

## FIRST DIVISION

[ G.R. No. 204530, July 26, 2017 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER,  
V. POTENCIANO A. LARRAZABAL, SR., VICTORIA LARRAZABAL  
LOCSIN AND BETTY LARRAZABAL MACATUAL, RESPONDENTS.**

### D E C I S I O N

**CAGUIOA, J:**

#### The Case

This is petition for review on *certiorari*<sup>[1]</sup> of the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> dated October 19, 2011 and November 12, 2012, respectively, of the Court of Appeals (CA) in CA-G.R. CEB-CV No. 00810. The CA affirmed the Decision<sup>[4]</sup> dated December 5, 2003 of the Regional Trial Court (RTC) of Ormoc City, Branch 12 in Civil Case No. 3734-0 which fixed the just compensation for the lot of respondent Potenciano A. Larrazabal (Potenciano) at P10,000.00 per square meter, the improvements therein at P1,000,000.00; and for the lots of respondents Victoria Larrazabal Locsin (Victoria) and Betty Larrazabal Macatual (Betty) at P4,000.00 per square meter.

#### The Facts

Sometime in November 1991, heavy rains in Ormoc City caused the Malbasag River to overflow resulting in a flashflood throughout the city.<sup>[5]</sup> To avoid a similar tragedy, the petitioner, through the Department of Public Works and Highways, undertook a massive flood mitigation project at the Malbasag River, which required a right of way.<sup>[6]</sup>

On September 15, 1999, petitioner filed a Complaint<sup>[7]</sup> with the RTC for expropriation of portions of three parcels of land that respondents Potenciano, Victoria, and Betty owned.

Respondent Potenciano's commercial property is Lot No. 844 located at Poblacion, Municipality of Ormoc, Leyte, covered by Transfer Certificate of Title (TCT) No. 28 with a total area of 2,629 square meters.<sup>[8]</sup> Respondents Victoria's and Betty's residential properties are Lot No. 1 located at Barangay Can-adieng, Ormoc City, Leyte, covered by TCT No. 16337, and with a total area of 5,682 square meters, and Lot No. 2 in the same barangay, covered by TCT No. 16518, with a total area of 5,683 square meters, respectively.<sup>[9]</sup> Petitioner sought to expropriate 1,027 square meters of respondent Potenciano's property, 575 square meters of respondent Victoria's property, and 4,638 square meters of respondent Betty's property.<sup>[10]</sup> Based on Resolution No. 8-98, Series of 1998,<sup>[11]</sup> of the Ormoc City Appraisal

Committee (Resolution No. 8-98), the properties were appraised at P1,000.00 per square meter for commercial lots and P800.00 for residential lots.<sup>[12]</sup>

After the filing of the Complaint, petitioner was allowed to enter the properties, demolish the improvements thereon, and to deposit the amounts corresponding to the provisional payments for the properties.<sup>[13]</sup> Subsequently, respondents filed their Answer where they prayed that the just compensation for respondent Potenciano's property be fixed at P25,000.00 per square meter, and P15,000.00 per square meter for respondents Victoria's and Betty's properties.<sup>[14]</sup>

On December 16, 1999, the RTC directed the release of the cash that petitioner deposited in the amount of P5,745,520.00, divided as follows: P1,575,120.00 to respondent Potenciano; P460,000.00 to respondent Victoria, and P3,710,400.00 to respondent Betty.<sup>[15]</sup> And on February 18, 2000, the RTC appointed a set of Commissioners composed of Atty. Bibiano C. Reforzado, Clerk of Court of the RTC, as Chairman, Atty. Arturo P. Suarez, Register of Deeds of Ormoc City, and Alfredo P. Pantino, resident of Fatima Village, Cogon, Ormoc City, to evaluate and recommend the amount of just compensation for the properties.<sup>[16]</sup>

On November 20, 2001, the Commissioners submitted their Report<sup>[17]</sup> with the following estimated fair market values of the properties: P10,000.00 per square meter for respondent Potenciano's property, or a total of P12,620,000.00; and P4,000.00 per square meter for respondents Victoria's and Betty's properties, or a total of P2,300,000.00 and P18,552,000.00, respectively.<sup>[18]</sup>

The Commissioners considered the three properties as commercial lots<sup>[19]</sup> and found that one real estate transaction — sale of the property of William Gothong and Aboitiz where the lot was sold at P30,000.00 per square meter — nearly reflected the fair market value of commercial lots in Ormoc City.<sup>[20]</sup> The Commissioners' Report states:

2. Finding the Buyer's Market - that is how much really the buyer paid for the property is quite hard to produce. It is widely practiced in real estate transactions that the documented deed of sale is very much undervalued or reduced to evade capital gains and Documentary taxes. There is one real estate transaction which nearly reflects the average FMV of commercial lots in Ormoc City. Last November 14, 1997, William Gothong and Aboitiz sold commercial lot located at Comer Bonifacio and Burgos Sts., Ormoc City for P30,000.00 per square meter on the documented deed of sale (Annex 3). This could be much higher considering its location which is a choice lot (highly commercial). Please take note that the authority given to the undersigned broker ranges from P25,000.00 to P30,000.00 per square meter which we can safely presume that it is the FMV of highly commercial lots in the city.<sup>[21]</sup>

The Commissioners found that the estimated fair market value of Potenciano's property was P10,000.00 per square meter, and P4,000.00 per square meter for Betty's and Victoria's properties, thus:

- A. POTENCIANO LARRAZABAL, SR. - Lot No. 844 with an area of 2,629 sq. m. is located along the banks of Malbasag River. On the Northern side, it is facing Lot 829 and 841 likewise also owned by Mr. Larrazabal. Lot 829 & 841 is facing

Aviles St. According to some information, there were some bodega building inside the perimeter which were demolished but we could not give some appraisals because at the time of inspection they were already leveled-off and new perimeter CHB walling were already installed along the boundary of the expropriated land and other remaining areas.

