

JOVENCIO LAGUNZAD, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PROVINCE OF LEYTE, RESPONDENTS.

G.R. No. 52007. September 24, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This petition for review on certiorari seeks to set aside three orders of the respondent Court of Appeals[1] which, in effect, bar the petitioner from pursuing his remedy of appeal.

The procedural facts as gathered from the pleadings submitted by both petitioner and respondent follow.

An action for eminent domain was filed by the Province of Leyte against some 424 defendants, herein petitioner Lagunzad among them, captioned Province of Leyte v. Teresita Holanda, et al., and docketed as Civil Case No. 5199. On March 11, 1977, the then Court of First Instance of Leyte[2] decided the case on the basis of Presidential Decrees (P.D.) Nos. 76 and 464, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, final judgment is hereby rendered:

- 1) Confirming the order of condemnation declaring that plaintiff Province of Leyte has the lawful right to take the properties herein above described and sought to be expropriated for the public use and purpose also herein described in the Complaint;
- 2) Confirming the retention of possession by the plaintiff Province of Leyte of those properties already entered in accordance with the provisions of Presidential Decree No. 42, and ordering the defendants to vacate those properties already condemned but not yet entered by plaintiff so that the latter can appropriate the same for public use/purpose aforementioned;
- 3) Ordering the plaintiff Province of Leyte to compensate those defendants who have not yet received full payment hereof, the market value of their respective properties in accordance with the provisions of Presidential Decree No. 76 and Presidential Decree No. 464, Section 92;
- 4) Ordering the clerk of Court and the offices of the Provincial Administrator and Provincial Treasurer to coordinate and proceed accordingly, by following the same procedure in the payments already made herein;
- 5) Ordering the Register of Deeds of Leyte, upon a receipt of a certified copy of this decision with the descriptions of the properties herein involved and a copy of the parcellary map (Exhibit "N") hereto attached, from him to vest title in the real estate so described, in the plaintiff province of Leyte;
- 6) And finally, ordering the plaintiff Province of Leyte to pay the cost of this proceedings.

SO ORDERED.[3]

Not satisfied with that portion of the decision on just compensation, the petitioner interposed an appeal with the Court of Appeals which ordered the filing of his printed record on appeal, then an essential requisite for the perfection of an appeal. The awareness of his inability to comply seasonably prompted his counsel to move for an extension of thirty days to submit his record on appeal. Meanwhile, Lagunzad himself personally filed a motion requesting for sixty days within which to file the same record on appeal. The Court of Appeals acted favorably on these two motions and issued two orders. The first, dated December 19, 1978, granted the petitioner thirty days from January 1, 1979, while the second, dated January 3, 1979, granted him sixty days from the same date to submit the required record on appeal. On April 2, 1979, the Court of Appeals dismissed the appeal, saying:

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Acting on the Docket Report that as of March 21, 1979 defendant-appellant Lagunzad has not filed his printed Record on Appeal and considering that the last day to file Record on Appeal expired on December 3, 1978 the Court RESOLVED to DISMISS this appeal.[4]

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On this dismissal, the petitioner filed a motion for reconsideration. By ill hap, however, it was only on May 10, 1979, or seven days after the last day of the filing of a motion for reconsideration, that the petitioner availed of the remedy. Hence, the respondent Court, in an Order dated June 5, 1979, denied the motion, to wit:

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The motion for reconsideration filed by counsel for defendant-appellant Jovencio Lagunzad on May 10, 1979 by registered mail is denied, the Resolution sought to be reconsidered having already become final and beyond the jurisdiction of this Court to alter. It appears, as per admission of appellant Lagunzad himself in paragraph 1 of his subject motion, that on April 18, 1979, he received a copy of the Resolution of this Court dated April 2, 1979, dismissing his appeal for failure to file his appellant's brief, and therefore, his last day to seek a reconsideration thereof expired on May 3, 1979.[5]

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The petitioner's second motion for reconsideration was likewise denied by the Court of Appeals in an order dated July 12, 1979, to wit:

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The Second Motion for Reconsideration filed on June 28, 1979 (reg. mail) by counsel for defendant-appellant Jovencio Lagunzad is denied. The registry return card, attached to the Rollo, clearly shows on both sides thereof that the Resolution of April 2, 1979, dismissing the appeal of appellant Lagunzad was received by his counsel on April 17, 1979, and, therefore, his last day to move for a reconsideration expired on May 2, 1979. Hence, his first motion for reconsideration filed by registered mail on May 10, 1979, was filed 8 days after the Resolution of dismissal has become final.[6]

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Be this as it may, we grant the petition.

As petitioner affirms, the two orders granting the two motions for extension of time to file record on appeal could indeed cause confusion. It is not unlikely that the petitioner was truly misled into believing that he had a total of

ninety days, or up to April 30, 1979, within which to file his record on appeal. Thus, when he received on April 17, 1979 the order of dismissal of his appeal dated April 2, 1979, the petitioner believed, and not without good cause, that the dismissal was erroneous. And, this, as petitioner claims, was one of the reasons why he failed to file his motion for reconsideration on time.

