

**SPOUSES JESUS L. CABAUG AND CORONACION M. CABAUG,
PETITIONERS, VS. NATIONAL POWER CORPORATION, RESPONDENT.***G.R. No. 186069. January 30, 2013*

Ponente: PEREZ, J.

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This Rule 45 Petition for Review on Certiorari[1] seeks the reversal of: (a) the 16 May 2007 Decision 1 rendered by the Eighteenth Division of the Court of Appeals (CA) in CA-G.R. CV No. 67331 which reversed the 14 March 2000 Decision rendered by the Regional Trial Court (RTC), Branch 17, Palompon, Leyte, in Civil Case No. PN-0213 and ordered the dismissal of the complaint for just compensation tiled by petitioners Spouses Jesus L. Cabahug and Coronacion M. Cabahug (Spouses Cabahug) against respondent National Power Corporation (NPC);[2] and (b) the CA's Resolution dated 9 January 2009, denying the motion for reconsideration of the 16 May 2007 Decision for lack of merit.[3]

The facts are not in dispute.

The Spouses Cabahug are the owners of two parcels of land situated in Barangay Capokpok, Tabango, Leyte, registered in their names under Transfer Certificate of Title (TCT) Nos. T-9813 and T-1599 of the Leyte provincial registry.[4] They were among the defendants in Special Civil Action No. 0019-PN, a suit for expropriation earlier filed by NPC before the RTC, in connection with its Leyte-Cebu Interconnection Project. The suit was later dismissed when NPC opted to settle with the landowners by paying an easement fee equivalent to 10% of value of their property in accordance with Section 3-A of Republic Act (RA) No. 6395.[5] In view of the conflicting land values presented by the affected landowners, it appears that the Leyte Provincial Appraisal Committee, upon request of NPC, fixed the valuation of the affected properties at P45.00 per square meter.[6]

On 9 November 1996, Jesus Cabahug executed two documents denominated as Right of Way Grant in favor of NPC. For and in consideration of the easement fees in the sums of P112,225.50 and P21,375.00, Jesus Cabahug granted NPC a continuous easement of right of way for the latter's transmissions lines and their appurtenances over 24,939 and 4,750 square meters of the parcels of land covered by TCT Nos. T-9813 and T-1599, respectively. By said grant, Jesus Cabahug agreed not to construct any building or structure whatsoever, nor plant in any area within the Right of Way that will adversely affect or obstruct the transmission line of NPC, except agricultural crops, the growth of which will not exceed three meters high. Under paragraph 4 of the grant, however, Jesus Cabahug reserved the option to seek additional compensation for easement fee, based on the Supreme Court's 18 January 1991 Decision in *G.R. No. 60077, entitled National Power Corporation v. Spouses Misericordia Gutierrez and Ricardo Malit, et al. (Gutierrez)*. [7]

On 21 September 1998, the Spouses Cabahug filed the complaint for the payment of just compensation, damages and attorney's fees against NPC which was docketed as Civil Case No. PN-0213 before the RTC. Claiming to have been totally deprived of the use of the portions of land covered by TCT Nos. T-9813 and T-1599, the Spouses Cabahug alleged, among other matters, that in accordance with the reservation provided under paragraph

4 of the aforesaid grant, they have demanded from NPC payment of the balance of the just compensation for the subject properties which, based on the valuation fixed by the Leyte Provincial Appraisal Committee, amounted to P1,202,404.50.[8] In its answer, on the other hand, NPC averred that it already paid the full easement fee mandated under Section 3-A of RA 6395 and that the reservation in the grant referred to additional compensation for easement fee, not the full just compensation sought by the Spouses Cabahug.[9]

Acting on the motion for judgment on the pleadings that was filed by the Spouses Cabahug, the RTC went on to render a Decision dated 14 March 2000. Brushing aside NPC's reliance on Section 3-A of RA 6395, the RTC applied the ruling handed down by this Court in Gutierrez to the effect that NPC's easement of right of way which indefinitely deprives the owner of their proprietary rights over their property falls within the purview of the power of eminent domain.[10] As a consequence, the RTC disposed of the complaint in the following wise:

WHEREFORE, premises considered, judgment is hereby rendered for [the Spouses Cabahug] and against [NPC], ordering [NPC]:

1. To pay [the Spouses Cabahug] the sum of ONE MILLION THREE HUNDRED THIRTY SIX THOUSAND and FIVE PESOS (P1,336,005.00) together with the legal rate of interest thereon per annum reckoned from January 3, 1997 less the amount previously paid by [NPC] to [the Spouses Cabahug] for easement fee only;
2. To pay [the Spouses Cabahug] the sum equivalent to FIVE (5%) PERCENT of the amount mentioned in the next preceding paragraph for attorney's fees; and
3. To pay [the Spouses Cabahug] the sum of TWENTY THOUSAND (P20,000.00) PESOS for actual damages and litigation expenses plus costs of the proceedings.

