



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES,
represented by the DEPARTMENT
OF PUBLIC WORKS AND
HIGHWAYS (DPWH)¹,
Petitioner,

- versus -

ASIA PACIFIC INTEGRATED
STEEL CORPORATION,
Respondent.

G.R. No. 192100

Present:

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

Promulgated:

MAR 12 2014

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DECISION

VILLARAMA, JR., J.:

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the July 21, 2009 Decision² of the Court of Appeals (CA) in CA-G.R. CV No. 90539. The CA partially affirmed the September 21, 2007 Decision³ of the Regional Trial Court (RTC), Branch 54, of Macabebe, Pampanga, and reduced the annual legal interest awarded from 12% to 6% per annum. Also assailed is the appellate court's April 28, 2010 Resolution⁴ denying petitioner's motion for reconsideration.

As culled from the records, the following are the pertinent facts:

¹ The complaint and the appeal in the instant case were filed for and on behalf of the Republic of the Philippines by the Toll Regulatory Board (TRB). However, by virtue of Executive Order No. 686, Series of 2007, entitled, *Transferring Back the Toll Regulatory Board from the Department of Public Works and Highways to the Department of Transportation and Communications and Clarifying Its Mandate*, the power to condemn private property for highways, roads, bridges and public thoroughfares was relegated from the TRB to the DPWH. (*Rollo*, p. 12.)

² *Rollo*, pp. 41-59. Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Sasinando E. Villon and Myrna Dimaranan Vidal concurring.

³ Records, pp. 420-430. Penned by Presiding Judge Lucina Alpez-Dayao.

⁴ *Rollo*, pp. 61-63. Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Sasinando E. Villon and Romeo F. Barza concurring.

Asia Pacific Integrated Steel Corporation (respondent) is the registered owner of a 17,175-square meter property situated in Barangay Sta. Monica, Municipality of San Simon, Province of Pampanga and covered by Transfer Certificate of Title (TCT) No. 271813-R.⁵

On March 1, 2002, the Republic of the Philippines (petitioner) through the Toll Regulatory Board (TRB) instituted expropriation proceedings against the respondent over a portion of their property. The affected area, consisting of 2,024 square meters, shall be traversed by the expansion of the San Simon Interchange, an integral component of the construction, rehabilitation and expansion of the North Luzon Expressway (NLEX Project). Subsequently, petitioner filed an urgent *ex-parte* motion for issuance of writ of possession, stating that it deposited with the Land Bank of the Philippines (LBP) the amount of ₱607,200.00 (100% of the value of the property based on current zonal valuation of the Bureau of Internal Revenue [BIR]) in accordance with Section 4(a) of Republic Act No. 8974⁶ (R.A. 8794), and hence the court has the ministerial duty to place petitioner in possession pursuant to Section 2, Rule 67 of the Rules of Civil Procedure.⁷

On March 19, 2002, the trial court issued an order granting petitioner's motion and directing the Register of Deeds of Pampanga to cause the annotation of the writ of possession on TCT No. 271813-R.⁸

In its Answer with Opposition to the Motion for Issuance of Writ of Possession,⁹ respondent questioned the TRB's authority to expropriate the subject property and objected to petitioner's offered compensation which respondent deems unjust because the basis thereof - the BIR zonal valuation - was an unofficial valuation, being merely based on an internal memorandum issued by BIR Revenue District No. 21, not by the Asset Valuation Department of the BIR National Office. Respondent asserted that just compensation should be at ₱3,036,000.00 or at ₱1,500.00 per square meter plus consequential damages, considering the fair market value and the industrial classification of the subject property.

During the pre-trial conference, the parties agreed on TRB's authority to expropriate the subject property but disagreed as to the amount of just compensation. Petitioner offered to pay ₱607,200.00 for the portion taken but respondent made a counter-offer of ₱1,821,600.00. The parties eventually agreed to submit the issue of just compensation to three Commissioners composed of the Municipal Assessor of San Simon as Chairman, and the RTC Branch Clerk of Court and the Register of Deeds for the Province of Pampanga as Members.¹⁰

⁵ Id. at 42; records, p. 9.

⁶ "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES."

⁷ *Rollo*, pp. 42-43.

⁸ Id. at 170.

