

### THIRD DIVISION

**G.R. No. 211666 – REPUBLIC OF THE PHILIPPINES,  
REPRESENTED BY THE DEPARTMENT OF PUBLIC WORKS &  
HIGHWAYS, Petitioner, v. ARLENE R. SORIANO, Respondent.**

Promulgated:

February 25, 2015

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### CONCURRING OPINION

**LEONEN, J.:**

I concur in the result.

Republic Act No. 8974, Section 4 provides in part:

SEC. 4. Guidelines for Expropriation Proceedings. - Whenever it is necessary to acquire real property for the right-of-way, site or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

- a. Upon the filing of the complaint, and after due notice to the defendant, *the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;*

....

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project. (Emphasis and underscoring supplied)

Clearly, the state through the agency causing the taking complies with the requirements for the issuance of a writ of possession only when it pays

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the owner.

Of course, the owner may contest the proffered value by the agency<sup>1</sup> or the power of the agency to exercise eminent domain, the necessity of the taking, or the public character of the use for which the property is being condemned. In such cases, the value required by Section 4(a) will be deposited with the trial court with jurisdiction over the case.

This case does not present these issues, and I am of the view that the pronouncements should be limited only to cases where there are no objections to the taking of the property.

Legal interest, whether in the form of monetary interest (for forbearance) or compensatory interest (for damages) also does not apply in this case. In *Sun Life of Canada (Philippines), Inc. v. Sandra Tan Kit*,<sup>2</sup> the two (2) kinds of interest rates were distinguished.<sup>3</sup> Monetary interest rate is determined by parties that enter into a contract of loan, or any other contract involving the use or forbearance of money. Thus, monetary interest represents the *cost of letting another person use or borrow money*. On the other hand, compensatory interest rates are determined by courts as a penalty or indemnity for damages in monetary judgments.

There is no showing that the owner was denied payment of the amount deposited by the Department of Public Works and Highways in accordance with Republic Act No. 8974.

Furthermore, there is no complaint by the landowner of any delay in payment. The property was subject to a writ of possession dated March 27, 2011.

Should there be any delay, I am of the view that the value of the property should be at the time of the taking, but the actual price paid should be computed using the formula for present value as of the time of payment.<sup>4</sup>

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<sup>1</sup> Rep. Act No. 8974 (2000), sec. 4, par. 4 states:

“In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.”

<sup>2</sup> G.R. No. 183272, October 15, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/183272.pdf>> [Per J. Del Castillo, Second Division].

<sup>3</sup> Id. at 7. “Monetary interest refers to the compensation set by the parties for the use or forbearance of money.’ No such interest shall be due unless it has been expressly stipulated in writing. ‘On the other hand, compensatory interest refers to the penalty or indemnity for damages imposed by law or by the courts. ’”

<sup>4</sup> J. Leonen, Separate Opinion in *Heirs of Spouses Domingo Tria Consorcia Camano Tria v. Land Bank of the Philippines*, G.R. No. 170245, July 1, 2013, 700 SCRA 188, 205–209 [Per J. Peralta, Third Division].

In other words, we compute for replacement value. Monetary interest or compensatory interest will not be relevant.

Finally, I agree that documentary stamp taxes are not necessarily for the account of the seller. This is especially so in expropriation cases where the sale is coerced and the owner is unwilling. I, however, doubt whether the “Citizen’s Charter” of the Department of Public Works and Highways, published in its website, should have the effect of a regulation. At best, it is evidence that can lead to a finding of estoppel if all the elements of that equitable defense are alleged and proven by the proper party.

**ACCORDINGLY**, I concur that the Petition be **PARTIALLY GRANTED**. The Decision dated November 15, 2013 and Order dated March 10, 2014 of the Regional Trial Court in Civil Case No. 140-V-10 are hereby **MODIFIED**, in that the imposition of interest on the payment of just compensation and the award of consequential damages are deleted. In addition, respondent is **ORDERED** to pay for the capital gains tax due to the transfer of the expropriated property, while the documentary stamp tax, transfer tax, and registration fee shall be for the account of petitioner.



MARVIC M.V.F. LEONEN  
Associate Justice