

## SECOND DIVISION

[ G.R. No. 203608, December 05, 2018 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER,  
VS. THE HEIRS OF SPOUSES FLAVIANO S. MAGLASANG AND  
SALUD ADAZA MAGLASANG, RESPONDENTS.**

### DECISION

**A. REYES, JR., J.:**

This petition for review filed by the Republic of the Philippines (petitioner), represented by the Department of Public Works and Highways (DPWH), under Rule 45 of the 1997 Rules of Civil Procedure seeks to annul and set aside the September 2, 2011 Decision<sup>[1]</sup> of the Court of Appeals (CA) - Cebu Station (CA-Cebu) in CA G.R. CV No. 01690 affirming the decision of the Regional Trial Court (RTC) of Ormoc City, to wit:

**WHEREFORE**, in view of the foregoing premises, the 15 June 2006 Resolution issued by the Regional Trial Court of Ormoc City, Branch 12 in Civil Case No. 3789-0 is hereby AFFIRMED and the APPEAL is hereby DISMISSED.

**SO ORDERED.**<sup>[2]</sup>

The case arose out of a Complaint<sup>[3]</sup> for expropriation filed by the petitioner before the RTC of Ormoc City seeking to expropriate a parcel of land belonging to Spouses Flaviano S. Maglasang and Salud Adaza Maglasang (respondent spouses) described as Lot No. 851 of the Cadastral Survey of Ormoc City and covered by Transfer Certificate of Title No. 5922 with an area of 68 square meters under the names of respondent spouses. Located along the right side of the Malbasag Riverbank in Ormoc, the subject land was intended as a right of way for the Flood Mitigation Project under JICA Grant Aid from Japan at Malbasag River. Significantly, per Ormoc City's Appraisal Committee Resolution No. 8-98 Series of 1998, the subject land was valued at the rate of P1,000.00 per square meter.

Despite receipt of notice of the suit, however, the respondents failed to file their Comment/Opposition to the Complaint for Expropriation. Thus, they were deemed to have waived their rights to the expropriation proceeding and the petitioner was allowed to present evidence *ex parte*.

On June 2 and August 22, 2000, petitioner deposited checks in the aggregate amount of P68,000.00 representing 100% of the appraised value of the subject land. Said checks were deposited under the names of Spouses Flaviano S. Maglasang and Salud Adaza Maglasang.

During the *ex parte hearing*, the supervisor of the Flood Mitigation Project, Ormoc City District Engineer Jesus P. Sabando, testified for the petitioner. He stated that all the owners of pieces of properties affected by the road right of way acquisitions were notified. However, respondents refused the offer based on the City Assessor's Office's appraised value which herein petitioner made to them.

On December 1, 2000, petitioner moved for the issuance of a writ of possession over the subject land. This was granted by the RTC in an Order dated December 13, 2000. Said Order likewise ordered the petitioner to enter the subject land, and the Sheriff to place petitioner in possession of the same.

On December 4, 2000, respondents filed their motion for reconsideration of the RTC's Order allowing petitioner to present its evidence *ex parte*. Likewise prayed in their motion is that they be allowed to file their answer and present evidence to establish the fair market value of their property. Petitioner, on the other hand, filed its Formal Offer of Evidence on December 11, 2000.

On January 31, 2001, the RTC issued a writ of possession. Respondents then moved to quash the writ of possession, but their Motion was denied by the RTC. Thereafter, upon motion of the respondents, the trial court issued an Order dated June 28, 2004 allowing them to withdraw from the Land Bank of the Philippines the amount of P68,000.00 which the petitioner earlier deposited in the name of respondents' predecessors, Spouses Flaviano S. Maglasang and Salud Adaza Maglasang.

On July 7, 2004, the RTC granted the respondents' motion for reconsideration and directed them to file their opposition/comment to the petitioner's formal offer of evidence and to present their evidence.

On December 15, 2004, the RTC denied the respondents' Motion to Quash the Writ of Possession and set the hearing on the complaint on February 4, 2005, which the petitioner was not able to attend. On said date, the RTC granted the respondents' motion to present evidence *ex parte*.

Petitioner then moved for the reconsideration of the order allowing respondents to present evidence *ex parte* and prayed that the complaint be set for trial on the merits.

After series of resetting, a hearing was again scheduled on April 27, 2005. At that time, the Office of the Solicitor General (OSG) already deputized Atty. Ismael C. Llorin of the DPWH Regional Office No. VIII, Baras, Palo, Leyte to assist the OSG in the trial of the case.

Meanwhile, upon respondents' counsel's oral manifestation that the instant case is similar to the case of *Republic v. Larrazabal, et al.* (Civil Case No. 3656-0) which the same trial court decided and which involved a parcel of land contiguous to the subject property, the RTC, in its Order dated April 27, 2005, allowed the respondents "to submit the necessary pleading in order to abbreviate and dispose the case with dispatch"<sup>[4]</sup>. Hence, respondents submitted<sup>[4]</sup> on March 17, 2006 the Commissioners' Reports and the RTC Decision<sup>[5]</sup> in the *Larrazabal* case.

On June 15, 2006, the RTC issued a Resolution<sup>[6]</sup> disposing of the complaint, thus: