

EN BANC

[G.R. No. 179334, April 21, 2015]

**SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS AND DISTRICT ENGINEER CELESTINO R.
CONTRERAS, PETITIONERS, VS. SPOUSES HERACLEO AND
RAMONA TECSON, RESPONDENTS.**

R E S O L U T I O N

PERALTA, J.:

For resolution is the Motion for Reconsideration^[1] filed by respondents-movants spouses Heracleo and Ramona Tecson imploring the Court to take a second look at its July 1, 2013 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the petition is **PARTIALLY GRANTED**. The Court of Appeals Decision dated July 31, 2007 in CA-G.R. CV No. 77997 is **MODIFIED**, in that the valuation of the subject property owned by respondents shall be P0.70 instead of P1,500.00 per square meter, with interest at six percent (6%) per annum from the date of taking in 1940 instead of March 17, 1995, until full payment.^[2]

In view of the contrasting opinions of the members of the Third Division on the instant motion, and the transcendental importance of the issue raised herein, the members of the Third Division opted to refer the issue to the En Banc for resolution.

For a proper perspective, we briefly state the factual background of the case.

In 1940, the Department of Public Works and Highways (*DPWH*) took respondents-movants' subject property without the benefit of expropriation proceedings for the construction of the MacArthur Highway. In a letter dated December 15, 1994, respondents-movants demanded the payment of the fair market value of the subject parcel of land. Celestino R. Contreras (*Contreras*), then District Engineer of the First Bulacan Engineering District of the *DPWH*, offered to pay for the subject land at the rate of Seventy Centavos (P0.70) per square meter, per Resolution of the Provincial Appraisal Committee (*PAC*) of Bulacan. Unsatisfied with the offer, respondents-movants demanded the return of their property, or the payment of compensation at the current fair market value.^[3] Hence, the complaint for recovery of possession with damages filed by respondents-movants. Respondents-movants were able to obtain favorable decisions in the Regional Trial Court (*RTC*) and the Court of Appeals (*CA*), with the subject property valued at One Thousand Five Hundred Pesos (P1,500.00) per square meter, with interest at six percent (6%) per annum.

Petitioners thus elevated the matter to this Court in a petition for review on *certiorari*. The only issue resolved by the Court in the assailed decision is the amount of just compensation which respondents-movants are entitled to receive

from the government for the taking of their property. Both the RTC and the CA valued the property at One Thousand Five Hundred Pesos (P1,500.00) per square meter, plus six percent (6%) interest from the time of the filing of the complaint until full payment. We, however, did not agree with both courts and ruled instead that just compensation should be based on the value of the property at the time of taking in 1940, which is Seventy Centavos (P0.70) per square meter.^[4] In addition, and by way of compensation, we likewise awarded an interest of six percent (6%) per annum from 1940 until full payment.^[5]

Aggrieved, respondents-movants hereby move for the reconsideration of said decision on the following grounds:

- A. THE HONORABLE COURT MAY LOOK INTO THE "JUSTNESS" OF THE MISERABLE AMOUNT OF COMPENSATION BEING AWARDED TO THE HEREIN RESPONDENTS; and
- B. THE HONORABLE COURT MAY SETTLE FOR A HAPPY MIDDLE GROUND IN THE NAME OF DOCTRINAL PRECISION AND SUBSTANTIAL JUSTICE.^[6]

Citing the views of Justices Presbitero J. Velasco, Jr. and Marvic Mario Victor F. Leonen in their Dissenting and Concurring Opinion and Separate Opinion, respectively, respondents-movants insist that gross injustice will result if the amount that will be awarded today will be based simply on the value of the property at the time of the actual taking. Hence, as proposed by Justice Leonen, they suggest that a happy middle ground be achieved by meeting the need for doctrinal precision and the thirst for substantial justice.^[7]

We maintain our conclusions in the assailed July 1, 2013 Decision with modification on the amount of interest awarded, as well as the additional grant of exemplary damages and attorney's fees.

At the outset, it should be stressed that the matter of the validity of the State's exercise of the power of eminent domain has long been settled. In fact, in our assailed decision, We have affirmed the ruling of the CA that the pre-trial order issued on May 17, 2001 has limited the issues as follows: (1) whether or not the respondents-movants are entitled to just compensation; (2) whether or not the valuation would be based on the corresponding value at the time of the taking or at the time of the filing of the action; and (3) whether or not the respondents-movants are entitled to damages.^[8] Moreover, it was held that for failure of respondents-movants to question the lack of expropriation proceedings for a long period of time, they are deemed to have waived and are estopped from assailing the power of the government to expropriate or the public use for which the power was exercised.^[9] What is, therefore, left for determination in the instant Motion for Reconsideration, in accordance with our Decision dated July 1, 2013, is the propriety of the amount awarded to respondents as just compensation.

At this juncture, We hold that the reckoning date for property valuation in determining the amount of just compensation had already been addressed and squarely answered in the assailed decision. To be sure, the justness of the award had been taken into consideration in arriving at our earlier conclusion.

