

**MANILA ELECTRIC COMPANY, PETITIONER, VS. THE HONORABLE GREGORIO G. PINEDA, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH XXI, PASIG, METRO MANILA, TEOFILO ARAYON, SR...**

*G.R. No. 59791. February 13, 1992*

Ponente: MEDIALDEA, J.

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**MEDIALDEA, J.:**

This is a petition for review on certiorari on pure question of law seeking the nullification of the orders issued by the respondent Judge Gregorio G. Pineda, in his capacity as the presiding Judge of the Court of First Instance (now Regional Trial Court) of Rizal, Branch 21, Pasig, Metro Manila in Civil Case No. 20269, entitled "Manila Electric Company v. Teofilo Arayon, et al." The aforesaid orders are as follows: (1) the order dated December 4, 1981 granting the motion for payment of private respondents; (2) the order dated December 21, 1981 granting the private respondents' omnibus motion; and (3) the order dated February 9, 1982 adjudging in favor of private respondents the fair market value of their property at forty pesos (P40.00) per square meter for a total of P369,720.00 and denying the motions for contempt for being moot and academic and the motion for reconsideration of the orders dated December 4, 1981 and December 21, 1981 for lack of merit.

The antecedent facts giving rise to the controversy at bar are as follows:

Petitioner Manila Electric Company (MERALCO) is a domestic corporation duly organized and existing under the laws of the Philippines. Respondent Honorable Judge Gregorio G. Pineda is impleaded in his official capacity as the presiding judge of the Court of First Instance (now Regional Trial Court) of Rizal, Branch XXI, Pasig, Metro Manila. While private respondents Teofilo Arayon, Sr., Gil de Guzman, Lucito Santiago and Teresa Bautista are owners in fee simple of the expropriated property situated at Malaya, Pililla, Rizal.

On October 29, 1974, a complaint for eminent domain was filed by petitioner MERALCO against forty-two (42) defendants with the Court of First Instance (now Regional Trial Court) of Rizal, Branch XXII, Pasig, Metro Manila.

The complaint alleges that for the purpose of constructing a 230 KV Transmission line from Barrio Malaya to Tower No. 220 at Pililla, Rizal, petitioner needs portions of the land of the private respondents consisting of an aggregate area of 237,321 square meters. Despite petitioner's offers to pay compensation and attempts to negotiate with the respondents, the parties failed to reach an agreement.

Private respondents question in their motion to dismiss dated December 27, 1974 the petitioner's legal existence and the area sought to be expropriated as too excessive.

On January 7, 1975, respondents Gil de Guzman and Teresa Bautista filed a motion for contempt of court alleging, among other things that petitioner's corporate existence had expired in 1969 and therefore it no longer exists under Philippine Laws.

But despite the opposition of the private respondents, the court issued an Order dated January 13, 1975 authorizing the petitioner to take or enter upon the possession of the property sought to be expropriated.

On July 13, 1976, private respondents filed a motion for withdrawal of deposit claiming that they are entitled to be paid at forty pesos (P40.00) per square meter or an approximate sum of P272,000.00 and prayed that they be allowed to withdraw the sum of P71,771.50 from petitioner's deposit-account with the Philippine National Bank, Pasig Branch. However, respondents' motion was denied in an order dated September 3, 1976.

In the intervening period, Branch XXII became vacant when the presiding Judge Nelly Valdellon-Solis retired, so respondent Judge Pineda acted on the motions filed with Branch XXII.

Pursuant to a government policy, the petitioners on October 30, 1979 sold to the National Power Corporation (Napocor) the power plants and transmission lines, including the transmission lines traversing private respondents' property.

On February 11, 1980, respondent court issued an Order appointing the members of the Board of Commissioners to make an appraisal of the properties.

On June 5, 1980, petitioner filed a motion to dismiss the complaint on the ground that it has lost all its interests over the transmission lines and properties under expropriation because of their sale to the Napocor. In view of this motion, the work of the Commissioners was suspended.

On June 9, 1981, private respondents filed another motion for payment. But despite the opposition of the petitioner, the respondent court issued the first of the questioned Orders dated December 4, 1981 granting the motion for payment of private respondents, to wit:

"As prayed for by defendants Teofilo Arayon, Lucito Santiago, Teresa Bautista and Gil de Guzman, thru counsel Gil de Guzman, in their Motion For Payment, for reasons therein stated, this Court hereby orders the plaintiff to pay the movants the amount of P20,400.00 for the expropriated area of 6,800 square meters, at P3.00 per square meter without prejudice to the just compensation that may be proved in the final adjudication of this case.

"The aforesaid sum of P20,400.00 having been deposited by plaintiff in the Philippine National Bank (Pasig Branch) under Savings Account No. 9204, let the Deputy Sheriff of this Branch Mr. Sofronio Villarin withdraw said amount in the names of Teofilo Arayon, Lucito Santiago, Teresa Bautista and Gil de Guzman, the said amount to be delivered to the defendants' counsel Atty. Gil de Guzman who shall sign for the receipt thereof.

"SO ORDERED." (Rollo, p. 108)

On December 15, 1981, private respondents filed an Omnibus Motion praying that they be allowed to withdraw an additional sum of P90,125.50 from petitioner's deposit-account with the Philippine National Bank.

By order dated December 21, 1981, the respondent court granted the Omnibus Motion hereunder quoted as follows:

"Acting on the Omnibus Motion dated December 15, 1981 filed by Atty. Gil de Guzman, counsel for Teofilo Arayon, Sr., Lucito Santiago, Teresita Bautista and for himself, and it appearing that there is deposited in the bank in trust for them the amount of P90,125.50 to guarantee just compensation of P272,000.00, thereby leaving a balance of P161,475.00 still payable to them, the same is hereby GRANTED.

"Mr. Nazario Nuevo and Marianita Burog, respectively the Manager and Cashier, Philippine National Bank, Pasig Branch, Pasig, Metro Manila are hereby ordered to allow Sheriff Sofronio Villarin to withdraw and

collect from the bank the amount of P90,125.50 under Savings Account No. 9204 and to deliver the same to Atty. Gil de Guzman upon proper receipt, pending final determination of just compensation.

"SO ORDERED." (Rollo, p. 120)

Private respondents filed another motion dated January 8, 1982 praying that petitioner be ordered to pay the sum of P169,200.00.

On January 12, 1982 petitioner filed a motion for reconsideration of the Orders dated December 4, 1981 and December 21, 1981 and to declare private respondents in contempt of court for forging or causing to be forged the receiving stamp of petitioner's counsel and falsifying or causing to be falsified the signature of its receiving clerk in their Omnibus Motion.

In response to private respondents' motion for payment dated January 8, 1982, petitioner filed an opposition alleging that private respondents are not entitled to payment of just compensation at this stage of the proceeding because there is still no appraisal and valuation of the property.

On February 9, 1982, the respondent court denied the petitioner's motion for reconsideration and motion for contempt, the dispositive portion of which is hereunder quoted as follows:

"Viewed in the light of the foregoing, this Court hereby adjudges in favor of defendants Teofilo Arayon, Sr., Lucito Santiago, Teresita Bautista and Atty. Gil de Guzman the fair market value of their property taken by MERALCO at P40.00 per square meter for a total of P389,720.00, this amount to bear legal interest from February 24, 1975 until fully paid plus consequential damages in terms of attorney's fees in the sum of P10,000.00, all these sums to be paid by MERALCO to said defendants with costs of suit, minus the amount of P102,800.00 already withdrawn by defendants.

"For being moot and academic, the motions for contempt are DENIED; for lack of merit, the motion for reconsideration of the orders of December 4, 1981 and December 21, 1981 is also DENIED.

"SO ORDERED." (Rollo, p. 211-212)

Furthermore, the respondent court stressed in said order that "at this stage, the Court starts to appoint commissioners to determine just compensation or dispenses with them and adopts the testimony of a credible real estate broker, or the judge himself would exercise his right to formulate an opinion of his own as to the value of the land in question. Nevertheless, if he formulates such an opinion, he must base it upon competent evidence." (Rollo, p. 211)

Hence, this petition.

Subsequently, the respondent court issued an Order dated March 22, 1982 granting the private respondents' motion for execution pending appeal, thus requiring petitioner to deposit P52,600,000.00 representing the consideration paid by Napocor for the property it bought from petitioner which includes the subject matter of this case, computed at P200.55 per square meter and to render an accounting.

On March 26, 1982, petitioner filed a petition for preliminary injunction with this Court seeking to enjoin respondent judge and all persons acting under him from enforcing the Order dated March 22, 1982.

This Court issued a temporary restraining order addressed to respondent judge. A motion to lift the restraining order was filed by the respondents. Despite a series of oppositions and motions to lift the said order, this Court reiterated its stand and noted that the restraining order is still effective.

The petitioner strongly maintains that the respondent court's act of determining and ordering the payment of just

compensation to private respondents without formal presentation of evidence by the parties on the reasonable value of the property constitutes a flagrant violation of petitioner's constitutional right to due process. It stressed that respondent court ignored the procedure laid down by the law in determining just compensation because it formulated an opinion of its own as to the value of the land in question without allowing the Board of Commissioners to hold hearings for the reception of evidence.

On the other hand, private respondents controvert the position of the petitioner and contend that the petitioner was not deprived of due process. They agreed with respondent court's ruling dispensing the need for the appointment of a Board of Commissioners to determine just compensation, thus concluding that the respondent court did not err in determining just compensation.

Furthermore, petitioner argues that the respondent judge gravely abused his discretion in granting the motion for execution pending appeal and consequently denying the petitioner's motion to dismiss. Respondent judge should have ordered that Napocor be impleaded in substitution of petitioner or could have at least impleaded both the Napocor and the petitioner as party plaintiffs.

The controversy boils down to the main issue of whether or not the respondent court can dispense with the assistance of a Board of Commissioners in an expropriation proceeding and determine for itself the just compensation.

