

**SPOUSES NILO AND ERLINDA MERCADO, PETITIONERS, VS. LAND BANK OF THE PHILIPPINES, RESPONDENT.***G.R. No. 196707. June 17, 2015*

Ponente: DEL CASTILLO, J.

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In eminent domain, the determination of just compensation is principally a judicial function of the Regional Trial Court (RTC) acting as a Special Agrarian Court (SAC). In the exercise of such judicial function, however, the RTC must consider both Section 17 of Republic Act No. 6657 (RA 6657 or Comprehensive Land Reform Law of 1988) and the valuation formula under applicable Administrative Order (A.O.) of the Department of Agrarian Reform (DAR).[1]

This Petition for Review on Certiorari[2] seeks to reverse and set aside the April 20, 2011 Decision[3] of the Court of Appeals (CA) in CA-G.R. SP No. 02981-MIN that granted the Petition for Review[4] of respondent Land Bank of the Philippines (respondent) and, concomitantly, reversed and set aside the December 28, 2006 Decision[5] of the RTC of Davao City, Branch 15 in Civil Case No. 30,373-04.

**Factual Antecedents**

Petitioners spouses Nilo and Erlinda Mercado (petitioners) were the registered owners of 9.8940 hectares of agricultural land in Kilate, Toril, Davao City covered by Transfer Certificate of Title (TCT) No. T-44107. Respondent, on the other hand, is a government financial institution organized and existing by virtue of RA 3844,[6] and is the financial intermediary for the Comprehensive Agrarian Reform Program (CARP).

Thru a Notice of Land Valuation and Acquisition,[7] the Provincial Agrarian Reform Office (PARO) of Davao City informed petitioners that 5.2624 hectares of their aforesaid property (subject portion) shall be placed under the CARP coverage, for which petitioners were offered P287,227.16 as just compensation.[8]

In his letter[9] dated October 27, 2002, petitioner Nilo A. Mercado (Nilo) rejected respondent's valuation. He claimed that the fair market value of their property is P250,000.00 per hectare; that they sold the remaining 4.6316-hectare portion, which is hilly and uncultivated, compared to the subject portion which is flat, suited for agriculture and has improvements, for such price; and, that said property is adjacent to "Eden," an eco-tourism area, and likewise suitable for housing and other uses.

In view of petitioners' rejection of said valuation, summary administrative proceedings were conducted to determine just compensation.[10] In a Resolution[11] dated June 9, 2003, the Regional Agrarian Reform Adjudicator (RARAD) sustained the valuation made by respondent.

Nilo appealed to the Department of Agrarian Reform Adjudication Board (DARAB).[12] However, in an Order[13] dated September 5, 2003, the DARAB held that pursuant to the DARAB New Rules of Procedure of 1994, a decision of the Adjudicator on land valuation and on preliminary determination and payment of just compensation shall not be appealable to the DARAB but must be brought directly to the proper SAC.

Thus, on May 21, 2004, petitioners filed a Complaint<sup>[14]</sup> for payment of just compensation before the RTC acting as SAC which was docketed as Civil Case No. 30,373-04. Petitioners prayed that the DAR and respondent be ordered to pay them P250,000.00 per hectare as just compensation for the subject portion. In addition, they prayed that the farmer-beneficiaries of the subject portion who had been enjoying the fruits of the property be made to pay P200,000.00 as rentals.

The farmer-beneficiaries, namely, Daisy Monilla (Monilla) and Rosario Cadotdot, and the DAR filed their respective Answers.<sup>[15]</sup> They averred that the farmer-beneficiaries are no longer tenants of the subject portion but are now the qualified beneficiaries thereof; that the sale of a portion of the landholding, as claimed by petitioners, was not recorded in the PARO; that the farmer-beneficiaries had been religiously paying their rentals amounting to 30% of the proceeds of their harvest; and, that the issue of non-payment of rentals is vested with the DARAB and not with the SAC.

On its end, respondent maintained in its Answer<sup>[16]</sup> that it made a proper valuation of the subject portion in accordance with the DAR A.O. No. 5 and Section 17 of RA 6657.