We have in the past been confronted with the same issues under similar factual and procedural circumstances. We find no reason to depart from the doctrines laid down in the earlier cases as we adopted in the assailed decision. In this regard, we reiterate the doctrines laid down in the cases of *Forfom Development Corporation (Forfom) v. Philippine National Railways (PNR)*,^[10] *Eusebio v. Luis*,^[11] *Manila International Airport Authority v. Rodriguez*,^[12] and *Republic v. Sarabia*.^[13]

In *Forfom*, PNR entered the property of Forfom in January 1973 for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR. In *Eusebio*, respondent's parcel of land was taken in 1980 by the City of Pasig and used as a municipal road without the appropriate expropriation proceedings. In 1996, respondent filed a complaint for reconveyance and/or damages against the city government and the mayor. In *MIAA*, in the early 1970s, petitioner implemented expansion programs for its runway, necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent initiated a case for *accion reivindicatoria* with damages against petitioner. In *Republic*, sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon, including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal, and the Headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners wherein ATO intervened claiming that the storeowners were its lessees.

These cases stemmed from similar background, that is, government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation; while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. In these cases, the Court has uniformly ruled that the fair market value of the property at the time of taking is controlling for purposes of computing just compensation.

In *Forfom*, the payment of just compensation was reckoned from the time of taking in 1973; in *Eusebio*, the Court fixed the just compensation by determining the value of the property at the time of taking in 1980; in *MIAA*, the value of the lot at the time of taking in 1972 served as basis for the award of compensation to the owner; and, in *Republic*, the Court was convinced that the taking occurred in 1956 and was thus the basis in fixing just compensation.

As in the aforementioned cases, just compensation due respondents-movants in this case should, therefore, be fixed not as of the time of payment but at the time of taking in 1940 which is Seventy Centavos (P0.70) per square meter, and not One Thousand Five Hundred Pesos (P1,500.00) per square meter, as valued by the RTC and CA.

While disparity in the above amounts is obvious and may appear inequitable to

respondents-movants as they would be receiving such outdated valuation after a very long period, it should be noted that the purpose of just compensation is not to reward the owner for the property taken but to compensate him for the loss thereof. As such, the true measure of the property, as upheld by a plethora of cases, is the market value at the time of the taking, when the loss resulted. This principle was plainly laid down in *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*,^[14] to wit:

x x x In *Land Bank of the Philippines v. Orilla*, a valuation case under our agrarian reform law, this Court had occasion to state:

Constitutionally, "just compensation" is the sum equivalent to the market value of the property, broadly described as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition, or the fair value of the property as between the one who receives and the one who desires to sell, ***it being fixed at the time of the actual taking by the government. Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It has been repeatedly stressed by this Court that the true measure is not the taker's gain but the owner's loss.*** The word "just" is used to modify the meaning of the word "compensation" to convey the idea that ***the equivalent to be given for the property to be taken shall be real, substantial, full and ample.*** [Emphasis supplied.]^[15]

Indeed, the State is not obliged to pay premium to the property owner for appropriating the latter's property; it is only bound to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. More, the concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.^[16]

Notwithstanding the foregoing, we recognize that the owner's loss is not only his property but also its income-generating potential.^[17] Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost.^[18] Accordingly, in *Apo*, we held that the rationale for imposing the interest is to compensate the petitioners for the income they would have made had they been properly compensated for their properties at the time of the taking.^[19] Thus:

We recognized in *Republic v. Court of Appeals* the need for prompt payment and the necessity of the payment of interest to compensate for any delay in the payment of compensation for property already taken. We ruled in this case that:

The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be the price fixed by the seller in open market in the usual and ordinary course of legal action and competition or the fair value of the property as

between one who receives, and one who desires to sell, i[f] fixed at the time of the actual taking by the government. Thus, ***if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, the final compensation must include interest[s] on its just value to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court. In fine, between the taking of the property and the actual payment, legal interest[s] accrue in order to place the owner in a position as good as (but not better than) the position he was in before the taking occurred.*** [Emphasis supplied]^[20]

In other words, the just compensation due to the landowners amounts to an effective forbearance on the part of the State—a proper subject of interest computed from the time the property was taken until the full amount of just compensation is paid—in order to eradicate the issue of the constant variability of the value of the currency over time.^[21] In the Court's own words:

The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. ***This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time x x x.***^[22]

On this score, a review of the history of the pertinent laws, rules and regulations, as well as the issuances of the Central Bank (CB) or Bangko Sentral ng Pilipinas (BSP) is imperative in arriving at the proper amount of interest to be awarded herein.

On May 1, 1916, **Act No. 2655**^[23] took effect prescribing an interest rate of six percent (6%) or such rate as may be prescribed by the Central Bank Monetary Board (CB-MB) for loans or forbearance of money, in the absence of express stipulation as to such rate of interest, to wit:

Section 1. The rate of interest for the loan or forbearance of any money goods, or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, ***shall be six per centum per annum or such rate as may be prescribed by the Monetary Board of the Central Bank of the Philippines for that purpose in accordance with the authority hereby granted.***

Sec. 1-a. The Monetary Board is hereby authorized to prescribe the maximum rate or rates of interest for the loan or renewal thereof or the forbearance of any money, goods or credits, and to change such rate or rates whenever warranted by prevailing economic and social conditions.

In the exercise of the authority herein granted, the Monetary Board may prescribe higher maximum rates for loans of low priority, such as