



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LAND BANK OF THE G.R. No. 192890
PHILIPPINES,

Petitioner,

- versus -

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, JJ.

VIRGINIA PALMARES, LERMA
P. AVELINO, MELILIA P. VILLA,
NINIAN P. CATEQUISTA, LUIS
PALMARES, JR., SALVE P.
VALENZUELA, GEORGE P.
PALMARES, AND DENCEL P.
PALMARES HEREIN
REPRESENTED BY THEIR
ATTORNEY-IN-FACT, LERMA
P. AVELINO,

Respondents.

Promulgated:

JUN 17 2013

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RESOLUTION

PERLAS-BERNABE, J.:

This petition for review on *certiorari*¹ assails the August 28, 2007 Decision² and June 29, 2010 Resolution³ of the Court of Appeals (CA) in CA-G.R. CEB SP No. 01846, which affirmed with modification the March 27, 2006 Decision⁴ of the Regional Trial Court (RTC) of Iloilo City, Branch 34, ordering petitioner Land Bank of the Philippines (LBP) to pay respondents Virginia Palmares, Lerma P. Avelino, Melilia P. Villa, Ninian P.

¹ Rollo, pp. 25-65.

² Id. at 69-77. Penned by Associate Justice Priscilla Baltazar-Padilla, with Associate Justices Pampio A. Abarintos and Stephen C. Cruz, concurring.

³ Id. at 78-79. Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Ramon A. Cruz and Myra V. Garcia-Fernandez, concurring.

⁴ Id. at 328-343. Penned by Presiding Judge Ma. Yolanda M. Panaguiton-Gaviño.

Catequista, Luis Palmares, Jr., Salve P. Valenzuela, George P. Palmares, and Dencel P. Palmares (respondents) the total sum of ₱669,962.53 as just compensation for their land plus twelve percent (12%) interest per annum from June 1995 until full payment.

The Factual Antecedents

Respondents inherited a 19.98-hectare agricultural land located in Barangay Tagubang, Passi City, Iloilo, registered under Transfer Certificate of Title (TCT) No. T-11311. In 1995, they voluntarily offered the land for sale to the government pursuant to Republic Act No. 6657 (RA 6657), the Comprehensive Agrarian Law of 1988. Accordingly, the Department of Agrarian Reform (DAR) acquired 19.1071 hectares of the entire area,⁵ which was valued by LBP at ₱440,355.92. Respondents, however, rejected said amount. Consequently, the Department of Agrarian Reform Adjudication Board (DARAB) conducted summary proceedings to determine just compensation for the land, but it resolved to adopt LBP's valuation. Hence, the same amount was deposited to respondents' credit as provisional compensation for the land.

On August 17, 2001, respondents filed a petition⁶ for judicial determination of just compensation docketed as Civil Case No. 01-26876 before the RTC of Iloilo City. During the pendency of said petition, the trial court directed⁷ LBP to recompute the value of the land. In compliance therewith, LBP filed a Manifestation⁸ dated November 4, 2002 stating the recomputed value of the land from ₱440,355.92 to ₱503,148.97. Despite the increase, respondents still rejected the offer.

The RTC Ruling

On March 27, 2006, the RTC rendered the assailed Decision fixing the just compensation of the land at ₱669,962.53, thus:

WHEREFORE, based on the foregoing premises, judgment is hereby rendered fixing the just compensation of the total area of the land actually taken in the amount of ₱669,962.53 and ordering the LBP to pay the plaintiffs Virginia Palmares, et al. the total sum of ₱669,962.53 as just compensation for the 19.1071 hectares taken by the government pursuant to R.A. 6657 plus 12% interest per annum from June, 1995 until full payment.

⁵ The remaining portion (0.8806 hectares) was excluded for being a road. See *id.* at 329.

⁶ *Id.* at 202-205.

⁷ *Id.* at 218.

⁸ *Id.* at 219.

Under Section 19 of R.A. 6657, plaintiffs are also entitled to an additional five percent (5%) cash payment by way of incentive for voluntarily offering the subject lot for sale.

