

**THE PROVINCE OF TAYABAS, PLAINTIFF AND APPELLANT, VS.
SIMEON PEREZ, DEFENDANT AND APPELLEE. GODOFREDO REYES
AND DOMINGO LOPEZ, INTERVENORS AND APPELLANTS.**

G. R. No. 35364. October 29, 1931

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This action for the expropriation of land situated in the municipality of Lucena, Tayabas, is before us on appeal taken by the plaintiff province and the intervenors Godofredo Reyes and Domingo Lopez.

The appraising commissioners were duly appointed, heard the parties, and rendered their report to the court recommending that lots X-1 and X-3 be assessed at P8 per square meter, and lot X-2 at P3.50 per square meter. The defendant's two sheds on the land were assessed at P3,500.

These values were accepted by the trial court according to the judgment appealed from by the plaintiff, which insists upon a reduction of the price.

Godofredo Reyes and Domingo Lopez have appealed from the judgment of the court below which denied their complaint of intervention on the ground that it had been filed out of time—after judgment—and that the record did not show the necessity of a new investigation to protect them from certain abuse of authority insinuated to have been committed by the provincial officials.

We note, however, that although the defendant asked that the commissioners' report be set for hearing (page 50, original record) and that the court assigned November 5, 1930, for that purpose (page 51, *id.*), the record does not appear ever to have actually come up for hearing in court, for the reason, perhaps, that the plaintiff submitted it to the court without making any recommendation. Be that as it may, the plaintiff's pleading, invoking the court's discretion, asks for a reduction of the proposed evaluation, and the defendant objects to the request in a pleading presented to that effect.

It is the intention of the law that a proper hearing, with both parties present, be had upon the commissioner's report in condemnation proceedings like the present. Even in cases where both parties, the plaintiff and the defendant, agree with the commissioners in their report, such acquiescence must appear in the record of that hearing (*City of Manila vs. Battle*, 27 Phil., 34).

It is true that the original Spanish text of section 246 of the Code of Civil Procedure, as it appears on page 427 of the first volume of Public Laws, states: "presentado el informe, el Juzgado, previa lectura, podra aceptarlo;" * * * (*Italics ours*). But the English text of the same section, as it appears on page 416, volume 1, Public Laws, clearly says: "Upon the filing of such report in court, the court shall, upon hearing accept the same," * * * (*Italics ours again*). And it is well known that in case a law published by the Civil Commission, like the Code in question, is to be interpreted, the English text must prevail, except when there is some ambiguity, omission or mistake, in which case the Spanish text may be consulted. (Sec. 15, Admn. Code of 1917.)

In the matter of condemnation proceedings the rule followed by the courts is that the provisions of the law are to be strictly followed so that the party whose property may be sought to be expropriated, may have all the legal guarantees of due process of law. For this reason, this court enunciated this very rule in the case of Manila Railroad Co. vs. Rodriguez (13 Phil., 347), where it was said that when the commissioners' report is not in accordance with the law on the matter, it cannot serve as the basis of the judicial decision but must be annulled and set aside, and the case remanded to the court below for the reopening of the trial.

Wherefore, the judgment appealed from is hereby set aside, and it is ordered that the record be remanded to the court of origin so that the case may be reopened, and a hearing be held on the commissioners' report, at which hearing the appellants Godofredo Reyes and Domingo Lopez may be heard, together with any other person who may have a legal interest in the matter in litigation, or in the success of either party, or any interest adverse to the latter. Without express pronouncement of costs. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Villa-Real, and Imperial, JJ., concur.

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