

THE ROBERT DOLLAR COMPANY, ACTING THROUGH ITS LEGAL COUNSEL, RODOLFO D. DELA CRUZ, PETITIONER, VS. THE HON. JUAN C. TUVERA, AND HON. JOAQUIN T. VENUS, JR., PRESIDENTIAL & DEPUTY...

G.R. No. 58910. February 08, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

For resolution is an "Urgent Motion for Execution of Special Judgment" filed by the petitioner, praying as follows:

WHEREFORE, it is most respectfully prayed of this Honorable Supreme Court, that in view of all the foregoing premises and considerations, and foremost - to prevent grave injustice, undue advantage and prejudice against herein Petitioner, that this instant Urgent Motion with special prayers for the G.S.I.S. to hold in abeyance and/or in trust any and all payments for the fire razed Robert Dollar Building in behalf of herein Petitioner be favorably considered.

Petitioner further prays for such other reliefs and remedies equitable under the above premises.[1]

The motion was precipitated by an application by the Bureau of Customs with the Government Service Insurance System (GSIS) for insurance payment in the alleged sum of P2,079,784.00 arising from the fire that gutted the Robert Dollar building subject of the valuation ordered by O.P. Decisions Nos. 1483 and 2926 affirmed in our Decision promulgated on July 5, 1983 and entered on October 28, 1983.

The petitioner alleges that since O.P. Decision No. 2926 was rendered, the three-man valuation committee charged with determining the fair market value of the improvements (mainly, the building) as ordered in the said O.P. Decision "has never been constituted" and that "whatever insurable interest" the Bureau of Customs had over them "could serve at the least, as an indicia [sic] or basis for determining the fair market value" thereof.

On November 11, 1987, the GSIS submitted a manifestation informing the Court that it is "ready to release the check in the sum of P1,790,291.86 representing proceeds of the fire insurance claim" of the Bureau of Customs, and that "in deference to whatever resolution [the Court] may promulgate on the motion at bar," it will comply with our resolution.

On January 29, 1988, the Solicitor General filed his Comment informing the Court that pursuant to Commission on Audit (COA) Office Order No. 84-7994, dated February 24, 1984, a "Valuation Committee", composed of two representatives of the Commission on Audit, one representative of the Bureau of Customs, and one representative from the Robert Dollar Company as members, and one representative from the then Ministry of Finance as "observer", had been created to undertake the evaluation of the improvements in question. In its report, dated May 2, 1984, the "Valuation Committee" fixed the fair market value thereof at P210,000.00 as of March 30, 1967, the date the same were turned over to the Bureau of Customs.

On February 22, 1988, the petitioner filed a "Rejoinder [should be Reply] to Comment", objecting to the creation of the Valuation Committee on the ground principally that what O.P. Decision No. 2926 had called for was a three-man valuation committee and that the Audit Commission had no authority to re-constitute and/or reverse the said O.P. Decision and if it did, the petitioner was not given notice thereof, and secondly, that the sum determined as and for "fair market value" had been based merely on the assessed value as assessed by the City Assessor.

On July 20, 1988, the Solicitor General filed a Rejoinder sustaining the validity of the creation of the five-man Valuation Committee on the ground that it was a mere expansion of the three-man committee originally constituted, and that among its members was Atty. Conrado Ayuyao, representing the petitioner. Hence, so it is contended, it cannot be said that the petitioner was not duly notified of the proceedings. As to the objections interposed by the petitioner on the valuation itself, the Solicitor General avers that the sum of P 210,000.00 "is comparably identical" to the assessment of the petitioner's very auditor, which had set the same at \$53,715.50 and based on the exchange rate prevailing as of March, 1967 (the reference rate then was P3.9125 to \$1.00), the figure would have translated to P210,161.89.

We grant the "Urgent Motion for Special Judgment" but award the petitioner, as recommended by the Solicitor General, only the sum of P210,000.00 with legal interests thereon at the rate of six (6%) percent per annum reckoned from March 30, 1967 until fully paid. We do so for the reason primarily that it was the figure arrived at by the Valuation Committee, the body tasked precisely with such an undertaking. We cannot accept the amount "offered" by the petitioner (representing the Bureau of Customs' insurance claim) since this is not the sum determined by the Committee. If we do so, we would be supplanting the judgment of the latter.

We reject the petitioner's claims that the Valuation Committee was not the three-man committee O.P. Decision No. 2926 had created. We agree that the five-member Valuation Committee was a mere expanded body and that in any event, the addition of two more members would not have seriously undermined the interests of the petitioner.

The contention that the petitioner was given no notice of the proceedings before the Committee has no merit. The petitioner was represented therein by Atty. Conrado Ayuyao, and it cannot now say that it was deprived of due process.

WHEREFORE, the "Urgent Motion for Special Judgment" is GRANTED, and the petitioner is hereby AWARDED the sum of P210,000.00 with legal interests thereon at the rate of six (6%) percent reckoned from March 30, 1967. Such interests shall not earn further interests.

This Resolution is FINAL and the Court will entertain no motion for reconsideration.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Feliciano, J., I did not participate in the deliberation on this case.

[1] Rollo, 209.

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