

SECOND DIVISION

[G.R. No. 175493, March 25, 2015]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HEIRS OF
GABRIEL Q. FERNANDEZ,^[1] RESPONDENTS.**

DECISION

LEONEN, J.:

The state and its implementing agencies must first comply with the requirements outlined in Section 4 of Republic Act No. 8974^[2] before these are allowed to take possession of private property for a national infrastructure project.

This is a Petition for Review on Certiorari^[3] under Rule 45 assailing the Decision^[4] dated August 25, 2006 and Resolution^[5] dated November 14, 2006 of the Court of Appeals, which reversed and set aside the authorization granted by the trial court for petitioner Republic of the Philippines to take possession of respondents Heirs of Gabriel Q. Fernandez's property in an expropriation proceeding.

The Heirs of Gabriel Q. Fernandez (Heirs of Fernandez) are the owners of an 11,165-square-meter property in Barangay Tuyo, Balanga, Bataan. The property is covered by Transfer Certificate of Title No. T-139051.^[6]

On June 5, 2001, the Republic of the Philippines (Republic), on behalf of the Department of Public Works and Highways, filed a Verified Complaint for Expropriation against the Heirs of Fernandez and Sotera Santuyo, the owner of another property in Barangay Tuyo.^[7]

The Republic, through its Verified Complaint for Expropriation, alleged that the Department of Public Works and Highways intended to construct a four-lane highway in Barangay Tuyo. It further alleged that it was necessary to acquire the properties of the Heirs of Fernandez and Sotera Santuyo for that purpose, but its offer to purchase was refused. It also alleged that the adjacent properties were already acquired by negotiation. The Republic prayed that a Writ of Possession be issued in its favor upon the filing of the Petition and the deposit of the value of the properties "as provisionally ascertained and fixed by the court, which should not be more than P50.00 per square meter."^[8]

In their Answer, the Heirs of Fernandez admitted that there was "nobility and utility"^[9] in the construction of the highway but disputed the necessity of expropriating their property. They argued that the expropriation of their property was not permitted by the Constitution and that the Republic must first comply with the guidelines stated in Section 4 of Republic Act No. 8974^[10] and Section 12 of its Implementing Rules and Regulations^[11] before a Writ of Possession can be issued.

They also alleged that the fair and true market value of their property was PI ,200.00 per square meter.^[12]

The summons, meanwhile, for Sotera Santuyo "was returned unserved."^[13]

In the Pre-trial Order dated January 7, 2002, the trial court stated that no stipulation of facts was made by the parties and that while the Republic had marked their documentary evidence, the Heirs of Fernandez had not yet marked theirs. The trial court terminated the pre-trial and set the case for initial hearing.^[14]

The Republic filed a Motion/Manifestation dated February 4, 2002 wherein it alleged that on October 20, 2000, it offered the amount of P35.00 per square meter to the Heirs of Fernandez as compensation for the property. It alleged that the price was above the zonal value, which was P15.00 per square meter. It also alleged that after it had filed the Verified Complaint for Expropriation, it offered the Heirs of Fernandez P50.00 per square meter, which the latter refused as they were demanding P1,000.00 per square meter. It also submitted that in compliance with Section 12 of the Implementing Rules and Regulations of Republic Act No. 8974, it was ready to deposit P167,475.00, which was the equivalent of the zonal value of the property.^[15]

The Heirs of Fernandez also filed a Manifestation and Motion alleging that the pre-trial had not yet been concluded as they had not yet marked their evidence. They prayed for the re-opening of the pre-trial so that they could mark their evidence and the parties could enter into a stipulation of facts.^[16]

On February 11, 2002, a hearing was conducted.^[17] The Heirs of Fernandez's counsel was absent, but the Republic was able to mark additional documents. The trial court also directed the re-opening of the pre-trial.^[18]

On February 21, 2002, the trial court issued an Order allowing the Republic to take possession of the Heirs of Fernandez's property in view of their payment of P167,475.00, as evidenced by a Land Bank of the Philippines check in the name of Gabriel Q. Fernandez.^[19]

On April 23, 2002, the Heirs of Fernandez filed an Omnibus Motion requesting for the admission of the existence of seven roads connecting , Balanga to the Roman Highway, the comprehensive land use plan, a list of provincial roads per municipality, and a photocopy of the Bureau of Internal Revenue zonal valuation for Barangay. Tuyoy. They prayed for the nullification of the Order dated February 21, 2002, alleging that a copy of the Order was only served on them at the pre-trial on April 3, 2002. They also alleged that they were not served a copy of the Republic's Motion/Manifestation dated February 4, 2002.^[20]

On May 22, 2002, the trial court issued an Order finding that the Republic had a lawful right to take the property and appointing three commissioners to determine the amount of just compensation to be given to the Heirs of Fernandez. It also ruled that the failure to serve a copy of the Order dated February 21, 2002 was a mere inadvertence of the clerk in charge of civil cases. It ruled that the zonal value of P15.00 per square meter obtained by the Republic was also based on a Bureau of

Internal Revenue certification and that the Heirs of Fernandez's rights were not violated when the Republic exercised its power of eminent domain.^[21]

The Heirs of Fernandez appealed the case before the Court of Appeals, arguing that the expropriation was unnecessary since there were seven existing public roads that connected Balanga to the Roman Highway. They also argued that they were deprived of due process as they were not duly notified of the trial court's Order dated February 21, 2002. They argued that the trial court Order not only violated Article III of the Constitution but also the guidelines set forth in Section 4 of Republic Act No. 8974 and Section 12 of its Implementing Rules and Regulations.^[22]

On August 25, 2006, the Court of Appeals rendered a Decision^[23] that set aside the Republic's authority to take possession of the property but affirmed the Order to appoint commissioners to determine the amount of just compensation.

