

MARGOT B. DE LOS REYES, BLANCA B. ACUÑA, ARACELI B. DE ARRASTIA, ROSALIA B. DE VEYRA, VICENTE BERENGUER, SIMPLICIA VDA. DE BERENGUER AND JOSE BERENGUER, JR., PETITIONERS, VS. JU...

G.R. No. 62878. May 30, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

In this 1976 expropriation proceeding, the Province of Pampanga contends that the fair market value of the petitioners' two parcels of land with a total area of 46,686 square meters, located at San Agustin Norte, Arayat, Pampanga, which it has expropriated, is P62,070. It deposited in the San Fernando Branch of the Philippine National Bank P19,170 as the assessed value thereof, which amount, together with the accrued interest thereon, was withdrawn by the petitioners pursuant to the order of respondent judge dated September 8, 1982.

Judge Ignacio Capulong in his decision declared that the Province of Pampanga should pay the petitioners as just compensation seven pesos a square meter (instead of P62,070). From that decision, the Province appealed to the Court of Appeals.

At the same time, the petitioners filed a motion for immediate execution pending appeal which Judge Capulong denied. That denial order is being assailed in the instant certiorari case.

The Province of Pampanga in its answer of February 23, 1983 to the herein petition alleged that "despite the pendency of the appeal, it is willing to pay the petitioners up to the extent of P62,070, minus, of course, its previous payment of P27,505.72" (P19,170 plus interest of P8,335.72).

The petitioners argue that the payment should be in the sum of P42,900 since the Province is liable for interest in the sum of P8,335.72 (Republic vs. Lara, 96 Phil. 170).

The Province counters that interest was not awarded by the trial court in its decision of June 7, 1982 in Civil Case No. 4458 which was not appealed by the petitioners.

Considering that there is no controversy as to the sum of P34,564.28, the Province of Pampanga is directed to pay immediately the said sum to the petitioners or their counsel, without prejudice to the subsequent determination of the Province's liability for interest. Whether or not the sum of P8,335.72 should be treated as interest or should be included in the principal will be adjudicated in the main case pending in the Intermediate Appellate Court.

The Court has reconsidered its resolution of January 26, 1983, giving due course to the petition. The petitioners may refile their motion for execution pending appeal in the main case pending in the Intermediate Appellate Court should the decision in that case be delayed.

It may be stated that execution pending appeal may be granted as long as the movant files a good and sufficient surety bond (2 Moran's Comments on the Rules of Court, 1970 Ed., p. 264).

WHEREFORE, the Province of Pampanga should make the above payment in the sum of P34,564.28 without prejudice to the petitioners renewing their motion for execution pending appeal in the Intermediate Appellate Court.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.
De Castro, J., in the result.

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