



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LAND BANK OF THE PHILIPPINES,
Petitioner,

G.R. No. 189125

Present:

CARPIO, J.,
Chairperson,
PERALTA,*
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

BIENVENIDO CASTRO,
Respondent.

Promulgated:

AUG 28 2013

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DECISION

PEREZ, J.:

Before us is a Petition for Review on *Certiorari* assailing the Decision¹ of the Court of Appeals in CA-G.R. SP No. 01417-MIN which affirmed the Consolidated Decision² of the Regional Trial Court (RTC), Branch 27, Tandag, Surigao del Sur, sitting as a Special Agrarian Court (SAC) in Civil Case No. 1516.

First, the facts.

* Per Special Order No. 1525 dated 22 August 2013.

¹ Rollo, pp. 53-64; Penned by Associate Justice Mario V. Lopez with Associate Justices Romulo V. Borja and Elihu A. Ybañez concurring.

² Id. at 134-144; Penned by Presiding Judge Ernelindo G. Andal. The Consolidated Decision disposed of three cases covering different, albeit adjacent, properties for determination of just compensation. The other landowners and petitioners before the Regional Trial Court are Esperanza Esteban and Heirs of Eduardo Esteban.

Respondent Bienvenido Castro (Castro) is the owner of an unregistered property identified as Lot No. 2636, Cad. 537-D, with an area of 9.3390 hectares located at *Barangay* Mahayag, San Miguel, Surigao Del Sur, under Tax Declaration No. B-16-12-237.

On 20 June 1994, Castro voluntarily offered to sell the property to the Department of Agrarian Reform (DAR) under Republic Act (RA) No. 6657 or the Comprehensive Agrarian Reform Law. Castro's offered price is ₱60,000.00 per hectare or a total of ₱560,340.00 for the entire 9.3390 hectare lot.

The DAR, petitioner Land Bank of the Philippines (LBP), and the *Barangay* Agrarian Reform Council conducted an ocular inspection, classifying the lot as riceland and suitable for agriculture. Thereafter, the DAR, through the LBP, assessed the property at ₱15,441.25 per hectare or a total price of ₱144,205.90. Castro rejected it. Consequently, the DAR Adjudication Board (DARAB), in DARAB Case No. LVC-XIII-232, conducted a summary administrative proceeding to fix just compensation for the subject property. At the preliminary conference, Castro alleged that LBP's valuation did not constitute fair and just compensation.

On 9 March 2000, the DARAB issued an Order directing LBP to conduct another inspection and to reassess Castro's property. LBP complied, but still reached the same valuation at ₱144,205.90.

Two years later, in 2002, Castro insisted on a higher valuation through a petition to fix just compensation before the RTC, Branch 27, Tandag, Surigao del Sur, sitting as a SAC, docketed as Civil Case No. 1516. In his petition, Castro alleged the following:

5. x x x DAR and LBP valued the land only at an aggregate amount of One hundred forty four thousand two hundred five pesos and 90/100 (₱144,205.90), for the entire **9.3390 has.**, or, an equivalent of **₱15,441.25** per hectare, per Claim Folder Profile and Valuation Summary x x x.

6. The valuation made by [DAR and LBP] was unconscionably low and totally unacceptable to [Castro] considering that the said valuation of **₱15,441.25** per hectare or **₱1.54** per sq. m. was not even enough for the cost of the improvements introduced by [Castro].

7. Proof that the price of the land is of much higher value even based on the standards of DAR and LBP is that during the offer the market

value of the land per Assessor's Finding was ₱54,910.00, per TDN B-16-12-237, marked as Annex – "A"; and upon acquisition of the land and tax declaration over which was transferred to the Republic of the Philippines, the Fair Market Value raised to ₱245,615.00, per TDN 99-16-012-00567, marked as Annex – "C."³

In refutation, LBP answered that it had valued the property following the valuation guidelines issued by the DAR which are based on the productivity of the land at the time of the first ocular inspection. LBP asserted that it correctly appraised Castro's property in accordance with RA No. 6657 and applicable DAR Administrative Orders. LBP's main defense was that the case should be dismissed since the DARAB Decision on the amount of just compensation for the subject property was not timely elevated to the SAC within the 15-day reglementary period. Thus, the DARAB Decision had attained finality and constituted a bar to the filing of the case.

