

**JOSE MA. ANSALDO, FOR HIMSELF AND AS ATTORNEY-IN-FACT OF
MARIA ANGELA ANSALDO, PETITIONERS, VS. FRANCISCO S.
TANTUICO, JR., ACTING CHAIRMAN, COMMISSION ON AUDIT, AND
BALTAZAR AQ...**

G.R. No. 50147. August 03, 1990

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-50147/>

NARVASA, J.:

This expropriation case is quite unique. Two lots of private ownership were taken by the Government and used for the widening of a road more than forty-three years ago, without benefit of an action of eminent domain or agreement with its owners, albeit without protest by the latter.

The lots belong to the petitioners, Jose Ma. Ansaldo and Marti Angela Ansaldo, are covered by title in their names,[1] and have an aggregate area of 1,041 square meters. These lots were taken from the Ansaldos sometime in 1947 by the Department of Public Works Transportation and Communication and made part of what used to be Sta. Mesa Street and is now Ramon Magsaysay Avenue at San Juan, Metro Manila. This, to repeat, without demur on the part of the owners.

Said owners made no move whatever until twenty-six year later. They wrote to ask for compensation for their land on January 22, 1973.[2] Their claim was referred to the Secretary of Justice who in due course rendered an opinion dated February 22, 1973,[3] that just compensation should be paid in accordance with Presidential Decree No. 76.[4] The Decree provided that the basis for the payment of just compensation of property taken for public use should be the current and fair market value thereof as declared by the owner or administrator, or such market value as determined by the assessor, whichever was lower.[5] The Secretary of Justice thus advised that the corresponding expropriation suit be forthwith instituted to fix the just compensation to be paid to the Ansaldos.

Pursuant to this opinion, the Commissioner of Public Highways requested the Provincial Assessor of Rizal to make a re--determination of the market value of the Ansaldos' property in accordance with PD 76.[6] The new valuation was made, after which the Auditor of the Bureau of Public Highways forwarded the Ansaldos' claim to the Auditor General with the recommendation that payment be made on the basis of the "current and fair market value, ** and not on the fair maket value at the time of taking." [7]

The Commission on Audit, however, declined to adopt the recommendation. In a decision handed down on September 26, 1973, the Acting Chairman ruled that "the amount of compensation to be paid to the claimants is to be determined as of the time of the taking of the subject lots,"[8] i.e. 1947. The ruling was reiterated by the Commission on September 8, 1978, and again on January 25, 1979 when it denied the Ansaldos' motion for reconsideration.[9]

It is these rulings of the Commission on Audit that the Ansaldos have appealed to this Court.

While not decisive of this case, it may be stressed that the provisions of Presidential Decree No. 76 and its related

or successor decrees (Numbered 464, 794 and 1533) no longer determine the just compensation payable to owners of expropriated property. Said provisions were, it may be recalled, struck down as unconstitutional and void in 1988, in *Export Processing Zone Authority v. Dulay*,^[10] which declared that the mode therein prescribed for determining just compensation, i.e., on the basis of the value declared by the owner or administrator or on that determined by the assessor, whichever is lower, constituted an impermissible encroachment on the judicial prerogative to resolve the issue in an appropriate proceeding of eminent domain.

Now, nothing in the record even remotely suggests that the land was taken from the Ansaldos against their will. Indeed, all indications, not the least of which is their silence for more than two decades, are that they consented to such a taking although they knew that no expropriation case had been commenced at all. There is therefore no reason, as regards the Ansaldos' property, to impugn the existence of the power to expropriate, or the public purpose for which that power was exercised.

The sole question thus confronting the Court involves the precise time at which just compensation should be fixed, whether as of the time of actual taking of possession by the expropriating entity or, as the Ansaldos maintain, only after conveyance of title to the expropriator pursuant to expropriation proceedings duly instituted since it is only at such a time that the constitutional requirements of due process aside from those of just compensation may be fully met.

Normally, of course, where the institution of an expropriation action precedes the taking of the property subject thereof, the just compensation is fixed as of the time of the filing of the complaint. This is so provided by the Rules of Court,^[11] the assumption of possession by the expropriator ordinarily being conditioned on its deposit with the National or Provincial Treasurer of the value of the property as provisionally ascertained by the court having jurisdiction of the proceedings.