Even the respondent court, as shown by its two assailed orders quoted above, was not entirely spared from confusion. In one order, respondent court declared that the last day for filing a motion for reconsideration expired on May 2, while in the succeeding order issued barely a month after, the court declared that the last day for filing a motion for reconsideration expired on May 3. Likewise the dates when the petitioner was supposed to have received the order of denial were different, i.e., in the first order it was April 18 while in the second order, it was April 17. If even the appellate court could not make up its mind as to material dates, we must not expect more from petitioner.

Not only this, the onslaught of typhoon Bebang which left the Province of Leyte in disorder, likewise left the counsel for petitioner's office in the same sad state. His averment, which we believe, goes:

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That after he had completed the typing and mimeographing of said record on appeal and was ready for mailing on 16 April 1979 typhoon Bebang struck the Province of Leyte causing damage to the roofing of defendant-appellant and as a consequence thereof the already mimeographed record on appeal got wet and some were blown away and destroyed;

That appellant had to salvage whatever was left of the record on appeal and had to start mimeographing again the same;[7]

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We cannot just ignore petitioner's plea for a review of his case this instance. There is not the slightest indication of malice on his part or of a desire to delay the proceedings and to transgress the rules on procedure. If at all, his was an honest mistake or miscalculation worsened by some fortuitous occurrence which we deem condonable under the circumstances. For we have, in many cases, granted relief where a stringent application of the requirement of timeliness of pleadings would have denied a litigant substantial justice and equity. Suffice it to note that the rules on technicality were promulgated to secure not to override substantial justice.[8] As it should be in this case especially because the petition appears also to be impressed with merit.

More importantly, however, under Batas Pambansa Blg. 129, as well as in section 18 of the Interim Rules and Guidelines issued by the Court, a record on appeal is no longer necessary for perfecting an appeal. In giving due course to the petition, we held in a recent case:[9]

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Being procedural in nature, the provisions of (BP Blg. 129 and sec. 18 of the Interim Rules and Guidelines) may be applied retroactively for the benefit of petitioners as appellants. 'Statutes regulating the procedure of the court will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent. (People v. Sumilang, 77 Phil. 764 [1946].'

Having, therefore, disposed of the procedural issue, we shall now consider the merits of the case. Instead of remanding this case to the lower court for approval of the appeal, and consigning in limbo the payment of the petitioner's just compensation for his land taken by the Province of Leyte, we see the necessity of deciding this on the merits to avoid "undue burden on the parties and needless delays only to obtain the same judgment that

could very well be laid down through this petition." [10] In *Velasco v. Court of Appeals*, [11] we broadened our inquiry into the case and decided the same on the merits rather than merely resolving the procedural question raised, to better serve the interests of justice.

We have sufficient basis to end the controversy between the parties in the present case even if we have to dispense with some procedural rules for the basic rights of the parties will, in no way, be impaired.

Moreover, the other defendants in this civil case who were similarly situated were able to seek affirmative relief in their appeal with the Court of Appeals. It would be the height of injustice if we disallowed the petitioner herein to seek the same relief as that accorded to his co-defendants if only for the flimsy reason of technicality.

Hence, there being no question as to the propriety of the taking of the property(ies) for public use, we shall limit ourselves to the issue of just compensation. On this, the lower court ruled:

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Wherefore, premises considered, final judgment is hereby rendered:

(1) x x x

(2) x x x

(3) Order the plaintiff Province of Leyte to compensate those defendants who have not yet received full payment hereof, the market value of their respective properties in accordance with the provisions of PD No. 76 and PD No. 464, sec. 92.

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SO ORDERED.[12]

While we cannot fault the lower court for deciding the case on the basis of P.D. Nos. 76 and 464, we must rule otherwise for we have declared unconstitutional and void the presidential decrees on just compensation. In *EPZA v. Dulay*, [13] we held:

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It is violative of due process to deny to the owner the opportunity to prove that the valuation in the tax documents is unfair or wrong. And it is repulsive to basic concepts of justice and fairness to allow the haphazard work of a minor bureaucrat or clerk to absolutely prevail over the judgment of a court promulgated only after expert commissioners have actually viewed the property, after evidence and arguments pro and con have been presented; and after all factors and considerations essential to a fair and just determination have been judiciously evaluated.

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The determination of "just compensation" in eminent domain cases is a judicial function. The executive department or the legislature may make the initial determinations but when a party claims a violation of the guarantee in the Bill of Rights that private property may not be taken for public use without just compensation, no statute, decree or executive order can mandate that its own determination shall prevail over the court's findings. Much less can the courts be precluded from looking into the "just-ness" of the decreed compensation.

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In the same case, we, likewise, took note of the inequity that could result in the application of the presidential decrees on just compensation.

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x x x To peg the value of the lots on the basis of documents which are out of date and at prices below the acquisition cost of present owners would be arbitrary and confiscatory.

Various factors can come into play in the valuation of specific properties singled out for expropriation. The values given by provincial assessors are usually uniform for very wide areas covering several barrios or even an entire town with the exception of the poblacion. Individual differences are never taken into account. The value of land is based on such generalities as its possible cultivation for rice, corn, coconuts, or other crops. Very often land described as "cogonal" has been cultivated for generations. Buildings are described in terms of only two or three classes of building materials and estimates of areas are more often inaccurate than correct. Tax values can serve as guides but cannot be absolute substitutes for just compensation.

