

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER, VS.
HEIRS OF SPOUSES PEDRO BAUTISTA AND VALENTINA MALABANAN,
RESPONDENTS.**

G.R. No. 181218. January 28, 2013

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Time and again it has been said that the market value of a piece of property is the price that may be agreed upon by parties willing but not compelled to enter into a sale. As expected, a seller in dire need of funds will accept less, and a buyer desperate to acquire naturally agrees to pay more, than what the property is truly worth.

This Petition for Review on Certiorari[1] assails the October 31, 2007 Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 85751 as well as its January 11, 2008 Resolution[3] denying petitioner's motion for reconsideration.

Factual Antecedents

Pedro Bautista and Valentina Malabanan (spouses Bautista) are the registered owners of a 1,893-square meter parcel of land (the lot) located in Barangay Bulacnin North, Lipa City and covered by Transfer Certificate of Title No. 41750.[4] Respondents are their children.

Sometime in 2000, herein petitioner Republic of the Philippines, through the Department of Public Works and Highways (DPWH), acquired by negotiated sale a 36-square meter portion of the lot for P46,800.00 or at P1,300.00 per square meter for use in the STAR (Southern Tagalog Arterial Road) Tollway project. The sale was annotated on the title on June 1, 2000.[5]

Later on, petitioner offered to purchase an additional 1,155 square meters of the lot at P100.00 per square meter, but the spouses Bautista refused to sell. The portion sought to be purchased was to be used for the Balete-Lipa City Interchange Ramp B, which would serve as a motorist's entry/exit to/from Lipa City.

On July 7, 2004, the petitioner filed a Complaint[6] with the Regional Trial Court of Lipa City for the expropriation of the said 1,155-square meter portion (the subject portion). The case was docketed as Civil Case No. 2004-0408 and raffled to Branch 12. In its Amended Complaint,[7] petitioner alleged that the zonal valuation of the lot at the time of the filing of the Complaint as determined by the Bureau of Internal Revenue (BIR) is P100.00 per square meter,[8] which is thus the fair value of the property for purposes of expropriation.

During the expropriation proceedings, the spouses Bautista passed away, and were accordingly substituted by the respondents.

In their Answer,[9] respondents claimed that the valuation of P100.00 per square meter based on the BIR zonal valuation is not fair considering that the petitioner in the past bought a portion of the same property at P1,300.00

per square meter.[10] They added that the current fair market value of the lot should be pegged at more than P3,000.00 per square meter.[11]

In a September 27, 2004 Order,[12] the trial court authorized petitioner to enter and take possession of the subject portion after depositing the amount of P115,500.00 with the Land Bank of the Philippines.[13]

In an Order of Expropriation[14] dated January 5, 2005, the trial court condemned the subject portion for expropriation and constituted a panel of commissioners, consisting of the Lipa City Assessor and the Registrar of Deeds of Lipa City,[15] for the purpose of ascertaining just compensation that should be paid to respondents. On petitioner's Opposition,[16] however, the trial court appointed a third commissioner in the person of Nimfa Martinez-Mecate (Mecate), who is the DPWH special agent for Road Right-of-Way for Region IV-A.[17]

After hearing, the Lipa City Assessor and the Registrar of Deeds submitted to the court their Joint Commissioners' Report[18] dated May 3, 2005. In a nutshell, the report states that:

- The fair market value of the whole lot (the 1,893-square meter lot) is P189,630.00 for the land, or P100.17 per square meter; P144,000.00 for the residential portion; and P19,200.00 for the improvements;[19]
- On the northwest portion of the lot are clusters of residential buildings of medium[/]high construction. On the southeastern portion are clusters of residential buildings of medium construction and two large-scale poultry and breeding farms;[20]
- The Lipa City Hall is within a 4.5-kilometer radius;[21]
- Within a radius of six kilometers of the lot are first and second class subdivisions which sell at P3,000.00 to P3,200.00 per square meter.[22]
- Within three kilometers is the New Era University;[23]
- Within 3.5 kilometers is the Fiesta World Mall;[24]
- Within five kilometers is the Mount Malarayat Golf and Country Club, a world-class golf course and residential estate where the price per square meter ranges from P4,000.00 to P6,500.00;[25]
- On October 6, 1999,[26] petitioner acquired by sale a 36-square meter portion of the lot for P46,800.00 or at P1,300.00 per square meter;[27]
- The petitioner made several other purchases of land within the vicinity, ranging from P500.00 up to P3,000.00 per square meter, from 1997 up to 2003.[28] The average price of all these purchases within the vicinity amounts to P1,960.00 per square meter;[29]
- The peso-dollar exchange rate in 1997 was P26.00 to \$1.00, while the current (2005) rate is at P54.00 to \$1.00. This demonstrates that the peso has lost value, and the price per square meter of the subject portion should be correspondingly increased;[30] and
- Just compensation for the subject portion should be based on the market value of the property, which 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,"[31] and not limited to the assessed value of the property or the schedule of market values determined by the provincial or city appraisal committee.[32]

The Lipa City Assessor and the Registrar of Deeds thus concluded in their Joint Commissioners' Report that just compensation for the subject portion should be within the range of P1,960.00 and P2,500.00 per square meter.[33] To this, respondents filed their Comment[34] dated June 23, 2005 accepting such valuation as fair and reasonable.

On the other hand, Mecate's Commissioner's Report[35] dated April 25, 2005 which was submitted to the trial

court is summarized, thus:

- The factors considered in arriving at the fair market value of the subject portion are the cost of acquisition; current value of like properties; its actual or potential uses; and its size, shape, location and its tax declaration;[36]
- It is the time of taking that is the determining factor in fixing the just compensation. If the property expropriated is agricultural, the adaptability thereof for conversion in the future into a residential site does not affect its nature when plaintiff assumed possession thereof, although it is a circumstance that should be considered in determining its value at that time, as an agricultural land;[37]
- The classification of respondents' property as reflected in the tax declaration is only P360.00 per square meter for 400 square meters of residential land, P150.00 per square meter for commercial land, and P136.99 per square meter for 1,343 square meters of orchard land;[38]
- Based on the 1998 Appraisal Committee Report of the Lipa City Appraisal Committee, the amount fixed for agricultural land along the road is only P500.00 per square meter, and P1,300.00 per square meter for residential land;[39]
- The February 20, 2003 Certification of the BIR Assistant Revenue Officer indicates that the zonal valuation for agricultural land within the vicinity of the subject portion is only P100.00 per square meter and P485.00 per square meter for residential land therein; and[40]
- The highest and most profitable use of the property is for commercial and light industrial use. The consequential benefits for the remaining portion of the properties outweigh the consequential damages. The construction of the exit ramp going to and from Lipa City gives great value to the remaining portion of respondents' property, which in effect increases its value tenfold.[41]

Mecate thus recommended that the reasonable value for agricultural, orchard, and sugar land is P400.00 per square meter, and P600.00 per square meter for residential and commercial land.[42]

Ruling of the Regional Trial Court

On August 18, 2005, the trial court rendered its Decision,[43] fixing just compensation for the subject portion, including all its improvements, at P1,960.00 per square meter, thus:

WHEREFORE, the just compensation for the 1,155 square meters parcel of land expropriated by the plaintiff as site of the right of way connection with the construction of the Balete-Lipa City Interchange Ramp B, Lipa City, is fixed at P1,960.00 per square meter, including all the improvements thereon, or a total of P2,263,800.

The Republic of the Philippines, represented by the Secretary, Department of Public Works and Highways, is ordered to pay to the defendants, the aforementioned amount of P2,263,800, with interest at the legal rate, from the time it took possession of the condemned property, until fully paid.

If the defendants or any of them [refuse] or [fail] to receive said payment, the same shall be made to the Clerk of Court, RTC, Lipa City, who shall receive such payment and be responsible on his bond [therefor].

Upon finality of this decision, the Branch Clerk of Court of this Court is directed to immediately issue a certified true copy of the same for recording in the Office of the Register of Deeds of Lipa City. With costs against the plaintiff.

IT IS SO ORDERED.[44]

The trial court validated the public purpose for which expropriation of the subject portion was necessary. As for the issue of just compensation, the trial court adopted the May 3, 2005 Joint Commissioners' Report of the Lipa

City Assessor and the Registrar of Deeds, finding the recommended valuation of P1,960.00 per square meter as reasonable, fair, and realistic.

Petitioner interposed an appeal with the CA.

Ruling of the Court of Appeals

Docketed as CA-G.R. CV No. 85751, the appeal questioned the trial court's P1,960.00 valuation, claiming that in arriving at such amount, the trial court disregarded other documentary evidence such as the assessed value, tax declaration, the BIR zonal valuation, and the appraisal report of the Lipa City Assessor.

The CA sustained the trial court's reliance on the Lipa City Assessor and the Registrar of Deeds's May 3, 2005 Joint Commissioners' Report, finding that the same took into consideration the fair market value of the subject portion, the condition of the surroundings, the improvements introduced, the character of the property, and the value of adjacent and nearby properties as shown by the deeds of sale covering the same. The CA also noted that in 2000, petitioner bought a 36-square meter portion of respondents' property at P1,300.00 per square meter, which means that as of 2000, respondents' property already had a market value of P1,300.00 per square meter.

The CA added that with the passage of time and construction of the STAR tollway beside respondents' property, the value thereof has appreciated. These factors and circumstances were not taken into consideration in Mecate's April 25, 2005 report.

The CA further held that the May 3, 2005 Joint Commissioners' Report is the majority decision of the constituted board of commissioners. Such being the case, the trial court may not be faulted for relying thereon. In the absence of abuse on the part of the commissioners or the trial court, their determination regarding just compensation must be sustained.

The CA thus affirmed the trial court's Decision, with the modification that the amount deposited by petitioner shall be deducted from the adjudged just compensation of P2,263,800.00, thus:

WHEREFORE, the appealed Decision dated August 18, 2005 is affirmed, subject to the modification that the preliminary deposit of P115,000.00 with Land Bank of the Philippines shall be deducted from the total amount of just compensation of P2,263,800.00.

SO ORDERED.[45]

Unable to obtain a reconsideration of the appellate court's Decision, petitioners filed the present Petition.

Issues

Petitioner assigns the following issues for resolution:

I

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION FIXING THE JUST COMPENSATION AT P1,960.00 PER SQUARE METER DESPITE ITS FAILURE TO CONSIDER ALL FACTORS IN ARRIVING AT SAID AMOUNT OF JUST COMPENSATION PRESCRIBED UNDER THE APPLICABLE LAWS.

II

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S ERRONEOUS RELIANCE ON THE JOINT COMMISSIONERS' REPORT RECOMMENDING THE AMOUNT OF P1,960.00 PER SQUARE METER, AN AMOUNT WHICH IS EXCESSIVE, HIGHLY SPECULATIVE, UNSUBSTANTIATED AND CONTRARY TO THE RULES AND APPLICABLE JURISPRUDENCE FOR DETERMINING JUST COMPENSATION.[46]

Petitioner's Arguments

Petitioner argues that the CA's reliance on the Joint Commissioners' Report is erroneous because the said report failed to consider all factors prescribed by law specifically Republic Act (RA) No. 8974[47] in determining just compensation. Petitioner asserts that under RA 8974, there are standards for the assessment of the value of the expropriated land which the trial court and the commissioners concerned failed to consider, thus:

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) The size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

Petitioner adds that under Section 6[48] of Rule 67 of the Rules of Court, commissioners in an expropriation case should assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property; but in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken.

Petitioner also argues that it is erroneous for the CA to affirm the trial court's Decision, which disregarded absolutely Mecate's April 25, 2005 Commissioner's Report, which properly took into consideration the BIR zonal valuation, the assessed value, tax declarations covering the property, and the character of the subject portion sought to be expropriated. It adds that the trial court's valuation is grossly excessive, considering that the subject portion is merely agricultural land.

Petitioner thus prays that the CA Decision be reversed and set aside, and that the Court render judgment modifying the trial court's Decision, thus reducing the amount of just compensation for the subject portion from P1,960.00 per square meter to between P400.00 and P600.00 per square meter.