Nevertheless, the SAC set the case for pre-trial. Since LBP and Castro had declared in their respective pre-trial briefs that they were willing to enter into a settlement, with LBP specifically stating that it "may take a second look at its valuation [of the subject property] subject first to the resolution⁴ of x x x whether the case was filed beyond the fifteen-day period from [Castro's] receipt of the [DARAB's] decision/order,"⁵ the SAC gave the parties time to consider the possibility of amicably settling the case.

On 11 November 2003, the SAC issued an Order⁶ noting the parties' agreement to conduct another ocular inspection of the subject property for possible revaluation thereof. Pre-trial of the case was reset to 9 December 2003.

Thereafter, on 9 December 2003,⁷ the SAC ordered another re-setting of pre-trial because the parties had yet to repair, conduct an ocular inspection and reevaluate the subject property. The delay was due to the frequent unavailability of LBP's representative. Consequently, pre-trial of the case was reset anew to 18 February 2004.

On 13 August 2004, the Commissioners submitted the following report, in pertinent part:

³ Records, p. 4.

⁴ Id. at 111.

⁵ Id.

⁶ Id. at 134-135.

⁷ Id. at 141-142.

In [the] matter [of] Case No. x x x 1516[,] the designated [C]hairman of [the B]oard of Commissioner[,] the Municipal Assessor set a meeting with [Castro] and their representative on July 21, 2004.

They have agreed to conduct ocular inspection and re-appraisal on July 23, 2004 at 8:00 a.m., but due to unavoidable circumstances, they agreed to re-schedule on July 27, 2004 8:00 a.m., x x x.

x x x x

[C]ase No. 1516, Lot No. 2636 Cad 537-D, owned by Bienvenido Castro is partially develop (*sic*) planted to rice and some area have palay harvested (*sic*), the other portion still remain idle not planted, the area planted to rice is 6.42 hectares, more or less, and the area not cultivated remain idle 3.9190 hectares, more or less, brush land.

x x x x

Hence, the area is suitable for production of palay (*sic*) the commission have agreed that the price of adjacent lot of Jacinto Esteban value by Land Bank of the Philippines is recommended at ₱43,377.00/hectare to the value the parcel of land under case no. 1514 Lot No. 2493 Cad 537-D owned by Esperanza Esteban, unirrigated Riceland case no. 1516 Lot No. 2636 Cad 537-D owned by Bienvenido Castro, unirrigated Riceland (*sic*).

x x x x

Hoping that this commission report shall be given due consideration, x x x.⁸

On 30 November 2004, the SAC received the report.⁹

Forthwith, the SAC issued an Omnibus Order dated 6 December 2004:

Record shows that the Board of Commissioners, with the Municipal Assessor of San Miguel, Surigao del Sur, Mr. Godofredo Bago-od as Chairman and with Jerry R. Villason representing DAR and Land Bank of the Philippines and Saturnina R. Gaila representing [Castro and the other landowners], submitted a Consolidated Report. Upon oral motion in open Court[,] [LBP's] counsel, Atty. Felix Mesa, is allowed a period of fifteen days from today within which to comment on the report. Failing thereto, the Court will consider the Report submitted for resolution. The parties will be notified of further proceedings in [these] Cases later.¹⁰

⁸ Id. at 180-181.

⁹ Id. at 202.

¹⁰ Id. at 208-209.

As of 7 June 2005, the SAC had issued another series of omnibus orders: approving the Consolidated Report, deeming LBP to have waived its opportunity to Comment thereon, and considering the case submitted for resolution.¹¹

Relying heavily on the Commissioners' and Supplemental Reports, the SAC rendered a Consolidated Decision¹² fixing the just compensation of Castro's property at ₱43,327.16 per hectare or a total of ₱404,632.35 for the entire 9.3390 hectares. The SAC ratiocinated, thus:

x x x In contrast, Lot No. 2636, subject of Civil Case No. 1516, was also found to be cultivated and suitable for rice production, although not irrigated. Using the adjacent Lot No. 2641 of Jacinto Esteban and adjacent Lot No. 2667 of Julieta Masibay, which were respectively valued by x x x LBP at ₱43,327.16 per hectare and ₱18,427.50 per hectare as references, and finding that Lot Nos. 2493 and 2636 were of the same condition as Lot No. 2641 of Jacinto Esteban, while Lot No. 2665 was of the same condition as Lot No. 2667 of Julieta Masibay, the Commissioners made the above recommendations as to valuations. To repeat, Lot Nos. 2493 and 2636 were recommended to be valued at ₱43,327.16 per hectare, while Lot No. 2665 was recommended to be valued at ₱18,427.50 per hectare.