SO ORDERED.⁹

The trial court arrived at its own computation by getting the **average** of (1) the price per hectare as computed by LBP in accordance with DAR guidelines;¹⁰ and (2) the market value of the land per hectare as shown in the 1997 tax declaration, viz:

	LBP price per ha. + Market value	Average x Area	Value
Corn land	[P17,773.91 + P39,760.00]/2 = P28,766.95	x 15.0234 has.	= P432,177.40
Rice land	[44,304.44 + 79,790.00]/2 = 62,047.22	x 3.6337 has.	= 225,460.98
Bamboo land	27,387.00	27,387.00 x 0.4500 has.	= <u>12,324.15</u>
Total Land Value			<u>P669,962.53¹¹</u>

LBP appealed to the CA arguing that the computation made by the RTC failed to consider the factors in determining just compensation enumerated under Section 17 of RA 6657, which reads:

SEC. 17. *Determination of Just Compensation.* – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

The CA Ruling

On August 28, 2007, the appellate court affirmed the just compensation fixed by the RTC as having been arrived at in consonance with Section 17 of RA 6657 and pertinent DAR Administrative Orders. It emphasized that the determination of just compensation in eminent domain proceedings is essentially a judicial function and, in the exercise thereof, courts should be given ample discretion and should not be delimited by mathematical formulas.

⁹ Id. at 342-343.
¹⁰ DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Circular No. 11, Series of 1994, and its implementing guidelines.
¹¹ *Rollo*, pp. 186-187.

The CA modified the award of twelve percent (12%) interest to apply only to the remaining balance of the just compensation in the amount of ₱229,606.61, considering that LBP had already previously deposited in the name of respondents the amount of ₱440,355.92 corresponding to its valuation. Thus:

WHEREFORE, premises considered, the petition is **PARTIALLY GRANTED**. The impugned Decision dated 27 March 2006 and Order dated 12 May 2006 are **AFFIRMED with the MODIFICATION** that petitioner is ordered to pay respondents the remaining balance of Php229,606.61 with legal interest thereon at 12% per annum computed from the taking of the property in June, 1995 until the amount shall have been fully paid.

SO ORDERED.¹²

In its motion for reconsideration¹³ of the foregoing Decision, LBP insisted on its valuation of the subject land, which already factored in the market value per tax declaration in 1995 when the land was offered, in accordance with the formula¹⁴ prescribed under DAR Administrative Order (AO) No. 6, Series of 1992, as amended by AO No. 11, Series of 1994. The RTC, however, factored in the market value in the 1997 Tax Declaration of the subject land to arrive at its own valuation. Thus, LBP protested what it called the “double take up” of the market value per tax declaration.¹⁵

During the pendency of the said motion, LBP urgently moved¹⁶ for the consolidation of the instant case with CA-G.R. CEB SP No. 01845 entitled

¹² *Rollo*, p. 76.

¹³ *Id.* at 103-120.

¹⁴ $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$

Where: LV = Land Value

CNI = Capitalized Net Income

CS = Comparative Sales

MV = Market Value per Tax Declaration

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

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

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

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

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

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$LV = MV \times 2$

Expressed in equation form:

$CNI = \frac{(AGP \times SP) - CO}{.12}$

.12

Where: CNI = Capitalized Net Income

AGP = One year's Average Gross Production immediately preceding the date of offer in case of VOS or date of notice of coverage in case of CA.

SP = Selling Price shall refer to average prices for the immediately preceding calendar year from the date of receipt of the claimfolder by LBP for processing secured from the Department of Agriculture and other appropriate regulatory bodies x x x

CO = Cost of Operations

.12 = Capitalization Rate

See *id.* at 106-108.

¹⁵ *Id.* at 106-107.

¹⁶ *Id.* at 127-132. Urgent Manifestation with Motion to Consolidate.