SO ORDERED.[11]

Aggrieved by the foregoing decision, the NPC perfected the appeal which was docketed as CA-G.R. CV No. 67331 before the CA which, on 16 May 2007, rendered the herein assailed decision, reversing and setting aside the RTC's appealed decision. Finding that the facts of a case are different from those obtaining in Gutierrez and that Section 3-A of RA 6395 only allows NPC to acquire an easement of right of way over properties traversed by its transmission lines,[12] the CA succinctly ruled as follows:

Unfortunately, [the Spouses Cabahug] had already accepted the payment of easement fee, pursuant to R.A. 6395, as amended, way back in 1996. Therefore, [NPC's] easement of right of way has for all legal intents and purpose[s], been established as far back as 1996. Since vested right has already accrued in favor of [NPC], to allow [the Spouses Cabahug] to pursue this case when the easement of right of way had already been consummated would be [in] violation of the contract. The contracting parties, [the Spouses Cabahug] and [NPC] had already conformed with the terms and conditions of the agreement. To allow [the Spouses Cabahug] to again collect from [NPC] payment of just compensation would amount to unjust enrichment at the expense of [NPC] and would sanction violation of the parties' contract, which [the Spouses Cabahug] cannot do in the case at bench. Further, the award of attorney's fees and litigation expenses and the costs of suit in favor of [the Spouses Cabahug] cannot be justified in the case at bar since it appears that the complaint actually has no legal basis.[13]

The Spouses Cabahug's motion for reconsideration of the 16 May 2007 Decision[14] was denied for lack of merit in the CA's Resolution dated 9 January 2009. Hence, this petition for review on certiorari.[15] In urging the reversal of the CA's assailed Decision and Resolution, the Spouses Cabahug argue that the CA erred: (a) in disregarding paragraph 4 of the Grant of Right of Way whereby Jesus Cabahug reserved the right to seek additional compensation for easement fee; and (b) in not applying this Court's ruling in Gutierrez case.[16] In representation of NPC, on the other hand, the Office of the Solicitor General (OSG) argues that the sums paid in

1996 by way of easement fees represent the full amount allowed by law and agreed upon by the parties. Considering that Gutierrez concerned the payment of just compensation for property expropriated by the NPC, the OSG maintains the CA did not err in according scant consideration to the Spouses Cabahug's invocation of the ruling in said case.[17]

We find the petition impressed with merit.

The CA regarded the Grant of Right of Way executed by Jesus Cabahug in favor of NPC as a valid and binding contract between the parties, a fact affirmed by the OSG in its 8 October 2009 Comment to the petition at bench.[18] Given that the parties have already agreed on the easement fee for the portions of the subject parcels traversed by NPC's transmissions lines, the CA ruled that the Spouses Cabahug's attempt to collect further sums by way of additional easement fee and/or just compensation is violative of said contract and tantamount to unjust enrichment at the expense of NPC. As correctly pointed out by the Spouses Cabahug, however, the CA's ruling totally disregards the fourth paragraph of the Grant executed by Jesus Cabahug which expressly states as follows:

That I hereby reserve the option to seek additional compensation for Easement Fee, based on the Supreme Court Decision [i]n G.R. No. 60077, promulgated on January 18, 1991, which jurisprudence is designated as "NPC vs. Gutierrez" case. [19]

From the foregoing reservation, it is evident that the Spouses Cabahug's receipt of the easement fee did not bar them from seeking further compensation from NPC. Even by the basic rules in the interpretation of contracts, we find that the CA erred in holding that the payment of additional sums to the Spouses Cabahug would be violative of the parties' contract and amount to unjust enrichment. Indeed, the rule is settled that a contract constitutes the law between the parties who are bound by its stipulations[20] which, when couched in clear and plain language, should be applied according to their literal tenor.[21] Courts cannot supply material stipulations, read into the contract words it does not contain[22] or, for that matter, read into it any other intention that would contradict its plain import.[23] Neither can they rewrite contracts because they operate harshly or inequitably as to one of the parties, or alter them for the benefit of one party and to the detriment of the other, or by construction, relieve one of the parties from the terms which he voluntarily consented to, or impose on him those which he did not.[24]