#### Evidence for Petitioners

During the proceedings before the RTC, Perla M. Borja, Revenue Officer of the Bureau of Internal Revenue, testified that as of December 22, 2002, the zonal value of the properties in Kilate, Davao City was P40.00 per square meter. Such zonal value was based on the data from the Department of Finance and on the capital gains tax of the properties in the area.<sup>[17]</sup>

Petitioners also presented James Paul Enriquez (Enriquez), Records Custodian of Apo Land Corporation. Enriquez averred that he kept a copy of the contract of lease of the subject portion entered into by and between Apo Land Corporation (Apo Land) and the farmer-beneficiaries.<sup>[18]</sup>

Christopher Bangalando also testified that his house was previously situated in the property of petitioners in Kilate, Toril, Davao City,<sup>[19]</sup> and that when the subject portion was placed under the CARP, there were coconut, coffee and banana trees planted thereon.<sup>[20]</sup>

Nilo, for his part, testified that sometime in 1999, the subject portion was planted with coconut, mango, banana and coffee and that there was also a farmhouse built in the premises.<sup>[21]</sup> He added that there were improvements and plants on the property which were, however, removed when it was leased and converted into a banana farm.<sup>[22]</sup> Anent the lease of the subject portion to Apo Land, Nilo claimed that the former paid advance rentals for five years in favor of the farmer-beneficiaries. In disparity, however, the government bought from him the subject portion at the measly price of P5.40 per square meter<sup>[23]</sup> based on respondent's valuation, which payment was received under protest.<sup>[24]</sup> In addition, he had to pay the real estate tax on the subject portion until 2002.<sup>[25]</sup>

#### Evidence for Respondent

Respondent presented its Agrarian Affairs Specialist, Engr. Marilyn Rojo (Engr. Rojo), who testified that there was no comparable sales information on the property of petitioners or on the adjoining properties in the area.<sup>[26]</sup> Engr. Orlando Arceo (Engr. Arceo), respondent's Property Appraiser, also testified. He recalled that in 2002, he inspected the property of petitioners and found the subject portion as flat land and planted with coconuts.<sup>[27]</sup> In appraising the same, he used the formula under DAR A.O. No. 5.<sup>[28]</sup> After validating the data he gathered with the Philippine Coconut Authority (PCA) production,<sup>[29]</sup> he arrived at the price of P9.00 per kilo of copra;<sup>[30]</sup> and finally, he narrated that a property placed under the coverage of CARP is valued based on its production and not on its per square meter value.<sup>[31]</sup>

### Ruling of the Regional Trial Court

On December 28, 2006,[32] the RTC observed that petitioners sold 4.6316-hectare portion of their property, which is less productive and with uneven terrain, for P1,020,000.00. In contrast, the subject portion is fiat, easier to cultivate and suitable for agriculture; moreover, as of 2005, the adjacent properties were valued at more than P40.00 per square meter due to the fully productive pineapple and banana plantations of Apo Land in the area. Taking all these into consideration, and asserting that the factors under Section 17 of RA 6657 and the formula used by the DAR in computing just compensation are mere guide posts and could not substitute the judgment of the court in determining just compensation, the RTC fixed the just compensation of the subject portion at P25.00 per square meter.

Respondent moved for a reconsideration[33] but it was denied in an Order[34] dated May 11, 2009.

### Ruling of the Court of Appeals

Aggrieved, respondent filed a Petition for Review[35] before the CA arguing that the RTC did not show how it arrived at its valuation of P25.00 per square meter; that it erred in lending credence to petitioners' allegation that they were able to sell 4.6316 hectares at P25.00 per square meter as no evidence was presented to prove the same; and, that the RTC should have applied the formula under DAR A.O. No. 5 and considered the factors under Section 17 of RA 6657 in determining just compensation.

In its April 20, 2011 Decision,[36] the CA emphasized the mandatory nature of complying with the formula, as set forth under DAR A.O. No. 5, series of 1998, in computing just compensation. It held that the RTC not only disregarded the formula but it likewise failed to show how it arrived at the P25.00 per square meter valuation. It noted that while petitioners claimed that respondent's valuation for the subject portion was "ridiculously low," they, however, did not present evidence to rebut the figures proffered by respondent. Finally, by applying the formula under DAR A.O. No. 5 and using the same data used by respondent in its computation, the CA came up with the same valuation as that of respondent.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises foregoing, the petition is hereby GRANTED. The Decision of the court a quo dated December 28, 2006 is hereby REVERSED and SET ASIDE and the Decision of the DAR Regional Adjudicator is REINSTATED.

SO ORDERED.[37]

Petitioners thus filed the instant Petition.

### Issues

THE QUESTIONED DECISION IS CONTRARY TO THE RULINGS IN LANDBANK OF THE PHILIPPINES V. WYCOCO and APO FRUITS CORPORATION V. CA.

NO ERROR WAS COMMITTED BY THE SPECIAL AGRARIAN COURT IN FIXING THE JUST COMPENSATION AT P25.00 PER SQ. M. BECAUSE, CONTRARY TO THE CONCLUSIONS OF THE COURT OF APPEALS, IT CONSIDERED ALL FACTORS ENUMERATED IN SEC. 17 OF R.A. NO. 6657 BEFORE ARRIVING AT ITS COMPUTED JUST COMPENSATION.[38]

### The Parties Argument

Petitioners assert that the determination of just compensation is not within the power of administrative agencies but is a judicial function vested in the RTC acting as SAC. And, the RTC-SAC in performing its function, must

make its independent determination of just compensation. Petitioners insist that the RTC properly evaluated the following factors and correctly arrived at the amount of P25.00 per square meter as just compensation, viz: (1) the zonal value of said property in 2002 which was P40.00 per square meter; (2) before the subject portion was taken, it was planted with crops; (3) the subject portion is within city limits and near an eco-tourism area; and, (4) petitioners were able to sell in 2001 the remaining 4.6316 hectares of their land for P1,020,000.00.

Petitioners argue that respondent's valuation was arrived at using only one factor - production. Moreover, the data was gathered during a one-day field investigation conducted by respondent's property appraiser, Engr. Arceo, on the more than five-hectare subject portion, who, admittedly, just counted the trees therein.

On the other hand, respondent contends that the CA correctly adopted its valuation of the subject portion at the total amount of P287,227.16 pursuant to the formula under DAR A.O. No. 5 which the RTC-SAC is mandated to observe and follow. And while respondent acknowledges that the determination of just compensation involves the exercise of judicial discretion, it nevertheless stresses that such discretion must be discharged within the bounds of law. Hence, it avers that it is the factors under Section 17 of RA 6657 which must be considered in determining compensation and not those relied upon by the RTC-SAC in this case.

### Our Ruling

The Petition is partly meritorious.

Eminent domain refers to the inherent power of the State to take private property for public use. This power has two basic limitations: (1) the taking must be for public use; and (2) just compensation must be given to the owner of the property taken.[39] Notably, in agrarian reform cases, the taking of private property for distribution to landless farmers is considered to be one for public use.[40] As to just compensation, the same is defined as the full and fair equivalent of the property expropriated. The term "just" qualifies the word "compensation" because the return deserved by the owner of the property must be real, substantial, full and ample.[41]

In the recent cases of *Land Bank of the Philippines v. Yatco Agricultural Enterprises*,[42] *Land Bank of the Philippines v. Peralta*,[43] and *Department of Agrarian Reform v. Spouses Diosdado Sta. Romana and Resurreccion O. Ramos*,[44] the Court has made declarations as to the determination of just compensation.

In *Yatco*, the Court stated that the determination of just compensation is a judicial function and the RTC, acting as SAC, has the original and exclusive power to determine just compensation. It was also emphasized therein that in the exercise of its function, the RTC must be guided by the valuation factors under Section 17 of RA 6657, translated into a basic formula embodied in DAR A.O. No. 5. The factors under RA 6657 and the formula under DAR A.O. No. 5 serve as guarantees that the compensation arrived at would not be absurd, baseless, arbitrary or contradictory to the objectives of the agrarian reform laws. However, the Court clarified that the RTC may relax the application of the DAR formula, if warranted by the circumstances of the case and provided the RTC explains its deviation from the factors or formula above-mentioned.

In *Peralta*, the Court confirmed the mandatory character of the guidelines under Section 17 of RA 6657 and restated that the valuation factors under RA 6657 had been translated by the DAR into a basic formula as outlined in DAR A.O. No. 5.

In *Sta. Romana*, it was held that the RTC is not strictly bound by the formula created by the DAR, if the situations before it do not warrant its application. The RTC cannot be arbitrarily restricted by the formula outlined by the DAR. While the DAR provides a formula, "it could not have been its intention to shackle the courts into applying the formula in every instance." [45]

Summarizing the pronouncements in the above-cited cases, the rule is that the RTC must consider the guidelines set forth in Section 17 of RA 6657 and as translated into a formula embodied in DAR A.O. No. 5. However, it may deviate from these factors/formula if the circumstances warrant or, as stated in *Sta. Romana*, "if the situations before it do not warrant its application." In such a case, the RTC, as held in *Yatco*, must clearly explain the reason for deviating from the aforesaid factors or formula.

Going now to the afore-mentioned Section 17 of RA 6657, the same provides as follows:

SECTION 17. Determination of Just Compensation. - In determining just compensation, the cost of acquisition of the land, the current value of the 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 non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

On the other hand, the formula under DAR A.O No. 5 reads:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

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 the three factors are present, relevant, and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

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

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

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

A.3 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.

Essentially in this case, the RTC in determining just compensation, considered the alleged value of land in Kilate, Davao City in 2002 at P40.00 per square meter and the supposed sale made by Nilo of the remaining 4.6316 hectares of his land at P25.00 per square meter in 2001. Thus, it explained in its Order[46] dated May 11, 2009 that in arriving at the just compensation of P25.00 per square meter, it considered the comparative values of the adjacent properties, the topography of the property, its accessibility by land transportation and the income derived from existing agricultural improvement.

Vis-a-vis the above-quoted Section 17 of RA 6657, it is clear that the RTC did not strictly conform with the guidelines set forth under the said provision. Not all the factors enumerated under Section 17 were considered and no reason for deviating from the same was given. In its December 28, 2006 Decision, the RTC merely stated in general terms that it exercised its judicial prerogative and considered all the facts of the case, including the

evidence and applicable laws, to conclude that the amount of P25.00 per square meter is reasonable just compensation for the subject portion.

In addition, we find the considerations used by the RTC in determining just compensation as not fully supported by evidence on record. It also did not explain how the aforesaid factors were used to come up with the foregoing amount of just compensation. While it stated that it appointed commissioners who appraised the subject portion and filed reports, no such Commissioner's Reports were attached to the records of this case.

Be that as it may, the Court likewise finds error on the part of the CA when it adopted the valuation made by respondent. It must be noted that the data used in coming up with respondent's valuation were gathered during the one-day inspection undertaken by Engr. Arceo on the subject portion, who admitted to have simply counted the trees thereon and interviewed just one farmer-beneficiary. It therefore appears that the data used was unreliable and unverified.

Furthermore, respondent did not gather comparative sales information on the adjoining or nearby properties in the area despite petitioners' allegation that they sold the remaining 4.6316-hectare portion of their property in 2001 at P25.00 per square meter. Under the circumstances, it behooves upon respondent to take the initiative to verify the records and determine any comparative sales information involving the subject portion. What is notable instead is that respondent used only a single factor in coming up with its valuation, i.e., the production of the subject portion. To restate, the valuation factors to be considered in determining just compensation pursuant to Section 17 of RA 6657 include the acquisition cost of the property, current value of like properties, the nature, actual use and income thereof, the sworn valuation of the owner, tax declarations and assessment of government assessors. Clearly, here, respondent likewise failed to consider all the foregoing factors in its valuation of the subject portion. Neither did it explain why such other relevant factors were not taken into account.

On petitioners' end, the Court observes that while they insist that they sold a similar and adjacent property for a price way higher than respondent's valuation for the subject portion, they did not present proof of the same. Neither did they provide the acquisition cost of the subject portion nor the income generated by it at the time of its taking. They also only described in general terms that the subject portion was flat and suitable for agriculture.

Given all these, the Court finds that both parties failed to adduce satisfactory evidence of the property's value at the time of its taking. Thus, it is premature to make a final determination of the just compensation due to petitioners. And as the Court cannot receive new evidence from the parties for the prompt resolution of this case,[47] its remand to the RTC is deemed proper. Suffice it to state that "[w]hile remand is frowned upon for obviating the speedy dispensation of justice, it becomes necessary to ensure compliance with the law and to give everyone - the landowner, the farmers, and the State - their due." [48]

As a final note, we remind the RTC to observe the following guidelines for the proper determination of just compensation: (1) just compensation must be valued at the time of taking of the property expropriated, or the time when the owner was deprived of the use and benefit of his property;[49] (2) interest may be awarded as may be warranted by the circumstances of the case;[50] and, (3) just compensation must be arrived at pursuant to the guidelines set forth in Section 17 of RA 6657 and outlined in a formula provided in DAR A.O. No. 5. If the RTC finds these guidelines inapplicable, it must clearly explain the reasons for deviating therefrom and for using other factors or formula in, arriving at the reasonable just compensation for the property expropriated.[51]

WHEREFORE, the instant Petition is PARTLY GRANTED. The assailed April 20, 2011 Decision of the Court of Appeals in CA-G.R. SP No. 02981-MIN is REVERSED and SET ASIDE. Accordingly, this case is ORDERED REMANDED to the Regional Trial Court of Davao City, Branch 15 for the proper determination of just compensation.

**SO ORDERED.**

Carpio, (Chairperson), Brion, and Mendoza, JJ., concur.

Jardeleza,[\*] J., in the result.

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[\*] Per Special Order No. 2056 dated June 10, 2015.

[1] Department of Agrarian Reform v. Galle, G.R.Nos. 171836 and 195213, August 11, 2014.

[2] Rollo, pp. 8-22.

[3] CA rollo, pp. 436-452; penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Edgardo T. Lloren and Zenaida Galapate Laguilles.

[4] Id. at 13-70.

[5] Id. at 71-76; penned by Judge Jesus V. Quitain.

[6] Otherwise known as the Agricultural Land Reform Code.

[7] CA rollo, p. 88.

[8] Id.

[9] Id. at 89.

[10] Id. at 90-92.

[11] Id. at 122-124.

[12] Id. at 125-127.

[13] Id. at 128-129.

[14] Id. at 80-82.

[15] Id. at 100-111.

[16] Id. at 112-119.

[17] Id. at 148-149.

[18] Id. at 151.

[19] Id. at 154-155.

[20] Id. at 160.

[21] Id. at 164.

[22] Id. at 166.

[23] Id. at 167.

[24] Id. at 166.

[25] Id. at 168.

- [26] Id. at 188.
- [27] Id. at 197.
- [28] Id. at 194, 197.
- [29] Id. at 200.
- [30] Id. at 205.
- [31] Id. at 209.
- [32] Id. at 71-76.
- [33] Id. at 221-244.
- [34] Id. at 77-79; penned by Judge Ridgway M. Tanjili.
- [35] Id. at 13-70.
- [36] Id. at 436-452.
- [37] Id. at 452.
- [38] Rollo, pp. 11-12.
- [39] Apo Fruits Corporation v. Land Bank of the Philippines, 647 Phil. 251, 269 (2010).
- [40] Id. at 270-271.
- [41] National Power Corporation v. Zabala, G.R. No. 173520, January 30, 2013, 689 SCRA 554, 562.
- [42] G.R. No. 172551, January 15, 2014, 713 SCRA 370.
- [43] G.R. No. 182704, April 23, 2014.
- [44] G.R. No. 183290, July 9, 2014.
- [45] Id., citing Land Bank of the Philippines v. Heirs of Maximo and Gloria Puyat, 689 Phil. 505 (2012).
- [46] CA rollo, pp. 76-79.
- [47] Land Bank of the Philippines v. Yatco Agricultural Enterprises, supra note 44 at 395.
- [48] Land Bank of the Philippines v. Livioco, 645 Phil. 337, 342 (2010).
- [49] Department of Agrarian Reform v. Spouses Diosdado Sta. Romana and Resurreccion O. Ramos, supra note 46.
- [50] Id.
- [51] Land Bank of the Philippines v. Yatco Agricultural Enterprises, supra note 44 at 382-383.

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