The Court of Appeals acknowledged that while there were roads that connected Balanga to Roman Highway, it conceded that the construction of a four-lane highway was a public need that would undeniably become beneficial to Balanga and the Province of Bataan.^[24]

The Court of Appeals also ruled that the Heirs of Fernandez were not denied due process since they had the opportunity to seek for the nullification of the Order dated February 21, 2002 when they filed their Omnibus Motion on April 23, 2002.^[25]

On the issue, however, on the correct valuation of the property, the Court of Appeals relied on the Heirs of Fernandez's copy of the Bureau of Internal Revenue zonal valuation and Gabriel Q. Fernandez's tax declaration submitted by the Republic, which categorized the property as "A1" or "1st agricultural land" valued at P50.00 per square meter. Since the valuation of P15.00 per square meter was for pastureland, the Court of Appeals concluded that the Republic's deposit of P167,475.00 was incorrect.^[26]

Citing Section 4 of Republic Act No. 8974, the Court of Appeals ruled that it was only upon the payment of P558,250.00, which was 100% of the zonal value of the property, and the submission of a certificate of availability of funds that a Writ of Possession may be issued.^[27] The dispositive portion states:

WHEREFORE, the Order dated May 22, 2002, which reiterated the Order dated February 21, 2002[,], is REVERSED and SET ASIDE insofar as it authorized plaintiff-appellee to take possession of the 11,650 square meter property of defendants-appellants in view of the deposit of the amount of P167,475.00 only, but AFFIRMED with respect to the appointment of Commissioners to determine the just compensation for defendants-appellants' property.^[28]

The Republic filed a Motion for Reconsideration, but this was denied by the Court of Appeals in the Resolution dated November 14, 2006.^[29] Aggrieved, the Republic filed a Petition for Review on Certiorari before this court.

Petitioner Republic alleges that it faithfully complied with the legal requirements to authorize it to take possession of the property.^[30] It also alleges that the P15.00 per square meter valuation was based on the Bureau of Internal Revenue's zonal valuation, while the P50.00 per square meter valuation was a "sheer allegation"^[31] of respondents Heirs of Fernandez "which was not even offered in evidence."^[32]

Petitioner Republic argues that since a Writ of Possession was already issued in its favor when it made its deposit, the only issue left to be settled is the determination of just compensation. It also argues that the Court of Appeals' Decision was similar to a temporary restraining order or injunction, which is prohibited by Section 3^[33] of Republic Act No. 8975.^[34]

In their Comment,^[35] respondents Heirs of Fernandez argue that the P15.00 per square meter valuation corresponded to pastureland, not agricultural land, as stated in the Bureau of Internal Revenue's zonal valuation presented as petitioner Republic's own evidence. They also argue that since the Order issuing the Writ of Possession was already reversed by the Court of Appeals, there was no more Writ of Possession.^[36]

Petitioner Republic was required to reply to the Comment. However, it manifested on July 26, 2007 that it was no longer filing a Reply since it already raised and extensively discussed the issues in its Petition.^[37]

The issues for this court's resolution are:

First, whether the Court of Appeals erred in setting aside petitioner Republic's Writ of Possession for the latter's failure to comply with Section 4 of Republic Act No. 8974.

Second, whether the reversal of the issuance of the Writ of Possession by the Court of Appeals was effectively an injunction against petitioner Republic from proceeding with the expropriation.

The Petition is denied.

I

A Writ of Possession may be issued only upon full compliance with Section 4 of Republic Act No. 8974.

Before the state may expropriate private property for a national infrastructure project, it must first comply with the requisites in Republic Act No. 8974, otherwise known as *An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes*. Section 4 of Republic Act No. 8974 states:

Section 4. *Guidelines for Expropriation Proceedings.* - Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation

proceedings before the proper court under the following guidelines:

- (a) *Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum, of (1) . one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7^[38] hereof;*
- (b) In provinces, cities, municipalities and other areas where there is no zonal valuation, the BIR is hereby mandated within the period of sixty (60) days from the date of the expropriation case, to come up with a zonal valuation for said area; and
- (c) In case the completion of a government infrastructure project is of utmost urgency and importance, and there is no existing valuation of the area concerned, the implementing agency shall immediately pay the owner of the property its proffered value taking into consideration the standards prescribed in Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a Writ of Possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be. paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.

Under Section 4 of Republic Act No. 8974, the implementing agency must, upon filing of the expropriation complaint, immediately pay the property owner an amount equivalent to 100% of the value of the property based on the current relevant zonal valuation by the Bureau of Internal Revenue and the value of any improvements or structure on a replacement cost method. The law further mandates that courts may issue a Writ of Possession only upon the presentation by the implementing agency of a certificate of availability of funds.

The provisional value that must be paid under Section 4 of Republic Act No. 8974 should not be confused with the payment of just compensation required by the Constitution^[39] in the exercise of the power of eminent domain.

II

The payment of the provisional value under Section 4 of Republic Act No. 8974 is different from the payment of just compensation.