing to deposit the amount of Eight Hundred Fifty- Three Pesos and 72/100 (P853.72), representing the assessed value of the property for taxation purposes.[8]

Respondent moved for the action's dismissal, arguing the impropriety of the intended expropriation, and claiming that the value of her property is Twenty Thousand Pesos (P20,000.00) per sq m for the front portion, and Eighteen Thousand Pesos (P18,000.00) per sq m for the rear portion, and that she will lose One Hundred Fifty Thousand Pesos (P150,000.00) per month by way of expected income if the property is expropriated.[9]

On September 25, 1998, the parties filed with the RTC a partial compromise agreement,[10] which reads:

- That the parties, after earnest and diligent efforts, have reached an amicable settlement regarding the location and size of Pole Site No. DZ-70 to be constructed on the property of (respondent);
- That the parties have agreed that the said Pole Site No. DZ-70 shall be constructed or located on (respondent's) Lot No. 6075-B covered by Transfer Certificate of Title No. T-384494 of the Registry of Deeds

for Cavite, covering a total affected area of 29.25 square meters more or less as indicated in the Sketch hereto attached as Annex "A";

- That the case shall[,] however, proceed to trial on its merits only with respect to the question of just compensation.

The agreement was approved by the RTC in its Order dated September 25, 1998.[11]

With the first phase of the expropriation proceedings having been laid to rest by the partial compromise agreement, the RTC proceeded to determine the amount of just compensation. To assist in the evaluation of the fair market value of the subject property, the RTC appointed three (3) commissioners, viz.: (1) the Provincial Assessor of Cavite; (2) the Municipal Assessor of Imus, Cavite, upon recommendation of NAPOCOR; and (3) Soledad Zamora, respondent's representative.[12] The commissioners submitted their report to the RTC on September 14, 1999. In the main, they recommended that the just compensation due from NAPOCOR be pegged at P10,000.00 per sq m, based on the property's fair market value.[13]

NAPOCOR filed an Opposition[14] to the Commissioner's Valuation Report, asserting that it was not substantiated by any official documents or registered deeds of sale of the subject property's neighboring lots. NAPOCOR invoked our ruling in *Rep. of the Phil. v. Santos*,[15] wherein we held that a commissioner's report that is not based on any documentary evidence is hearsay and should be disregarded by the court. Lastly, NAPOCOR claimed that the just compensation for the expropriated property should be P3,500.00 per sq m, based on Resolution No. 08-95 dated October 23, 1995, enacted by the Provincial Appraisal Committee of Cavite (PAC-Cavite).

On January 14, 2000, the RTC issued an Order adopting the recommendation of the commissioners, viz.:

To the mind of the Court, the appraisal made by the Commissioners is just and reasonable. It is of judicial notice that land values in Cavite ha[ve] considerably increased. Such being the case, the just compensation is fixed at P10,000.00 per sq. meter.[16]

Dissatisfied, NAPOCOR sought recourse with the CA, reiterating the arguments raised in its Opposition.

On September 28, 2007, the CA rendered its Decision affirming the RTC's judgment.[17] Its motion for reconsideration[18] having been denied,[19] NAPOCOR interposed the present petition.

NAPOCOR, through the Office of the Solicitor General, repleads its contentions before the courts a quo and adds that the CA failed to explain why the value of the subject property went up by almost 200% in a span of two (2) years - P3,500.00 per sq m in 1995 to P10,000.00 per sq m at the time of the filing of the expropriation complaint in 1997.

For her part, respondent prays for the dismissal of the petition on the ground that it raises purely factual questions which are beyond the province of a Petition for Review on Certiorari under Rule 45 of the Rules of Court.

The petition is meritorious.

We shall first address the procedural infirmity raised by respondent.

In *Santos v. Committee on Claims Settlement*,[20] the Court had occasion to delineate the distinction between a question of law and a question of fact, thus: A question of law exists when there is doubt or controversy on what the law is on a certain state of facts. There is a question of fact when the doubt or difference arises from the truth or the falsity of the allegations of facts.

The Court elucidated as follows:

A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[21]

In this case, it is clear that NAPOCOR raises a question of law, that is, whether or not the resolution of the PAC-Cavite should prevail over the valuation report of the court-appointed commissioners. The issue does not call for a recalibration or reevaluation of the evidence submitted by the parties, but rather the determination of whether the pertinent jurisprudence and laws cited by NAPOCOR in support of its argument are applicable to the instant case.

On the substantive issue, the Court finds that the CA and the RTC erred in relying on the unsubstantiated and insufficient findings contained in the commissioners' report.

In arriving at the P10,000.00 per sq m market value of the expropriated property, the commissioners utilized the following factors:

I. PROPERTY LOCATION

The property subject of the appraisal is situated along Gen. Aguinaldo Highway, Brgy. Anabu, Municipality of Imus, Province of Cavite, consisting of 946 sq. m. more or less, identified as Lot 6075-B with Flat Terrain approximately 5 kms. Distance Southwest of Imus Town proper, about 500 to 600 m. from the entrance gate of Orchard Club and San Miguel Yamamura Corp. from Southeast around 1 km. [t]o 1.5 kms. From EMI (Yasaki), Makro, and Robinsons Department Store.

II. NEIGHBORHOOD DESCRIPTION

The neighborhood particularly in the immediate vicinity, is within a mixed residential and commercial area situated in the Southern Section of the Municipality of Imus which is transverses by Gen. Emilio Aguinaldo Highway w[h]ere several residential subdivisions and commercial establishments are located.