⁹ Id. at 156-158.

¹⁰ Records, pp. 102, 109, 111 and 229.

On June 1, 2004, the trial court granted respondent's motion to withdraw the ₱607,200.00 deposited by petitioner with the LBP as partial payment for just compensation.¹¹

On June 9, 2004, the Commissioners submitted their Report with the following findings and recommendation:

The affected lot is within the area wherein the land use are residential, commercial, and industrial (mixed land use), as per Vicinity Map hereto attached as Annex "B". The area is along MacArthur Highway, Quezon Road, Municipal and Barangay Roads[.]

In the absence of bonafide sales transaction in the area, the Assessor's Office being aware of the actual conditions of subject property decided to use opinion values in the determination of the current and fair market value for the purpose of payment of just compensation.

OPINION VALUES

A. Real Estate Brokers/Independent Appraisers/Owners, etc.

1. Residential - ranging from P2,000.00 to P2,500.00 per square meter
2. Commercial - ranging from P2,500.00 to P3,000.00 per square meter
3. Industrial - ranging from P1,000.00 above per square meter

B. Banks and Financial Institutions

1. Residential - ranging from P1,000.00 to P2,000.00 per square meter
2. Commercial - ranging from P2,000.00 to P3,000.00 per square meter
3. Residential - ranging from P1,000.00 to P1,500.00 per square meter

Appraisal conducted by the Assessor of San Simon, Pampanga for various properties within the area, recommended an amount ranging from P1,000.00 to P1,500.00, Philippine currency, per square meter, depending on their proximity to the national roads, municipal roads, and barangay roads, and the improvement/development put in place. The amount of P1,000.00 to P1,500.00 was arrived at by the undersigned commissioners due to the conversion of the subject property from agricultural to industrial use as evidenced by the Order of Conversion dated July 8, 1991, issued by Renato B. Padilla, Undersecretary, Department of Agrarian Reform, a xerox copy of which is hereto attached [as] Annex "C".¹²

On September 23, 2004, an ocular inspection was conducted in the presence of the parties' representatives and their respective counsels, during which the trial court noted the following:

1. There is an existing toll plaza on the right lane of the expressway facing the direction of Manila with blue colored roofing.
2. Comprised in the aforesaid toll plaza are three toll booths. The third booth located on the extreme right facing Manila occupies a portion of the expropriated portion of defendant's property.

¹¹ Id. at 186-187.

¹² Id. at 188-189.

3. The expropriated portion which is shown in a sketch which was marked as Exhibit H is indicated by its color: green. It has an area of 2,021 square meters. The remaining unexpropriated portion of defendant's land has an area of 15,151 square meters.

4. The unexpropriated portion of the land of defendant is presently very much below the level of the expressway because the expressway was upgraded. It is immediately adjacent to the existing expressway, located as it is, on its right side facing Manila. It is swampy with little water.¹³

In its Decision, the trial court ruled as follows:

x x x Although there was no documentary evidence attached to substantiate the opinions of the banks and the realtors indicated in the Commissioners' Report, the Court finds the commissioners' recommendation of the valuation of industrial lands at P1,000.00 to P1,500.00 to be fair, absent any showing that the valuation is exorbitant or otherwise unjustified. There was no fraud or prejudice that tainted the report.

The Court finds the valuation of the Republic of the Philippines which was pegged at Php300.00 per square meter to be very low. The zonal valuation of the Bureau of Internal Revenue (Exhibits A and B with submarkings) is merely a gauge or is necessary in the assessment of correct transfer taxes by the said office. Furthermore the Department Order No. 23-98 took effect only last February 2, 1998 which was four (4) years prior to the filing of the complaint. The same is true with Ordinance No. 17, Series of 1994 issued by the Sangguniang Panlalawigan of Pampanga (Exhibit E) which was issued eight (8) years also prior to the filing of the complaint.

Concerning the Deed of Absolute Sale (Exhibit C) notarized on July 19, 2002, the same was undated and pertains only to a right of way. An easement of right of way transmits no rights except the easement itself. Hence, the just compensation pertaining to easement of right of way should be lower than that in the Deed of Absolute Sale. x x x

x x x x

Using the recommendation of the three (3) commissioners as guide, the Court finds the amount of ONE THOUSAND THREE HUNDRED PESOS (Php1,300.00) per square meter as just compensation for the property subject of expropriation.