The Court notes that the Tax Declarations in the name of [Castro and the other landowners] had been cancelled and new tax declarations in the name of the Republic of the Philippines issued[,] with x x x LBP as Administrators of the Lots. x x x, and Lot No. 2636, covered by Tax Declaration No. 00567 since the year 2001, had a market value, determined as of that year, of ₱223,509.00. It is a matter of judicial notice that the market value of lands increases every year, that is why, periodically, normally every after (*sic*) three (3) years, the Municipal Assessor makes new assessments of real properties and revises and cancels existing tax declarations and issues revised tax declarations. Accordingly, the Court holds that the respective valuations recommended by the Court Commissioners for subject Lots are fair, reasonable and just under the circumstances.

WHEREFORE, judgment is hereby rendered in favor of [Castro and the landowners and against DAR and LBP], determining and fixing the just compensations for [Castro's and the other landowners'] properties, as follows:

x x x x

¹¹ Id. at 225-226 and 236.

¹² CA *rollo*, pp. 49-53.

For Lot No. 2636, subject of Civil Case No. 1516, at ₱43,327.16 per hectare or a total of ₱404,632.35 for the entire 9.3390 hectares.

x x x LBP is ordered to pay [Castro and the other landowners], within fifteen (15) days from finality of this Decision, the aforesaid amounts, the mode of payments of which shall be in accordance with the provisions of Section 18, Chapter VI of R.A. 6657.¹³

Aggrieved, LBP filed a motion for reconsideration of the SAC's decision, asserting that Castro had already accepted LBP's valuation of the subject property at ₱144,205.90 as shown in three documents Castro had signed: two Reply to Notice of Land Valuation and Acquisition dated 18 September 1997 and 13 March 2001, respectively; and the Deed of Confirmation of Transfer Executed by the Landowner dated 5 March 2001. LBP likewise assailed the Commissioners' Report, contending that at the time LBP initially inspected the subject property in 1994, only two hectares were unirrigated riceland while the remaining 7.3390 hectares were forest land, in contrast to the Commissioners' findings based on the Ocular Inspection conducted a decade thereafter in 2004.

The SAC was unmoved by LBP's plea for reconsideration and did not reconsider its decision, to wit:

There is no merit in the instant Motion for Reconsideration. On the claim that [Castro] allegedly agreed to the initial valuation of subject property by [LBP and DAR] as, in fact, in "Landowner's Reply to Notice of Land Valuation and Acquisition, dated September 18, 1997 and March 13, 2001" he "categorically and repeatedly accept(ed) the value being offered by the government to his property in the amount of ONE HUNDRED FORTY FOUR THOUSAND TWO HUNDRED FIVE and 90/100 (₱144,205.90)," [Castro] correctly pointed out that said defense or objection was not alleged in the Answer. Neither was it alleged as a ground of the Motion to Dismiss. [LBP] participated in the proceedings without raising said defense or objection, and invoked it for the first in the instant Motion for Reconsideration. The rule is that "(d)efenses and objection not pleaded in the motion to dismiss or in the answer are deemed waived" x x x. The above defense or objection is not one of the recognized exceptions to the rule enumerated in the said Section.

[LBP] should not fault the Court for considering the Commissioners' Report in fixing the just compensation of subject property. Firstly, [LBP] did not object to the appointment of Court Commissioners as, in fact, it was represented, together with x x x DAR, by Commissioner [J]erry Villason. Secondly, [LBP] did not object to the Commissioners' unanimous Report on the valuation of the subject

¹³

Id. at 52-53.

property. Thirdly, the Commissioners' Report was found by the Court to have considered the factors/criteria provided in Section 17, Chapter VI of R.A. No. 6657, the "Comprehensive Agrarian Reform Law of 1988."

WHEREFORE, for lack of merit the instant Motion for Reconsideration is denied.¹⁴

On appeal, the Court of Appeals completely agreed with the SAC that LBP was already estopped from raising the defense that Castro has accepted the assessed amount of ₱144,205.90 for the subject property. The appellate court surmised that:

x x x [P]erhaps LBP was aware of the existence of the contract of sale, but in its desire to obtain a lesser price for the acquisition of the land, LBP gambled and decided not to raise the defense that Castro already sold the property to the Government but instead, allowed the trial court to proceed with the determination of the just compensation hoping the court will fix a lesser price for the land. After failing to achieve a favorable verdict, LBP casually invoked the existence of the Deed of Confirmation of Transfer and belatedly moved to dismiss the case in its motion for reconsideration. Clearly, LBP is already estopped from invoking a stale defense.¹⁵

On LBP's argument that the SAC gravely erred in fixing just compensation contrary to the factors set forth in Section 17 of RA No. 6657 as translated into a basic formula in DAR Administrative Order No. 5, Series of 1998, the appellate court again did not side with LBP, ruling that the "x x x formula set in DAR Administrative Order No. 5, Series of 1998 is not a strictly-calibrated standard which obliges the Court to apply in disregard of its judicial discretion x x x; [it] does not and cannot strictly bind the courts which may proceed to make [its] own computation based on the extended list in Section 17 of Republic Act No. 6657."¹⁶

LBP now appeals by *certiorari* to this Court on the following assigned errors:

A

WHEN IT FAILED TO SUSTAIN THE NATIONAL GOVERNMENT'S SUBSTANTIVE RIGHT TO AVAIL OF THE DEFENSE THAT THE RESPONDENT IS ALREADY ESTOPPED FROM QUESTIONING THE VALUATION OF THE PROPERTY WITH HIS AGREEMENT

¹⁴ Id. at 58-59.

¹⁵ Id. at 179-180.

¹⁶ Id. at 181-182.

THERE TO AS EVIDENCED BY THE DEED OF CONFIRMATION OF TRANSFER DATED MARCH 5, 2001.

B

WHEN IT FAILED TO USE THE FACTORS PRESCRIBED IN SECTION 17 OF R.A. NO. 6657, AS IMPLEMENTED BY DAR A.O. NO. 5, SERIES OF 1998, WHICH ARE MANDATORY IN NATURE, IN DETERMINING THE JUST COMPENSATION FOR SUBJECT PROPERTY.¹⁷

We need to scrape off the procedural lamina to reach the basic issue that it coated: the correctness of the valuation by the courts below of the property of Castro which he offered to sell to the DAR. Vital to the resolution of the issue is the fact stated by Castro in his petition below that “on June 20, 1994, [he] voluntarily offered to sell (VOS) the above described land to the Department of Agrarian Reform (DAR)”¹⁸ such that his petition was precisely captioned “In the Matter of Judicial Determination of Just Compensation of Land Sold Under the Voluntary Offer to Sell (VOS) Under RA 6657, Identified as Lot No. 2636, CAD. 537-D, with an area of 9.3390 Has. located at Brgy. Mahayag, San Miguel, Surigao del Sur.”¹⁹ The petition is a prayer for just compensation, under RA No. 6657, of a parcel of land taken when offered in 1994. The determination of compensation under such circumstances has been the subject of various decisions of this Court. We stated in *Land Bank of the Philippines v. Goduco*,²⁰ referring to *Land Bank of the Philippines v. Barrido*;²¹ *Land of the Philippines v. Esther Rivera*;²² and *Land Bank of the Philippines v. DAR*:²³

Pursuant to the rule-making power of DAR under Section 49 of Republic Act No. 6657, a formula was outlined in DAR Administrative Order No. 5, series of 1998 in computing just compensation²⁴ for lands subject of acquisition whether under voluntary to sell (VOS) or compulsory acquisition (CA)²⁵ to wit:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where: LV = Land Value

¹⁷ Id. at 232-233.
¹⁸ Records, p. 3.
¹⁹ Id. at 2.
²⁰ G.R. No. 181327, 27 June 2012, 675 SCRA 187.
²¹ G.R. No. 183688, 18 August 2010, 628 SCRA 454.
²² G.R. No. 182431, 17 November 2010, 635 SCRA 285.
²³ G.R. No. 171840, 4 April 2011, 647 SCRA 152.
²⁴ *Land Bank of the Philippines v. Soriano*, G.R. Nos. 180772 and 180776, 6 May 2010, 620 SCRA 347, 353.
²⁵ Administrative Order No. 05, Series of 1998 entitled “Revised Rules and Regulations Governing the Valuation of Lands Voluntarily or Compulsory Acquired Pursuant to R.A. No. 6657.”

CNI = Capitalized Net Income
 CS = Comparable Sales
 MV = Market Value per Tax Declaration

The above formula shall be used if all three factors are present, relevant and applicable.

A1. When the CS factor is not present and CNI and MV are applicable, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

A2. When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

A3. When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

In no case shall the value of the land using the formula $MV \times 2$ exceed the lowest value of land within the same estate under consideration or within the same *barangay* or municipality (in that order) approved by LBP within one (1) year from receipt of claimfolder.²⁶

We stated in *Goduco* that the application of the formula is mandated by law. We said that the presence or absence of one or more factors in formula and the amounts that correspond to the factors are that which are determined by the SAC as the trier of facts.²⁷ This is, in so many words, a re-statement of *Land Bank of the Philippines v. Celada*²⁸ as mentioned in *Land Bank of the Philippines v. DAR*:²⁹

While SAC is required to consider the acquisition cost of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declaration and the assessments made by the government assessors to determine just compensation, it is equally true that **these factors have been translated into a basic formula by the DAR pursuant to its rule-making powers** under Section 49 of RA 6657. As the government agency principally tasked to implement the agrarian reform program, it is the DAR's duty to issue rules and regulations to carry out the object of the law. DAR AO No. 5, s. of 1998 precisely "filled in the details" of Section 17, RA No. 6657 by providing basic formula by which the factors mentioned therein may be taken into

²⁶ *Land Bank of the Philippines v. Goduco*, supra note 20 at 201-202.

²⁷ Id. at 202.

²⁸ 515 Phil. 467 (2006).

²⁹ *Land Bank of the Philippines v. DAR*, supra note 23 at 162.

account. **The SAC was at no liberty to disregard the formula which was devised to implement the said provision.** (Emphasis theirs)

The complementary pronouncements that the formula is already a translation of the land valuation factors, such that the SAC is not at liberty to disregard the formula, had since been thereafter honored and followed. We are reminded, however, of decisions that state a principle as vital as that which enjoins the SAC from disregarding the DAR formula: The determination of just compensation is a judicial function which cannot be unduly restricted, and of which the SAC cannot be deprived. In *LBP v. Heirs of Maximo Puyat*,³⁰ we said:

Land Bank maintains that, assuming *arguendo* that RA 6657 is the applicable law, the trial and appellate courts wantonly disregard the basic valuation formula in DAR AO No. 5, series of 1998, which implements Section 17 of RA 6657. It insists that courts are not at liberty to dispense of these formulations at will. Land Bank thus asks that the case be remanded to the trial court for a proper determination of the just compensation in accordance with DAR AO No. 5, series of 1998.

We disagree. The trial and appellate courts arrived at the just compensation with due consideration for the factors provided in Section 17 of RA 6657 (prior to its amendment by RA 9700). They took into account the nature of the property, its actual use or the crops planted thereon, the volume of its produce, and its value according to government assessors. As the CA correctly held, the determination of just compensation is a judicial function; hence, courts cannot be unduly restricted in their determination thereof. To do so would deprive the courts of their judicial prerogatives and reduce them to the bureaucratic function of inputting data and arriving at the valuation. x x x.

While apparently discordant, one rule but completes the other. The DAR formula, determined by administrative expertise serves as the immediate guide for judicial determination of just compensation, the exact application being subject to judicial discretion. We thus repeat the proper appreciation of the rulings:

While the courts should be mindful of the different formula created by the DAR in arriving at just compensation, they are not strictly bound to adhere thereto if the situations before them do not warrant it.³¹

³⁰ G.R. No. 175055, 27 June 2012, 675 SCRA 233, 250 citing *Land Bank of the Philippines v. Chico*, G.R. No. 168453, 13 March 2009, 581 SCRA 226, 243; *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, 19 December 2007, 541 SCRA 117, 131-132.

³¹ Id.

