

## SECOND DIVISION

[ G.R. No. 223195, January 29, 2020 ]

**NATIONAL TRANSMISSION CORPORATION, AS TRANSFEREE-  
IN-INTEREST OF THE NATIONAL POWER CORPORATION,  
PETITIONER, VS. SPOUSES MARIANO S. TAGLAO AND CORAZON  
M. TAGLAO, RESPONDENTS.**

### D E C I S I O N

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, seeking to nullify and set aside the Decision<sup>[2]</sup> dated December 17, 2015 and the Resolution<sup>[3]</sup> dated February 22, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 102782. The CA dismissed for lack of merit the appeal filed by the National Power Corporation (NPC) to the Decision<sup>[4]</sup> dated January 13, 2003 of Branch 83, Regional Trial Court (RTC), Tanauan City, Batangas.

#### *The Antecedents*

The National Transmission Corporation (TRANSCO) is the transferee-in-interest of the NPC—a government entity created to undertake the development of hydroelectric generation of power and production of electricity from any and all sources. To carry out its purpose, NPC was given authority by Republic Act No. (RA) 6395<sup>[5]</sup> to enter and acquire private properties.

To enable it to construct and maintain its Tayabas-Dasmariñas 500 KV Transmission Line Project, the NPC, on November 24, 1995, filed before the RTC a Complaint for Eminent Domain<sup>[6]</sup> against the spouses Mariano and Corazon Taglao (Spouses Taglao), docketed as Civil Case No. C-034. The Spouses Taglao are the owners of a parcel of land covering an area of 5,143 square meters (sq.m.) situated at San Pioquinto, Malvar, Batangas. The NPC sought to acquire an easement of right of way over the 3,573-sq.m. portion (subject portion) of Spouses Taglao's property.

Spouses Taglao moved to dismiss the eminent domain case filed by the NPC.<sup>[7]</sup> Meanwhile, the NPC filed an Urgent *Ex-Parte* Motion for the Issuance of a Writ of Possession<sup>[8]</sup> over the subject property.

In the Order<sup>[9]</sup> dated September 18, 1996, the RTC denied the Motion to Dismiss of Spouses Taglao and granted the NPC's Motion for the Issuance of a Writ of Possession over the subject portion of Spouses Taglao's property. In another Order<sup>[10]</sup> dated June 23, 1999, the RTC thereafter declared as condemned the subject property.

On July 21, 1999, the RTC directed the parties to submit the names of their recommended commissioners for the purpose of determining just compensation.<sup>[11]</sup> The NPC recommended Engineer Moiselito C. Abcejo (Engr. Abcejo), while Spouses Taglao recommended Atty. Elueterio G. Zaballero (Atty. Zaballero).

On June 19 2001, the NPC's recommended commissioner, Engr. Abcejo, submitted a Commissioner's Report<sup>[12]</sup> recommending the amount of P156,690.44 as just compensation for the subject portion, broken down as follows: a) P4,490.44 as easement fee (10% of the fair market value of the subject portion based on Tax Declaration); b) P151,570.00 as the value of damaged improvements; and c) P300.00 as tower occupancy fee for two legs.

On the other hand, the commissioner for Spouses Taglao, Atty. Zaballero, submitted a Report recommending the amount of P12,858,000.00 as just compensation. The value was pegged at P2,500.00 per sq.m., the market value of the subject property as of August 15, 2000.

### *The Ruling of the RTC*

In a Decision<sup>[13]</sup> dated January 13, 2003, the RTC fixed the market value of the subject property at P1,000.00 per sq.m. by ruling in this Wise:

The lot is unregistered and classified as orchard per Tax Declaration No. 014-00026 with a total area of 5,143 square meters. The affected area by the KV Tayabas-Dasmariñas transmission line project is 3,573 square meters and situated along a Barangay Road.

Based on the foregoing considerations, this Court fixes the market value at P 1,000.00 per square meter.

Considering that plaintiff is not seeking to purchase or acquire the areas affected but merely seeking for an easement of right-of-way, this Court fixes the just compensation at P509,170.00 applying the following formula[:]

$$\begin{aligned}\text{Easement Fee} &= \frac{\text{Market Value} \times \text{Area Affected} \times 10\%}{\text{Total Area}} \\ &= \frac{5,143,000 \times 3,573 \times 10\%}{5,143} \\ &= 357,300.00\end{aligned}$$

Tower Occupancy Fee for 2legs at 150/sq.m. = P 300

Value of crops/plants/trees/improvements = P 151,570.00

TOTAL= 509,170.00<sup>[14]</sup>

The NPC moved for reconsideration<sup>[15]</sup> of the RTC Decision, but its motion for reconsideration was denied on August 8, 2007.<sup>[16]</sup>

### *The Ruling of the CA*

Aggrieved, the NPC appealed before the CA. In the herein assailed Decision<sup>[17]</sup> dated December 17, 2015, the CA denied the NPC's appeal and affirmed *in toto* the RTC's ruling.<sup>[18]</sup>

The NPC moved for a reconsideration of the CA's Decision, but its motion was denied in a Resolution<sup>[19]</sup> dated February 22, 2016.