Considering that Gutierrez was specifically made the point of reference for Jesus Cabahug's reservation to seek further compensation from NPC, we find that the CA likewise erred in finding that the ruling in said case does not apply to the case at bench. Concededly, the NPC was constrained to file an expropriation complaint in Gutierrez due to the failure of the negotiations for its acquisition of an easement of right of way for its transmission lines. The issue that was eventually presented for this Court's resolution, however, was the propriety of making NPC liable for the payment of the full market value of the affected property despite the fact that transfer of title thereto was not required by said easement. In upholding the landowners' right to full just compensation, the Court ruled that the power of eminent domain may be exercised although title is not transferred to the expropriator in an easement of right of way. Just compensation which should be neither more nor less than the money equivalent of the property is, moreover, due where the nature and effect of the easement is to impose limitations against the use of the land for an indefinite period and deprive the landowner its ordinary use.

Even without the reservation made by Jesus Cabahug in the Grant of Right of Way, the application of Gutierrez to this case is not improper as NPC represents it to be. Where the right of way easement, as in this case, similarly involves transmission lines which not only endangers life and limb but restricts as well the owner's use of the land traversed thereby, the ruling in Gutierrez remains doctrinal and should be applied.[25] It has been ruled that the owner should be compensated for the monetary equivalent of the land if, as here, the easement is intended to perpetually or indefinitely deprive the owner of his proprietary rights through the imposition of conditions that affect the ordinary use, free enjoyment and disposal of the property or through restrictions and limitations that are

inconsistent with the exercise of the attributes of ownership, or when the introduction of structures or objects which, by their nature, create or increase the probability of injury, death upon or destruction of life and property found on the land is necessary.[26] Measured not by the taker's gain but the owner's loss, just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator.[27]

Too, the CA reversibly erred in sustaining NPC's reliance on Section 3-A of RA 6395 which states that only 10% of the market value of the property is due to the owner of the property subject to an easement of right of way. Since said easement falls within the purview of the power of eminent domain, NPC's utilization of said provision has been repeatedly struck down by this Court in a number of cases.[28] The determination of just compensation in eminent domain proceedings is a judicial function and no statute, decree, or executive order can mandate that its own determination shall prevail over the court's findings.[29] Any valuation for just compensation laid down in the statutes may serve only as a guiding principle or one of the factors in determining just compensation, but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount.[30] Hence, Section 3A of R.A. No. 6395, as amended, is not binding upon this Court.[31]

In this case, the Leyte Provincial Appraisal Committee fixed the valuation of the affected properties at P45.00 per square meter at the instance of NPC. Considering that the installation of the latter's transmission lines amounted to the taking of 24,939 and 4,750 square meters from the parcels of land covered by TCT Nos. T-9813 and T-1599 or a total of 29,689 square meters, the RTC correctly determined that the Spouses Cabahug are entitled to P1,336,005.00 (29,689 x P45.00) by way of just compensation for their properties. Inasmuch as NPC had already paid the sums of P112,225.50 and P21,375.00 as easement fee, the sum of P133,600.50 should be deducted from P1,336,005.00 for a remaining balance of P1,202,404.50. To this latter sum, the RTC also correctly imposed legal interest since the Spouses Cabahug, as landowners, are entitled to the payment of legal interest on the compensation for the subject lands from the time of the taking of their possession up to the time that full payment is made by petitioner. In accordance with jurisprudence, the legal interest allowed in payment of just compensation for lands expropriated for public use is six percent (6%) per annum.[32]

For want of a statement of the rationale for the award in the body of the RTC's 14 March 2000 Decision, we are constrained, however, to disallow the grant of attorney's fees in favor of the Spouses Cabahug in an amount equivalent to 5% of the just compensation due as well as the legal interest thereon. Considered the exception rather than the general rule, the award of attorney's fees is not due every time a party prevails in a suit because of the policy that no premium should be set on the right to litigate.[33]

The RTC's award of litigation expenses should likewise be deleted since, like attorney's fees, the award thereof requires that the reasons or grounds therefor must be set forth in the decision of the court.[34] This is particularly true in this case where the litigation expenses awarded were alternatively

categorized by the RTC as actual damages which, by jurisprudence, should be pleaded and adequately proved. Time and again, it has been ruled that the fact and amount of actual damages cannot be based on speculation, conjecture or guess work, but must depend on actual proof.[35]

WHEREFORE, premises considered, the petition is GRANTED and the CA's assailed 16 May 2007 Decision and 9 January 2009 Resolution are, accordingly, REVERSED and SET ASIDE. In lieu thereof, another is entered REINSTATING the RTC's 14 March 2000 Decision, subject to the MODIFICATION that the awards of attorney's fees, actual damages and/or litigation expenses are DELETED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perlas-Bernabe, JJ., concur.