WHEREFORE, premises considered, judgment is rendered:

1) Ordering the plaintiff to pay the defendant in the amount of TWO MILLION TWENTY FOUR THOUSAND PESOS (Php2,024,000.00) representing the net amount of just compensation after deducting the partial payment of P607,200.00 based on the valuation of Php1,300.00 per square meter on the expropriated portion of the parcel of land [Lot 329-A of the subdivision, plan (LRC) Psd-246403, being a portion of lot 329, San Simon, LRC. Cad Rec. No. 1316] with an area of 2,024 square meters situated in Sta. Monica, San Simon, Pampanga covered by Transfer Certificate of Title No. 271813-R plus legal interest

¹³ Id. at 241.

of 12% per annum from the time of taking (March 21, 2002) until fully paid less taxes due on the land.

2) Ordering the plaintiff to pay the costs and/or expenses in relation to the transfer of ownership of the property in its favor from defendant Asia Pacific Integrated Steel Corporation.

3) Condemning the property subject of expropriation free from all liens and encumbrances for the construction, rehabilitation and expansion of the North Luzon Expressway.

SO ORDERED.¹⁴

Petitioner appealed to the CA, arguing that the just compensation should not be more than ₱300.00 per square meter and that the correct rate of interest is 6% per annum.

The CA upheld the trial court's ruling, reiterating the principle that the determination of just compensation is an inherently judicial function. It stressed that any valuation for just compensation laid down in statutes merely serve as guides or factors and may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount.¹⁵

Further, the CA noted that petitioner itself admitted that the BIR zonal valuation is only for the purpose of determining the correct amount of transfer taxes. It held that while BIR zonal valuation may be a factor in determining just compensation, the same is not a competent basis thereof. Citing R.A. 8974, the CA pointed out the distinction between provisional value as a precondition for the issuance of a writ of possession and the payment of just compensation for the expropriated property. While the provisional value is based on the zonal value as may be determined by the BIR, just compensation is based on the prevailing fair market value of the property. Necessarily, the zonal valuation of properties is not equivalent to their fair market value.¹⁶

After examining the records, the CA found no reversible error in the trial court's determination of just compensation and held that the valuation of ₱1,500.00 per square meter is more in consonance with the concept of just compensation based upon due consideration of all evidence. Thus:

It is equally settled that the valuation of a property in tax declarations cannot be a substitute to just compensation. Elsewise stated, the market value reflected in the tax declaration of the condemned property is no longer conclusive. Accordingly, we cannot appreciate the herein tax declaration in favor of the Republic.

Further, it is uncontested that the deed of sale dated July 19, 2002 between San Simon Realty, Inc. and the Republic pertained only to a right

¹⁴ Id. at 429-430.

¹⁵ *Rollo*, p. 54.

¹⁶ Id. at 55.

of way, hence, the value thereof should be considerably lower. Ordinance No. 17, as correctly found by the RTC, was issued on June 22, 1994 or eight (8) years prior to the institution of the herein complaint. Certainly, the valuation of properties therein can by no means be reflective of the current, prevailing and fair value of the subject property. The Republic failed to present evidence to controvert the RTC's finding on the matter. Neither has it shown that the property sold thereunder shares the same features as the herein subject property as to warrant a similar valuation. We cannot, thus, yield to the Republic's submission that its evidence are the proper basis in determining just compensation for Asia Pacific's property.¹⁷

However, the CA modified the rate of interest imposed on the amount due as just compensation from 12% to 6% in conformity with prevailing jurisprudence.

On April 28, 2010, the CA denied petitioner's motion for reconsideration, stating that the argument on valuation by petitioner was merely a rehash of what the CA had already passed upon.

Hence, this petition assailing the CA's affirmance of the trial court's award of just compensation, the legal basis of which is allegedly insufficient.

