

FIRST DIVISION

[G.R. No. 214901, June 15, 2016]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. APOLONIO KHO, REPRESENTED BY HIS HEIRS, NAMELY: PERLA LUZ, KRYPTON, KOSELL, KYRIN, AND KELVIN, ALL SURNAMED KHO, RESPONDENTS.

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated August 29, 2014 of the Court of Appeals of Cebu City (CA) in CA-G.R. SP No. 06365, which affirmed the Decision^[3] dated August 11, 2011 of the Regional Trial Court of Dumaguete City, Negros Oriental, Branch 32 (RTC), acting as a Special Agrarian Court (SAC), in Civil Case No. 2007-14511, directing petitioner the Land Bank of the Philippines (LBP) to: (a) pay respondents the remaining balance of the just compensation in the amount of P1,353,008.26, with legal interest at the rate of 12% per annum (p.a.) from May 27, 2002 until fully paid; (b) pay its share in the Commissioners' fees in the amount of P30,000.00; and (c) release the initial deposit of P49,601.20 to respondents Apolonio Kho, represented by his heirs, namely: Perla Luz, Krypton, Kosell, Kyrin, and Kelvin, all surnamed Kho (respondents).

The Facts

Apolonio was the registered owner of a parcel of land located at Lamogong, Manjuyod, Negros Oriental, containing an area of 23.2885 hectares (has.), and covered by Transfer Certificate of Title (TCT) No. HT-556. He was survived by his spouse Perla Luz Kho and his four (4) children, namely: Krypton, Kosell, Kelvin, and Kyrin.^[4]

A 22.9747-ha. portion of the said land (subject land) was placed under the Operation Land Transfer Program^[5] pursuant to Presidential Decree No. (PD) 27.^[6] On December 6, 1993, Claims Processing Form No. 07 (NO) E093-0157 covering 10.9410 has. was approved by the LBP, which, together with the Department of Agrarian Reform (DAR), offered as just compensation the amount of **P25,269.32**^[7] in accordance with^[8] Executive Order No. (EO) 228,^[9] series of 1987. On the other hand, Claims Processing Form No. 07 (NO) EO91-0588 covering the remaining area of 12.0337 has. was received by the LBP on September 19, 1997, which valued the land at **P24,331.88**.^[10]

However, Apolonio rejected the valuations,^[11] prompting the LBP to deposit the said amounts in cash and Agrarian Reform Bonds on December 8, 1993 and December 8, 1997 in his name.^[12]

After a summary administrative proceeding for the determination of just compensation, docketed as DARAB Case No. VII-03-NO-03,^[13] the Office of the Provincial Adjudicator of the Department of Agrarian Reform Adjudication Board (PARAD) issued an Order^[14] dated July 31, 2003, fixing the value of the subject land at **P109,748.35**^[15] in accordance with EO 228 but set the **Government Support Price (GSP)** for corn at **P4.50/kilogram (kg)** in 1993 and **P6.00/kg** in 1997, as certified by the National Food Authority Provincial Manager of Negros Oriental, while the **Average Gross Production (AGP)** was fixed at **23 cavans/ha.** as established by the Barangay Committee on Land Production of Brgy. Lamogong, Bindoy, Negros Oriental.^[16]

Meanwhile, on May 27, 2002, TCT No. HT-556 was partially cancelled covering the subject land, and the corresponding Emancipation Patents were issued transferring ownership to the beneficiaries.^[17]

Disagreeing with the PARAD's computation, the LBP appealed to the Department of Agrarian Reform Adjudication Board (DARAB),^[18] which dismissed the same in a Decision^[19] dated December 11, 2006, thereby affirming *in toto* the PARAD's order.^[20] The LBP moved for reconsideration but the same was denied in a Resolution dated August 18, 2007.^[21]

Thus, on October 3, 2007,^[22] the LBP filed a petition^[23] for the determination of just compensation before the RTC of Bais City, Negros Oriental, Branch 45, docketed as Civil Case No. 07-34-13.

Subsequently, in view of the passage of **Republic Act No. (RA) 9700**^[24] and the issuance of the implementing guidelines under **DAR Administrative Order No. (AO) 1, series of 2010**,^[25] respondents filed a Motion for Re-evaluation asking the court to direct the LBP to conduct a revaluation of the subject land pursuant thereto,^[26] which the RTC granted in an Order^[27] dated February 22, 2010 (February 22, 2010 Order).

Thereafter, the case was transferred to the RTC of Dumaguete City, Branch 32, which was the designated SAC, and was re-docketed as Civil Case No. 2007-14511.^[28]

In compliance with the February 22, 2010 Order, the LBP submitted its Report^[29] dated October 12, 2010 fixing^[30] the just compensation for the subject land at P842,483.40.^[31] The LBP pegged the **AGP** at the rate of **35 cavans/ha.**,^[32] and the **GSP** at **P13.00/kg**^[33] based on certifications of the Municipal Agriculturist for the cropping periods from July 2008 to June 2009.^[34]

During trial, the LBP presented, among others, the testimony of Municipal Agriculture Officer (MAO) of Manjuyod, Cheryl S. Baldado,^[35] regarding the rates of production and farmgate prices of various crops for the years 2008 and 2009 in the Municipality of Manjuyod, and the certifications^[36] she had issued in relation thereto. Respondents, on the other hand, did not present any witness^[37] but

offered several documentary evidence in support of their claim.^[38]

In the course thereof, the RTC appointed three (3) Commissioners to assist in the determination of the just compensation for the subject land.^[39] In their Appraisal Report^[40] as of December 10, 2010, the Commissioners fixed the just compensation for the land at **P1,402,609.46**, taking into consideration the valuation factors provided under Section 17 of RA 6657, as amended, and the formula provided under DAR AO 1, series of 2010.^[41] In arriving at such value, the Commissioners used the following variables: (a) the **AGP** for the period July 1, 2008 to June 30, 2009 was pegged at **65.71 cavans/ha.** based on the AGP data for corn in Lamogong that was secured from the MAO of Manjuyod;^[42] (b) the average selling price (**SP**) for the same period was set at **P11.54/kg**^[43] or **P577/cavan**^[44] as determined by the National Food Authority,^[45] and (c) the Market Value^[46] (**MV**) per tax declaration, which was grossed-up up to June 30, 2009,^[47] was computed at P959,900.60.^[48] A Narrative Report^[49] was submitted in amplification of the foregoing variables which showed in detail their corresponding computations.

Meanwhile, on October 19, 2010, the LBP had deposited to the account of Apolonio its adjusted/revalued computation for CF Nos. 07 (NO) EO91-0588 and 07 (NO) EO93-0157 in the amounts of P375/708.9850 and P416,944.^[50], respectively.^[51]

The RTC Ruling

In a Decision^[52] dated August 11, 2011, the RTC adopted *in toto* the valuation submitted by the Commissioners,^[53] and fixed the just compensation for the subject land at **P1,402,609.46**^[54] based on the formula provided under DAR AO 1, series of 2010.^[55] It found the Commissioners' report to be comprehensive and detailed,^[56] and the computation presented therein was reasonable and fair with all the factors mentioned in Section 17 of RA 6657 duly considered.^[57] In contrast, it observed the LBP's revaluation to be a mere mathematical computation without detailing the factors that were considered in arriving at the final amount.^[58]

However, the RTC, noting that the initial valuation of P49,601.20 deposited by the LBP in Apolonio's favor has not yet been withdrawn, ordered that said amount be deducted from the just compensation award, and released in favor of the respondents. In this regard, the RTC imposed a 12% annual legal interest on the unpaid just compensation amounting to P1,353,008.26, reckoned from the time of taking on May 27, 2002, when Apolonio's title (TCT No. HT-556) was partially cancelled, and the corresponding emancipation patents issued to the beneficiaries, until full payment.^[59]

Finally, considering that the appointment of the Commissioners was indispensable in the determination of just compensation, and the respondents had already paid their share in the Commissioners' fees, the LBP was ordered to pay its corresponding share in the amount of P30,000.00.^[60]

The LBP's motion for reconsideration^[61] was denied in an Order^[62] dated August

31, 2011, prompting it to elevate its case to the CA.^[63]

The CA Ruling

In a Decision^[64] dated August 29, 2014, the CA dismissed the petition and affirmed the ruling of the RTC directing the LBP to pay the balance of the just compensation in the amount of P1,353,008.26 with legal interest of 12% p.a. from the date of taking on May 27, 2002, until fully paid, and to pay its share in the Commissioners' fees.^[65] The CA agreed with the findings of the RTC that the Commissioners' computation was in accordance with law,^[66] citing,^[67] however, the formula provided under DAR AO 5, series of 1998^[68] instead of DAR AO 1, series of 2010 that was adopted by the RTC in arriving at the valuation. It likewise sustained the award of 12% annual legal interest on the unpaid just compensation^[69] considering the delay in the release of the re-evaluated amount of P842,483.40.^[70] It also found the charge of Commissioners' fees against the LBP to be in accordance with Section 16, Rule 141 of the Rules of Court, and that the amount of P30,000.00 was fair and commensurate to the work performed by the Commissioners.^[71]

The LBP no longer filed a motion for reconsideration prior to the filing of the instant appeal.