Republic of the Philippines, represented by the Department of Agrarian Reform v. Virginia Palmares, et al. It appeared that the DAR had filed a separate appeal of the March 27, 2006 Decision of the RTC before a different division of the CA, which rendered a Decision on September 28, 2007, exactly a month after the promulgation of the assailed Decision in the instant case, reversing the RTC and ordering the remand of the case for determination of just compensation with the assistance of at least three (3) commissioners. LBP, however, failed to append a copy of the September 28, 2007 Decision in CA-G.R. SP No. 01845 both in its Urgent Manifestation with Motion to Consolidate before the appellate court, and in the instant petition before us.

LBP's motion for reconsideration of the August 28, 2007 Decision¹⁷ of the CA and its Urgent Manifestation with Motion to Consolidate were both denied in the June 29, 2010 Resolution,¹⁸ for lack of merit.

Hence, LBP is now before us *via* the instant petition for review on *certiorari* alleging that –

1.THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN **AFFIRMING WITH MODIFICATION** THE DECISION DATED MARCH 27, 2006 AND ORDER DATED MAY 12, 2006 OF THE SPECIAL AGRARIAN COURT (SAC), THE COMPENSATION FIXED BY THE SAC NOT BEING IN ACCORDANCE WITH THE LEGALLY PRESCRIBED VALUATION FACTORS UNDER SECTION 17 OF R.A. 6657 AS TRANSLATED INTO A BASIC FORMULA IN DAR ADMINISTRATIVE ORDER NO. 05, SERIES OF 1998 AND AS RULED BY THE SUPREME COURT IN THE CASES OF SPS. BANAL, G.R. NO. 143276 (JULY 20, 2004); CELADA, G.R. NO. 164876 (JANUARY 23, 2006); AND LUZ LIM, G.R. NO. 171941 (AUGUST 2, 2007).

2.THE HONORABLE COURT OF APPEALS ERRED IN HOLDING PETITIONER LBP LIABLE FOR INTEREST OF 12% PER ANNUM.

3.THE COURT OF APPEALS EIGHTEENTH DIVISION ERRED IN NOT CONSOLIDATING THE CASE WITH CA-G.R. CEB SP NO. 01845 AND REMANDING THE CASE TO THE COURT A QUO CONSIDERING THE SEPTEMBER 28, 2007 DECISION OF THE SPECIAL TWENTIETH DIVISION OF THE COURT OF APPEALS IN CA-G.R. CEB-SP NO. 01845 TO REMAND THE CASE ON THE PETITION FILED BY THE DAR.¹⁹

¹⁷ Id. at 69-77.

¹⁸ Id. at 78-79.

¹⁹ Id. at 36.

The Court's Ruling

There is merit in the instant petition.

The principal basis of the computation for just compensation is Section 17 of RA 6657,²⁰ which enumerates the following factors to guide the special agrarian courts in the determination thereof: (1) the acquisition cost of the land; (2) the current value of the properties; (3) its nature, actual use, and income; (4) the sworn valuation by the owner; (5) the tax declarations; (6) the assessment made by government assessors; (7) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property; and (8) the non-payment of taxes or loans secured from any government financing institution on the said land, if any.²¹ Pursuant to its rule-making power under Section 49²² of the same law, the DAR translated these factors into a basic formula.²³

In the instant case, the trial court found to be “unrealistically low” the total valuation by LBP and the DAR in the amount of ₱440,355.92, which was computed on the basis of DAR AO No. 6, Series of 1992, as amended by DAR AO No. 11, Series of 1994. It then merely proceeded to add said valuation to the market value of the subject land as appearing in the 1997 Tax Declaration, and used the average of such values to fix the just compensation at ₱669,962.53.

In *Land Bank of the Philippines v. Barrido*,²⁴ where the RTC adopted a different formula, as in this case, by considering the average between the findings of the DAR using the formula laid down in Executive Order No. 228²⁵ and the market value of the property as stated in the tax declaration, we declared it to be an obvious departure from the mandate of the law and the DAR administrative order. We emphasized therein that, while the determination of just compensation is essentially a judicial function vested in the RTC acting as a special agrarian court, the judge cannot abuse his discretion by not taking into full consideration the factors specifically identified by law and implementing rules.