Hence, the instant petition.

### *The Court's Ruling*

The TRANSCO imputes grave error on the part of the CA when it affirmed the RTC's ruling, which fixed the market value of the subject property at P1,000.00 per sq.m. It avers that just compensation must be determined as of the date of the taking of the property or the filing of the complaint, whichever came first. The TRANSCO points out that it filed the Complaint for Eminent Domain on November 24, 1995, and took possession of the subject property on October 9, 1996. The filing of the complaint taking place first, the NPC asserts that the compensation must be determined as of the time of its filing, not when it was taken in 1996.<sup>[20]</sup>

Moreover, the TRANSCO argues that the RTC and CA's calculation of the just compensation was not based on any established rule, principle, or evidence. Per the TRANSCO, the RTC and the CA merely speculated and made a rough calculation of the just compensation. In affirming the RTC Decision, the CA made a speculation that "if in the year 2000, the value of the subject property was between P2,000.00 to P2,500.00 per sq.m., it could be safely inferred that the amount of P1,000.00 per sq.m., as pegged by the court *a quo*, was the fair market value in the year 1995, when the complaint for eminent domain was filed." According to the NPC, such statement belonged to the realm of speculation.<sup>[21]</sup>

The petition is meritorious.

At the outset, the rule that only questions of law are the proper subject of a petition for review on *certiorari* under Rule 45 of the Rules of Court applies with equal force to expropriation cases.<sup>[22]</sup> Unless the value of the expropriated property is grounded entirely on speculations, surmises or conjectures,<sup>[23]</sup> such issue is beyond the scope of the Court's judicial review in a Rule 45 petition. The aforecited exception obtains in the case at bar.

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator.<sup>[24]</sup> It is that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as price to be given and received therefor. The measure is not the taker's gain, but the owner's loss.<sup>[25]</sup>

While market value may be one of the basis in the determination of just compensation, the same cannot be arbitrarily arrived at without considering the

factors to be appreciated in arriving at the fair market value of the property, e.g., the cost of acquisition, the current value of like properties, its size, shape, location, as well as the tax declarations thereon. Moreover, it should be borne in mind that just compensation should be computed based on the fair value of the property at the time of its taking or the filing of the complaint, whichever came first.<sup>[26]</sup>

Here, the action for eminent domain was filed by the NPC on November 24, 1995. By virtue of the writ issued in favor of the NPC, it took possession of the subject property on October 9, 1996. Since the filing of the Complaint for Eminent Domain came ahead of the taking, just compensation should be based on the fair market value of Spouses Taglao's property at the time of the filing of the NPC's Complaint on November 24, 1995.

In this case, the valuation recommended by the commissioner for the NPC was P13,607 per sq.m.<sup>[27]</sup> The valuation was based on the market value stated on the property's Tax Declaration for December 29, 1993. The commissioner for Spouses Taglao, on the other hand, recommended a valuation of P2,500.00 per sq.m. This amount was in turn based on the market value of the property as of August 15, 2000.

We cannot uphold the valuations made by the respective commissioners as they were not based on the market value of the property at the time of the filing of NPC's complaint for eminent domain on November 24, 1995. The market value of the subject property could have been different in 1993 and in 2000. Moreover, the valuation of the commissioner for the NPC was arrived at by considering only the property's tax declaration, without taking into account other relevant factors, such as the property's cost of acquisition, the value of like properties in 1995, its size, shape, and location.

Not being reflective of the fair market value of the subject property, the RTC valued the affected lot at P1,000.00 per sq.m. by ruling in this wise:

The lot is unregistered and classified as orchard per Tax Declaration No. 014-00026 with a total area of 5,143 square meters. The affected area by the KV Tayabas-Dasmariñas transmission line project is 3,573 square meters and situated along a Barangay Road.

Based on the foregoing considerations, this Court fixes the market value at P 1,000.00 per square meter.<sup>[28]</sup>

As could be gleaned from the RTC's disquisition, there is nothing in the RTC Decision which would show how it arrived at such valuation. The valuation at P1,000.00 per sq.m. was not also supported by any documentary evidence. Nevertheless, the CA affirmed the RTC's Decision and justified its P1,000 per sq.m. valuation in this wise:

If in the year 2000, the value of the subject property was between Php2,000.00 to Php2,500 per square meter, it could safely be inferred that the amount of Php1,000.00 per square meter, as pegged by the court *a quo*, was the fair market value in the year 1995, when the complaint for eminent domain was filed.<sup>[29]</sup>