



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NATIONAL POWER  
CORPORATION,

Petitioner,

G.R. No. 193936

Present:

SERENO, C.J.,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

- versus -

YCLA SUGAR DEVELOPMENT  
CORPORATION,

Respondent.

Promulgated:

DEC 11 2013

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DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>2</sup> dated September 23, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 86508, which affirmed with modification the Decision<sup>3</sup> dated May 12, 2005 of the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 40, in Civil Case No. R-4600.

<sup>1</sup> Rollo, pp. 12-30.

<sup>2</sup> Penned by Associate Justice Franchito N. Diamante, with Associate Justices Josefina Guevara-Salonga and Mariflor P. Punzalan Castillo, concurring; id. at 32-52.

<sup>3</sup> Issued by Judge Tomas C. Leynes; id. at 53-65.

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### The Facts

Petitioner National Power Corporation (NPC) is a government owned and controlled corporation created for the purpose of undertaking the development of hydroelectric power throughout the Philippines. NPC is thus authorized to exercise the power of eminent domain to carry out the said purpose.<sup>4</sup>

Respondent YCLA Sugar Development Corporation (YCLA) is the registered owner of three parcels of land situated in Puerto Galera, Oriental Mindoro, covered by Transfer Certificates of Title Nos. T-5209, T-21280 and T-78583.

In order to complete its 69 KV Calapan-Mamburao Island Grid Project in Puerto Galera, Oriental Mindoro, NPC had to construct transmission lines that would traverse several private properties, including the said parcels of land owned by YCLA.

Accordingly, on December 2, 1997, NPC filed a Complaint<sup>5</sup> for expropriation with the RTC against YCLA and several other individuals. The NPC sought the expropriation of a portion of the parcels of land owned by the said defendants for the acquisition of an easement of right-of-way over areas that would be affected by the construction of transmission lines. The portion of YCLA's properties that would be affected by the construction of NPC's transmission lines has an aggregate area of 5,846 square meters.

YCLA filed its Answer<sup>6</sup> dated July 9, 1998, alleging that the Complaint should be dismissed outright due to NPC's failure to allege the public use for the intended expropriation of its properties.

On April 30, 1999, the parties moved, *inter alia*, for the constitution of a Board of Commissioners to be appointed by the RTC to determine the reasonable amount of just compensation to be paid by the NPC. Thus, on even date, the RTC issued an order terminating the pre-trial conference and directing the constitution of a Board of Commissioners, which would submit a report and recommendation as to the reasonable amount of just compensation for the properties sought to be expropriated.

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<sup>4</sup> Section 3(h) of *Republic Act No. 6395* or An Act Revising the Charter of the National Power Corporation.

<sup>5</sup> *Rollo*, pp. 66-74.

<sup>6</sup> *Id.* at 83-92.

Meanwhile, on June 4, 1999, the RTC, acting on NPC's urgent *ex- parte* motion, issued a writ of possession placing NPC in possession of the properties sought to be expropriated.

On May 2, 2001, the Board of Commissioners submitted its Report,<sup>7</sup> which fixed the amount of just compensation of the subject properties at ₱500.00 per sq m. YCLA objected to the amount recommended by the Board of Commissioners, claiming that the amount of just compensation should be fixed at ₱900.00 per sq m considering the improvements in their properties.

On October 19, 2001, the RTC issued an Order directing YCLA to submit its written manifestation, together with supporting documents, on its position on the proper valuation of the subject properties. NPC was likewise given 15 days to comment thereon. Trial on the determination of the reasonable amount of just compensation ensued thereafter.

Consequently, YCLA filed a motion asking the RTC to direct the Board of Commissioners to conduct an ocular inspection over the subject properties and, thereafter, amend/revise the Board of Commissioner's Report dated May 2, 2001. YCLA's motion was granted by the RTC on July 25, 2003.

Meanwhile, on November 25, 2002, the RTC rendered a Partial Decision as regards the amount of just compensation that would be paid by the NPC to the other defendants.

On September 15, 2003, the Board of Commissioners submitted its second Report,<sup>8</sup> which fixed the just compensation of the subject properties at ₱1,000.00 per sq m. The Board of Commissioners' Report dated September 15, 2003, in part, reads:

The undersigned secured from the office of the Provincial Assessor the actual appraised value per square meter x x x of the Agricultural Land subject matter of the case which is [₱11.50] per square meter[.] [H]owever, the prevailing market value is Five Hundred Pesos ([₱]500.00) to One Thousand Five Hundred Pesos ([₱]1,500.00) per square meters x x x, per actual sale and opinion value of reliable persons x x x.

