

## SECOND DIVISION

[ G.R. No. 196707, June 17, 2015 ]

**SPOUSES NILO AND ERLINDA MERCADO, PETITIONERS, VS.  
LAND BANK OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

*In eminent domain, the determination of just compensation is principally a judicial function of the Regional Trial Court (RTC) acting as a Special Agrarian Court (SAC). In the exercise of such judicial function, however, the RTC must consider both Section 17 of Republic Act No. 6657 (RA 6657 or Comprehensive Land Reform Law of 1988) and the valuation formula under applicable Administrative Order (A.O.) of the Department of Agrarian Reform (DAR).*<sup>[1]</sup>

This Petition for Review on *Certiorari*<sup>[2]</sup> seeks to reverse and set aside the April 20, 2011 Decision<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SPNo. 02981-MIN that granted the Petition for Review<sup>[4]</sup> of respondent Land Bank of the Philippines (respondent) and, concomitantly, reversed and set aside the December 28, 2006 Decision<sup>[5]</sup> of the RTC of Davao City, Branch 15 in Civil Case No. 30,373-04.

#### ***Factual Antecedents***

Petitioners spouses Nilo and Erlinda Mercado (petitioners) were the registered owners of 9.8940 hectares of agricultural land in Kilate, Toril, Davao City covered by Transfer Certificate of Title (TCT) No. T-44107. Respondent, on the other hand, is a government financial institution organized and existing by virtue of RA 3844,<sup>[6]</sup> and is the financial intermediary for the Comprehensive Agrarian Reform Program (CARP).

Thru a Notice of Land Valuation and Acquisition,<sup>[7]</sup> the Provincial Agrarian Reform Office (PARO) of Davao City informed petitioners that 5.2624 hectares of their aforesaid property (subject portion) shall be placed under the CARP coverage, for which petitioners were offered P287,227.16 as just compensation.<sup>[8]</sup>

In his letter<sup>[9]</sup> dated October 27, 2002, petitioner Nilo A. Mercado (Nilo) rejected respondent's valuation. He claimed that the fair market value of their property is P250,000.00 per hectare; that they sold the remaining 4.6316-hectare portion, which is hilly and uncultivated, compared to the subject portion which is flat, suited for agriculture and has improvements, for such price; and, that said property is adjacent to "Eden," an eco-tourism area, and likewise suitable for housing and other uses.

In view of petitioners' rejection of said valuation, summary administrative

proceedings were conducted to determine just compensation.<sup>[10]</sup> In a Resolution<sup>[11]</sup> dated June 9, 2003, the Regional Agrarian Reform Adjudicator (RARAD) sustained the valuation made by respondent.

Nilo appealed to the Department of Agrarian Reform Adjudication Board (DARAB).<sup>[12]</sup> However, in an Order<sup>[13]</sup> dated September 5, 2003, the DARAB held that pursuant to the DARAB New Rules of Procedure of 1994, a decision of the Adjudicator on land valuation and on preliminary determination and payment of just compensation shall not be appealable to the DARAB but must be brought directly to the proper SAC.

Thus, on May 21, 2004, petitioners filed a Complaint<sup>[14]</sup> for payment of just compensation before the RTC acting as SAC which was docketed as Civil Case No. 30,373-04. Petitioners prayed that the DAR and respondent be ordered to pay them P250,000.00 per hectare as just compensation for the subject portion. In addition, they prayed that the farmer-beneficiaries of the subject portion who had been enjoying the fruits of the property be made to pay P200,000.00 as rentals.

The farmer-beneficiaries, namely, Daisy Monilla (Monilla) and Rosario Cadotdot, and the DAR filed their respective Answers.<sup>[15]</sup> They averred that the farmer-beneficiaries are no longer tenants of the subject portion but are now the qualified beneficiaries thereof; that the sale of a portion of the landholding, as claimed by petitioners, was not recorded in the PARO; that the farmer-beneficiaries had been religiously paying their rentals amounting to 30% of the proceeds of their harvest; and, that the issue of non-payment of rentals is vested with the DARAB and not with the SAC.

On its end, respondent maintained in its Answer<sup>[16]</sup> that it made a proper valuation of the subject portion in accordance with the DAR A.O. No. 5 and Section 17 of RA 6657.