Residential houses in the area are one to two storey in height constructed of concrete and wood materials belonging to families in the middle income bracket, while commercial buildings mostly located along Gen. Emilio Aguinaldo Highway.

Some of the important landmarks and commercial establishments in the immediate vicinity are:

Newly constructed Robinsons Department Store
Makro
Caltex Gasoline station and Shell Gasoline station
Goldbomb Const. Corp.
EMI (Yasaki)
Pallas Athena Subd.
and various Commercial and Savings Banks

Community [c]enters such as school, churches, public markets, shopping malls, banks and gasoline stations are easily accessible from the subject property.

Convenience facility such as electricity, telephone service as well as pipe potable water supply system are all available along Gen. Aguinaldo Highway

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IV. VALUATION OF LAND MARKET DATA

This method of valuation involves the research and investigation of market and sales data of the properties comparable with the property under appraisal.

These other properties are compare[d] with the subject property as to location and physical characteristics. Adjustment of their selling prices [is] then made with respect to the said comparative elements as well as time compensate for the increase or decrease in value.

Based on our investigations and verifications of market sales data and price listings of the neighborhood where the property under appraisal is located indicates land value within the range of P10,000.00 to P15,000.00 per square meter for residential lots while commercial lots along Gen. E. Aguinaldo Highway are range[d] from P10,000.00 to P20,000.00 per square meters (sic).

With this data and making the proper adjustment with respect to the location, area, shape, accessibility, and the highest and best use of the subject property, we estimate the market value of the subject land at P10,000.00 per square meter, as of this date September 10, 1999.[22]

It is evident that the above conclusions are highly speculative and devoid of any actual and reliable basis. First, the market values of the subject property's neighboring lots were mere estimates and unsupported by any corroborative documents, such as sworn declarations of realtors in the area concerned, tax declarations or zonal valuation from the Bureau of Internal Revenue for the contiguous residential dwellings and commercial establishments. The report also failed to elaborate on how and by how much the community centers and convenience facilities enhanced the value of respondent's property.[23] Finally, the market sales data and price listings alluded to in the report were not even appended thereto.

As correctly invoked by NAPOCOR, a commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.[24]

The trial court adopted the flawed findings of the commissioners hook, line, and sinker. It did not even bother to require the submission of the alleged "market sales data" and "price listings." Further, the RTC overlooked the fact that the recommended just compensation was gauged as of September 10, 1999 or more than two years after the complaint was filed on January 8, 1997. It is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint.[25] Clearly, the recommended just compensation in the commissioners' report is unacceptable.

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 intensify the meaning of the word "compensation" and to convey thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample.[26] Indeed, the "just"-ness of the compensation can only be attained by using reliable and actual data as bases in fixing the value of the condemned property.

The trial court should have been more circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds.

As to the resolution of the PAC-Cavite advanced by NAPOCOR, which pegged the fair market value of the property at P3,500.00 per sq m, it can only serve as one of the factors in the judicial evaluation of just compensation, along with several other considerations.[27] NAPOCOR cannot demand that the PAC-Cavite

resolution be substituted for the report of court-appointed commissioners in consonance with the firm doctrine that the determination of just compensation is a judicial function.[28]

Hence, the legal basis for the determination of just compensation being insufficient, the ruling of the RTC and the affirming Decision and Resolution of the CA ought to be set aside.

WHEREFORE, the petition is GRANTED. The January 14, 2000 Order of the Regional Trial Court, Branch 120, Imus, Cavite, and the September 28, 2007 Decision and the December 17, 2007 Resolution of the Court of Appeals are hereby Set ASIDE. This case is remanded to the trial court for the proper determination of just compensation, in conformity with this Resolution. No costs.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Sesinando E. Villon, with Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Noel G. Tijam, concurring; rollo, pp. 8-15.

[2] Id. at 17.

[3] CA rollo, pp. 37-38.

[4] Entitled "An Act Revising the Charter of the National Power Corporation," effective September 10, 2001.

[5] R.A. No. 6395, Sec. 3(h).

[6] Records, pp. 9-10.

[7] See RTC Order dated November 24, 1998, in relation to paragraph 5 of NAPOCOR's complaint; id. at 2, 63.

[8] Id. at 1-7.

[9] Id. at 18-20.

[10] Id. at 56-59.

[11] Id. at 60-61.

[12] Id. at 67, 78.

[13] Rollo, pp. 53-56.

[14] Records, pp. 93-95.

[15] 225 Phil. 29, 34 (1986).

[16] Supra note 3, at 38.

[17] Supra note 1.

[18] CA rollo, pp. 86-90.

[19] Supra note 2.

[20] G.R. No. 158071, April 2, 2009, 583 SCRA 152.

[21] Id. at 159-160.

[22] Rollo, pp. 54-56.

[23] See *National Power Corporation v. Dela Cruz*, G.R. No. 156093, February 2, 2007, 514 SCRA 56.

[24] *Rep. of the Phil. v. Santos*, supra note 15, at 34.

[25] *B.H. Berkenkotter & Co. v. Court of Appeals*, G.R. No. 89980, December 14, 1992, 216 SCRA 584, 586-587.

[26] *Republic v. Libunao*, G.R. No. 166553, July 30, 2009, 594 SCRA 363, 376.

[27] *Id.*

[28] *Id.* at 378.

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