Respondents' Arguments

Respondents insist in their Comment[49] that the trial court's judgment, as affirmed by the CA, is supported by evidence, in accord with existing jurisprudence, and, echoing the trial court, reasonable, fair, and realistic. On the other hand, Mecate's Commissioner's Report fails to take into consideration the previous acquisition by the petitioner of a portion of their property at P1,300.00 per square meter in 2000; the fair market value of the

property; and decisions of the Court which emphasize that in the determination of just compensation, it is not only the value appearing on the tax declarations and BIR zonal valuations that are considered, but also the nature, character and condition of the land, as well as its surroundings, improvements and capabilities.

Respondents conclude that the adjudged just compensation in the amount of P1,960.00 per square meter for the subject portion is not excessive.

Our Ruling

The Petition must be denied.

This Court is not a trier of facts. Questions of fact may not be raised in a petition brought under Rule 45, as such petition may only raise questions of law. This rule applies in expropriation cases.[50] Moreover, factual findings of the trial court, when affirmed by the CA, are generally binding on this Court. An evaluation of the case and the issues presented leads the Court to the conclusion that it is unnecessary to deviate from the findings of fact of the trial and appellate courts.

Under Section 8[51] of Rule 67 of the Rules of Court, the trial court sitting as an expropriation court may, after hearing, accept the commissioners' report and render judgment in accordance therewith. This is what the trial court did in this case. The CA affirmed the trial court's pronouncement in toto. Given these facts, the trial court and the CA's identical findings of fact concerning the issue of just compensation should be accorded the greatest respect, and are binding on the Court absent proof that they committed error in establishing the facts and in drawing conclusions from them. There being no showing that the trial court and the CA committed any error, we thus accord due respect to their findings.

The only legal question raised by the petitioner relates to the commissioners' and the trial court's alleged failure to take into consideration, in arriving at the amount of just compensation, Section 5 of RA 8974 enumerating the standards for assessing the value of expropriated land taken for national government infrastructure projects. What escapes petitioner, however, is that the courts are not bound to consider these standards; the exact wording of the said provision is that "in order to facilitate the determination of just compensation, the courts may consider" them. The use of the word "may" in the provision is construed as permissive and operating to confer discretion.[52] In the absence of a finding of abuse, the exercise of such discretion may not be interfered with. For this case, the Court finds no such abuse of discretion.

Besides, a cursory review of the May 3, 2005 Joint Commissioners' Report leads one to the conclusion, without need of further elaboration, that the commissioners and the trial court did not ignore absolutely the standards enumerated in Section 5. Quite the contrary, they took into consideration several of these standards in arriving at the amount of just compensation, specifically:

- (a) The classification and use for which the property is suited;
- (b) The current selling price of similar lands in the vicinity;
- (c) The size, shape or location, and tax declaration of the land; and
- (d) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented.

In fact, the May 3, 2005 Joint Commissioners' Report took into consideration four out of the eight standards enumerated in Section 5. This can hardly be termed a total disregard of Section 5.

On the other hand, Mecate's April 25, 2005 Commissioner's Report evidently failed to consider factors other than the value of the subject portion as reflected in the tax declarations, the BIR zonal valuation, and its classification as an agricultural land. Although Mecate professes to base her Report on the fair market value of the

property, current values of like properties, the property's actual or potential uses, and location, still in reality these factors were not taken into account in arriving at the conclusions contained in her Report. To make matters worse, Mecate based her Report on the 1998 Appraisal Committee Report of the Lipa City Appraisal Committee, which is clearly obsolete and does not reflect 2004 property values. The Complaint for expropriation was filed in 2004; thus, just compensation should be based on 2004 valuations. "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." [53]

It is quite evident that petitioner is a desperate buyer of the subject portion. It needs the property for the Balete-Lipa City Interchange Ramp B, and no property other than the subject portion could answer this need. Having purchased a portion of respondents' property in 2000 at P1,300.00 per square meter – by negotiated sale at that – there appears to be no reason why it should not be made to pay just compensation at a premium four years later. It is evidently unfair and absurd that, after negotiating a sale at a higher price of P1,300.00, petitioner should later insist on a lower P600.00, P400.00, or even P100.00 valuation for the same land four years after such negotiated sale. It should be bound by the higher P1,300.00 valuation, at the very least. Given the increase in population and rate of growth and progress in the country, it is highly unlikely if not impossible that property values would take a downward trend. This applies to Lipa City especially; the Joint Commissioners' Report indicates how the city has rapidly progressed through the years – where once there was grass, concrete structures now stand.