### ***Evidence for Petitioners***

During the proceedings before the RTC, Perla M. Borja, Revenue Officer of the Bureau of Internal Revenue, testified that as of December 22, 2002, the zonal value of the properties in Kilate, Davao City was P40.00 per square meter. Such zonal value was based on the data from the Department of Finance and on the capital gains tax of the properties in the area.<sup>[17]</sup>

Petitioners also presented James Paul Enriquez (Enriquez), Records Custodian of Apo Land Corporation. Enriquez averred that he kept a copy of the contract of lease of the subject portion entered into by and between Apo Land Corporation (Apo Land) and the farmer-beneficiaries.<sup>[18]</sup>

Christopher Bangalando also testified that his house was previously situated in the property of petitioners in Kilate, Toril, Davao City,<sup>[19]</sup> and that when the subject portion was placed under the CARP, there were coconut, coffee and banana trees planted thereon.<sup>[20]</sup>

Nilo, for his part, testified that sometime in 1999, the subject portion was planted

with coconut, mango, banana and coffee and that there was also a farmhouse built in the premises.<sup>[21]</sup> He added that there were improvements and plants on the property which were, however, removed when it was leased and converted into a banana farm.<sup>[22]</sup> Anent the lease of the subject portion to Apo Land, Nilo claimed that the former paid advance rentals for five years in favor of the farmer-beneficiaries. In disparity, however, the government bought from him the subject portion at the measly price of P5.40 per square meter<sup>[23]</sup> based on respondent's valuation, which payment was received under protest.<sup>[24]</sup> In addition, he had to pay the real estate tax on the subject portion until 2002.<sup>[25]</sup>

### ***Evidence for Respondent***

Respondent presented its Agrarian Affairs Specialist, Engr. Marilyn Rojo (Engr. Rojo), who testified that there was no comparable sales information on the property of petitioners or on the adjoining properties in the area.<sup>[26]</sup> Engr. Orlando Arceo (Engr. Arceo), respondent's Property Appraiser, also testified. He recalled that in 2002, he inspected the property of petitioners and found the subject portion as flat land and planted with coconuts.<sup>[27]</sup> In appraising the same, he used the formula under DAR A.O. No. 5.<sup>[28]</sup> After validating the data he gathered with the Philippine Coconut Authority (PCA) production,<sup>[29]</sup> he arrived at the price of P9.00 per kilo of copra,<sup>[30]</sup> and finally, he narrated that a property placed under the coverage of CARP is valued based on its production and not on its per square meter value.<sup>[31]</sup>

### ***Ruling of the Regional Trial Court***

On December 28, 2006,<sup>[32]</sup> the RTC observed that petitioners sold 4.6316-hectare portion of their property, which is less productive and with uneven terrain, for P1,020,000.00. In contrast, the subject portion is fiat, easier to cultivate and suitable for agriculture; moreover, as of 2005, the adjacent properties were valued at more than P40.00 per square meter due to the fully productive pineapple and banana plantations of Apo Land in the area. Taking all these into consideration, and asserting that the factors under Section 17 of RA 6657 and the formula used by the DAR in computing just compensation are mere guide posts and could not substitute the judgment of the court in determining just compensation, the RTC fixed the just compensation of the subject portion at P25.00 per square meter.

Respondent moved for a reconsideration<sup>[33]</sup> but it was denied in an Order<sup>[34]</sup> dated May 11, 2009.

### ***Ruling of the Court of Appeals***

Aggrieved, respondent filed a Petition for Review<sup>[35]</sup> before the CA arguing that the RTC did not show how it arrived at its valuation of P25.00 per square meter; that it erred in lending credence to petitioners' allegation that they were able to sell 4.6316 hectares at P25.00 per square meter as no evidence was presented to prove the same; and, that the RTC should have applied the formula under DAR A.O. No. 5 and considered the factors under Section 17 of RA 6657 in determining just compensation.

In its April 20, 2011 Decision,<sup>[36]</sup> the CA emphasized the mandatory nature of complying with the formula, as set forth under DAR A.O. No. 5, series of 1998, in computing just compensation. It held that the RTC not only disregarded the formula but it likewise failed to show how it arrived at the P25.00 per square meter valuation. It noted that while petitioners claimed that respondent's valuation for the subject portion was "ridiculously low," they, however, did not present evidence to rebut the figures proffered by respondent. Finally, by applying the formula under DAR A.O. No. 5 and using the same data used by respondent in its computation, the CA came up with the same valuation as that of respondent.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises foregoing, the petition is hereby GRANTED. The Decision of the court *a quo* dated December 28, 2006 is hereby REVERSED and SET ASIDE and the Decision of the DAR Regional Adjudicator is REINSTATED.

SO ORDERED.<sup>[37]</sup>

Petitioners thus filed the instant Petition.

