

THIRD DIVISION

[G.R. No. 183015, January 15, 2014]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS (DPWH), PETITIONER VS. TETRO ENTERPRISES,
INCORPORATED, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Assailed in this petition for review on *certiorari* and prohibition are the Decision^[1] dated November 29, 2007 and the Resolution^[2] dated May 8, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 97784. The CA affirmed the Order^[3] dated September 22, 2006 of the Regional Trial Court (RTC), Branch 41, San Fernando, Pampanga, granting respondent's motion to admit amended complaint, and denied reconsideration thereof.

The antecedent facts of this case are as follows:

On February 10, 1992, respondent Tetro Enterprises, Inc. filed with the RTC of San Fernando, Pampanga a Complaint^[4] for recovery of possession and damages against petitioner, the Republic of the Philippines, represented by the Regional Director of Region III of the Department of Public Works and Highways (DPWH), docketed as Civil Case No. 9179. In its complaint, respondent alleged that: it is the registered owner of a piece of land consisting of 12,643 square meters (the subject lot), located in Barangay San Jose, San Fernando, Pampanga, under Transfer Certificate of Title No. 283205-R with a probable value of P252,869.00; that sometime in 1974, petitioner, without going through the legal process of expropriation or negotiated sale, constructed a road on the subject lot depriving it of possession without due process of law; and, despite its repeated demands, petitioner refused to return the subject lot and to pay the rent for the use of the same since 1974. Respondent prayed that petitioner be ordered to return the subject lot in its original state before it was taken away and to close the road constructed thereon; and to pay actual damages in the amount of P100,000.00, rentals for the use of the land at P200.00 a month, in the total amount of P40,800.00, and attorney's fees equivalent to 5% of any amount recoverable.

In its Answer, petitioner contended that respondent had no cause of action and that the State has not given its consent to be sued; that the construction of the part of the Olongapo-Gapan Road on the subject lot was with respondent's knowledge and consent who, subsequently, entered into negotiations regarding the price of the lot; that petitioner was willing to pay the fair market value of the lot at the time of taking, plus interest.

As the return of the subject lot was no longer feasible, the RTC, with the parties'

conformity, converted the action for recovery of possession to eminent domain and expropriation.

Upon agreement of the parties, the RTC issued an Order dated November 25, 1994, creating a Board of Commissioners tasked to determine the actual value of the subject lot which shall be the basis for an amicable settlement by the parties, or the decision to be rendered by the Court as the case may be.^[5] On December 8, 1995, the Board submitted its report recommending that the price for the subject lot be fixed between P4,000.00 and P6,000.00 per square meter, which is the just and reasonable price to be paid to respondent.^[6]

On March 29, 1996, the RTC, taking into consideration the report submitted by the Board, rendered a decision fixing the price of the subject lot at P6,000.00 per square meter, or the total amount of P75,858,000.00.^[7] Petitioner's motion for reconsideration was denied in an Order dated October 3, 1996.^[8]

On December 13, 1996, petitioner filed a Notice of Appeal, which the RTC denied in an Order dated January 7, 1997, since the decision had become final and executory. Petitioner filed a petition for *certiorari* with the CA which was dismissed in a Decision dated June 9, 1997. A motion for reconsideration of the CA decision was also denied in a Resolution dated August 6, 1997. Petitioner came to us in a petition for review on certiorari, docketed as G.R. No. 130118, which we granted by reversing the CA decision and ordered the RTC to approve petitioner's notice of appeal.^[9]

Consequently, petitioner's appeal was taken up in the CA, docketed as CA-G.R. CV No. 60492.

On May 24, 2001, the CA rendered its decision,^[10] the dispositive portion of which reads as follows:

WHEREFORE, the appealed decision dated March 29, 1996 is **MODIFIED** to the effect that the Republic of the Philippines, represented by the defendant-appellant, is held liable to pay the amount of Two Hundred Fifty-Two Thousand Eight Hundred Sixty-Nine (P252,869.00), plus six percent (6%) interest per annum from 1974 until such time that the same shall have been fully paid; and, for further determination of other damages that plaintiff-appellee had suffered for the loss of the use and enjoyment of its property, let the original records of Civil Case No. 9179 be **REMANDED** to the Regional Trial Court of San Fernando, Pampanga, Branch 41, for further proceedings.^[11]

Respondent filed a petition for review with us, docketed as G.R. No. 151959, which we denied in a Resolution dated October 2, 2002. Respondent's motion for reconsideration was also denied.