Moreover, of note are petitioner's several purchases of land within the vicinity, ranging from P500.00 up to P3,000.00 per square meter, from 1997 up to 2003. The average price of all these purchases within the vicinity amounts to P1,960.00 per square meter. Although it may be said that from the facts this amount is low, the respondents have nonetheless given their assent to this valuation in their June 23, 2005 Comment[54] as well as in their July 25, 2008 Comment[55] filed before this Court. Thus, as to them, the market value of the subject portion is P1,960.00 per square meter. As for the petitioner – a desperate buyer of the subject portion which is absolutely necessary to link the existing highway to the city – this is what it should be made to pay for the subject portion. It must be remembered that "[t]he market value of the property is the price that may be agreed upon by parties willing but not compelled to enter into a sale. Not unlikely, a buyer desperate to acquire [it] would agree to pay more, and a seller in urgent need of funds would agree to accept less, than what it is actually worth." [56]

WHEREFORE, the Petition is DENIED. The assailed October 31, 2007 Decision and January 11, 2008 Resolution of the Court of Appeals in CA-G.R. CV No. 85751 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Villarama, Jr,[*] and Perez, JJ., concur.

[*] Per raffle dated November 19, 2012.

[1] Rollo, pp. 12-40.

[2] Id. at 41-53; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Edgardo P. Cruz and Ricardo R. Rosario.

[3] Id. at 54; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Edgardo P. Cruz and Normandie B. Pizarro.

[4] Records, p. 10.

[5] Id. at 11.

[6] Id. at 1-9.

[7] Id. at 39-46.

[8] Id. at 40-41.

[9] Id. at 23-26.

[10] Id. at 24.

[11] Id.

[12] Id. at 72-73.

[13] Id. at 66.

[14] Id. at 76-77.

[15] Id. at 77.

[16] Id. at 78-81.

[17] Id. at 99; Order of the trial court dated February 8, 2005.

[18] Id. at 102-105.

[19] Id. at 103.

[20] Id.

[21] Id.

[22] Id.

[23] Id.

[24] Id.

[25] Id.

[26] Registered on June 1, 2000; id. at 11.

[27] Id. at 103.

[28] Id. at 103-104.

[29] Id. at 104.

[30] Id. at 105.

[31] Id. at 104 citing *National Power Corporation v. Spouses Igmedio*, 452 Phil. 649, 663 (2003).

[32] Id. citing *Republic v. Ker & Company Limited.*, 433 Phil. 70, 76-77 (2002), and *Republic v. Court of Appeals*, 238 Phil. 475, 486 (1987).

[33] Id. at 105.

[34] Id. at 111-113.

[35] Id. at 106-108.

[36] Id. at 107.

[37] Id.

[38] Id.

[39] Id.

[40] Id.

[41] Id. at 108.

[42] Id.

[43] Id. at 123-125; penned by Judge Vicente F. Landicho.

[44] Id. at 124-125.

[45] Rollo, p. 52.

[46] Id. at 21-22.

[47] AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES.

[48] Section 6. Proceedings by commissioners. – Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. Evidence may be introduced by either party before the commissioners who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties, to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case. The commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken.

[49] Rollo, pp. 328-330.

[50] Republic v. Tan Song Bok, G.R. No. 191448, November 16, 2011, 660 SCRA 330, 343; National Power Corporation v. Court of Appeals, 479 Phil. 850, 865 (2004).

[51] Section 8. Action upon commissioners' report. – Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith, or, for cause shown, it may recommit the same to the commissioners for further report of facts, or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.

[52] Office of the Ombudsman v. De Sahagun, G.R. No. 167982, August 13, 2008, 562 SCRA 122, 129.

[53] National Power Corporation v. Co, G.R. No. 166973, February 10, 2009, 578 SCRA 235, 246. Citation omitted.

[54] Records, pp. 111-113.

[55] Rollo, pp. 328-330.

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

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