[1] Penned by CA Associate Justice Agustin S. Dizon and concurred in by Associate Justices Arsenio J. Magpale and Francisco P. Acosta.

[2] CA's 16 May 2007 Decision, rollo, pp 30-35.

[3] CA's 9 January 2009 Resolution, id. at 88a-89.

[4] TCT Nos. T-9813 and T-1599, id. at 50-52.

[5] An Act Revising the Charter of the National Power Corporation.

[6] Rollo, pp. 44-45; 57-58 and 77.

[7] 9 November 1996 Right of Way Grant in Favor of NPC, id. at 53-56; G.R. No. 60077, 18 January 1991, 193 SCRA 1.

[8] Spouses Cabahug's 18 September 1998 Complaint, id. at 44-48.

[9] NPC's 9 October 1998 Answer, id at 63-70.

[10] RTC's 14 March 2000 Decision, id. at 71-80.

[11] Id. at 80.

[12] Id. at 30-35.

[13] Rollo, p. 34.

[14] Spouses Cabahug's 6 June 2008 Motion for Reconsideration, id. at 81-88.

[15] CA's 9 January 2009 Resolution, id. at 88a-89.

[16] Id. at 22-23.

[17] Id. at 123-126.

[18] Id. at 126.

[19] Id. at 55.

[20] R&M General Merchandise, Inc. v. Court of Appeals, 419 Phil. 131, 142 (2001).

[21] Antipolo Properties, Inc. v. Nuyda, G.R. No. 171832, 12 October 2009, 603 SCRA 376, 381.

[22] Sps. Barrera v. Sps. Lorenzo, 438 Phil. 42, 49 (2002).

[23] German Marine Agencies, Inc. v. NLRC, 403 Phil. 572, 589 (2001).

[24] Bautista v. Court of Appeals, 379 Phil. 386, 399 (2000).

[25] National Power Corporation v. Tuazon, G.R. No. 193023, 29 June 2011, 653 SCRA 84, 94.

[26] National Power Corporation v. Tiangco, G.R. No. 170846, 6 February 2007, 514 SCRA 674, 686-687.

[27] NPC v. Manubay Agro-Industrial Development Corp., 480 Phil. 470, 479 (2004).

[28] National Power Corporation v. Villamor, G.R. No. 160080, 19 June 2009, 590 SCRA 11, 20-21; National Power Corporation v. Tiangco, 543 Phil. 637, 649 (2007); National Power Corporation v. San Pedro, 534 Phil. 448, 470 (2006); Didipio Earth Savers' Multi-Purpose Association, Inc. (DESAMA) v. Sec. Gozun, 520 Phil. 457 (2006); National Power Corporation v. Aguirre- Paderanga, 502 Phil. 722 (2005); National Power Corporation v. Igmedio, 452 Phil. 649, 662 (2000); Camarines Norte Electric Cooperative Inc. v. Court of Appeals, 398 Phil. 886, 899 (2000); National Power Corporation v. Gutierrez, *supra*, note 7.

[29] National Power Corporation v. Bongbong, G.R. 164079, 3 April 2007, 520 SCRA 290, 307.

[30] Republic v. Libunao, G.R. No. 166553, 30 July 2009, 594 SCRA 363, 378.

[31] National Power Corporation v. Saludaes G.R. No. 189127, 25 April 2012, 671 SCRA 266, 277.

[32] Republic v. Spouses Libunao, *supra*, note 29, at 379.

[33] Country Bankers Ins. Corp. v. Lianga Bay, 425 Phil. 511, 525 (2002).

[34] Mercury Drug Corporation v. Baking, G.R. No. 156037, 25 May 2007, 523 SCRA 184, 192.

[35] Government Service Insurance System v. Sps. Gonzalo and Labung-Deang, 417 Phil. 662, 671 (2001).

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