Petitioner argues that the evidence for determining the amount of just compensation in expropriation cases should be on those factors provided in Section 5 of R.A. 8974. Considering such factors and the evidence submitted by the parties before the trial court, petitioner maintains that just compensation for the subject property should be no more than the zonal valuation (₱300.00 per square meter), and in no case should it amount to the market value of ₱1,300.00 per square meter adjudged by the trial and appellate courts. Petitioner claims that such huge sum for only 2,024-square meter portion of respondent's 17,175-square meter property, is unbelievably 433.4% more than the 1998 BIR zonal value for an underdeveloped industrial land at the time of its taking.

On the other hand, respondent contends that no reversible error was committed by the CA in affirming the trial court's decision after considering all the arguments raised by petitioner and the evidence on record. It asserts that the main issue of just compensation and the findings thereon by the trial court as affirmed by the CA is a question of fact which should not be disturbed by this Court. Moreover, respondent asserts that the determination by the trial court is entitled to the highest respect considering that the judge has personal knowledge of the condition of the subject property, having conducted an ocular inspection on September 23, 2004.

We grant the petition.

As a rule, a petition for review under Rule 45 of the Rules of Court covers *only* questions of law. Questions of fact are not reviewable and

¹⁷ Id. at 55-56.

cannot be passed upon by this Court in the exercise of its power to review. The distinction between questions of law and questions of fact is established. A *question of law* exists when the doubt or difference centers on what the law is on a certain state of facts. A *question of fact*, on the other hand, exists if the doubt centers on the truth or falsity of the alleged facts.¹⁸

This being so, the findings of fact of the CA are final and conclusive and this Court will not review them on appeal.¹⁹

For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.²⁰ In this case, the only legal issue raised by petitioner is whether the trial court based its determination of just compensation on the factors provided under existing laws and jurisprudence.

Section 5 of R.A. 8974 enumerates the standards for assessing the value of expropriated land taken for national government infrastructure projects, thus:

SECTION 5. *Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale.* – In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

- (a) The classification and use for which the property is suited;
- (b) The developmental costs for improving the land;
- (c) The value declared by the owners;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of the improvements thereon;
- (f) The size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

In this case, the trial court considered only (a) and (d): (1) the classification of the subject property which is located in an area with mixed land use (commercial, residential and industrial) and the property's

¹⁸ *Westmont Investment Corporation v. Francia, Jr.*, G.R. No. 194128, December 7, 2011, 661 SCRA 787, 797, citing *Microsoft Corporation v. Maxicorp, Inc.*, 481 Phil. 550, 561 (2004).

¹⁹ *Id.*

²⁰ *Leoncio, et al. v. de Vera, et al.*, 569 Phil. 512, 516 (2008).

conversion from agricultural to industrial land, and (2) the current selling price of similar lands in the vicinity – the only factors which the commissioners included in their Report. It also found the commissioners' recommended valuation of ₱1,000.00 to ₱1,500.00 per square to be fair and just despite the absence of documentary substantiation as said prices were based merely on the opinions of bankers and realtors.

In *National Power Corporation v. Manubay Agro-Industrial Development Corporation*,²¹ the recommended price of the city assessor was rejected by this Court. The opinions of the banks and the realtors as reflected in the computation of the market value of the property and in the Commissioners' Report, were not substantiated by any documentary evidence.

Similarly, in *National Power Corporation v. Diato-Bernal*,²² this Court rejected the valuation recommended by court-appointed commissioners whose conclusions were devoid of any actual and reliable basis. The market values of the subject property's neighboring lots were found to be mere estimates and unsupported by any corroborative documents, such as sworn declarations of realtors in the area concerned, tax declarations or zonal valuation from the BIR for the contiguous residential dwellings and commercial establishments. Thus, we ruled that a commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.

We find that the trial court did not judiciously determine the fair market value of the subject property as it failed to consider other relevant factors such as the zonal valuation, tax declarations and current selling price supported by documentary evidence. Indeed, just compensation must not be arrived at arbitrarily, but determined after an evaluation of different factors.²³

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. Such "just"-ness of the compensation can only be attained by using reliable and actual data as bases in fixing the value of the condemned property.²⁴ Trial courts are required to be more circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds.²⁵

²¹ G.R. No. 150936, August 18, 2004, 437 SCRA 60, 70.

²² G.R. No. 180979, December 15, 2010, 638 SCRA 660, 668-669.

²³ See *Leca Realty Corporation v. Rep. of the Phils.*, 534 Phil. 693, 707 (2006).

²⁴ *National Power Corporation v. Diato-Bernal*, supra note 22 at 669, citing *Republic v. Libunao*, G.R. No. 166553, July 30, 2009, 594 SCRA 363, 376.

²⁵ Id.

We agree with the trial court that it was not bound by the assessment report of the commissioners and that it had the discretion to reject the same and substitute its own judgment on its value as gathered from the record, or it may accept the report/recommendation of the commissioners *in toto* and base its judgment thereon. However, the decision of the court must be based on all established rules, upon correct legal principles and competent evidence.²⁶ The court is proscribed from basing its judgment on speculations and surmises.

Nonetheless, we cannot subscribe to petitioner's argument that just compensation for the subject property should not exceed the zonal valuation (₱300.00 per square meter).

In *Republic v. Court of Appeals*,²⁷ we held that --

The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be 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. x x x

Zonal valuation is just one of the indices of the fair market value of real estate. By itself, this index cannot be the sole basis of "just compensation" in expropriation cases.²⁸ As this Court ruled in *Leca Realty Corporation v. Rep. of the Phils.*²⁹:

The Republic is incorrect, however, in alleging that the values were exorbitant, merely because they exceeded the maximum zonal value of real properties in the same location where the subject properties were located. **The zonal value may be one, but not necessarily the sole, index of the value of a realty.** *National Power Corporation v. Manubay Agro-Industrial* held thus:

"x x x [Market value] is not limited to the assessed value of the property or to the schedule of market values determined by the provincial or city appraisal committee. However, these values may serve as factors to be considered in the judicial valuation of the property."

The above ruling finds support in *EPZA v. Dulay* in this wise:

"Various factors can come into play in the valuation of specific properties singled out for expropriation. The values given by provincial assessors are usually uniform for very wide areas covering several barrios or even an entire town with the exception of the *poblacion*. Individual differences are never taken into account. The value of land is based on such generalities as

²⁶ See *Manansan v. Republic of the Philippines*, 530 Phil. 104, 117-118 (2006).

²⁷ G.R. No. 146587, July 2, 2002, 383 SCRA 611, 622-623.

²⁸ *Republic v. Tan Song Bok*, G.R. No. 191448, November 16, 2011, 660 SCRA 330, 348, citing *Leca Realty Corporation v. Rep. of the Phils.*, supra note 23, at 708-709.

²⁹ *Id.*

its possible cultivation for rice, corn, coconuts or other crops. Very often land described as 'cogonal' has been cultivated for generations. Buildings are described in terms of only two or three classes of building materials and estimates of areas are more often inaccurate than correct. *Tax values can serve as guides but cannot be absolute substitutes for just compensation.*" (Emphasis supplied.)

Among the factors to be considered in arriving at the fair market value of the property are the cost of acquisition, the current value of like properties, its actual or potential uses, and in the particular case of lands, their size, shape, location, and the tax declarations thereon. The measure is not the taker's gain but the owner's loss.³⁰ To be just, the compensation must be fair not only to the owner but also to the taker.³¹

It is settled that the final conclusions on the proper amount of just compensation can only be made after due ascertainment of the requirements set forth under R.A. 8974 and not merely based on the declarations of the parties.³² Since these requirements were not satisfactorily complied with, and in the absence of reliable and actual data as bases in fixing the value of the condemned property, remand of this case to the trial court is in order.


WHEREFORE, the petition for review on certiorari is **GRANTED**. The Decision dated July 21, 2009 and Resolution dated April 28, 2010 of the Court of Appeals in CA-G.R. CV No. 90539 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.


MARTIN S. VILLARAMA, JR.
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


³⁰ *Republic v. Court of Appeals*, G.R. No. 160379, August 14, 2009, 596 SCRA 57, 70, citing *B.H. Berkenkotter & Co. v. Court of Appeals*, G.R. No. 89980, December 14, 1992, 216 SCRA 584, 586 & 587.

³¹ *Id.*

³² *Bases Conversion Development Authority v. Reyes*, G.R. No. 194247, June 19, 2013, p. 8, citing *Republic v. Judge Gingoyon*, 514 Phil. 657, 698 (2005).



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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
Chief Justice