²⁰ *Land Bank of the Philippines v. Barrido*, G.R. No. 183688, August 18, 2010, 628 SCRA 454, 458.

²¹ *Land Bank of the Philippines v. Heirs of Salvador Encinas*, G.R. No. 167735, April 18, 2012, 670 SCRA 52, 60.

²² SEC. 49. *Rules and Regulations*. – The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act.

²³ *Land Bank of the Philippines v. Heirs of Encinas*, supra note 21.

²⁴ Supra note 20.

²⁵ *Declaring Full Land Ownership to Qualified Farmer Beneficiaries covered by Presidential Decree No. 27 (PD 27); Determining the Value of Remaining Unvalued Rice and Corn Lands subject to PD 27; and Providing for the Manner of Payment By the Farmer Beneficiary and Mode of Compensation to the Landowner*.

We agree with LBP in the instant case that the “double take up” of the market value per tax declaration as a valuation factor completely destroys the rationale of the formula laid down by the DAR. Thus, argues LBP:

x x x Market value accounts for only 10% under the basic formula of $LV = (CNI \times 0.60) + (CS \times .30) + (MV \times .10)$. The 10% remains constant even under the variation formulae of $LV = (CNI \times .90) + (MV \times .10)$ and $LV = (CS \times .90) + (MV \times .10)$. It is only when the data constituting CS (Comparable sales) and CNI (capitalized net income) are absent that MV is given greater weight in determining just compensation. This is not obtaining in this case.

x x x Greater weight is accorded CNI, 60% in the basic formula and 90% in the other variation thereof, and this is not without a valid reason. The valuation formula is heavily production based (net income) because that is the true value of what landowners lose when their lands are expropriated and what the farmers-beneficiaries gain when the lands are distributed to them. A more fundamental reason for the valuation formula of DAR is the fidelity to the principle of affordability, i.e. what the farmers-beneficiaries can reasonably afford to pay based on what the land can produce. It must be emphasized that agricultural lands are not residential lands, and farmers-beneficiaries are not given those lands so they can live there but so that they can till them. And since they generally live on hand to mouth existence, their source of repaying the just compensation is sourced from their income derived from the cultivation of the land. Thus, the double take up of market value as a valuation factor goes against the grain of affordability as the basic principle in the government-supervised valuation formula for agrarian reform.²⁶

Considering, therefore, that the RTC based its valuation on a different formula and without taking into full consideration the factors set forth in Section 17 of RA 6657, we order the consolidation of the instant case (CA-G.R. CEB SP No. 01846) with CA-G.R. CEB SP No. 01845, where the appeal of the DAR from the March 27, 2006 Decision of the RTC was granted and said case was remanded to the trial court for determination of just compensation with the assistance of commissioners. We have held that consolidation of cases is proper when there is a real need to forestall, as in this case, the possibility of conflicting decisions being rendered in the cases.²⁷


WHEREFORE, the petition is **GRANTED**. The August 28, 2007 Decision and June 29, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 01846 are hereby **REVERSED** and **SET ASIDE**. The case is

²⁶ *Rollo*, pp. 107-109.

²⁷ *Benguet Corporation, Inc. v. CA*, 247-A Phil. 356, 363 (1988).

CONSOLIDATED with CA-G.R. CEB SP No. 01845 and **REMANDED** to the Regional Trial Court of Iloilo City, Branch 34, which is directed to determine with dispatch, and with the assistance of at least three (3) commissioners, the just compensation due the respondents in accordance with Section 17 of Republic Act No. 6657 and the applicable DAR Administrative Orders.

SO ORDERED.

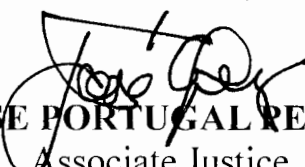

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

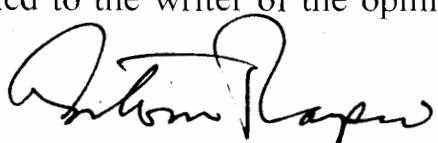

ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution 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 Resolution 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