There was in this case an unexplained disregard for the guide administrative formula, neglecting such factors as capitalized net income, comparable sales and market value per tax declaration. Thus:

The Commissioners found Lot No. 2493, subject of Civil Case No. 1514 to be suitable for rice production. At the time of the ocular inspection they found that about 5 hectares of the entire unirrigated area was planted with palay and about 1 hectare was idle. They found Lot No. 2665, subject of Civil Case No. 1515, although suitable for rice production, was not planted with palay at the time and remained idle. In contrast, Lot No. 2636, subject of Civil Case No. 1516, was also found to be cultivated and suitable for rice production, although not irrigated. Using the adjacent Lot No. 2661 of Jacinto Esteban and adjacent Lot No. 2667 of Julieta Masibay, which were respectively valued by respondent LBP at ₱43,327.16 per hectare and ₱18,427.50 per hectare as references, and finding that Lot Nos. 2493 and 2636 were of the same condition as Lot No. 2641 of Jacinto Esteban, while Lot No. 2665 was of the same condition as Lot No. 2667 of Julieta Masibay, the Commissioners made the above recommendations as to valuations. To repeat, Lot Nos. 2493 and 2636 were recommended to be valued at ₱43,327.16 per hectare, while Lot No. 2665 was recommended to be valued at ₱18,427.50 per hectare.³²

While there is a finding that the lot subject of the case was found to be cultivated and suitable for rice production, CNI or Capitalized Net Income was not factored in. Instead of comparable sales, the trial court used the value of lots “of the same condition.” There was no explanation why only one factor was used as determinant of valuation. No indication why the administrative guide as regards the interplay of such factors as net income and market value could not be applied.

The trial court committed yet another patent mistake when it placed the valuation at the then present prices. It looked back at the year 2001 when the tax declarations it said covered Castro’s land indicated the market value at ₱223,509.00. Then it perfunctorily took judicial notice “that the market value of land increases every year” and concluded as valuation “for Lot No. 2636, subject of Civil Case No. 1516, at ₱43,327.16 per hectare or a total of ₱404,632.35 for the entire 9.3390 hectares.”³³ Thus:

The Court notes that the Tax Declarations in the name of the petitioner’s had been cancelled and new [T]ax [D]eclarations in the name of the Republic of the Philippines issued with respondent LBP as Administrators of the Lots. Lot No. 2493, covered by Tax Declaration No. 00539 since 1999, had a market value, determined as of that year, of

³² *Rollo*, p. 137.

³³ *Id.* at 138.

₱147,985.00, Lot No. 2665, covered by Tax Declaration No. 00558, since the year 2000, had a market value, determined as of that year, of ₱218,512.00, and Lot No. 2636, covered by Tax Declaration No. 00567 since the year 2001, had a market value, determined as of that year, of ₱223,509.00. It is a matter of judicial notice that the market value of lands increases every year, that is why, periodically, normally every after three (3) years, the Municipal Assessor makes new assessments of real properties and revises and cancels existing tax declarations and issues revised tax declarations. Accordingly, the Court holds that the respective valuations recommended by the Court Commissioners for subject Lots are fair, reasonable and just under the circumstances.³⁴

Fast and loose, the reasoning is, more significantly, against the settled rule that:

The fundamental doctrine that private property cannot be taken for public use without just compensation requires that the owner shall receive the market value of his property at the time of the taking, unaffected by any subsequent change in the condition of the property.³⁵

Our holding in the old case of *Provincial Government of Rizal v. Caro de Araullo*,³⁶ citing American precedents, remains instructive.

The principle of these decisions, which requires compensation for property taken for public use to be estimated with special reference to its value at the time of the appropriation or taking, is manifestly just to all concerned. By no other rule, in cases of condemnations for uses of great public interest and local benefit, could the valuation of property in the assessment of damages be so successfully guarded against the influence of enhanced values resulting specially from the enterprise.

x x x but in the case at bar the plaintiff appropriated the property with the consent of the landowners, and without the filing of any expropriation proceedings, in the expectation that the parties would be able to reach an agreement out of court as to the value of the property taken, and the condemnation proceedings were not filed until it was found much later that no such agreement could be reached as to part of the property. Under those circumstances the value of the property should be fixed as of the date when it was taken and not the date of the filing of the proceedings. (Emphasis supplied)

The principle of valuation at the time of taking is the specifically applicable valuation of land acquired by the government under RA No. 6657. In *Land Bank v. Livico*,³⁷ cited in *Goduco*, we said:

³⁴ Id. at 137-138.

³⁵ *Provincial Government of Rizal v. Caro de Araullo*, 58 Phil. 309, 316 (1933).