There are instances, however, where the expropriating agency takes over the property prior to the expropriation suit, as in this case -- although, to repeat, the case at bar is quite extraordinary in that possession was taken by the expropriator more than 40 years prior to suit. In these instances, this Court has ruled that the just compensation shall be determined as of the time of taking, not as of the time of filing of the action of eminent domain.

In the context of the State's inherent power of eminent domain, there is a "taking" when the owner is actually deprived or dispossessed of his property; when there is a practical destruction or a material impairment of the value of his property or when he is deprived of the ordinary use thereof.^[12] There is a "taking" in this sense when the expropriator enters private property not only for a momentary period but for a more permanent duration, for the purpose of devoting the property to a public use in such a manner as to oust the owner and deprive him of all beneficial enjoyment thereof.^[13] For ownership, after all, "is nothing without the inherent rights of possession, control and enjoyment. Where the owner is deprived of the ordinary and beneficial use of his property or of its value by its being diverted to public use, there is taking within the Constitutional sense."^[14] Under these norms, there was undoubtedly a taking of the Ansaldos' property when the Government obtained possession thereof and converted it into a part of a thoroughfare for public use.

It is as of the time of such a taking, to repeat, that the just compensation for the property is to be established. As stated in *Republic v. Philippine National Bank*,^[15]

" * * (W)hen plaintiff takes possession before the institution of the condemnation proceedings, the value should be fixed as of the time of the taking of said possession, not of filing of the complaint and the latter should be the basis for the determination of the value, when the taking of the property involved coincides with or is subsequent to, the commencement of the proceedings. Indeed, otherwise, the provision of Rule 69, Section 3, directing that compensation 'be determined as of the date of the filing of the complaint' would

never be operative. As intimated in *Republic v. Lara* (supra), said provision contemplates 'normal circumstances,' under which 'the complaint coincides or even precedes the taking of the property by the plaintiff.'"

The reason for the rule, as pointed out in *Republic v. Lara*,^[16] is that -

" * * (W)here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just: i.e., 'just not only to the individual whose property is taken,' 'but to the public, which is to pay for it.'"

Clearly, then, the value of the Ansaldos' property must be ascertained as of the year 1947, when it was actually taken, and not at the time of the filing of the expropriation suit, which, by the way, still has to be done. It is as of that time that the real measure of their loss may fairly be adjudged. The value, once fixed, shall earn interest at the legal rate until full payment is effected, conformably with other principles laid down by case law.^[17]

WHEREFORE, the petition is DENIED, the challenged decision of the Commission on Audit is AFFIRMED, and the Department of Public Works and Highways is DIRECTED to forthwith institute the appropriate expropriation action over the land in question so that the just compensation due its owners may be determined in accordance with the Rules of Court, with interest at the legal rate of six percent (6%) per annum from the time of taking until full payment is made. No costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TCT No. 4884 of the Registry of Deeds for Rizal

[2] Rollo, p. 21

[3] Id., p. 22. Secretary of Justice at the time was the Hon. Vicente Abad Santos (later Associate Justice of the Supreme Court)

[4] Eff., Dec. 6, 1972

[5] Sec. 1, par. 3

[6] Rollo, p. 24

[7] Id., p. 30; italics supplied

[8] The Chairman at the time was the Hon. Ismael Mathay, Sr.; italics supplied

[9] This time, thru Acting Chairman Francisco S. Tantuico, Jr.

[10] 149 SCRA 305

[11] Sec. 2, Rule 67

[12] *U.S. v. Causby*, 382 U.S. 256, cited in *Municipality of La Carlota v. NAWASA*, 12 SCRA 164

[13] Republic v. Vda. de Castelvi, 58 SCRA 336 (1974)

[14] Municipality of La Carlota v. NAWASA, 12 SCRA 164, supra

[15] 1 SCRA 957 (1961); see also Provincial Government of Rizal v. Caro de Araullo, 58 Phil. 308 (1933)

[16] 50 O.G. 5778 (1954)

[17] Republic v. Lara, supra; Amigable v. Cuenca, 43 SCRA 360; National Power Corporation v. C.A., 129 SCRA 665

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.