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[G.R. No. 181892, April 19, 2016]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO R. ERMITA, THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONERS, VS. HON. JESUS M. MUPAS, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 117, PASAY CITY, AND PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC., RESPONDENTS.

[G.R. NO. 209917]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONERS, VS. PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC., TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION, RESPONDENTS.

[G.R. NOS. 209696]

TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, AND PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC. RESPONDENTS.

[G.R. NO. 209731]

PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC. PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, AS REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, TAKENAKA CORPORATION, AND ASAHIKOSAN CORPORATION, RESPONDENTS.

R E S O L U T I O N

BRION, J.:

Before the Court are the motion for reconsideration filed by the Republic of the Philippines (Department of Transportation and Communications) and the Manila International Airport Authority (*Republic* for brevity), and the respective partial motions for reconsideration of Philippine International Airport Terminals Co., Inc. (*PIATCO*) and of Takenaka Corporation (*Takenaka*) and Asahikosan Corporation (*Asahikosan*). In these motions, the parties assail the Court's Decision dated September 8, 2015 (*Decision*)^[1]

I. The Factual Antecedents

A. The concession agreement between the Republic and PIATCO; PIATCO's subcontract agreements with Takenaka and Asahikosan

On July 12, 1997, the Republic executed a **concession agreement** with PIATCO for the construction, development, and operation of the Ninoy Aquino International Airport Passenger Terminal III (*NAIA-IPT III*) under a *build-operate-transfer scheme*. The parties subsequently amended their concession agreement and entered into several supplemental agreements (collectively referred to as the *PIATCO contracts*).^[2]

In the PIATCO contracts, the Republic authorized PIATCO to build, operate, and maintain the NAIA-IPT III during the concession period of twenty-five (25) years.^[3]

On March 31, 2000, **PIATCO engaged the services of Takenaka for the construction of the NAIA-IPT III** under an **Onshore Construction Contract**. On the same date, **PIATCO** also entered into an **Offshore Procurement Contract** with **Asahikosan** for the design, manufacture, purchase, test and delivery of the Plant in the NAIA-IPT III. Both contracts were supplemented by succeeding agreements.^[4]

In May 2002, **PIATCO failed to pay for the services rendered by Takenaka and Asahikosan**.^[5]

B. The Agan v. PIATCO^[6] case: the nullification of the PIATCO contracts

On May 5, 2003, the Court nullified the PIATCO contracts in **Agan v. PIATCO^[7]** on the grounds that: (a) the Paircargo Consortium (that later incorporated into PIATCO) was not a duly pre-qualified bidder; and (b) the PIATCO contracts contained provisions that substantially departed from the draft Concession Agreement.^[8]

On **January 21, 2004**, the Court issued a resolution (*2004 Agan Resolution*), denying PIATCO, et al.'s motion for reconsideration.^[9] Significantly, we stated in the resolution that the **Republic should first pay PIATCO before it could take over the NAIA-IPTHI**. We further ruled that "*the compensation must be just and in accordance with law and equity for the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors.*"^[10]

C. The expropriation case before the RTC

On **December 21, 2004**, the Republic filed a **complaint for the expropriation** of the NAIA-IPT III before the Regional Trial Court (RTC) of Pasay, Branch 117, docketed as Civil Case No. 04-0876. Notably, the property to be expropriated only involves the NAIA-IPT III structure and did not include the land which the Republic already owns.^[11]

On the same day, the RTC issued a **writ of possession** in favor of the Republic pursuant to **Rule 67** of the Rules of Court (*Rule 67*). The writ was issued based on the Republic's manifestation that it had deposited with the Land Bank of the Philippines (*Land Bank*) the amount of P3,002,125,000.00, representing the NAIA-IPT III's **assessed value**.^[12]

On **January 4, 2005**, the RTC **supplemented its December 21, 2004 order**. The RTC applied Republic Act (RA) No. 8974 instead of Rule 67 as basis for the effectivity of the writ of possession. The RTC ruled, among others, that the Land Bank should immediately release to PIATCO the amount of **US\$62,343,175.77**,^[13] to be deducted eventually from the just compensation.^[14]

In the course of the RTC expropriation proceedings, the RTC allowed Takenaka and Asahikosan to intervene in the case. Takenaka and Asahikosan based their intervention on the foreign judgments issued in their favor in the two collection cases that they filed against PIATCO {London awards). Takenaka and Asahikosan asked the RTC to: (a) hold in abeyance the release of just compensation to PIATCO until the London awards are recognized and enforced in the Philippines; and (b) order that the just compensation be deposited with the RTC for the benefit of PIATCO's creditors.^[15]

The Republic questioned the **January 4, 2005** RTC order and two other RTC orders^[16] before this Court in the case entitled **Republic v. Gingoyon**.^[17]

On January 14, 2005, we issued a temporary restraining order and preliminary injunction against the implementation of the assailed RTC orders, including the January 4, 2005 RTC order.^[18]

D. Developments pending the expropriation case: the Republic v. Gingoyon case

In *Gingoyon*, the Court partly granted the Republic's petition on December 19, 2005.

