

MUNICIPALITY OF TALISAY, PETITIONER, VS. SPOUSES HILARIO RAMIREZ AND ERLINDA RAMIREZ AND SPOUSES WILLIAM ABARQUEZ AND JOSEPHINE ABARQUEZ, RESPONDENTS.

G.R. No. 77071. March 22, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

This case has, to use a tired phrase, been overtaken by events. The petition has been de-fanged, so to speak, and must now be retired.

The facts are simple.

On 13 November 1985, the Municipality of Talisay, in Cebu, filed a complaint for the expropriation of two lots belonging to the private respondents. On 25 November 1985, Judge Valeriano P. Tomol, Jr. of the Regional Trial Court of Cebu denied the defendants' motion to dismiss, after hearing, and issued a writ of possession in favor of the plaintiff. On 21 April 1986, the court ordered the parties to designate three commissioners each to assist it in fixing the just compensation for the condemned properties. Subsequently, the plaintiff not having complied, the respondent judge issued an order dated 15 August 1986 dismissing the complaint pursuant to Rule 17, Section 3, of the Rules of Court. In a motion for reconsideration filed on 12 September 1986, the plaintiff, while maintaining that the order of dismissal was invalid and praying that it be recalled, nevertheless submitted the names of its three recommendees. The motion was denied on 3 October 1986 on the ground that the new administration of the plaintiff had not "passed a resolution signifying its adoption of the expropriation sought in this case," although the order was amended "by making the dismissal as being without prejudice." A motion for clarification/reconsideration filed by the defendants on 21 October 1986 was denied by the respondent court on 3 December 1986, but the plaintiff, still not satisfied, then came to this court in a petition for certiorari.

On 2 December 1987, this Court gave due course to the petition and required the parties to submit simultaneous memoranda. The private respondents complied on 11 January 1988 but the petitioner has not done so to date. On 30 May 1988, the private respondents filed an urgent manifestation praying for the dismissal of the petition on the ground that the new government of the Municipality of Talisay was not pursuing the act taken by its predecessors, besides the fact that the just compensation for the condemned properties could no longer be fixed in accordance with the several presidential decrees invoked by the petitioner. To ascertain the stand of the present Sangguniang Bayan of Talisay, the Court required it in a resolution dated 15 January 1990 to manifest its position regarding the pending expropriation case. In response, the said legislative body sent a copy of its Resolution No. 90-10, adopted on 25 January 1990, manifesting to the Court the intention of the government of the Municipality of Talisay to continue with the expropriation of the subject lots.

Dispensing with the memorandum which the petitioner has failed to file, the Court now proceeds to examine, in the light of the memorandum of the private respondents and the other pleadings filed by the parties, the issues raised in the petition.

The petitioner maintains that it was not under obligation to submit the names of three commissioners to assist in the determination of the just compensation for the condemned properties, as required by the respondent judge in his order of 21 April 1986. Such determination, it argues, is the duty of the court alone under Rule 67, Section 5, of the Rules of Court. Moreover, the just compensation is no longer fixed by commissioners under the said Rule as this has been repealed by P.D. Nos. 42, 76, 464, 794, 1224, 1259, 1313, 1517, and 1533. These decrees provide that the just compensation in expropriation cases shall be the value given to the condemned property by either the owner thereof or the government assessor, whichever valuation is lower.

The rule laid down in these decrees is no longer controlling, having been declared unconstitutional in the landmark case of *Export Processing Zone Authority v. Dulay*,^[1] where Justice Hugo E. Gutierrez, Jr. held for a unanimous Court:

The method of ascertaining just compensation under the aforecited decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render this Court inutile in a matter which under the Constitution is reserved to it for final determination.

Thus, although in an expropriation proceeding the court technically would still have the power to determine the just compensation for the property, following the applicable decrees, its task would be relegated to simply stating the lower value of the property as declared either by the owner or the assessor. As a necessary consequence, it would be useless for the court to appoint commissioners under Rule 67 of the Rules of Court. Moreover, the need to satisfy the due process clause in the taking of private property is seemingly fulfilled since it cannot be said that a judicial proceeding was not had before the actual taking. However, the strict application of the decrees during the proceedings would be nothing short of a mere formality or charade as the court has only to choose between the valuation of the owner and that of the assessor, and its choice is always limited to the lower of the two. The court cannot exercise its discretion or independence in determining what is just or fair. Even a grade school pupil could substitute for the judge insofar as the determination of constitutional just compensation is concerned.

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In the present petition, we are once again confronted with the same question of whether the courts under P.D. 1533, which contains the same provision on just compensation as its predecessor decrees, still have the power and authority to determine just compensation, independent of what is stated by the decree and to this effect, to appoint commissioners for such purpose.

This time, we answer in the affirmative.

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It is violative of due process to deny the owner the opportunity to prove that the valuation in the tax documents is unfair or wrong. And it is repulsive to the basic concepts of justice and fairness to allow the haphazard work of a minor bureaucrat or clerk to absolutely prevail over the judgment of a court promulgated only after expert commissioners have actually viewed the property, after evidence and arguments pro and con have been presented, and after all factors and considerations essential to a fair and just determination have been judiciously evaluated.

With this decision, the rules for determining just compensation as laid down in Rule 67 of the Rules of Court have been re-activated and are again applicable. Hence, the petitioner cannot continue arguing that commissioners are no longer necessary to assist the court in determining the just compensation for the properties it seeks to expropriate. While it is true that, strictly speaking, it is the court that shall appoint the said commissioners, there is nothing to prevent it from seeking the recommendations of the parties on this matter, the better to ensure their fair representation. Indeed, the petitioner should have welcomed the chance to submit their three recommendees

instead of peevishly questioning the well-meaning order of the respondent judge. We feel the petitioner was quibbling too much and needlessly belligerent. What it should have done, instead of simply ignoring the order, was to call the attention of the court to the presidential decrees which had made the commissioners unnecessary. It did not do this, except belatedly in its motion for reconsideration. Under the circumstances, the trial judge was justified in dismissing the complaint under Rule 17, Section 3, of the Rules of Court, for failure of the plaintiff to comply with his order.

We feel nevertheless that, as the petitioner finally did comply with that order by submitting the names of its recommendees in its motion for reconsideration, such compliance should justify the setting aside of the order of dismissal and the reinstatement of the case below. This would avoid the further delay that would be incurred if the same complaint had to be re-filed and the parties were to go back to square one, as it were, and begin the proceedings all over again. Such delay would not be in the best interest of either party and more so of the people intended to be benefited by the expropriation.

WHEREFORE, the Orders of the respondent court dated 15 August 1986, 3 October 1986, and 3 December 1986 are SET ASIDE and Civil Case No. CEB-4424 in the Regional Trial Court of Cebu is REINSTATED for hearing and decision in accordance with Rule 67 of the Rules of Court. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] 149 SCRA 305. See also *City Government of Toledo City v. Fernandos*, 160 SCRA 285; *Republic v. Intermediate Appellate Court*, 159 SCRA 165; *Leyva v. Intermediate Appellate Court*, 155 SCRA 39; *National Housing Authority v. Zaballero*, 155 SCRA 224; *Sumulong v. Guerrero*, 154 SCRA 461.

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