

EN BANC

[G.R. No. 223366, August 01, 2017]

NATIONAL TRANSMISSION CORPORATION, PETITIONER, VS. OROVILLE DEVELOPMENT CORPORATION, RESPONDENT.

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the September 18, 2015 Decision^[1] and January 25, 2016 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 03571, which affirmed with modification the December 12, 2012 Decision^[3] of the Regional Trial Court, Branch 17, Misamis Oriental (RTC) in Civil Case No. 2007-85, a case for expropriation.

The Antecedents

The present case involves two (2) parcels of land located in Puerto, Cagayan de Oro City, which originally belonged to Alfredo Reyes (*Reyes*) and Grace Calingasan (*Calingasan*), covered by Original Certificate of Title (OCT) No. P-3 and OCT No. P-13, respectively.

In 1983, petitioner National Transmission Corporation (*TransCo*) constructed a power transmission line on these properties, known as the Tagoloan-Pulangi 138 kV transmission line.

At some point, Reyes sold his land to Antonio Navarette, who later sold the same property to respondent Oroville Development Corporation (*Oroville*), which is now covered by Transfer Certificate of Title (TCT) No. T-85121. Likewise, Calingasan sold her land to Oroville, now registered under TCT No. T-104365. Thus, in 1995, Oroville became the registered owner of these properties with a total area of 13,904 square meters traversed by the existing Tagoloan-Pulangi 138 kV transmission line.

On November 17, 2006, TransCo offered to buy these properties from Oroville to be used for the construction of the Abaga-Kirahon 230 kV transmission line in Mindanao.

During the negotiation, Oroville, through its representative Antonio Tiu (*Tiu*), requested to reroute the Abaga-Kirahon 230 kV transmission line because the Tagoloan-Pulangi 138 kV transmission line is already traversing its properties. Tiu also informed TransCo that Oroville has not been paid just compensation for the construction of the Tagoloan-Pulangi 138 kV transmission line in its property. TransCo, however, refused to reroute the proposed Abaga-Kirahon 230 kV transmission line because it planned to construct the said transmission line parallel to the existing Tagoloan-Pulangi 138 kV transmission line.

Consequently, on April 20, 2007, Oroville filed a complaint for injunction and damages with prayer for issuance of a temporary restraining order against TransCo, seeking to enjoin the construction of the Abaga Kirahon 230 kV transmission line.

On May 9, 2007, TransCo filed its Answer denying the allegations in Oroville's complaint. It also manifested that it would file the required expropriation proceedings against Oroville in order to acquire the latter's properties for the Abaga-Kirahon 230 kV transmission line project.

During trial, the parties agreed to have the subject properties surveyed for purposes of fixing the just compensation. As a result, the trial court suspended the proceedings and directed TransCo to conduct a survey of the properties.

Subsequently, Oroville filed an omnibus motion to convert the proceedings into an expropriation case and to require TransCo to pay the Bureau of Internal Revenue (*BIR*) the zonal value of the subject properties. TransCo made no objections to the motion.

On May 17, 2010, the trial court directed TransCo to make a provisional deposit of P7,647,200.00 as just compensation for Oroville's properties consisting of 13,904 square meters and affected by the existing Tagoloan-Pulangi 138 kV transmission line. TransCo complied after the trial court denied its objections.

On February 4, 2011, the trial court directed the Land Bank of the Philippines, NAPOCOR Branch, to release the aforesaid deposit to Tiu.

On March 21, 2011, the trial court issued a writ of possession directing Oroville to surrender possession of the properties to TransCo.

Subsequently, on August 8, 2011, per nomination of the parties, the trial court appointed three (3) Commissioners, namely, Engr. Marilyn P. Legaspi, Engr. Norberto Badelles and Atty. Avelino Pakino, to determine the just compensation of the properties affected by the Abaga-Kirahon 230 kV transmission line.

