

ELIGIO LEYVA, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 70959. October 26, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

These consolidated cases are petitions for review on certiorari of the decision** dated October 17, 1984 of the then Intermediate Appellate Court in A.C.-G.R. CV No. 61875 affirming with modification the decision of the Court of First Instance of South Cotabato, Branch I in an action for eminent domain. The dispositive portion of the decision under review reads:

"WHEREFORE, with the modification that the just compensation for Lots Nos. A-1 and C-1 is P20.00 per square meter and for Lot No. B-1, P30.00 per square meter, which plaintiff should pay to defendant, the decision appealed from, is AFFIRMED in all other aspects without pronouncement as to costs.

"SO ORDERED." [1]

Petitioner in G.R. No. 70959 Eligio Leyva is the owner of three [3] contiguous parcels of land situated in Nakar, General Santos City, known as Lot A with an area of 32,639 square meters, Lot B comprising 11,710 square meters and Lot C consisting of 10,200 square meters.

On June 29, 1970, Proclamation No. 714 ordaining the development and improvement of the Makar Wharf in General Santos City was issued. Pursuant thereto, the Republic of the Philippines [Ministry of Public Highways] offered to buy from petitioner Leyva portions of his land as follows: from Lot A, 10,178 square meters to be separated and segregated as Lot A-1; from Lot B, 1,860 square meters to be known as Lot B-1; and from Lot C, 621 square meters to be called Lot C-1.

When the parties failed to agree on the price, a complaint for eminent domain was instituted on August 12, 1975 by the Republic of the Philippines against petitioner Leyva before the CFI of South Cotabato.

On September 30, 1975, Leyva filed his objections and defenses to the complaint, alleging inter alia that Presidential Decree Nos. 42 and 76 "or any other decree, general order or directive, of similar or identical import" are unconstitutional for "they arbitrarily and without due process of law fix the compensation to which owners of the property affected are entitled, and that the power to determine just compensation is essentially judicial, rather than executive or legislative x x x". [2] With leave of court, Leyva, later amended his objections and defenses to include the allegation that a newly-constructed four-door apartment costing P30,000.00 per door stood in the area sought to be expropriated.

On March 5, 1976, after the amount of P56,189.93 provisionally fixed by the trial court had been deposited with the Philippine National Bank by the Republic, a writ of possession was issued in favor of the latter.

On April 20, 1976, the lower court issued an order for the appointment of commissioners to determine the just compensation for the property. The Republic moved for a reconsideration on the grounds that [1] the Presidential

Decrees had fixed the basis of the payment of just compensation at the market value per sworn statement made by the owner or the assessment made by the Assessor, whichever is lower; and that [2] the provisions of the Rules of Court regarding the appointment of commissioners are deemed repealed or modified by said presidential decrees.

On February 2, 1977, the trial court rendered a decision condemning the properties sought to be expropriated in favor of the Republic of the Philippines. To arrive at the just compensation to be paid by the government, the lower court applied Sec. 1, par. 3 of Presidential Decree No. 76,[3] Sec. 92 of P.D. No. 464[4] and Sec. 92[5] of P.D. No. 794. These provisions read:

Sec. 1, par. 3 of P.D. No. 76:

"For purposes of just compensation in cases of private property acquired by the government for public use, the basis shall be the current and fair market value declared by the owner or administrator, or such market value was determined by the assessor, whichever is lower."

Sec. 92 of Presidential Decree No. 464:

"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 basis shall be the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower."

Sec. 92 of Presidential Decree No. 794:

"Sec. 92. Basis for payment of just compensation in expropriation proceedings.- In determining such 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 administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower."

The lower court then considered the sworn statements made by the daughter of Leyva and by Leyva himself as well as the assessments made by the City Assessor and the Assistant City Assessor, as follows:

A. Sworn statement No. 775 dated June 8, 1973 by Chit Leyva Cornelio for and in behalf of her father, Eligio Leyva, stated the current and fair market value of the properties in question, to read:

Lot A - P1,958,340.00 or P60.00 per square meter

Lot B - P 702,600.00 or P60.00 per square meter

Lot C - P612,540.00 or P60.00 per square meter.[6]

B. Sworn statement No. 4738 dated September 29, 1973 by Eligio Leyva declaring the current and fair market value of said parcels of land to be:

Lot A - P1,180.00 or P0.036 per square meter

Lot C - P 380.00 or P0.037 per square meter.[7]

C. Assessment made by the City Assessor in Tax Declaration No. 3436 wherein Lot A was assessed as an industrial land with a market value of P652,780.00 or P20.00 per square meter and in Tax Declaration No. 3460 wherein Lot B was assessed as a commercial lot with a market value of P361,200.00 or P30.00 per square meter. As per assessment made by the Assistant City Assessor in Tax Declaration No. 3461, Lot C was assessed as an industrial land with a market value of P204,180.00 or P20.00 per square meter.[8]

Using the sworn statement of Eligio Leyva which had the lowest current and fair market value as compared with those stated in the sworn statement submitted by his daughter and those contained in the assessments made by the

City Assessor and Assistant City Assessor, the lower court fixed the just compensation for the properties in the following manner:

"Lot A-1 containing an area of 10,178 square meters at P0.036 per square meter; Lot B-1 containing an area of 1,860 square meters at P30.00 per square meter and Lot C-1 containing an area of 621 square meters at P0.037 per square meter. Furthermore, the Republic of the Philippines was ordered to pay Eligio T. Leyva the sum of P96,000.00 as just compensation for the apartment built on Lots C and C-1." [9]

The lower court further ruled that the provisions for appointment of commissioners in the Rules of Court which are inconsistent with the Presidential Decrees had been repealed.

On appeal, the Intermediate Appellate Court affirmed the lower court's decision with the modification that the just compensation for Lot A-1 be increased from P0.036 to P20.00 per square meter; Lot C-1 from P0.037 to P20.00 per square meter and for Lot B-1 maintained at P30.00 per square meter. The respondent court reasoned that the price of P0.036 per square meter is shocking to the conscience and is certainly not the price at which a willing seller would sell without being unduly pressured.

Both Eligio Leyva and the Republic of the Philippines filed their petitions for review on certiorari before this Court. These two (2) cases were considered consolidated as per resolution dated October 28, 1985.

Leyva's petition is based on the following grounds: [1] P.D. 76,464 and 794 as construed by respondent court would become unconstitutional and void for the determination of just compensation which is a judicial function has become an executive function; [2] P.D. 76 and 794 did not repeal the Rules of Court as to the appointment of commissioners since "whichever is lower" only provides the "basic" for ascertaining, through the commissioners, the true current and fair market value; and [3] P.D. 794 which states that the payment of just compensation "shall not exceed" the market value declared by the owner and such market value was determined by the assessor, whichever is lower, should not be given a retroactive effect.

The Solicitor General, on the other hand, argues that [1] P.D. 76 and P.D. 464 fixed the just compensation and did not merely establish a starting minimum for determining just compensation; and that [2] P.D. 76 and P.D. 464 repealed Sec. 5, Rule 67 of the Rules of Court relative to the appointment of commissioners.

With the promulgation on April 29, 1987 of the decision in *Export Processing Zone Authority vs. Hon. Ceferino C. Dulay, etc. et al.*, G.R. No. 59603, this Court has laid to rest the very same issues presented in the instant petitions.

In said case, We declared as unconstitutional and void the provisions of the Decrees on just compensation, i.e., Sec. 1, par. 3, P.D. 76; Sec. 92 of P.D. No. 464; Sec. 92 of P.D. 794 and Sec. 1 of P.D. 1533. We stated that the manner of determining just compensation under these decrees constituted "impermissible encroachment on judicial prerogatives."

Moreover, the Court likewise ruled that Presidential Decree No. 1533[10] is unconstitutional for it "eliminates the court's discretion to appoint commissioners pursuant to Rule 67 of the Rules of Court." With this declaration, there is no repeal of Rule 67 of the Rules of Court to speak of. The determination of just compensation is still vested in the judiciary.

IN VIEW OF THE FOREGOING, the petitions are hereby GRANTED. Let the records be remanded to the trial court of origin for determination of just compensation in accordance with Rule 67 of the Rules of Court.

SO ORDERED.

Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

Bidin*, J., no part.

** Concurred by Justices Ramon G. Gaviola, Jr., Porfirio V. Sison and Marcelino R. Veloso, with Justice Ma. Rosario Quetulio-Losa, dissenting

[1] p. 42, Rollo

[2] p. 23, Rollo

[3] Requiring all Persons, Natural or Juridical, Owning or Administering Real Property, Including the Improvements Thereon, to File Sworn Statement of the True Value of Such Property. [December 6, 1972]

[4] Enacting a Real Property Tax Code, (May 20, 1974)

[5] Amending Presidential Decree No. 464 Regarding the Basis for Payment of Just Compensation in Expropriation Proceedings (September 4, 1975)

[6] p. 33, Rollo

[7] p. 34, Rollo

[8] The assessment made by the City Assessor on Lot A was appealed by Eligio Leyva on July 21, 1974 to the Board of Tax Assessment Appeal stating that the "valuation made by the City Assessor in our honest and considered opinion is highly excessive, humanly oppressive and obviously unjust." This appeal was dismissed. [pp. 34-35, Rollo]

[9] p. 95, Rollo

[10] Sec. 1 of P.D. 1533 reads:

"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 is lower, prior to the recommendation or decision of the appropriate Government office to acquire the property."

* Justice Abdulwahid A. Bidin penned the decision in A.C.-G.R. CV No. 61875

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