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<sup>7</sup> Id. at 93.

<sup>8</sup> Id. at 94.

In view thereof, the undersigned is submitting this report to the Honorable Court that the amount of One Thousand Pesos ([P]1,000.00) per square meter should be the basis in the computation of the price per square meter of the land subject matter of the instant case, justified by its location on [a] strategic place and the consequential damages to the whole properties of the defendants because the plaintiff occupied the front portion along the highway.<sup>9</sup>

On May 12, 2005, the RTC rendered a Decision,<sup>10</sup> which adopted the report and recommendation of the Board of Commissioners, viz:

ACCORDINGLY, judgment is hereby rendered directing the plaintiff National Power Corporation to pay herein defendant YCLA the total amount of [P]5,786,000.00 representing the value of the expropriated lands owned by the said defendant and its 26 molave trees which were cut down to make way for the plaintiff[']s project, with legal interest from the time the plaintiff had actually took possession of the subject properties on 19 April 1999 until full payment has been made.

SO ORDERED.<sup>11</sup>

The RTC pointed out that the Board of Commissioner's Report dated May 2, 2001, which recommended that the amount of just compensation be fixed at ₱500.00 per sq m, was arrived at without conducting an ocular inspection of the subject properties. That, upon YCLA's request, the Board of Commissioners subsequently conducted an ocular inspection of the subject properties, which prompted them to revise their earlier recommendation.

Unperturbed, NPC appealed the RTC Decision dated May 12, 2005 to the CA, alleging that the RTC erred in relying on the recommendation of the Board of Commissioners as regards the amount of just compensation. NPC claimed that the amount of ₱1,000.00 per sq m recommended by the Board of Commissioners as the reasonable amount of just compensation, which was adopted by the RTC, is too excessive considering that the subject properties were barren and undeveloped agricultural lands at the time it instituted the action for expropriation.

On September 23, 2010, the CA rendered the Decision<sup>12</sup> which affirmed with modification the RTC Decision dated May 12, 2005, thus:

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<sup>9</sup> Id.

<sup>10</sup> Id. at 53-65.

<sup>11</sup> Id. at 65.

<sup>12</sup> Id. at 32-52.

**WHEREFORE**, the assailed Decision is **AFFIRMED** with the **MODIFICATION only in so far as the value of just compensation for the property involved is concerned**. Resultantly, the herein appellant is ordered to pay YCLA Sugar Development Corporation the award of [P]900.00 per square meter, as and by way of just compensation for the expropriated property. Costs against the herein appellant.

**SO ORDERED.**<sup>13</sup>

The CA held that the RTC's determination of the amount of just compensation was reasonable notwithstanding that it was merely based on the Report submitted by the Board of Commissioners. The RTC pointed out that there was no showing that the said Report was tainted with irregularity, fraud or bias. Nevertheless, the CA modified the award rendered by the RTC, by fixing the amount of just compensation to ₱900.00 per sq m instead of ₱1,000.00 per sq m, since YCLA only sought an award of ₱900.00 per sq m as just compensation for the subject properties in the proceedings before the RTC.

### **The Issue**

Essentially, the issue presented to the Court for resolution is whether the RTC and the CA had sufficient basis in arriving at the questioned amount of just compensation of the subject properties.

The NPC posits that the Board of Commissioners' Report dated September 15, 2003 lacks factual basis; that both the RTC and the CA erred in giving credence to the Report dated September 15, 2003 as to the recommended amount of just compensation for the subject properties. NPC maintains that the amount of ₱900.00 per sq m that was fixed by the CA as just compensation is excessive considering that the subject properties were barren and undeveloped agricultural lands at the time it filed the complaint for expropriation. Thus, NPC prayed that the Court fix the amount of just compensation for the subject properties at ₱500.00 per sq m pursuant to the Board of Commissioners' Report dated May 2, 2001.

On the other hand, YCLA contends that the RTC and the CA aptly relied on the Board of Commissioners' Report dated September 15, 2003, pointing out that the Board of Commissioners was in the best position to determine the amount of just compensation considering that its members undertook intensive ocular inspection of the subject properties.

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Id. at 51.

### **The Court's Ruling**

The petition is partly meritorious.