A summary of the Commissioners' report reads as follows:

1. Engr. Marilyn Legaspi (Court-appointed Commissioner)
Date of Taking: 1983 per Transmission Line Data and Information
(Tagoloan-Pulangi 138 kV Transmission Line)
Valuation of the Property: P78.65 per square meter or a total of P5,924,772.48 inclusive of interests^[4]
2. Engr. Norberto Badelles (engaged by Transco)
Date of Taking: 1983 per Transmission Line Data and Information
(Tagoloan-Pulangi 138 kV Transmission Line) Valuation of the Property: P1.20 per square meter or a total of P45,716.35 inclusive of interests^[5]
3. Atty. Avelino Pakino (nominated by Oroville)
Date of Taking: 1983 per Transmission Line Data and Information
(Tagoloan-Pulangi 138 kV Transmission Line) Valuation of the Property:

P2,000.00 per square meter or a total of P27,808,000.00 inclusive of interests^[6]

The RTC Ruling

In its Decision, dated December 12, 2012, the RTC set aside the Commissioners' report and fixed the just compensation at the rate of P1,520.00 per square meter with legal interest of 12% *per annum* reckoned from April 20, 2007, the date of filing of the complaint. It held that the said amount was based on the fair market value of lots along the national highway of Barangay Puerto, Cagayan de Oro City in accordance with the schedule of values under City Ordinance No. 10425-2006 otherwise known as An Ordinance Prescribing the Revised Schedule of Fair Market Values of Real Property in Cagayan de Oro and in accordance with the BIR Comparative Value of Zonal Fair Market Values. The RTC opined that the just compensation should not be reckoned from 1983, the time of taking, because it was established by the landowners that entry into their property was without their knowledge. The *fallo* reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered as follows:

- 1) FIXING the just compensation of the affected area of 13,904 square meters at P1,520.00 per square meter reckoned from April 20, 2007, the date the complaint was filed, at interest rate of 12% per annum until the liability is fully paid
- 2) ORDERING defendant TRANSCO to pay plaintiff the just compensation in the amount of P1,520.00 per square meter for the 13,904 square meters the affected area at the rate of 12% per annum reckoned from April 20, 2007, the data of filing the complaint minus the amount of P7,647,200.00 representing the amount paid by TRANSCO as provisional payments
- 3) ORDERING defendant TRANSCO to pay plaintiff the interest of 12% per annum based on the deficiency amount;
- 4) ORDERING Plaintiff and Defendant to pay the Commissioners' fee in the amount of P10,000.00 each within 15 days from receipt of this Order.

The Court will leave to the parties the correct mathematical computation as to what is due to plaintiff based on the foregoing premises.

SO ORDERED.^[7]

Aggrieved, TransCo elevated an appeal before the CA.

The CA Ruling

In its assailed Decision, dated September 18, 2015, the CA ruled that TransCo's entry into Oroville's lots in 1983 was made without warrant or color of authority because at the time TransCo constructed the TagoloanPulangi 138 kV transmission line over the disputed properties in 1983, it was made without intent to expropriate. It added that TransCo constructed the transmission line without bothering to negotiate with the owner to purchase or expropriate the disputed lots.

Further, the CA adjudged that the construction of the Tagoloan-Pulangi 138 kV transmission line did not oust or deprive Oroville or its previous owners of the beneficial enjoyment of their properties as they continued to possess the same. It observed that the previous owners were able to sell the properties to Oroville; and that after acquiring them, Oroville considered developing the lots for residential subdivision purposes, but the subject properties were later on classified as agricultural lands covered by the Comprehensive Agrarian Reform Program (CARP) of the government.

The CA concluded that there was no actual taking of the subject properties in 1983 when TransCo constructed the Tagoloan-Pulangi 138 kV transmission line. Accordingly, the computation of the just compensation should be reckoned at the time of the filing of the complaint in 2007. The dispositive portion reads:

WHEREFORE, the Judgment dated 12 December 2012 of the Regional Trial Court, (Branch 17), 10th Judicial Region, Cagayan de Oro City, is MODIFIED. Appellant National Transmission Corporation is hereby ORDERED to pay appellee Oroville Corporation the unpaid balance of the just compensation in the sum of P13,486,880.00 with legal interest of TWELVE PERCENT (12%) per annum computed from 21 March 2011 to 30 June 2013 and SIX PERCENT (6%) per annum from 1 July 2013 until its full payment. Both parties are DIRECTED to pay the Commissioners' fee in the amount of P10,000.00 each within 15 days from notice.