LAND= 1,262 sq. meters [at] P10,000.[00] = P12,620,000.00

- B. BETTY L. MACATUAL - Property of Mrs. Betty Macatual (Lot 2) is also located along Malbasag [R]iver. It has no improvement that were affected by the JICA Project. Its location is in Brgy. Can-adieng, Ormoc City. This area is classified as commercial/residential and class C.

LAND= 4,638 sq. meters at P4,000.00 = P18,552,000.00

- C. VICTORIA L. LOCSIN - Property of Mrs. Locsin is located beside that of Mrs. Betty Macatual. This area is also classified as Commercial C.

LAND = 575 sq. meters at P4,000.00 P2,300,000.00<sup>[22]</sup>

Petitioner then filed its Comment on the Commissioners' Report stating that the appraisal values as stated in Resolution No. 8-98 should be applied instead of the just compensation determined by the Commissioners.<sup>[23]</sup>

### ***Ruling of the RTC***

In its Decision, the RTC approved the value of the properties as fixed by the Commissioners in their Report.<sup>[24]</sup> The RTC ruled that in eminent domain cases, the value of the property as of the date of the filing of the complaint is generally determinative of the just compensation.<sup>[25]</sup> The RTC further ruled that "sales so taken in the neighborhood of the same year of taking, have been considered fair enough as to reflect fair market value of the property."<sup>[26]</sup>

As basis for approving the value fixed by the Commissioners, the RTC relied on the sales of properties that were made on November 14, 1997 involving the property of William Gothong and Aboitiz and on July 10, 2000 involving the property of Mariano Tan, thus:

Applying now as basis the sales of the properties of William Gothong and Aboitiz located at Corner Bonifacio and Burgos Sts., Ormoc City sold at P30,000.00 per square meter on November 14, 1997 (Annex "3"); and that of Mariano Tan located at Real St., Ormoc City which was at P6,726.00 per square meter made on July 10, 2000 (Annex "5"), this Court hereby fixes just compensation on the property of defendant Potenciano A. Larrazabal, Sr. at P10,000.00 per square meter and the properties of defendants Victoria Larrazabal Locsin and Betty Larrazabal Macatual at P4,000.00 per square meter thus approving the value fixed by the Commissioners in their Report dated November 20, 2001.<sup>[27]</sup>

The dispositive portion of the RTC Decision states:

WHEREFORE, foregoing premises considered, judgment is hereby rendered directing plaintiff to pay the amount of just compensation for

defendant Potenciano A. Larrazabal, Sr. for Lot No. 844 covered by TCT No. 288 with an expropriated area of 1,262 square meters at P10,000.00 per square meter, or an aggregate amount of P12,620,000.00 plus 1 Million pesos for the improvements, for defendant Victoria Larrazabal Locsin for Lot No. 1 covered by TCT No. 16337 with an expropriated area of 575 square meters at P4,000.00 per square meter, or an aggregate amount of P2,300,000.00; for defendant Betty Larrazabal Macatual for Lot No. 2 covered by TCT No. 16518 with an expropriated area of 4,638 square meters at P4,000.00 per square meter, or an aggregate amount of P18,552,000.00 plus twelve percent (12%) interest thereof per annum computed from the date of the filing of the present complaint on September 23, 1999 until fully paid. No pronouncement as to costs.

SO ORDERED.<sup>[28]</sup>

### ***Ruling of the Court of Appeals***

The CA in its Decision and Resolution affirmed the RTC Decision. The CA made an extensive discussion on why the RTC correctly disregarded Republic Act (RA) No. 8974, entitled *An Act to Facilitate the Acquisition of Right-Of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes* and its Implementing Rules in determining the just compensation to be paid to respondents for their properties.<sup>[29]</sup>

The CA ruled that RA No. 8974 was not applicable since it only applies prospectively. Since the Complaint was filed as early as September 15, 1999, RA No. 8974 was not applicable because it was signed into law on November 7, 2000 and became effective only on November 26, 2000.<sup>[30]</sup>

The dispositive portion of the CA Decision states:

**WHEREFORE**, premises considered, the assailed December 5, 2003 Decision of RTC, Branch 12, Ormoc City, in Civil Case No. 3734-0, is hereby **AFFIRMED**. No costs.

**SO ORDERED.**<sup>[31]</sup>

Petitioner moved for reconsideration,<sup>[32]</sup> but the CA denied it in its Resolution.

Hence, this petition.

### **Issues**

The issues in this petition have focused on whether RA No. 8974 is applicable to the determination of the just compensation to be paid to respondents for their properties, and whether the CA acted correctly in affirming the RTC Decision on the just compensation for the properties.

### **Ruling of the Court**

The petition is **GRANTED** in part.

Petitioner, through the Office of the Solicitor General (OSG), posits that it was error for the CA, the RTC, and the Commissioners to disregard the standards set in RA