³⁶ Id. at 316-317.

Since Livioco's property was acquired under RA 6657 and will be valued under RA 6657, the question regarding the 'time of taking' should follow the general rule in expropriation cases where the "time of taking" is the time when the State took possession of the same and deprived the landowner of the use and enjoyment of his property.³⁸

The clear substantive flaw of the appealed decisions must result in the reversibleness of the judgment which as such should be set aside. The clarity of error in valuation cannot be swept aside by reference to the procedural principle that defenses not raised in a motion to dismiss or alleged as an affirmative defense are considered waived. That defense referred to the acceptance by Castro of the government offered price of ₱144,205.90 as evidenced by the Landowner's Reply to Notice of Land Valuation and Execution dated 18 September 1997 and 23 March 2001; the Request to Pay addressed to LBP by the PARO; and the Deed of Confirmation of Transfer executed by herein respondent. Thus, in its motion for reconsideration of the decision of the SAC, petitioner submitted:

ARGUMENTS AND DISCUSSIONS

1.01 WITH THE COURT'S INDULGENCE, Defendant LBP hereby manifests and presents before this Honorable Court the Landowner's Reply to Notice of Land Valuation and Acquisition dated September 18, 1997 and March 13, 2001, attached as *Annexes "A" and "B"* wherein the landowner Bienvenido Castro has **categorically and repeatedly accept** the value being offered by the government to his property in the amount of **ONE HUNDRED FORTY FOUR THOUSAND AND TWO HUNDRED FIVE AND 90/100 (P144,205.90)**.

1.02 Furthermore, the acceptance of the landowner of the offered price by the government amounting to P144,205.90 was also confirmed when Marino M. Gayramon, Provincial Agrarian Reform Officer (PARO) has requested the defendant LBP to deposit the compensation proceeds in cash and in bonds, prepare the Deed of Transfer and pay the landowner in lieu of the latter's acceptance of the price as per valuation by LBP of the subject land, improvements and facilities thereon. The said Request to Pay dated September 18, 1997 signed by the PARO is herewith attached as *Annex "C."*

1.03 Also, to further buttress the acceptance of the landowner of the offered price of the government on his 9.3390 hectares property in the amount of P144,205.90, defendant LBP hereby introduce to the court *a quo* the Deed of Confirmation of Transfer executed by the petitioner **Bienvenido Castro**, the transferor, indicating therein that the latter **had**

³⁷ G.R. No. 170685, 22 September 2010, 631 SCRA 86.
³⁸ *Land Bank of the Philippines v. Goduco*, supra note 20 at 204.

accepted the valuation of **One Hundred Forty Four Thousand Two Hundred Five and 90/100 (P144,205.90)** as the **TOTAL** and **JUST COMPENSATION for the area of 9.3390 hectares** previously covered by Title No. OCT/TCT Lot 2636 Cad 537-D subjected to the Comprehensive Agrarian Reform Program (CARP). The Deed is attached **herewith as Annex “D”** to declare the authenticity of the defendant’s position and to establish the fact that the landowner is already in **estoppel** in asking for a new valuation for his property in view of this *repeated acceptance* of the landowner of the offered price by the government for his property.

1.04 **Based on the foregoing, the defendant LBP would like to ask the court *a quo* for a reconsideration on the latter’s October 18, 2005 Decision.**³⁹

The trial court ruled in its denial of LBP’s motion that the defense or objection is not one of the recognized exceptions to the rule on waiver of defenses not pleaded in the answer of motion to dismiss. On appeal, LBP repleaded the fact of payment and argued that Castro is already estopped from questioning the land valuation of the DAR. The Court of Appeals, iterating the trial court, ruled that the failure to raise the defense of consummated sale is a “procedural infirmity which cannot be cured on appeal.”⁴⁰ The Court of Appeals ignored the fact that the objection was raised in the motion for reconsideration which was duly litigated below and proceeded to say that the defense was not pleaded during trial so that it cannot be considered on appeal. It ignored Castro’s acceptance of the valuation by the DAR in the amount of ₱144,205.90, the payment by LBP to Castro of the determined price of ₱144,205.90, and the receipt of the payment which Castro confirmed. These facts were all documented and, more importantly, all unrebutted by respondent.

Most significantly, the court below did not pay attention to the fact that the documented and accepted LBP payment for the property squares with the pertinent averment in the complaint that:

7. x x x upon acquisition of the land and tax declaration over which was transferred to the Republic of the Philippines, the Fair Market Value raised to P245,615.00, per TDN 99-16-012-00567 x x x⁴¹

The Tax Declaration evidencing “transfer to the Republic of the Philippines” attached to the petitions as Annex “C,” declares that the owner

³⁹ *Rollo*, pp. 148-149.

⁴⁰ *Id.* at 59.

⁴¹ *Id.* at 192.

is the Republic of the Philippines and that the administrator is Land Bank of the Philippines.⁴²

This brings us to the reason why the rule on belated defenses cannot be the basis for deciding this case.

The averments in the petition for payment, Paragraph 7, and the evidence made part of the petition which is the tax declaration in the name of the Republic amount to an admission that the claim or demand set forth in Castro's petition has been paid or otherwise extinguished. Such admission is conclusive on respondent. All contrary or inconsistent proof submitted by the party who made the admission should be ignored. And they should be ignored whether the objection is interposed by the other party or not. These pronouncements are standing jurisprudence relied upon in *Alfelor and Alfelor v. Halasan and CA*,⁴³ citing *Santiago v. De Los Santos*⁴⁴ which traced the principles back to a 1912 decision, *Irlanda v. Pitargue*.⁴⁵

Santiago is a case where, like the case at hand, the dismissal of the action was based on the judicial admission embodied in the very allegations in the complaint. *Santiago* is a land registration case involving a property claimed as publicly and uninterruptedly possessed since 26 July 1894. However, the pleadings alleged that the parcel of land subject of registration was part of public forest released by the Secretary of Agriculture and Natural Resources by an Order dated 10 August 1961.

We clearly pronounced in *Santiago* that what was so categorically set forth in the pleading which is that the land is part of a public forest is conclusive and binding on the pleader. Therefrom we declared as principle that since the statement in the pleading is conclusive on the pleader, it is

⁴² Id. at 201.

⁴³ 520 Phil. 982, 989 (2006).

⁴⁴ 158 Phil. 809 (1974).

⁴⁵ 22 Phil. 383 (1912).

unaffected by any contrary proof submitted by the pleader, whether or not objection is interposed by any party. As finale on the issue, we said:


Even if there had been a full hearing on the case, therefore, the result would not have been any different. There was no choice then for the lower court, except to dismiss the complaint.⁴⁶

The principles in *Santiago*, derived from repeated prior rulings and forwarded to later cases, cover and apply to the present case. The solemn declaration in Castro's pleading is that the Republic is the owner of the land the compensation for which he seeks. The ownership is proved by the tax declaration made part of the pleading naming the Republic as such owner. The judicial admission that Castro no longer owns the property cannot be controverted by Castro as it is conclusive as to him. The proceedings, including the appointment of commissioners who inspected and priced the property for the purpose of compensating Castro, which is inconsistent with ownership by the Republic, should be ignored. The full hearing in the case cannot overcome the fact of government ownership as admitted in the complaint.

The payment by LBP for the property and its transfer to the Republic was fully discussed and submitted before the trial court through LBP's motion for reconsideration. The trial and appellate courts, however, incorrectly viewed the motion as a belated and procedurally unacceptable defense rather than, as it should be, a reminder to the Court about the fact, conclusive on Castro as pleader, of transfer of ownership to the Republic.

WHEREFORE, the Decision of the Court of Appeals affirming the judgment of the trial court is **REVERSED** and **SET ASIDE** and the petition of respondent for judicial determination of just compensation is ordered **DISMISSED**.


SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

⁴⁶

Santiago v. De Los Santos, supra note 42 at 814.

WE CONCUR:



ANTONIO T. CARPIO

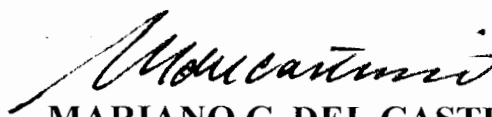
Associate Justice

Chairperson




DIOSDADO M. PERALTA

Associate Justice



MARIANO C. DEL CASTILLO

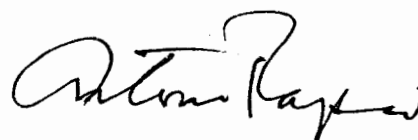
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice