

SEVENTEENTH DIVISION

[CA-G.R. CV NO. 99495, May 21, 2014]

**MUNICIPALITY OF DELFIN ALBANO, ISABELA, REPRESENTED BY
MUNICIPAL MAYOR TOMAS J. PUA, JR., PLAINTIFF-APPELLEE,
VS. NORMAN L. TAGUFA, DEFENDANT-APPELLANT.**

D E C I S I O N

BATO, JR., J.:

This is an appeal from the Decision^[1] dated March 30, 2012 issued by the Regional Trial Court of Cabagan, Isabela, Branch 22, in Special Civil Action No. 22-931, the dispositive portion of which reads:

WHEREFORE, premises considered, further to the Order of Expropriation dated June 27, 2001, the plaintiff is hereby ordered to pay to the defendant the sum [of] Seventy Two Thousand Nine Hundred and Sixty Pesos (P72,960.00) as Just Compensation for the Four Hundred Fifty-Six (456) Square Meters portion of the land described in paragraph 4 of the Complaint.

SO DECIDED.

The facts and the antecedent proceedings are borne out by the records.

On October 4, 2000, the plaintiff-appellee Municipality of Delfin Albano, Isabela, represented by Municipal Mayor Tomas J. Pua, Jr. (hereinafter the "Municipality"), filed a Complaint^[2] for Expropriation, docketed as Special Civil Action No. 22-931, seeking to expropriate Four Hundred Fifty Six (456) square meters out of the One Thousand Two Hundred (1,200) square meters land belonging to defendant-appellant Norman L. Tagufa (hereinafter "Tagufa"). Pursuant to Municipal Council Resolution No. 2000-34, the land sought to be expropriated was supposedly "needed for purposes of infrastructure development, particularly for the construction of a Liga ng Mga Barangay Multi-Purpose Hall, Day Care Center, and Senior Citizens and RIC Building." According to the Municipality, it offered to buy the property for its fair market value but Tagufa refused to sell the same. By virtue of Municipal Ordinance No. 05-2000 and the provisions of the Local Government Code, the Municipality, represented by its Mayor, was exercising its power of eminent domain to condemn the said property for the identified public purpose.

In his Answer^[3] dated October 17, 2000, Tagufa did not deny the existence of Municipal Council Resolution No. 2000-34 which sought the expropriation of 456 square meters out of his land, but he alleged that the Municipality failed to include the other 400 square meters which were previously taken and which, in fact, had already been developed as a road. Also, Tagufa alleged that there were other vacant areas in the Municipal Compound where the Municipality could construct the Liga ng

Mga Barangay Multi-Purpose Hall, Day Care Center and Senior Citizens and RIC Building. Thus, according to Tagufa, there was no justification to take his property.

In its Pre-Trial Order^[4] dated March 7, 2001, the Regional Trial Court of Cabagan, Isabela, Branch 22 (hereinafter "court a quo") declared that the only issue involved in the case was the price to be paid by the Municipality for the lot in question.

On June 27, 2001, the court a quo issued an Order,^[5] the dispositive portion of which reads:

WHEREFORE, let an Order of Expropriation be issued in accordance with the terms of Section 4, Rule 67 of the Rules of Court. For the purpose of implementing this Order, each of the parties are hereby directed to submit to the Court within ten (10) days from receipt hereof the names of at least three (3) persons to be considered for appointment by the Court as Commissioners under Section 5 of the same Rule 67 of the Rules of Court.

The first Panel of Commissioners, composed of Deogracias Dumaua, Norberto Caronan and Mary Ann T. Ferrer, submitted on October 29, 2002 a Commissioner's Report,^[6] recommending a just compensation of Six Hundred Pesos (P600.00) per square meter, thus:

The undersigned officers of the court for the purpose of determining the fair and just compensation of the land subject to expropriation, respectfully recommend to this honorable court a price of P600 per square meter, after taking into consideration the following:

1. The property is located in the commercial center of the municipality of Delfin Albano, Province of Isabela, being only about 20 meters from the town market;
2. The property is a corner lot;
3. A sale of an adjacent lot, made on the 23rd of January 2001, shows a price of P468 per square meter.