The Issues Before the Court

The essential issues for the Court's resolution are whether or not the CA committed reversible error in upholding the RTC Decision: (a) fixing the just compensation for the subject land; (i) citing the formula provided under DAR AO 5, series of 1998, instead of AO 1, series of 2010 that was applied by the RTC; and (ii) using the values from the MAO Certification adopted by the Commissioners; and (b) holding the LBP liable for 12% annual legal interest on the unpaid just compensation, and for the Commissioners' fees.

The Court's Ruling

Case law dictates that when the acquisition process under PD 27 is still incomplete, such as in this case where the just compensation due to the landowner has yet to be settled, just compensation should be determined and the process concluded under RA 6657, as amended.^[72]

For purposes of determining just compensation, the fair market value of an expropriated property is determined by its character and its price at the time of taking, or the time when the landowner was deprived of the use and benefit of his property, such as when the title is transferred in the name of the beneficiaries. In addition, the factors enumerated under Section 17 of RA 6657, as amended, *i.e.*, (a) the acquisition cost of the land, (b) the current value of like properties, (c) the nature and actual use of the property, and the income therefrom, (d) the owner's sworn valuation, (e) the tax declarations, (f) the assessment made by government assessors, (g) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property, and (h) the nonpayment of taxes or loans secured from any government financing institution on the said land, if any, must be equally considered.^[73]

However, it bears pointing out that while Congress passed **RA 9700** on August 7, 2009, further amending certain provisions of RA 6657, as amended, among them, Section 17, and declaring "[t]hat all previously acquired lands wherein valuation is subject to challenge by landowners shall be completed and finally resolved pursuant to Section 17 of [RA 6657], as amended,"^[74] DAR AO 2, series of 2009, which is the implementing rules of RA 9700, had clarified that the said law shall not apply to claims/cases where the **claim folders were received by the LBP prior to July 1, 2009.**^[75] In such a situation, just compensation **shall be determined in accordance with Section 17 of RA 6657, as amended, prior to its further amendment by RA 9700.**^[76]

Preliminarily, the Court notes that notwithstanding the CA's reference to the formula^[77] provided under DAR AO 5, series of 1998, it still applied the formula under DAR AO 1, series of 2010 considering that it merely affirmed the RTC's computation which utilized values^[78] corresponding to those prescribed therein, *i.e.*, the latest available gross production and selling prices for 12 months immediately preceding July 1, 2009,^[79] in arriving at the capitalized net income (**CNI**).

It is significant to stress, however, that DAR AO 1, series of 2010 which was issued in line with Section 31 of RA 9700^[80] empowering the DAR to provide the necessary rules and regulations for its implementation, became effective only subsequent to July 1, 2009.^[81] Consequently, it cannot be applied in the determination of just compensation for the subject land where the claim folders were undisputedly received by the LBP prior to July 1, 2009,^[82] and, as such, should be valued in accordance with Section 17 of RA 6657 prior to its further amendment by RA 9700 pursuant to the cut-off date set under DAR AO 2, series of 2009^[83] (cut-off rule). Notably, DAR AO 1, series of 2010 did not expressly or impliedly repeal the cut-off rule set under DAR AO 2, series of 2009, having made no reference to any cut-off date with respect to land valuation for previously acquired lands under PD 27 and EO 228 wherein valuation is subject to challenge by landowners. Consequently, the application of DAR AO 1, series of 2010 should be, thus, limited to those where the claim folders were received on or subsequent to July 1, 2009.

In this case, the Court has gone over the records and found that the RTC and the CA neither considered the cut-off rule nor explained its reasons for deviating therefrom. Since the claim folders were received by the LBP prior to July 1, 2009, the RTC should have computed just compensation using pertinent DAR regulations applying Section 17 of RA 6657 prior to its amendment by RA 9700 instead of adopting the new DAR issuance, absent any cogent justifications otherwise. Therefore, as it stands, the RTC and the CA were duty-bound to utilize the basic formula prescribed and laid down in pertinent DAR regulations existing prior to the passage of RA 9700, to determine just compensation.

Nonetheless, the RTC, acting as a SAC, is reminded that it is not strictly bound by the different formula created by the DAR if the situations before it do not warrant their application.^[84] To insist on a rigid application of the formula goes beyond the intent and spirit of the law, bearing in mind that the valuation of property or the determination of just compensation is essentially a judicial function which is vested