

FIRST DIVISION

[G.R. No. 211351, February 04, 2015]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HEIRS OF
JESUS ALSUA, REPRESENTED BY BIBIANO C. SABINO,
RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated October 31, 2013 and the Resolution^[3] dated February 18, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 127483, fixing the just compensation for respondents' 47.4535-hectare (ha.) land at P2,465,423.02, less the initial valuation already paid in the amount of P1,369,708.02, with legal interest at the rate of 12% per annum (p.a.) from November 13, 2001 to June 30, 2013, and 6% p.a. from July 1, 2013 until full satisfaction, using the formula stated in Department of Agrarian Reform (DAR) Administrative Order (AO) No. 5, series of 1998.^[4]

The Facts

Jesus Alsua (Jesus) owned a 62.1108 has. parcel of unregistered agricultural land known as Lot No. 8882, Cad-201, situated in Malidong, Pioduran, Albay, covered by Tax Declaration No. 99-13-001-0067^[5] in his name.^[6]

On March 6, 1994, respondents Heirs of Jesus Alsua and their representative Bibiano C. Sabino (respondents) voluntarily offered to sell^[7] the entire parcel of land to the government under Republic Act No. (RA) 6657,^[8] as amended, otherwise known as the "Comprehensive Agrarian Reform Law of 1988," **but only 47.4535 has. thereof, consisting of 43.7158 has. of cocoland and 3.7377 has. of unirrigated riceland (subject lands), were acquired.**^[9]

Upon receipt from the DAR of the Claim Folder (CF) on April 20, 2001, albeit containing incomplete documents, **petitioner Land Bank of the Philippines** (LBP) valued the subject lands at **P1,369,708.02**^[10] (LBP's valuation) using the formula^[11] stated in DAR AO No. 5, series of 1998, as follows:

	43.7158 ha.	
Cocoland	x	P1,268,565.19
	P29,018.46	
Unirrigated	3.7377 ha. x	<u>101,142.83</u>
Riceland	27,060.18	
		<u>P1,369,708.02</u> ^[12]

The necessary documents were completed only in September 2001,^[13] hence, the CF was considered to have been received only on the latter date,^[14] and the LBP's valuation approved on September 25, 2001.^[15]

The DAR then offered to respondents the LBP's valuation as just compensation for the lands, but the latter rejected the valuation.^[16] Thus, the LBP was prompted to deposit the said amount in cash and in Agrarian Reform Bonds in respondents' name.^[17]

After summary administrative proceedings for the determination of just compensation, docketed as DARAB Case No. 05-01-0059-A'-2001, the **Provincial Agrarian Reform Adjudicator** (PARAD), in a Decision^[18] dated January 29, 2004, **fixed the value of the subject lands at P5,479,744.15**. The LBP moved for reconsideration but was denied in a Resolution^[19] dated March 11, 2004.

Dissatisfied with the PARAD's valuation, the LBP filed a petition^[20] for determination of just compensation before the Regional Trial Court of Legazpi City, Branch 3 (RTC), docketed as Agrarian Case No. 04-02, averring that the PARAD's valuation was excessively high and is contrary to the legally prescribed factors in determining just compensation.^[21]

On the other hand, respondents maintained the correctness of the PARAD's valuation, insisting that it considered all the factors that may be used as basis in order to arrive at a just and equitable valuation of the subject lands, including their potential use and corresponding increase in value.^[22]

In the interim, or **on November 29, 2001**, the Register of Deeds of Albay **issued Original Certificates of Title (OCT) Nos. C-27721^[23] and 27722^[24] in the names of the agrarian reform beneficiaries**.

During the pendency of the proceedings, the RTC appointed the Agrarian Operations Center of the LBP to conduct a reinvestigation of the gross production and selling price data within the 12-month period preceding June 30, 2009.^[25] On July 4, 2011, the Commissioner submitted his Report^[26] dated July 1, 2011, finding that the subject cocoland has a density of 80 trees per hectare with more than 35 years of age.^[27] Considering the lack of data from the landowners who were absent during the ocular inspection, and after ascertaining that the coconut production for the 12-month period prior to June 30, 2009 based on the industry data (PCA data) was *unattainable* in the area since the coconut trees were still recovering from the impact of typhoons *Milenyo* and *Reming* which hit the country in September and November 2006, respectively,^[28] he merely attached the production and selling price data from the Philippine Coconut Authority (PCA) for the concerned period.

The RTC Ruling

In a Decision^[29] dated August 17, 2012, the **RTC** rejected the valuation of both the LBP and the PARAD and fixed the just compensation for the subject lands at **P4,245,820.53^[30]** as follows:

LV for	= P3,654,285.91
Cocoland	
LV for	= 350,072.98
Riceland	
LV for	= <u>241,461.64</u>
Trees	
	<u>P4,245,820.53</u> ^[31]

The RTC used the formula under DAR AO No. 5, series of 1998, as amended, *i.e.*, **LV = (CNI x 0.9) + (MV x 0.1)**,^[32] utilizing production data or values within the 12-month period preceding the **presumptive date of taking on June 30, 2009 pursuant to DAR AO No. 1, series of 2010**,^[33] which “currentizes” the bases for the production data and values and does away with the payment of interest that will compensate for the loss of purchasing power due to inflation.^[34] It explained that to reckon the taking from November 29, 2001,^[35] or the date the OCTs were issued in favor of the beneficiaries, pursuant to the ruling in *LBP v. Dumlao*,^[36] will be unjust to the landowners, considering the diminution in the purchasing power of the peso. On the other hand, while interests may be imposed for the delay in the payment of the compensation, such imposition will be unjust to the State which would be unduly penalized for the “steadfastness of the implementors of the agrarian reform program in their administrative determination of compensation that the landowners had repudiated.”^[37]

The LBP moved for reconsideration^[38] which was, however, denied by the RTC in an Order^[39] dated October 25, 2012, prompting it to elevate its case to the CA.