SO ORDERED.^[8]

TransCo moved for reconsideration, but the same was denied by the CA in its assailed Resolution, dated January 25, 2016.

Hence, this petition.

ISSUES

WHETHER THE COMPUTATION OF JUST COMPENSATION FOR THE EXPROPRIATED PROPERTY SHOULD BE BASED ON ITS VALUE AT THE TIME OF THE TAKING OF THE PROPERTY

WHETHER THE IMPOSITION OF A LEGAL INTEREST OF 12% IS UNJUSTIFIED^[9]

Petitioner argues that Section 4, Rule 67 of the Rules of Court and applicable jurisprudence are explicit in saying that just compensation for expropriated property shall be determined based on its fair market value at the time of its taking; that Oroville could not claim lack of knowledge to the construction of the transmission line since it is in plain view, considering its height and the huge space that it occupied; that Oroville should not be allowed to benefit from its failure to question such construction more than a decade after its completion; and that it should not be made to pay 12% interest *per annum* in the nature of damages for delay as it complied with the RTC's directive to make provisional deposit for the subject property.

In its Comment,^[10] dated August 5, 2016, Oroville averred that to sustain the argument of TransCo that the basis of the payment for just compensation is the value of the property at the time of taking would sow immeasurable injustice; that the P78.65 per square meter valuation as recommended by Commissioner Legaspi and the P1.20 per square meter recommended by Commissioner Badelles would not be enough to reimburse Oroville for the realty taxes it paid from the year 1983 up to the present; that while it paid these annual taxes, TransCo had been earning billions of pesos from transmission charges; that as held in *Napocor v. Campos, Jr.*, there were instances when TransCo removed transmission lines from the affected properties due to diversion of its lines, thus, upon entry, TransCo did not have intent to expropriate the property because there might be a change of plans; that TransCo would initiate expropriation proceedings only when it was certain of its transmission plans; that the earlier entry into and/or possession of TransCo of the subject properties was patently without any color of legal authority as it did not have the slightest intention to acquire ownership of the subject properties either by voluntary purchase or by exercise of eminent domain; and that the delay in the payment of just compensation justified the payment of 12% interest *per annum*.

In its Reply,^[11] dated November 25, 2016, TransCo contended that this case is not an exception to the settled rule that just compensation should be based on the property's value at the time of its taking; that the value and classification of the subject property at the time of its taking in 1983 should be the basis for the computation of just compensation; that it informed Oroville of the construction of the new transmission line over its properties and readily agreed to the conversion of its complaint for injunctive relief into an expropriation case; and that the landowner should also bear the cost of being remiss in guarding against the effects of a belated claim.

The Court's Ruling

The petition is meritorious.

Eminent domain is the right or power of a sovereign state to appropriate private property to particular uses to promote public welfare. It is an indispensable attribute of sovereignty; a power grounded in the primary duty of government to serve the common need and advance the general welfare.^[12] The power of eminent domain is inseparable in sovereignty being essential to the existence of the State and inherent in government. But the exercise of such right is not unlimited, for two mandatory requirements should underlie the Government's exercise of the power of eminent domain, namely: (1) that it is for a particular public purpose; and (2) that just compensation be paid to the property owner.^[13] These requirements partake the nature of implied conditions that should be complied with to enable the condemnor to keep the property expropriated.^[14]

Taking of Oroville's property occurred in 1983 upon construction of the transmission lines

The landmark case of *Republic v. Vda. De Castellvi*^[15] provides an enlightening discourse on the requisites of taking.

First, The expropriator must enter a private property; *Second*, the entrance into