

**THE MANILA ELECTRIC COMPANY, PLAINTIFF AND APPELLEE, VS. TERESA TUASON ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. 41378. September 26, 1934*

Ponente: VICKERS, J.

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On March 24, 1930 the plaintiff herein, a corporation duly organized and existing under the Jaws of the Philippine Islands, filed a verified complaint in the Court of First Instance of Rizal for the condemnation of a strip of land running through the Tuason Estate in the municipalities of Caloocan, San Juan del Monte, and Mariquina, in Rizal Province. The land to be condemned was necessary as a right of way for the transmission line of the plaintiff from its hydroelectric plant in Botocan, Laguna Province, to Manila. In addition to the registered owners of the land, the Bank of the Philippine Islands as the receiver of the Tuason Mayorazgo and certain tenants who had made improvements on the land were made parties-defendants. It was alleged in the complaint that the assessed valuation of the land to be condemned did not exceed P13,820, and that the value of the improvements was not more than P800. On the same date the plaintiff was authorized by the lower court to take possession of the aforesaid property upon the deposit of P20,000 with the Treasurer of the Philippine Islands, which sum by agreement of the parties was subsequently paid over to the Bank of the Philippine Islands. Two amended complaints were filed for the purpose of including certain lessees of the property and two additional lots. Those amended complaints were duly admitted. The owners of the land and the receiver appeared through their attorney, Gregorio Perfecto, and answered the complaint. Of the other defendants only two, Catalino Fajardo and Macario Francisco, appeared and answered the complaint. On November 7, 1931, at the instance of Macario Francisco and Catalino Fajardo the plaintiff deposited with the Treasurer of the Philippine Islands a further sum of P800.

Three commissioners, Juan R. Chuidian, Jose Araneta, and C. M. Hoskins, were appointed by the court to appraise the property to be expropriated. After qualifying, the commissioners viewed the property and received the evidence of the parties. On August 1, 1933 they filed their report. They found the area of the land expropriated to be 418,914 square meters, and the compensation to which the owners were entitled to be P96,562.14. They also found that the plaintiff had already settled with the occupants for the improvements made by them on the land, consisting of fruit trees and clumps of bamboos, and that they were not entitled to any further compensation. Both the plaintiff and the defendants filed objections to the report of the commissioners.

On October 20, 1933, the trial judge, the Honorable Francisco Zandueta, rendered his decision, the dispositive part of which is as follows:

"Por todas las consideraciones arriba expuestas, el Juzgado adjudica a la compania demandante, Manila Electric Company, el terreno objeto de expropiacion, de un area total de cuatrocientos dieciocho mil novecientos catorce metros cuadrados (418,914) segun aparece descrito en los pianos marcados exhibitor H-1 al H-8 y K-2 de la demandante y en las descripciones tecnicas de las porciones de terreno que la demandante trata de expropiar y que aparecen en dichos pianos, con las mejoras que habia en ellas, de la propiedad de los duenos del terreno, o de arrendatarios del mismo, en 24 de marzo de 1930, fecha en que la demandante tomo

posesión del terreno.

"Se ordena a la demandante pague a los demandados Teresa Tuason, Mariano Tuason, Augusto Tuason, el intestado del rniado Demetrio Tuason, Albina Tuason, Consuelo Tuason de Quimson, Paz Tuason de Paterno, Juan E. Tuason, Antonio M. Tuason, Angel M. Tuason, Maria S. Tuason, usufructuaria de las participaciones de Antonio M. Tuason y Angel M. Tuason y Vicente Gomez la cantidad d-8 sesenta y un mil tres cientos siete pesos con cuarenta centimos (P61,307.40), segun el interes de cada uno de dichos demandados en el terreno objeto de expropiacion, con intereses de seig por ciento (6%) anual, a partir del 24 de marzo de 1930, fecha en que la demandante tomó posesion del terreno, pero habiendose nombrado al demandado Banco de las Islas Filipinas depositario del terreno, se ordena a la demandante entregue el importe de esta sentencia al referido depositario Banco de las Islas Filipinas.

"Se ordena al Registrador de Titulos de la Provincia de Rizal que, previo pago de los derechos correspondientes, y una vez aprobado el correspondiente piano de subdivision por el Jefe Agrimensor de la Oficina del Registro de Terrenos, cancele los Certificados de Transferencia de Titulo Nos. 3792, 6075 y 10719, expedidos a favor de los duenos de la masa de terreno de que es partie la porcion que la demandante trata de expropiar, y en lugar de cada uno de ellos, expida otros dos certificados, uno, a favor de la demandante Manila Electric Company, por las porciones expropiadas por dicha compania, y otro, a favor de los duenos inscritos en la actualidad, por las porciones remanentes no expropiadas por la compania demandante."

After filing a motion for a new trial and for the reconsideration of the decision, Teresa Tuason and the other defendants represented by Attorney Perfecto appealed to this court.

We wish to call the attention of everybody concerned to the following clerical errors in the bill of exceptions:

- On page 16 of the typewritten bill of exceptions the consequential damages allowed with respect to lot 25-A-3-C are stated as P4,535.25 instead of P4,635.25. This error is reproduced in the printed bill of exceptions on page 21.
- On page 21 of the printed bill of exceptions the valuation of the agricultural land under paragraph (e) is shown as W.55 a square meter instead of P0.055.
- On page 31 of the typewritten bill of exceptions the item of P17,737.94 corresponding to the agricultural land referred to in paragraph (e) is omitted. This error is reproduced on page 42 of the printed bill of exceptions.
- On page 34 of the typewritten bill of exceptions (page 46 of the printed bill of exceptions) the total of P2,575.14 is stated as P2,675.14, and on the same page the words "de 17,362 metros cuadrados" following the words "la porcin" are omitted.

The appellants have made eleven assignments of error.

### **FIRST ERROR**

"El Juzgado eiro al no haber estimado el justiprecio de los terrenos expropiados hecho por el experto Thos. I. Weeks, y, por tanto, al no haber fijado el valor de dichos terrenos al tiempo de ser expropiados en la suma de cuatrocientos ochenta y tres mil setecientos ochenta y ocho pesos con veintitres centavos (P483,788.23)."

Judge Zanduetta reviewed at length in his decision the testimony of the different experts presented by the parties, and quoted the principles laid down by this court which should govern the appraisal of real property in condemnation proceedings. The sum of P483,788.23 claimed by the appellants is manifestly unreasonable. It is based upon the imaginary value of the land when subdivided for building lots. Such a valuation is purely speculative and obviously too uncertain to form the basis of an appraisal in condemnation proceedings. The owners of land which is expropriated are entitled to just compensation, which is the market value of the land at the time when it is taken. The land in question was agricultural land, and it should have been appraised as such,

and not as potential building sites. It was rice land of a poor grade. Part of it was not used for any purpose. In the appraisal of urban property the value of the land is fixed at so much a square meter, but in estimating the value of farm land the unit to be employed is a hectare. The area of the land expropriated in this case was 42 hectares, and the sum allowed by the lower court, including consequential damages, was P61,307.40, of approximately P1,500 a hectare. This in our opinion was ample.

## SECOND AND THIRD ERRORS

"El Juzgado erro al no condenar a la demandante a reembolsar al Mayorazgo Tuason los impuestos territoriales abonados y que se vayan abonando por el depositario judicial el Banco de las Islas Filipinas sobre los terrenos expropiados, y desde que la demandante haya tornado posesion de los mismos.

"El Juzgado inferior erro al no condenar a la demandante a que pague y costee todos los gastos para la segregacion de los terrenos expropiados, incluyendo los pianos y descripciones tecnicas debidamente aprobados por las autoridades competentes, y la expedition a favor de los demandados del titulo correspondiente sobre los terrenos remanentes, despues de la segregacion de los terrenos expropiados, libre de toda suerte de gastos."

We find these errors to be well taken. Appellants are entitled to recover from the plaintiff the taxes paid by them on the land expropriated for the period from March 24, 1930 to date, together with legal interest. They are also entitled to recover the cost of the necessary subdivision plans and the fees of the register of deeds for the issuance of new certificates of title.

## FOURTH ERROR

"El Juzgado erro al no conceder a los demandados apelantes la correspondiente indemnizacion de danos y perjuicios por las mejoras permanentes<sup>1</sup> que posefan en los terrenos expropiados y que formaban parte de su propiedad, y cuya existencia ha sido probada concluyentemente no solo mediante pruebas de los demandados sino tambien mediante pruebas de la misma demandante."

The commissioners found that the plaintiff had indemnified the occupants for the improvements made by them on the land, consisting principally of fruit trees. The trial judge approved this finding of the commissioners. It appears that any other trees existing on the land expropriated were taken into consideration in fixing the value of the land.

