

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER, VS.
THE HEIRS OF SPOUSES FLAVIANO S. MAGLASANG AND SALUD
ADAZA MAGLASANG, RE...**

G.R. No. 203608. December 05, 2018

Ponente: A. REYES, JR., J.

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A. REYES, JR., J.:

This petition for review filed by the Republic of the Philippines (petitioner), represented by the Department of Public Works and Highways (DPWH), under Rule 45 of the 1997 Rules of Civil Procedure seeks to annul and set aside the September 2, 2011 Decision[1] of the Court of Appeals (CA) - Cebu Station (CA-Cebu) in CA G.R. CV No. 01690 affirming the decision of the Regional Trial Court (RTC) of Ormoc City, to wit:

WHEREFORE, in view of the foregoing premises, the 15 June 2006 Resolution issued by the Regional Trial Court of Ormoc City, Branch 12 in Civil Case No. 3789-0 is hereby AFFIRMED and the APPEAL is hereby DISMISSED.

SO ORDERED.[2]

The case arose out of a Complaint[3] for expropriation filed by the petitioner before the RTC of Ormoc City seeking to expropriate a parcel of land belonging to Spouses Flaviano S. Maglasang and Salud Adaza Maglasang (respondent spouses) described as Lot No. 851 of the Cadastral Survey of Ormoc City and covered by Transfer Certificate of Title No. 5922 with an area of 68 square meters under the names of respondent spouses. Located along the right side of the Malbasag Riverbank in Ormoc, the subject land was intended as a right of way for the Flood Mitigation Project under JICA Grant Aid from Japan at Malbasag River. Significantly, per Ormoc City's Appraisal Committee Resolution No. 8-98 Series of 1998, the subject land was valued at the rate of P1,000.00 per square meter.

Despite receipt of notice of the suit, however, the respondents failed to file their Comment/Opposition to the Complaint for Expropriation. Thus, they were deemed to have waived their rights to the expropriation proceeding and the petitioner was allowed to present evidence ex parte.

On June 2 and August 22, 2000, petitioner deposited checks in the aggregate amount of P68,000.00 representing 100% of the appraised value of the subject land. Said checks were deposited under the names of Spouses Flaviano S. Maglasang and Salud Adaza Maglasang.

During the ex parte hearing, the supervisor of the Flood Mitigation Project, Ormoc City District Engineer Jesus P. Sabando, testified for the petitioner. He stated that all the owners of pieces of properties affected by the road right of way acquisitions were notified. However, respondents refused the offer based on the City Assessor's Office's appraised value which herein petitioner made to them.

On December 1, 2000, petitioner moved for the issuance of a writ of possession over the subject land. This was granted by the RTC in an Order dated December 13, 2000. Said Order likewise ordered the petitioner to enter the subject land, and the Sheriff to place petitioner in possession of the same.

On December 4, 2000, respondents filed their motion for reconsideration of the RTC's Order allowing petitioner to present its evidence ex parte. Likewise prayed in their motion is that they be allowed to file their answer and present evidence to establish the fair market value of their property. Petitioner, on the other hand, filed its Formal Offer of Evidence on December 11, 2000.

On January 31, 2001, the RTC issued a writ of possession. Respondents then moved to quash the writ of possession, but their Motion was denied by the RTC. Thereafter, upon motion of the respondents, the trial court issued an Order dated June 28, 2004 allowing them to withdraw from the Land Bank of the Philippines the amount of P68,000.00 which the petitioner earlier deposited in the name of respondents' predecessors, Spouses Flaviano S. Maglasang and Salud Adaza Maglasang.

On July 7, 2004, the RTC granted the respondents' motion for reconsideration and directed them to file their opposition/comment to the petitioner's formal offer of evidence and to present their evidence.

On December 15, 2004, the RTC denied the respondents' Motion to Quash the Writ of Possession and set the hearing on the complaint on February 4, 2005, which the petitioner was not able to attend. On said date, the RTC granted the respondents' motion to present evidence ex parte.

Petitioner then moved for the reconsideration of the order allowing respondents to present evidence ex parte and prayed that the complaint be set for trial on the merits.

After series of resetting, a hearing was again scheduled on April 27, 2005. At that time, the Office of the Solicitor General (OSG) already deputized Atty. Ismael C. Llorin of the DPWH Regional Office No. VIII, Baras, Palo, Leyte to assist the OSG in the trial of the case.

Meanwhile, upon respondents' counsel's oral manifestation that the instant case is similar to the case of Republic v. Larrazabal, et al. (Civil Case No. 3656-0) which the same trial court decided and which involved a parcel of land contiguous to the subject property, the RTC, in its Order dated April 27, 2005, allowed the respondents "to submit the necessary pleading in order to abbreviate and dispose the case with dispatch"[4]. Hence, respondents submitted on March 17, 2006 the Commissioners' Reports and the RTC Decision[5] in the Larrazabal case.

On June 15, 2006, the RTC issued a Resolution[6] disposing of the complaint, thus:

WHEREFORE, foregoing premises considered, at the price of Php17,000.00 per square meter, plaintiff should pay to the defendants the sum of Php1,156,000.00. The preliminary deposit given by the plaintiff to the defendants should therefore be deducted from the total amount of just compensation due to the defendants.

SO ORDERED.[7]

Hence, petitioner appealed to the CA. As stated at the outset, the CA affirmed the findings of the RTC as it found that it was correct for the latter to take judicial notice of the proceedings in Larrazabal case. According to the CA, the rule that courts do not take judicial notice of the evidence presented in other proceedings, even if those have already been tried or are pending in the same court or before the same judge, is not absolute.

With its motion[8] for reconsideration having been denied by the CA in a Resolution[9] dated September 13, 2012, petitioner, through the OSG, is now before the Court assailing the decision and resolution of the CA and arguing that the latter gravely erred when it affirmed the decision of the RTC.

Simply put, the issue in this case is whether it was proper that the RTC took judicial notice of the Larrazabal case in order to resolve the issue of just compensation in this case.

The Court rules in the negative.

In matters of just compensation, it is prescribed in the last sentence of Section 3, Rule 67 of the Revised Rules of Court that whether or not a defendant has previously appeared or answered, he may present evidence as to the amount of compensation to be paid for his property, thus:

Section 3. Defenses and objections. - xxx xxx xxx

xxx xxx xxx

A defendant waives all defenses and objections not so alleged but the court, in the interest of justice, may permit amendments to the answer to be made not later than ten (10) days from the filing thereof. However, as the trial of the issue of just compensation, whether or not a defendant has previously appeared or answered, he may present evidence as to the amount of the compensation to be paid for his property, and he may share in the distribution of the award. (underscoring ours.)

Here, it is clear that respondents merely exercised their right to present evidence in order to resolve the issue of proper rate to be used in computing the payment of just compensation. Clearly, the RTC did not take upon itself to consider the Larrazabal case as it was the respondents themselves who introduced the case as evidence.

However, it should also be emphasized that while the court's taking of judicial notice may be allowed in some instances, the same does not hold true in this case where there are many issues that should have been considered by the RTC before it decided to apply the ruling in the Larrazabal case.

For one, there had been no proper presentation of evidence to support the application of the Larrazabal case. While it was said that there had been resetting of hearings, no mention, however, was made if finally, the petitioner was able to attend any of such before the RTC finally arrived at a conclusion that the Larrazabal case can, indeed, be applied when it comes to the computation of just compensation. Indeed, there is a gray area in this matter as regards the issue of whether due process has been observed.

Two, the allegation that the lands subject of the Larrazabal case and the subject land are contiguous was not also proven, neither were the classifications of the lands mentioned. In the Larrazabal case, the lands involved already have significant improvements, whereas, in this case, there is no other document worthy of credit other than the report made by the appraisal committee of Ormoc City Assessor's Office which declared that based on the ocular inspection they made, the area is only worth "P1,000.00 per square meter for commercial lots, P800.00 per square meter for residential lots and P500.00 per square meter for agricultural lots." [10]

Indeed, it is the value of the land at the time of the taking or the filing of the complaint, and not the value at the time of the rendition of judgment that should be the basis in computing the amount of just compensation. [11] Hence, for this matter, it should be the value given by the Assessor's Office that should be used in determining the amount due to the respondents.

WHEREFORE, premises considered, the petition is hereby GRANTED and the Decision dated September 2, 2011 of the Court of Appeals-Cebu City in CA-G.R. CV No. 01690 is SET ASIDE.

SO ORDERED.

Carpio, Senior Associate Justice, (Chairperson), Perlas-Bernabe, Caguioa, and Carandang, [*] JJ., concur.

[*] Designated Member per Special Order No. 2624, dated November 29, 2018.

[1] Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Pampio A. Abarintos and Gabriel T. Ingles; rollo, pp. 9-15.

[2] Id. at 15.

[3] Id. at 76-81.

[4] Id. at 11.

[5] Id. at 87-96.

[6] Rendered by Presiding Judge Francisco C. Gcdorio, Jr.; id. at 84-86.

[7] Id. at 86.

[8] Id. at 143-164.

[9] Id. at 17-18.

[10] Id. at 83.

[11] Sec. of the DPWH, et al., v. Sps. Tecson, 713 Phil. 55, 73 (2013).

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