The case was then remanded to the RTC for the computation of damages for the loss of the use and enjoyment of the subject lot. The case was scheduled for mediation proceedings, which failed, thus, the case was set for a pre-trial conference. At the pre-trial conference on March 21, 2006, Presiding Judge Divina

Luz P. Aquino-Simbulan called the attention of the parties on the improper conduct committed by respondent's representative for approaching her close relative and trying to influence the outcome of the case. Thus, Presiding Judge Aquino-Simbulan voluntarily inhibited herself from conducting the trial of the case,^[12] but proceeded with the scheduled pre-trial conference of the case without objection from the parties.^[13] When petitioner presented the proposed issue, to wit: "Assuming that plaintiff is entitled to damages, can it legally claim an amount more than what is alleged and prayed in its complaint," respondent moved for the amendment of its original complaint, which the Presiding Judge granted and ordered respondent to file the required motion within 30 days. Petitioner moved for reconsideration of such order, which the RTC denied for being premature.^[14]

Respondent filed a Motion to Admit Amended Complaint,^[15] attaching the amended complaint^[16] therewith. In its Order dated September 22, 2006, the RTC admitted the amended complaint. Petitioner's motion for reconsideration was denied in an Order^[17] dated December 7, 2006. In its amended complaint, respondent, citing the report of a professional licensed appraiser on the fair rental value of the subject lot, sought payment in the amount of P57,631,680.00 representing damages it suffered since 1974 for the alleged undue deprivation of the use and enjoyment of the subject lot.

Petitioner filed with the CA a petition for *certiorari* and prohibition with urgent prayer for temporary restraining order alleging grave abuse of discretion committed by the RTC in allowing substantial amendments of the complaint at the very late stage of the proceedings, thus, increasing the claim for damages or rentals from the original amount of P147,840.00 to a grossly excessive amount of P57,884,549.00. After the submission of the parties' respective pleadings, the CA issued its assailed Decision dated November 29, 2007, which affirmed *in toto* the RTC Order admitting the amended complaint.

In finding no grave abuse of discretion committed by the RTC in admitting the amended complaint, the CA found that such allowance was made pursuant to the Decision dated May 24, 2001 of its Former Third Division in CA-G.R. CV No. 60492, which ruled that aside from the actual value of the subject lot, respondent was likewise entitled to damages; and so remanded the case to the RTC for the determination of the amount of damages respondent suffered since 1974 as the lawful owner of the property unduly deprived of its use and enjoyment for 27 years. The CA also found that the amendment of the complaint was sanctioned by Sections 2 and 3 of Rule 10 of the Rules of Court; and that the amendment introduced did not alter respondent's cause of action for damages which is yet to be determined by the RTC; that the grant or leave to file an amended complaint is a matter peculiarly within the sound discretion of the RTC in the exercise of its jurisdiction which normally should not be disturbed on appeal unless there is evident abuse thereof which was not so in this case; and, that Section 2, Rule 18 of the Rules of Court explicitly allows amendment during the course of the pre-trial conference when it listed, among other things, that the RTC may consider in the conduct thereof "the necessity or desirability of amendment of the pleadings."

Petitioner's motion for reconsideration was denied in the Resolution dated May 8, 2008.

Hence, this petition wherein petitioner raises the following errors committed by the CA, thus:

I

RESPONDENT JUDGE COMMITTED REVERSIBLE ERROR WHEN SHE PEREMPTORILY, OVER PETITIONER'S VEHEMENT OBJECTIONS, ALLOWED THE SUBSTANTIAL AMENDMENT OF THE COMPLAINT FOURTEEN (14) YEARS AFTER IT WAS FILED.

II

RESPONDENT JUDGE COMMITTED REVERSIBLE ERROR DESPITE HER EARLIER VOLUNTARY INHIBITION, WHEN SHE UNJUSTLY HELD ON TO THE CASE AND EVEN ALLOWED THE SUBSTANTIAL AMENDMENT OF THE COMPLAINT IN PRIVATE RESPONDENT'S FAVOR.

III

RESPONDENT JUDGE COMMITTED REVERSIBLE ERROR WHEN SHE WENT BEYOND THE COURT OF APPEALS' DIRECTIVE FOR DETERMINATION OF DAMAGES BASED ON THE ORIGINAL COMPLAINT.

IV

RESPONDENT JUDGE SHOWED MANIFEST PARTIALITY IN FAVOR OF PRIVATE RESPONDENT.^[18]

The main issue for resolution is whether the CA erred in finding that the RTC committed no grave abuse of discretion amounting to lack of jurisdiction in admitting the amended complaint.

We find merit in the petition.

The CA found that the amendment of the original complaint filed in 1992 is sanctioned by Sections 2 and 3 of Rule 10 of the Rules on Civil Procedure, which provide:

Section 2. Amendments as a matter of right. — A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served.

Section 3. Amendments by leave of court. — Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in