We hold this report to be true and correct.

On June 30, 2003, the Municipality deposited with the Clerk of Court a check in the amount of Fifty Thousand Pesos (P50,000.00) payable to the order of Tagufa. On July 29, 2003, Tagufa filed a Motion^[7] to withdraw the deposit. In an Order^[8] dated August 1, 2003, the court a quo approved Tagufa's motion and he was allowed to withdraw the check which was in the custody of the Clerk of Court.

Meanwhile, on July 31, 2003, the Municipality filed with the court a quo Resolution 2003-001,^[9] prepared by the Municipal Appraisal Committee, composed of Nelson B. Tagufa, George P. Bumagat and Florencio M. Baquiran, recommending that the fair, just and reasonable compensation for Tagufa's property was Sixty Pesos (P60.00) per square meter.

The hearing for purposes of approving the Reports and Recommendations on the just compensation was postponed on several occasions, until in an Order^[10] dated

May 8, 2007, the court a quo declared the case submitted for decision. But, on motion of Tagufa, said Order was recalled and set aside on May 28, 2007.^[11] The court a quo then gave Tagufa an opportunity to present his evidence.

On June 26, 2007, Tagufa filed a Motion^[12] for the appointment of a new set of commissioners. Acting on the motion, the court a quo ordered the Municipality to submit the names of its nominees.^[13]

On November 6, 2007, the court a quo issued its Order^[14] appointing the new commissioners, namely:

1. Atty. Ma. Jeanette B. Layugan, Clerk of Court, as Chairperson;
2. Mr. Bryan P. Garo, Realities Appraiser, Banko Magsaysay, Delfin Albano, Isabela, as Member; and
3. Emmagemma A. Gaerlan of San Pedro, Tumaini, Isabela, as Member.

In the same Order, the court a quo directed the commissioners to meet on November 21, 2007 for the purpose of conducting the required hearing for the determination of just compensation.

On January 28, 2009, the panel of Commissioners submitted its Commissioner's Report,^[15] recommending a just compensation of Ninety Pesos (P90.00) per square meter, thus:

It appears from the record that defendant bought the property in 1998 for P48,000.00 or P40.00 per square meter. The latest Tax Declaration of the property shows that the property is classified as an orchard with a market value of P7,680.00 or P6.40.00 (sic) per square meter. From the ocular inspection conducted taking into consideration the present classification of the property as well as the consequential benefits (the remaining property became corner lots) and the consequential damages (the whole property became divided), the commissioners recommend a just compensation of NINETY PESOS (P90.00) per square meter.

In an Order^[16] dated November 24, 2009, the court a quo approved the Commissioner's Report, but erroneously computed the just compensation as P410,400.00 instead of P41,040.00.

Tagufa moved for a new trial,^[17] while the Municipality moved for the clarification of the dispositive portion of the Order dated November 24, 2009.^[18] According to Tagufa, the Commissioner's Report failed to take into consideration the value of the adjacent lots which have been converted into business establishments and it did not show how convenience facilities, public transportation, and the residential and commercial zoning could have added value to the lot being expropriated. Also, Tagufa claimed that there was no hearing conducted for the approval of the Commissioner's Report.

Meanwhile, the Municipality pointed out to the court a quo that the correct computation of the just compensation is Forty One Thousand and Forty Pesos (P41,040.00) after multiplying 456 square meters by P90.00 per square meter.

In an Order^[19] dated February 22, 2010, the court a quo granted Tagufa's motion for new trial after realizing that Tagufa was not furnished a copy of the Commissioner's Report for him to file his objections, if any, in accordance with Section 7, Rule 67 of the Rules of Court.

In a subsequent Order^[20] dated October 27, 2010, the court a quo once again directed the parties to submit names of their proposed commissioners to determine the just compensation. Only the Municipality was able to submit its nominees. Hence, in an Order^[21] dated March 9, 2011, the court a quo appointed the following as Commissioners:

1. Atty. Shirley M. Tagao-Gumiran, Clerk of Court, RTC, Branch 22, Cabagan, Isabela, as Chairperson;
2. Engr. Florencio M. Baquiran, Municipal Assessor of Delfin Albano, Isabela, as Member; and
3. Engr. Elpidio T. Acido, Municipal Engineer of Delfin Albano, Isabela, as Member.

In the same Order, the court a quo directed the Commissioners to submit the Valuation Report within sixty (60) days.

On June 8, 2011, the panel of Commissioners submitted its Commissioner's Report^[22] dated June 7, 2011, recommending a just compensation of One Hundred Pesos (P100.00) per square meter, thus:

Therefore, after a thorough consideration of the foregoing, the undersigned respectfully recommend to the Honorable Court a just compensation of One Hundred (P100.00) Pesos per square meter or a total amount of Forty Five Thousand Six Hundred (P45,600.00) Pesos for the four hundred fifty-six (456) square meters sought to be expropriated.

The Municipality did not interpose any objection to the recommendation of the Commissioners.^[23] However, Tagufa filed his Objections,^[24] claiming that he was not notified of the hearing for the determination of just compensation and that the Commissioners erred in not classifying the property as commercial in character.

In an Order^[25] dated December 2, 2011, the court a quo approved the Commissioner's Report dated June 7, 2011 and submitted the case for decision. However, before the court a quo could render its decision, Tagufa filed on December 26, 2011 a Motion to Dismiss,^[26] alleging that, instead of the original plan to put up government buildings on the property, the Municipality planted Mahogany trees which would allegedly take many decades to achieve full growth. The Municipality opposed the Motion to Dismiss,^[27] stating that it had not abandoned the public purpose for which the subject property was sought to be expropriated and that it was only waiting for the final decision on the expropriation case before it could commence the construction of the buildings.

In an Order^[28] dated March 23, 2012, the court a quo denied Tagufa's motion to dismiss.

Consequently, in its now assailed Decision dated March 30, 2012, the court a quo ordered the Municipality to pay Tagufa Seventy Two Thousand Nine Hundred and

Sixty Pesos (P72,960.00) as just compensation for Tagufa's property. The amount is broken down as follows:

Value of land	= P45,600.00
Legal interest	= <u>27,300.00</u>
Total	= P72,960.00

His Motion for Reconsideration having been denied in the Order^[29] dated August 28, 2012, Tagufa is now before this Court, on ordinary appeal, and raising the following issues:

- I. Whether or not the Trial Court committed reversible error in approving the commissioners' report without hearing.
- II. Whether or not the Trial Court committed reversible error in not dismissing the complaint for expropriation.
- III. Whether or not defendant-appellant is entitled to moral damages.^[30]

The Municipality opposes the appeal, claiming that the court a quo did not err in approving the Commissioner's Report and in not dismissing the complaint. It also avers that Tagufa is not entitled to moral damages.

The issue raised in this appeal is whether or not the court a quo committed reversible error in fixing the just compensation in the sum of P72,960.00.

After a careful evaluation of the parties' arguments and the records, the Court rules to dismiss the appeal.

Expropriation is the exercise by the government of its authority and right to take private property for public use.^[31] Expropriation proceedings have two phases:

The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint." An order of dismissal, if this be ordained, would be a final one, of course, since it finally disposes of the action and leaves nothing more to be done by the Court on the merits. So, too, would an order of condemnation be a final one, for thereafter as the Rules expressly state, in the proceedings before the Trial Court, "no objection to the exercise of the right of condemnation (or the propriety thereof) shall be filed or heard."

The second phase of the eminent domain action is concerned with the determination by the court of "the just compensation for the property sought to be taken." This is done by the Court with the assistance of not more than three (3) commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the