The CA Ruling

In a Decision^[40] dated October 31, 2013, the CA fixed the just compensation of the subject lands at P2,465,423.02, less the initial valuation already paid in the amount of P1,369,708.02, plus legal interest at the rate of 12% p.a. from November 13, 2001 to June 30, 2013, and at 6% p.a. from July 1, 2013 until full satisfaction.^[41]

The CA affirmed the applicability of the provisions of DAR AO No. 5, series of 1998 in the computation of the just compensation for the subject lands but declared that the RTC erred in fixing the date of taking on June 30, 2009 (*i.e.*, the presumptive date of taking pursuant to DAR AO No. 1, series of 2010).^[42] It pointed out that the taking of lands under the agrarian reform program partakes of the nature of an expropriation proceeding; thus, **just compensation should be pegged at the price or value of the property at the time it was taken from the owner and not its value at the time of rendition of judgment or the filing of the complaint if the government takes possession of the land before the institution of expropriation proceedings.**^[43]

Separately, however, the CA used different values from that employed by the LBP in computing the capitalized net income (CNI) for purposes of arriving at the land value (LV) of the 43.7158 has. cocoland as the same purportedly “did not reflect the true income generating capacity of the property.”^[44] Instead, the CA based the selling price on the average farm gate prices of copra for the four-year period from 2000 to 2003. On the other hand, while it found that the RTC correctly used the

one-factor formula in computing the LV of the unirrigated riceland, *i.e.*, $MV \times 2$, considering the lack of available information on Comparable Sales, it used the market value (MV) per tax declaration^[45] and grossed it up with the location adjustment factor and the applicable Regional Consumer Price Index in accordance with Item II (A.9) of DAR AO No. 5, series of 1998. Accordingly, it valued the subject lands as follows:

LV for Cocoland	= P1,936,892.34
LV for Unirrigated Riceland	= 287,069.04
LV for Trees	= <u>241,461.64</u>
	<u>P2,465,423.02</u> ^[46]

Aggrieved, the LBP filed a motion for reconsideration^[47] which was, however, denied in a Resolution^[48] dated February 18, 2014, hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA committed any reversible error in fixing the just compensation for the subject lands.

The Court's Ruling

Settled is the rule that when the agrarian reform process is still incomplete, such as in this case where the just compensation due the landowner has yet to be settled, just compensation should be determined and the process be concluded under RA 6657.^[49]

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*,^[50] or the "time when the landowner was deprived of the use and benefit of his property,"^[51] such as when title is transferred in the name of the beneficiaries, as in this case. In addition, the factors enumerated under Section 17 of RA 6657, *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 non-payment of taxes or loans secured from any government financing institution on the said land, if any, must be equally considered.^[52]

In this case, both the RTC and the CA applied the provisions of DAR AO No. 5, series of 1998 in computing the just compensation for the subject lands. Under the said AO, there shall be one basic formula for the valuation of lands, *i.e.*, **$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$** , where:

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above-stated formula shall be used only if all the three factors *i.e.*, CNI, CS, and MV, are present, relevant, and applicable. In case one or two factors are not present, the said AO provides for alternate formulas.^[53]

Records show that the comparable sales (CS) were found to be unavailable^[54] so the alternative formula, *i.e.*, **$LV = (CNI \times 0.9) + (MV \times 0.1)$** , was used by the LBP, the RTC, and the CA in fixing the just compensation for the subject cocoland. On the other hand, they used the one-factor formula under the said AO, *i.e.*, **$LV = MV \times 2$** , in valuing the subject riceland considering the lack of comparable sales (CS) and production data to arrive at the capitalized net income (CNI). It appears, however, that both the RTC and the CA made variations from the formula under the said AO.

A. RTC and CA Valuation of the Subject Cocoland.

For its part, the RTC used production data or values within the 12-month period preceding the presumptive date of taking of the subject cocoland on June 30, 2009,^[55] in accordance with DAR AO No. 1, series of 2010.^[56] It is significant to point out, however, that the said AO only applies to tenanted rice and corn lands acquired under Presidential Decree No. 27^[57] and Executive Order No. (EO) 228,^[58] which scenario does not obtain in this case. Besides, the long-standing rule is that an expropriated property must be valued at the time of *taking*,^[59] in this case, upon the issuance of the OCTs in the name of the beneficiaries on November 29, 2001.^[60] Hence, the said AO cannot be made to obtain and the RTC's valuation cannot be sustained.

On the other hand, while the CA correctly held that just compensation shall be the price or value of the property at the time it was taken from the owner and appropriated by the government,^[61] or on November 29, 2001, it, departed from the parameters prescribed under DAR AO No. 5, series of 1998 in computing the capitalized net income (CNI) in order to arrive at the land value (LV) for the subject lands. Particularly, under the foregoing AO, the selling price (SP) for purposes of computing the capitalized net income (CNI) shall be "the average of the latest available 12-months' selling prices prior to the date of receipt of the CF by LBP for processing, such prices to be secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. x x x."

In rejecting the LBP's proposed valuation which used the prices of copra from July 2000 to June 2001 per certification from the PCA, the CA opined that the data and values used therein did not reflect the true income generating capacity of the property.^[62] Instead, it used the data for the four-year period from 2000 to 2003, thus, including data or values beyond the time of taking. Consequently, the Court similarly cannot adopt the CA's computation.

B. RTC and CA Valuation of the Subject Riceland.