In expropriation proceedings, just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word "compensation" and to convey thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full and ample. The constitutional limitation of "just compensation" is considered to be a sum equivalent to the market value of the property, broadly defined as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition; or the fair value of the property; as between one who receives and one who desires to sell it, fixed at the time of the actual taking by the government.<sup>14</sup>

It is settled that the amount of just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the amount of just compensation is to be ascertained as of the time of the filing of the complaint.<sup>15</sup>

In this case, in arriving at the amount of just compensation, both the RTC and the CA relied heavily on the Board of Commissioners' Report dated September 15, 2003, which, in turn, was arrived at after conducting an ocular inspection of the subject properties on August 27, 2003. However, the Board of Commissioners' recommendation as to the amount of just compensation was based on the prevailing market value of the subject properties in 2003. What escaped the attention of the lower courts is that the prevailing market value of the subject properties in 2003 cannot be used to determine the amount of just compensation considering that the Complaint for expropriation was filed by NPC on December 2, 1997.

Further, the Court notes that the Board of Commissioners, in its Report dated September 15, 2003, merely alleged that its members arrived at the amount of ₱1,000.00 per sq m as just compensation for the subject properties based on actual sales, presumably of surrounding parcels of land, and on the opinion of "reliable persons" that were interviewed. However, the Report dated September 15, 2003 is not supported by any corroborative

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<sup>14</sup> *Republic v. Rural Bank of Kabacan, Inc.*, G.R. No. 185124, January 25, 2012, 664 SCRA 233, 244.

<sup>15</sup> *See National Power Corporation v. Diato-Bernal*, G.R. No. 180979, December 15, 2010, 638 SCRA 660, 669.

documents such as sworn declarations of the “reliable persons” that were supposedly interviewed.

The Court has consistently ruled that just compensation cannot be arrived at arbitrarily; several factors must be considered such as, but not limited to, acquisition cost, current market value of like properties, tax value of the condemned property, its size, shape, and location. But before these factors can be considered and given weight, the same must be supported by documentary evidence.<sup>16</sup> The amount of just compensation could only be attained by using reliable and actual data as bases for fixing the value of the condemned property. A commissioners’ report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.<sup>17</sup>

Under the Rules of Court, any evidence – whether oral or documentary – is hearsay if its probative value is not based on the personal knowledge of the witness, but on that of some other person who is not on the witness stand.<sup>18</sup>

A commissioners’ report of land prices is considered as evidence in the determination of the amount of just compensation due the land owner in expropriation cases. The recommended amount of just compensation contained in the commissioners’ report of land prices, in turn, is based on various factors such as the fair market value of the property, the value of like properties. Thus, it becomes imperative that the commissioners’ report of land prices be supported by pertinent documents, which impelled the commissioners to arrive at the recommended amount for the condemned properties, to aid the court in its determination of the amount of just compensation. Otherwise, the commissioner’s report becomes hearsay and should thus not be considered by the court.

The trial court, in expropriation cases, may accept or reject, whether in whole or in part, the report submitted by the Board of Commissioners, which is merely advisory and recommendatory in character. It may also recommit the report or set aside the same and appoint new commissioners.<sup>19</sup> In this case, the lower courts gave full faith and credence to the Board of

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<sup>16</sup> *National Power Corporation v. Zabala*, G.R. No. 173520, January 30, 2013, 689 SCRA 554, 564.

<sup>17</sup> Supra note 14, at 246, citing *National Power Corporation v. Diato-Bernal*, supra note 15.

<sup>18</sup> RULES OF COURT, Rule 130, Section 36.

<sup>19</sup> RULES OF COURT, Rule 67, Section 8, provides that:

Section 8. Action upon commissioners’ report. — Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith, or, for cause shown, it may recommit the same to the commissioners for further report of facts, or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.

Commissioners' Report dated September 15, 2003 notwithstanding that it was not supported by any documentary evidence.

Considering that the legal basis for the determination of just compensation for the subject properties is insufficient, the respective Decisions of the RTC and the CA should be set aside.


Nevertheless, the Court cannot fix the amount of just compensation for the subject properties at ₱500.00 per sq m pursuant to the Board of Commissioners' Report dated May 2, 2001. The said Report suffers from the same infirmity as the Report dated September 15, 2003 – it is unsupported by any documentary evidence and its recommendation as regards the amount of just compensation are based on the prevailing market value of the subject properties in 2001.

**WHEREFORE**, in consideration of the foregoing disquisitions, the instant petition is **PARTIALLY GRANTED**. The Decision dated September 23, 2010 of the Court of Appeals in CA-G.R. CV No. 86508 and the Decision dated May 12, 2005 of the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 40, in Civil Case No. R-4600 are hereby **SET ASIDE**. This case is remanded to the trial court for the proper determination of just compensation, in conformity with this Decision.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson



*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Martin S. Villarama, Jr.*  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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*  
**MARIA LOURDES P. A. SERENO**  
Chief Justice