

**THE MUNICIPALITY OF TARLAC, PROVINCE OF TARLAC, PLAINTIFF
AND APPELLANT, VS. TOMAS BESA, ADMINISTRATOR OF THE
ESTATE OF THE DECEASED FABIANA SALAK DE BESA, AND JOSEFA
MAGLANOC, ...**

G.R. No. 33434. December 16, 1930

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

This is an action instituted by the municipality of Tarlac for the expropriation of certain parcels of land belonging to the defendants Fabiana Salak de Besa et al. as being necessary for the extension of the street known as M. H. del Pilar, leading from the town to the railroad station of said municipality.

The case was heard in the Court of First Instance of Tarlac in accordance with the law. The trial court, following the report submitted by the committee which appraised one portion of 480 square meters of Fabiana Salak's land at P3 a square meter, and another portion of 2,355 square meters at P2.50 a square meter, that is to say, a total area of 2,835 square meters, amounting to a total sum of P7,327.50; and Josefa Maglanoe's land of 1,714 square meters at the rate of P2.25 a square meter, amounting to P3,856.50 in all, rendered judgment sentencing the plaintiff municipality of Tarlac to pay:

To the defendant Fabiana Salak de Besa, the sum of P7,327.50 with 6 per cent legal interest from February 8, 1928, until fully paid;

To the other defendant, Josefa Maglanoc, the sum of P3,856.50 with 6 per cent legal interest from February 8, 1928, until fully paid; and

To the commissioners, P4 each per session day, plus costs.

The plaintiff took exception to this judgment and asked for the reopening of the trial on the ground that the decision was contrary to law and to the evidence adduced by both parties. This motion was denied by the trial court, and the plaintiff duly excepted to such ruling, perfecting its appeal through the proper bill of exceptions.

The appellant assigns three errors of the trial court, and prays that the judgment appealed from be so modified as to reduce the prices of P3 and P2.50 a square meter given by the court to Fabiana Salak de Besa, and P2.25 a square meter to Josefa Maglanoc, to P600 and P500 per hectare, respectively, that is, at the rate of P0.06 and P0.05 a square meter, respectively.

There is no doubt that owners of property expropriated for public utility are entitled to just compensation according to the market price, taking into account the damages, if any, and the benefit to be derived therefrom by the owners. (*Manila Railway Co. vs. Fabie*, 17 Phil, 206; *City of Manila vs. Corrales*, 32 Phil., 85; *Manila Railroad Co. vs. Velasquez*, 32 Phil, 286.)

Appellant's contention that expropriated property must be paid for according to the assessed value cannot be

maintained, for this court has already ruled that while the assessed value of land may be admitted in evidence, it is of little value in a judicial investigation to determine the market value of the property. (Tenorio vs. Manila Railroad Co., 22 Phil., 411; Manila Railroad Co. vs. Alano, 36 Phil., 500.)

There is nothing absolute about the rule that land declared agricultural for purposes of land tax must necessarily be agricultural, notwithstanding the fact that it is later used for residential, commercial, or industrial purposes. And in the case before us it is a fact agreed upon by the parties that the property expropriated was adaptable to residential purposes before the expropriation proceedings.

We do not believe the price of P3 a square meter paid by Jose Samson to Fabiana Salak for a certain portion of her land can serve as a basis in determining the market price of the lands expropriated, owing to the special circumstance that Samson had to acquire the land for the erection of an ice plant. The price of P3 a square meter is not a just compensation, nor the P0.05 or P0.06 a square meter as contended by the representative of the municipality of Tarlac, whose council, in its resolution Exhibit 5, raised the price of the land affected by the extension of the road in question from P0.50 to P1.20 a square meter.

The record contains Exhibits F, G, and H, referring to rights of way acquired by the plaintiff municipality which paid the amounts of P0.40, P0.70, and P0.90 a square meter for the construction of Hilario Street leading to the provincial road of San Miguel, which is different from the extension of M. H. del Pilar to the railroad station. The evidence we deem most pertinent is Exhibit 2 and Exhibit 4, showing that the municipality has paid P1.10 a square meter by way of damages to the owners of the land through which the extension of M. H. del Pilar passes to the railroad station of said municipality. The appellees contend that the price paid to Carlos F. de Villa-Abrille, Exhibit 2, and to

Ismael Bautista, Exhibit 4, is only for the use of their respective lands for the extension of said M. H. del Pilar; but this distinction is of no practical value for the municipality's right of way and the ownership it acquires by means of these condemnation proceedings are in effect the same, inasmuch as the right of way through the lands of Villa-Abrille and Bautista, and the ownership which the municipality acquires of the lands of the defendants for the extension of the aforesaid street, equally deprive the owners of said lands of the use thereof.

The defendants also contend that they have been damaged by this expropriation in that they shall not be able to do any planting on the expropriated land, and because the portions bordering on said road will be injured by the crumbling of the canals. However this may be, it is certain that the opening of this thoroughfare will benefit the abutting owners, as the value of their land will increase, being thereby more easily converted into residential, commercial, and industrial districts.

After considering all the circumstances of the present case we are of opinion that the defendants should be justly compensated by being paid at the rate of P1.10 a square meter for their land. And with this modification, the judgment appealed from is affirmed, without special pronouncement of costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, Johns and Villa-Real, JJ., concur.

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