## FIFTH ERROR

"El Juzgado erro al no conceder a los demandados indemnizacionalguna por los danos y perjuicios sufridos con motivo de la desfiguracion y el aislamiento del lote C del piano Exhibit 4, es decir del terreno que queda Pomo empotrado en el triangulo formado por el terreno del Hospital Anti-Tuberculoso y la faja de terreno expropiada por la demandante."

The contention of the appellants that lot C is unserviceable because it is separated from the rest of appellant's land and is irregular in form is not sustained by the evidence. It is triangular and has an area of 3,694 square meters and faces a public road.

## SIXTH AND SEVENTH ERRORS

"El Juzgado erro al no haber concedido a los demandados apelantes la necesaria indemnizacion de danos y perjuicios con motivo del aislamiento y la desfiguracion del lote F del piano Exhibit 1, y que mide 75,879 metros cuadrados.

"El Juzgado erro" al no haber concedido a los demandados apelantes la necesaria indemnizacion de danos y perjuicios con motivo del aislamiento y la desfiguracion del lote G del piano Exhibit 1, y que mide 95,786 metros cuadrados."

The total area of these two lots is 17 hectares. The consequential damages allowed by the lower court on account of the irregular form of these two portions of land next to the river was P5,607.85, or 30 per cent of the value of the adjoining land expropriated. This sum is equivalent to approximately 60 per cent of the value of these two lots before they were separated from the rest of appellants' land. Although the consequential damages were erroneously based upon the value of the land taken instead of the depreciation sustained by the remaining portions, the sum allowed is sufficient to indemnify the appellants for any consequential damages suffered by them. Furthermore, at the hearing before the commissioners plaintiff's attorney expressly consented to the establishment of an easement over the strip of land expropriated, for an indefinite period and Without compensation, in favor of lots C, F, G, H and I in accordance with the provisions of the Civil Code, and that the corresponding notation be made in the certificate or certificates of title to be issued in favor of the plaintiff, and it is hereby ordered that the corresponding notation be made in the certificates of title to be issued to the plaintiff.

### **EIGHTH ERROR**

"El Juzgado erro al no haber concedido a los demandados apelantes indemnizacion alguna por los danos y perjuicios resultantes del uso, peligroso para la seguridad personal y para la vida humana, a que se destinan los terrenos expropiados."

We find no merit in this contention. The plaintiff was authorized by law to expropriate the land for the purpose for which it was taken, that is, as a right of way for its transmission line. There is no evidence to sustain the contention that the use of the land for that purpose is exceedingly dangerous to human life in so far as the adjoining land of the appellants is concerned or that the value thereof is adversely affected.

### **NINTH ERROR**

"El Juzgado erro al fijar so1o en P675, en lugar de la suma de P4,050, la compensation adicional a que los demandados tienen derecho por los terrenos que dan frente a calles."

We find no merit in appellants' contention. The sum fixed by the court in accordance with the testimony of Tomas Arguelles is the market value of the land. The location of the land with respect to public roads is one of the elements affecting its value and was taken into consideration in estimating: its worth. If a strip along the road on each side of the property should be assessed separately, the value of the remainder of the property taken would be correspondingly reduced.

### **TENTH ERROR**

"El Juzgado errd al no haber concedido a los demandados apelantes compensacion por los danos y perjuicios resultantes de haberse dividido los terrenos de los demandados en dos mitades separadas."

This contention of the appellants is groundless, because it clearly appears in the decision that due allowance was made for consequential damages.

### **ELEVENTH ERROR**

"El Juzgado erro al no haber concedido a los demandados apelantes cantidad alguna para honorarios de abogado y al no haber declarado que los demandados tienen derecho a cobrar, sobre el importe total de la indemnizadon, un diez por ciento (10%) para honorarios de abogados."

Appellants' contention that they are entitled to recover attorney's fees over and above the statutory allowance because they were disturbed in their possession is not sustained by any principle of law or citation of authorities. It is admitted that the plaintiff was authorized by law to expropriate the land taken.

Modified as herein above stated with respect to the taxes and the expenses of survey and the issuance of new certificates of title and the easement of passage, the decision appealed from is affirmed, with the costs of this instance against the appellants.

Avancena, C. J., Street, Hull, and Diaz, JJ., concur.

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