

**ELIGIO C. DAJAO AND LUZMINDA DIONISIO DAJAO, PETITIONERS,
VS. COURT OF APPEALS, MUNICIPAL GOVERNMENT OF TUDELA AND
BARANGAY GOVERNMENT OF TIGDOC, REPRESENTED BY THE
MUNICIPAL MA...**

G.R. No. 62095. December 26, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about an expropriation by the municipality of Tudela, Misamis Occidental of 35,400 square meters of land belonging to the Dajao spouses. The land, which used to be forestal land, is located near the national road.

Sometime in 1969 the officials of Barrio Tigdoc, Tudela constructed a Marcos-type school in that land for the use of pupils in the primary course (See *Ragol vs. Court of Appeals*, L-36561). The landowner, Eligio C. Dajao, prevented the occupation of the school from the last week of December, 1975 to the first week of January, 1976. The municipal government of Tudela had to file the instant eminent domain proceeding on January 24, 1977.

The Court of First Instance in an order dated February 14, 1977 allowed the municipal government to take possession of the land after it had deposited P2,120, the assessed value of the land. It was allegedly needed for school ground, pilot rice culture and pilot fishpond culture.

After hearing, the trial court ordered the municipal government to pay the Dajao spouses P3,178 for the condemnation of the land, allowed the spouses to withdraw the deposit of P2,120 and required them to execute the necessary deed of conveyance. The spouses appealed to the Appellate Court which affirmed the trial court's decision. The Dajao spouses appealed to this Court.

They contend that the just compensation for the expropriation of the land should five pesos per square meter or P177,000 instead of P5,298 the market value indicated in Tax Declaration No. 45366.

We hold that the contention is untenable. The trial court did not err in holding that the just compensation should be P5,298, which was the market value of the land in 1977, when the expropriation case was filed, as shown in Tax Declaration No. 45366 (Exh. E).

The market value of the land was increased to P11,626 but it was effective in 1978 (Exh. 2 and 2-C) on the assumption that the land was residential. At that time, the assessed value in the sum of P2,120 had already been deposited in court. The lower court said that Dajao acted in bad faith in securing the increased assessment because the land was agricultural. It noted that the area "is devoid of residential houses".

The Real Property Tax Code, Presidential Decree No. 464, as amended by Presidential Decree No. 794, reads:

"SEC. 92. Basis for payment of just compensation in expropriation proceedings. - In determining just compensation when private property is acquired by the government for public use, the same shall not exceed the market value declared by the owner or administra-tor or anyone having legal interest in the property, or

such market value as determined by the assessor, whichever is lower.[*]

The trial court simply applied to this case section 92 which allows the owner to make his own valuation of his property and which is designed to stop the "baneful and one-sided practice abetted by the collusive acquiescence of government" employees of underdeclaring properties for the purpose of taxation but "ballooning the price thereof when the same properties are to be acquired for public purposes" (National Housing Authority vs. Reyes, L-49439, June 29, 1983, 123 SCRA 245, 251).

With respect to the interest, the respondent municipality is liable to pay interest at the legal rate from the time it took possession of the land up to the time the sum of P3,178 is paid (Republic vs. Yaptinchay, 108 Phil. 1046, 1053; Republic vs. Lara, 96 Phil. 170). The interest on the deposit of P2,120 in the Philippine National Bank should be paid to the Dajao spouses.

As the land involved herein is unregistered land, the trial court did not err in requiring the Dajao spouses to execute the proper deed of conveyance. As to registered land, see Presidential Decree No. 1529.

WHEREFORE, the judgment of the Court of Appeals is affirmed. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar, J., (Chairman), reserves his vote.

[*] Section 92 is substantially the same as Presidential Decree No. 1533 (effective June 11, 1978) which provides:

"SECTION 1. In determining just compensation for private property acquired through eminent domain proceedings, the compensation to be paid shall not exceed the value declared by the owner or administrator or anyone having legal interest in the property or determined by the assessor, pursuant to the Real Property Tax Code, whichever value is lower, prior to the recommendation or decision of the appropriate Government office to acquire the property."

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