To say that the owners are estopped to question the valuations made by assessors since they had the opportunity to protest is illusory. The overwhelming mass of land owners accept unquestioningly what is found in the tax declarations prepared by local assessors or municipal clerks for them. They do not even look at, much less analyze, the statements. The idea of expropriation simply never occurs until a demand is made or a case filed by an agency authorized to do so.[14]

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The case at bar is a truly glaring example of the harshness of the abovementioned presidential decrees. While the petitioner declared his 1.3090-hectare property planted with coconut trees as having a market value of P10,260.00; the provincial assessor assessed the property in the amount of P2,160.00 only.[15] On the other hand, the commissioners appointed by the trial court pursuant to sections 5 and 8 of Rule 67 of the Rules of Court, valued the property at even a much higher price than the valuation given by the petitioner himself, i.e., P20,000.00 per hectare and P25.00 per fruit bearing tree. This valuation arrived at by the commissioners is what the petitioner prays this Court to consider and not that fixed by the provincial assessor (the lower price pursuant to the presidential decrees on just compensation) which, obviously, is unjust, nay oppressive. Even the commissioners themselves were well aware of the stringency of the said laws necessitating them to state:

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x x x it is the considered view of the Commissioners that the "lower" market values reflected in the tax declarations will not amount to "fair market value" for purposes of payment of just compensation as mandated in the Constitution hence they have been constrained to determine the fair market values of the affected properties, as they have herein recommended, on the basis of their own ocular findings, oral as well as documentary evidence presented, and facts and events which they have taken judicial notice of, in the interest of justice and fairness and so as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those acquired from them by the government, and thereby rehabilitate themselves as early as possible.[16]

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The commissioners took into consideration several points which became their bases for the determination of the fair market values of the affected properties:

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- (a) Many tax declarations do not contain an owner's market value because of his failure to file a Sworn Statement in compliance with P/D 76;
- (b) Actual kind and number of improvements, as inspected and verified, are, in most instances, very much more than those indicated in the tax declaration, but in some instances, however, the kind and number of declared improvements are not existing;
- (c) Many declared improvements, given a market value by the owner, are not correspondingly valued by the assessor, either because the improvements are not included in the assessor's schedule of market values or the land upon which they grow is not principally planted to such growth, in which case no market value by the assessor appears on the tax declaration;
- (d) Declared areas are, in many instances, either much more or much lesser than the surveyed areas, thereby affecting directly the owner's as well as the assessor's market values which are reckoned on such declared areas;
- (e) Many lots are not correctly classified and valued, either because of a desire to minimize realty taxes, or, in a few instances, to arrive at exorbitant market values as in some interior lands which are clearly agricultural but classified and valued as residential land;[17]

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We find nothing objectionable in the manner by which the court-appointed commissioners arrived at their recommendations with regard to the valuation of the affected properties. Neither does petitioner. In fact, it is precisely the commissioners' report which the petitioner prays this Court to use as the basis for the valuation of his expropriated property and not the lower court's decision which was based on the questioned presidential decrees already declared unconstitutional and void and of no effect by us in *EPZA v. Dulay*[18] and other cases.

WHEREFORE, in view of the foregoing, the petition is hereby GRANTED. The assailed orders of the respondent Court of Appeals and the decision of the trial court dated March 11, 1977, as well as the supplemental judgment dated May 30, 1977, are hereby SET ASIDE and the respondent Province of Leyte ordered to pay the petitioner the principal amount of TWENTY-SIX THOUSAND SEVEN HUNDRED NINETY (P26,790.00) PESOS pursuant to the commissioners' valuation plus legal interest to be computed from the date of taking. This Decision is IMMEDIATELY EXECUTORY.

No costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Sixth Division, Honorable Crisolito Pascual, Chairman; Honorable Carlos L. Sundiam and Honorable Benjamin K. Gorospe, Members.

[2] 13th Judicial District, Branch XI, Government Center, Palo, Leyte, Judge Godofredo Quimsing, Presiding Judge.

[3] Record on Appeal, 117-118.

[4] Rollo, 9.

[5] Id., 13.

[6] Id., 16.

[7] Id., 11.

[8] Gregorio v. Court of Appeals, No. L-43511, July 28, 1976, 72 SCRA 120.

[9] Palomo Building Tenants Association, Inc. v. Intermediate Appellate Court, No. L-68043, October 31, 1984, 133 SCRA 168, citing Alday v. Camilon, No. L-60310, January 31, 1983, 120 SCRA 521.

[10] Siguenza v. C.A., No. L-44050, July 16, 1985, 137 SCRA 570.

[11] No. L-47544, January 28, 1980, 95 SCRA 616.

[12] Supra.

[13] G.R. No. 59603, April 29, 1987, 13, 14.

[14] Id., 12-13.

[15] Record on Appeal, 131.

[16] Record on Appeal, 72.

[17] Id.

[18] Supra.

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