We adopted the 2004 *Agan* Resolution in ruling that the Republic is barred from taking over the NAIA-IPT III until just compensation is paid to PIATCO as the builder and owner of the structure.

We also ruled that RA No. 8974 applies insofar as it: (a) provides **valuation standards** in determining the amount of just compensation; and (b) requires the Republic to **immediately pay** PIATCO at least the **proffered value** of the NAIA-IPT III for purposes of **determining the effectivity of the writ of possession**.

We also held that **Rule 67** shall apply **to the procedural matters** of the expropriation proceedings insofar as it is consistent with RA 8974 and its implementing rules and regulations (*IRR*), and Agan.

Applying RA No. 8974, **we held in abeyance the implementation of the writ of possession** until the Republic **directly** pays PIATCO the **proffered value** of P3 billion. We also authorized the Republic to **perform acts essential to the operation of the NAIA-IPT III once the writ of possession becomes effective.**

For purposes of computing just compensation, we held that PIATCO should only be paid the **value of the improvements and/or structures** using the **replacement cost method** under Section 10 of RA 8974 *IRR*.^[19] We added, however, that the replacement cost method is only one of the factors to be considered in determining just compensation; **equity** should also be considered.

On February 1, 2006, we denied the Republic, et al.'s motion for partial reconsideration. Citing procedural errors, we also denied the motions for intervention of Asahikosan, Takenaka, and Rep. Salacnib F. Baterina.^[20]

E. The continuation of the expropriation proceedings after the finality of the Gingoyon case; the present cases before the Court

Pursuant to our mandate in *Gingoyon*, the RTC proceeded to determine the amount of just compensation.

In compliance with the RTC's order, the Republic tendered to PIATCO the P3 billion proffered value on **September 11, 2006. On the same day, the RTC reinstated the writ of possession in favor of the Republic.**^[21]

In compliance with the RTC order dated August 5, 2010, the parties and the BOC submitted their appraisal reports on NAIA-IPT III, as follows: (1) the Republic's appraisal was US\$149,448,037.00; (2) PIATCO's appraisal was US\$905,867,549.47; (3) Takenaka and Asahikosan's appraisal was US\$360,969,790.82; and (4) the BOC's appraisal was US\$376,149,742.56, plus interest and commissioner's fees.^[22]

In the RTC's decision dated May 23, 2011, the RTC computed just compensation at US\$116,348,641.10. The RTC further directed the Republic and the team of Takenaka and Asahikosan to pay their respective shares in the BOC expenses.^[23]

On appeal with the CA, docketed as CA-G.R. CV No. 98029, the CA issued its amended decision, computing the just compensation at US\$371,426,688.24 as of July 31, 2013 plus 6% *per annum* on the amount due from finality of judgment until fully paid. The CA further held that Takenaka and Asahikosan are both liable to share in the BOC expenses.^[24]

The RTC rulings and CA decision in the expropriation cases led to the present consolidated cases before us, specifically:

G.R. No. 181892 was filed by the Republic to question the RTC's orders: (1) appointing DG Jones and Partners as independent appraiser; (2) directing the Republic to submit a Certificate of Availability of Funds to cover DG Jones and Partners' US\$1.9 Million appraisal fee; and (3) sustaining the appointment of DG Jones and Partners as an independent appraiser.^[25]

G.R. Nos. 209917, 209731, and 209696 were filed by the Republic, PIATCO, and Takenaka and Asahikosan, respectively questioning the CA's decision.^[26]

II. Our ruling dated September 8, 2015
in G.R. Nos. 181892, 209917, 209696, 209731

In our **Decision dated September 8, 2015**, we applied the standards laid down under Section 7, RA 8974 and Section 10 of RA 8974 IRR. We likewise applied equity pursuant to *Gingoyon*.

We ruled that PIATCO, as the owner of the NAIA-IPT III, is the **sole recipient** of the just compensation even though Takenaka and Asahikosan actually built the NAIA-IPT III.

We did not grant Takenaka and Asahikosan's prayer to set aside a portion of just compensation to secure their claims, as we would be preempting the Court's ruling in the enforcement case, specifically, G.R. No. 202166, which is still pending before the Court.

We ruled that the Republic shall only have ownership of the NAIA-IPT III **after** it **fully** pays PIATCO the just compensation due. However, the determination of whether the NAIA-IPT III shall be burdened by liens and mortgages even after the full payment of just compensation is still premature.

In **computing the just compensation**, we applied the **depreciated replacement cost method** consistent with Section 10 of RA 8974 IRR and the principle that the property owner of the expropriated property shall be compensated for his **actual loss**. We therefore agreed with the Gleeds' deduction of depreciation and deterioration from the construction cost.

We adopted Gleeds' construction cost at US\$300,206,693.00 as the base value at December 2002. We also rejected the Republic's argument that the amounts pertaining to the *unnecessary areas, structural defect, and costs for rectification for contract compliance* should be excluded from the base value. We likewise did not add attendant costs as it already formed part of the Gleeds' computation of construction cost.

Applying equity, we adjusted the replacement cost computed at December 2002 to December 2004 values using the Consumer Price Index.

We likewise imposed interest on the unpaid amount of just compensation, reckoned from September 11, 2006 when the writ of possession was reinstated in favor of the Republic.