

**THE MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLANT, VS. THE ATTORNEY-GENERAL ET AL., DEFENDANTS. MAURO PRIETO, APPELLANT.***G.R. No. 6891. March 08, 1912*

Ponente: CARSON, J.

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This was an action brought by the plaintiff, The Manila Railroad Company, in the Court of First Instance of the Province of Laguna for the purpose of condemning certain parcels of land which the plaintiff company desired to use in the extension of its railway line from Calamba to Santa Cruz, a distance of some 22 miles. The petition sets out that among other concessions granted to the plaintiff company by Act No. 1510 of the Philippine Commission is the right to construct this branch line from Calamba to Santa Cruz.

At the time of the institution of this action there were fifty-two parties defendant, but prior to the rendering of the judgment herein the claims of many of the defendants were settled, and since the rendering of the judgment all other claims, with the exception of those of the defendant Mauro Prieto, have been satisfactorily adjusted, so that of the original fifty-two defendants Prieto is the only remaining party defendant to this appeal.

Both parties asked for the appointment of commissioners to value the land and the improvements which were the subject of the condemnation proceedings; and the trial court, in accordance with the provisions of section 243 of Act No. 190 of the Philippine Commission, appointed as commissioners W. A. McVean, Julian Piñon, and Hermenegildo Aquino. These commissioners accepted their appointments as such and proceeded to the discharge of their duties. They held sessions in the village of Los Banos, made personal inspections of the lands which were the subject of the condemnation proceedings, heard both parties as to their respective claims, examined a large number of witnesses, and in due time rendered to the court a full and complete report of all their proceedings together with the conclusions at which they had arrived. With some slight modifications the majority report of the commissioners was approved by the court and formed the basis of the judgment rendered herein. Both parties are now before this court as appellants from that judgment.

The valuations fixed for the land involved in this action form no part of the issues on this appeal. The only question brought up for consideration here is the value of certain mejoras (improvements) which are alleged to have been either destroyed or used by the agents and employees of the plaintiff company. The record shows, and it is not questioned, that the defendant was a tenant of a large tract of land belonging to the Insular Government and known as the Hacienda de los Frailes, and that as such tenant and by virtue of a waiver by the Government of its claim to compensation in his favor, he is entitled to compensation for the value of the mejoras (improvements) on the land held by him as tenant and condemned in favor of the plaintiff company.

The mejoras (improvements) on the tract of land in question consisted largely of plants and trees, such as naranjitos, abacas, platanos, and trees of many other varieties. The damages and injuries complained of were classified under four different heads, as follows:

1. Damages done by the surveyors and engineers of the plaintiff .....  
P665.00
2. Improvements destroyed in making the embankments and fills of the  
roadbed..... 17,828.00
3. Improvements destroyed by Are alleged to have been caused by agents and employees of  
plaintiff..... 1,950.00
4. Improvements destroyed along the side of the roadbed .....  
3,283.00

In addition to the above items there was a claim for P400, for money which defendant claimed he paid out in clearing and preparing for cultivation certain tracts of the land which were thereafter occupied and appropriated by the plaintiff company. The total amount of damages claimed by the defendant was P24,126.50. The majority report of the commissioners fixed the value of the improvements, and awarded the amount of damages which the defendant should receive at P19,478. This amount was reduced by the lower court to P16,778.

The plaintiff's contention is that the amount of damages awarded is grossly excessive and unjust and that the amount awarded in the report of the commissioners should have been reduced by at least P17,000. The defendant urges that the proof showed the damages to have been greater than those allowed by the commissioners and the court, and that the award of damage should conform to the proof.

The only ground upon which the plaintiff company bases its contention that the valuations are excessive is the minority report of one of the commissioners. The values assigned to some of the improvements may be excessive but we are not prepared to say that such is the case. Certainly there is no evidence in the record which would justify us in holding these values to be grossly excessive. The commissioners in their report go into rather minute detail as to the reasons for the conclusions reached and the valuations fixed for the various items included therein. There was sufficient evidence before the commissioners to support the valuations fixed by them except only those later modified by the court below. The trial court was of opinion that the price of P2 each which was fixed for the orange trees (naranjitos) was excessive, and this was reduced to P1.50 for each tree; this on the ground that the evidence discloses that these trees were comparatively young at the time of the expropriation, and that the value fixed by the majority report of the commissioners was that of full-grown or nearly full-grown trees. We are of opinion that this reduction was just and reasonable. Aside from the evidence taken into consideration by the trial judge we find no evidence in the record in support of the contention of the railroad plaintiff that the valuations fixed in the majority report of the commissioners and by the trial court are grossly excessive, and plaintiff company having wholly failed to offer evidence in support of its allegations in this regard when the opportunity so to do was provided in accordance with law, it has no standing in this court to demand a new trial based on its unsupported allegations of grossly excessive valuation of the property by the commissioners and the court below. (Philippine Railway Co. vs. Solon, 13 Phil. Rep., 34.)

The item of damages amounting to P1,950, which relates to the destruction of improvements on lands adjoining the condemned lands and which is alleged to have been caused by fire, was not, in our opinion, a proper item for the consideration of the commissioners. Section 244 of Act No. 190, which relates to the duties of the commissioners in condemnation proceedings, provides among other things as follows: "The commissioners shall assess the value of the property taken and used \* \* \*." The other provisions of this article relate to the question of consequential damages and benefits. The land on which the mejoras (improvements) alleged to have been destroyed by fire were located, was not property taken and used by the plaintiff company for the construction of its railway line. If the plaintiff is liable for this item of damages such liability cannot be enforced in these

proceedings. It was error on the part of the trial court to take this item of damage into consideration in fixing its judgment. The trial court, however, reduced the amount of damage caused by the fire from P1,950 to P1,500 since there was included in this item 900 orange trees (naranjitos) and the price allowed for these trees was P1.50 for each tree instead of P2.

For the reasons already stated we think that no part of the damages which are alleged to have resulted from the negligent or willful acts of the agents of the company in setting fire to the mejoras (improvements) on lands adjoining the lands actually condemned should have been considered or allowed in these proceedings, and the judgment of the lower court awarding P16,778 as the amount of damages to be paid to the defendant should therefore be reduced by P1,500, this latter sum being the amount of these damages which was included in the judgment. Modified by substituting damages to the amount of P15,278 instead of P16,778, as allowed by the court below, the judgment entered below is affirmed without costs to either party in this instance.

Torres, Mapa, Johnson, Moreland, and Trent, JJ., concur.

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