The applicable laws in the case at bar are Sections 5 and 8 of Rule 67 of the Revised Rules of Court. The said sections particularly deal with the ascertainment of compensation and the court's action upon commissioners' report, to wit:

"Section 5. Upon the entry of the order of condemnation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify the time within which their report is to be filed with the court.

"x x x

"Section 8. Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may recommit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners, or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of condemnation, and to the defendant just compensation for the property so taken."

We already emphasized in the case of *Municipality of Biñan v. Hon. Jose Mar Garcia* (G.R. No. 69260, December 22, 1989, 180 SCRA 576, 583-584) the procedure for eminent domain, to wit:

"There are two (2) stages in every action of expropriation. The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, 'of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint.' An order of dismissal, if this be ordained, would be a final one, of course, since it finally disposes of the action and leaves nothing more to be done by the Court on the merits. So, too, would an order of condemnation be a final one, for thereafter, as the Rules expressly state, in the

proceedings before the Trial Court, 'no objection to the exercise of the right of condemnation (or the propriety thereof) shall be filed or heard.'

"The second phase of the eminent domain action is concerned with the determination by the Court of 'the just compensation for the property sought to be taken.' This is done by the Court with the assistance of not more than three (3) commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the commissioners would be final, too. It would finally dispose of the second stage of the suit, and leave nothing more to be done by the Court regarding the issue. Obviously, one or another of the parties may believe the order to be erroneous in its appreciation of the evidence or findings of fact or otherwise. Obviously, too, such a dissatisfied party may seek reversal of the order by taking an appeal therefrom."

Respondent judge, in the case at bar, arrived at the valuation of P40.00 per square meter on a property declared for real estate tax purposes at P2.50 per hectare on the basis of a "Joint Venture Agreement on Subdivision and Housing Projects" executed by A.B.A. Homes and private respondents on June 1, 1972. This agreement was merely attached to the motion to withdraw from petitioner's deposit. Respondent judge arrived at the amount of just compensation on its own, without the proper reception of evidence before the Board of Commissioners. Private respondents as landowners have not proved by competent evidence the value of their respective properties at a proper hearing. Likewise, petitioner has not been given the opportunity to rebut any evidence that would have been presented by private respondents. In an expropriation case such as this one where the principal issue is the determination of just compensation, a trial before the Commissioners is indispensable to allow the parties to present evidence on the issue of just compensation. Contrary to the submission of private respondents, the appointment of at least three (3) competent persons as commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. While it is true that the findings of commissioners may be disregarded and the court may substitute its own estimate of the value, the latter may only do so for valid reasons, i.e., where the Commissioners have applied illegal principles to the evidence submitted to them or where they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive (*Manila Railroad Company v. Velasquez*, 32 Phil. 286). Thus, trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all. Moreover, in such instances, where the report of the commissioners may be disregarded, the trial court may make its own estimate of value from competent evidence that may be gathered from the record. The aforesaid joint venture agreement relied upon by the respondent judge, in the absence of any other proof of valuation of said properties, is incompetent to determine just compensation.

Prior to the determination of just compensation, the property owners may rightfully demand to withdraw from the deposit made by the condemnor in eminent domain proceedings. Upon an award of a smaller amount by the court, the property owners are subject to a judgment for the excess or upon the award of a larger sum, they are entitled to a judgment for the amount awarded by the court. Thus, when the respondent court granted in the Orders dated December 4, 1981 and December 21, 1981 the motions of private respondents for withdrawal of certain sums from the deposit of petitioner, without prejudice to the just compensation that may be proved in the final adjudication of the case, it committed no error.

Records, specifically Meralco's deed of sale dated October 30, 1979, in favor of Napocor show that the latter agreed to purchase the parcels of land already acquired by Meralco, the rights, interests and easements over those parcels of land which are the subject of the expropriation proceedings under Civil Case No. 20269, (Court of First Instance of Rizal, Branch XXII), as well as those parcels of land occupied by Meralco by virtue of grant of easements of right-of-way (see *Rollo*, pp. 341-342). Thus, Meralco had already ceded and in fact lost all its rights and interests over the aforesaid parcels of land in favor of Napocor. In addition, the same contract reveals that the Napocor was previously advised and actually has knowledge of the pending litigation and proceedings against

Meralco. (see Rollo, pp. 342-343) Hence, We find the contention of the petitioner tenable. It is therefore proper for the lower court to either implead the Napocor in substitution of the petitioner or at the very least implead the former as party plaintiff.

All premises considered, this Court is convinced that the respondent judge's act of determining and ordering the payment of just compensation without the assistance of a Board of Commissioners is a flagrant violation of petitioner's constitutional right to due process and is a gross violation of the mandated rule established by the Revised Rules of Court.

ACCORDINGLY, the petition is GRANTED and the order dated February 9, 1982 issued by the respondent judge insofar as it finally determined the amount of just compensation is nullified. This case is hereby ordered remanded to the lower court for trial with the assistance of a Board of Commissioners. Further, the National Power Corporation is impleaded as party plaintiff therein.

**SO ORDERED.**

Narvasa, (Chairman), Cruz, and Grino-Aquino, JJ., concur.

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