### **Issues**

THE QUESTIONED DECISION IS CONTRARY TO THE RULINGS IN *LANDBANK OF THE PHILIPPINES V. WYCOCO* and *APO FRULTS CORPORATION V. CA*.

NO ERROR WAS COMMITTED BY THE SPECIAL AGRARIAN COURT IN FIXING THE JUST COMPENSATION AT P25.00 PER SQ. M. BECAUSE, CONTRARY TO THE CONCLUSIONS OF THE COURT OF APPEALS, IT CONSIDERED ALL FACTORS ENUMERATED IN SEC. 17 OF R.A. NO. 6657 BEFORE ARRIVING AT ITS COMPUTED JUST COMPENSATION.<sup>[38]</sup>

### ***The Parties Argument***

Petitioners assert that the determination of just compensation is not within the power of administrative agencies but is a judicial function vested in the RTC acting as SAC. And, the RTC-SAC in performing its function, must make its independent determination of just compensation. Petitioners insist that the RTC properly evaluated the following factors and correctly arrived at the amount of P25.00 per square meter as just compensation, *viz*: (1) the zonal value of said property in 2002 which was P40.00 per square meter; (2) before the subject portion was taken, it was planted with crops; (3) the subject portion is within city limits and near an eco-tourism area; and, (4) petitioners were able to sell in 2001 the remaining 4.6316 hectares of their land for P1,020,000.00.

Petitioners argue that respondent's valuation was arrived at using only one factor - production. Moreover, the data was gathered during a one-day field investigation conducted by respondent's property appraiser, Engr. Arceo, on the more than five-hectare subject portion, who, admittedly, just counted the trees therein.

On the other hand, respondent contends that the CA correctly adopted its valuation

of the subject portion at the total amount of P287,227.16 pursuant to the formula under DAR A.O. No. 5 which the RTC-SAC is mandated to observe and follow. And while respondent acknowledges that the determination of just compensation involves the exercise of judicial discretion, it nevertheless stresses that such discretion must be discharged within the bounds of law. Hence, it avers that it is the factors under Section 17 of RA 6657 which must be considered in determining just compensation and not those relied upon by the RTC-SAC in this case.

### **Our Ruling**

The Petition is partly meritorious.

Eminent domain refers to the inherent power of the State to take private property for public use. This power has two basic limitations: (1) the taking must be for public use; and (2) just compensation must be given to the owner of the property taken.<sup>[39]</sup> Notably, in agrarian reform cases, the taking of private property for distribution to landless farmers is considered to be one for public use.<sup>[40]</sup> As to just compensation, the same is defined as the full and fair equivalent of the property expropriated. The term "just" qualifies the word "compensation" because the return deserved by the owner of the property must be real, substantial, full and ample.<sup>[41]</sup>

In the recent cases of *Land Bank of the Philippines v. Yatco Agricultural Enterprises*,<sup>[42]</sup> *Land Bank of the Philippines v. Peralta*,<sup>[43]</sup> and *Department of Agrarian Reform v. Spouses Diosdado Sta. Romana and Resurreccion O. Ramos*,<sup>[44]</sup> the Court has made declarations as to the determination of just compensation.

In *Yatco*, the Court stated that the determination of just compensation is a judicial function and the RTC, acting as SAC, has the original and exclusive power to determine just compensation. It was also emphasized therein that in the exercise of its function, the RTC must be guided by the valuation factors under Section 17 of RA 6657, translated into a basic formula embodied in DAR A.O. No. 5. The factors under RA 6657 and the formula under DAR A.O. No. 5 serve as guarantees that the compensation arrived at would not be absurd, baseless, arbitrary or contradictory to the objectives of the agrarian reform laws. However, the Court clarified that the RTC may relax the application of the DAR formula, if warranted by the circumstances of the case and provided the RTC explains its deviation from the factors or formula above-mentioned.

In *Peralta*, the Court confirmed the mandatory character of the guidelines under Section 17 of RA 6657 and restated that the valuation factors under RA 6657 had been translated by the DAR into a basic formula as outlined in DAR A.O. No. 5.

In *Sta. Romana*, it was held that the RTC is not strictly bound by the formula created by the DAR, if the situations before it do not warrant its application. The RTC cannot be arbitrarily restricted by the formula outlined by the DAR. While the DAR provides a formula, "it could not have been its intention to shackle the courts into applying the formula in every instance."<sup>[45]</sup>

Summarizing the pronouncements in the above-cited cases, the rule is that the RTC must consider the guidelines set forth in Section 17 of RA 6657 and as translated into a formula embodied in DAR A.O. No. 5. However, it may deviate from these