

FIRST DIVISION

[G.R. No. 192100, March 12, 2014]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)^[1],
PETITIONER, VS. ASIA PACIFIC INTEGRATED STEEL
CORPORATION, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the July 21, 2009 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 90539. The CA partially affirmed the September 21, 2007 Decision^[3] of the Regional Trial Court (RTC), Branch 54, of Macabebe, Pampanga, and reduced the annual legal interest awarded from 12% to 6% per annum. Also assailed is the appellate court's April 28, 2010 Resolution^[4] denying petitioner's motion for reconsideration.

As culled from the records, the following are the pertinent facts:

Asia Pacific Integrated Steel Corporation (respondent) is the registered owner of a 17,175-square meter property situated in Barangay Sta. Monica, Municipality of San Simon, Province of Pampanga and covered by Transfer Certificate of Title (TCT) No. 271813-R.^[5]

On March 1, 2002, the Republic of the Philippines (petitioner) through the Toll Regulatory Board (TRB) instituted expropriation proceedings against the respondent over a portion of their property. The affected area, consisting of 2,024 square meters, shall be traversed by the expansion of the San Simon Interchange, an integral component of the construction, rehabilitation and expansion of the North Luzon Expressway (NLEX Project). Subsequently, petitioner filed an urgent *ex-parte* motion for issuance of writ of possession, stating that it deposited with the Land Bank of the Philippines (LBP) the amount of P607,200.00 (100% of the value of the property based on current zonal valuation of the Bureau of Internal Revenue [BIR]) in accordance with Section 4(a) of Republic Act No. 8974^[6] (R.A. 8794), and hence the court has the ministerial duty to place petitioner in possession pursuant to Section 2, Rule 67 of the Rules of Civil Procedure.^[7]

On March 19, 2002, the trial court issued an order granting petitioner's motion and directing the Register of Deeds of Pampanga to cause the annotation of the writ of possession on TCT No. 271813-R.^[8]

In its Answer with Opposition to the Motion for Issuance of Writ of Possession,^[9] respondent questioned the TRB's authority to expropriate the subject property and objected to petitioner's offered compensation which respondent deems unjust because the basis thereof - the BIR zonal valuation - was an unofficial valuation, being merely based on an internal memorandum issued by BIR Revenue District No. 21, not by the Asset Valuation Department of the BIR National Office. Respondent asserted that just compensation should be at P3,036,000.00 or at P1,500.00 per square meter plus consequential damages, considering the fair market value and the industrial classification of the subject property.

During the pre-trial conference, the parties agreed on TRB's authority to expropriate the subject property but disagreed as to the amount of just compensation. Petitioner offered to pay P607,200.00 for the portion taken but respondent made a counter-offer of P1,821,600.00. The parties eventually agreed to submit the issue of just compensation to three Commissioners composed of the Municipal Assessor of San Simon as Chairman, and the RTC Branch Clerk of Court and the Register of Deeds for the Province of Pampanga as Members.^[10]

On June 1, 2004, the trial court granted respondent's motion to withdraw the P607,200.00 deposited by petitioner with the LBP as partial payment for just compensation.^[11]

On June 9, 2004, the Commissioners submitted their Report with the following findings and recommendation:

The affected lot is within the area wherein the land use are residential, commercial, and industrial (mixed land use), as per Vicinity Map hereto attached as Annex "B". The area is along MacArthur Highway, Quezon Road, Municipal and Barangay Roads[.]

In the absence of bonafide sales transaction in the area, the Assessor's Office being aware of the actual conditions of subject property decided to use opinion values in the determination of the current and fair market value for the purpose of payment of just compensation.

OPINION VALUES

A. Real Estate Brokers/Independent Appraisers/Owners, etc.

1. Residential - ranging from P2,000.00 to P2,500.00 per square meter
2. Commercial - ranging from P2,500.00 to P3,000.00 per square meter
3. Industrial - ranging from P1,000.00 above per square meter

B. Banks and Financial Institutions

1. Residential - ranging from P1,000.00 to P2,000.00 per square meter
2. Commercial - ranging from P2,000.00 to P3,000.00 per square meter
3. Residential - ranging from P1,000.00 to P1,500.00 per square meter

Appraisal conducted by the Assessor of San Simon, Pampanga for various

properties within the area, recommended an amount ranging from P1,000.00 to P1,500.00, Philippine currency, per square meter, depending on their proximity to the national roads, municipal roads, and barangay roads, and the improvement/development put in place. The amount of P1,000.00 to P1,500.00 was arrived at by the undersigned commissioners due to the conversion of the subject property from agricultural to industrial use as evidenced by the Order of Conversion dated July 8, 1991, issued by Renato B. Padilla, Undersecretary, Department of Agrarian Reform, a xerox copy of which is hereto attached [as] Annex "C".^[12]

On September 23, 2004, an ocular inspection was conducted in the presence of the parties' representatives and their respective counsels, during which the trial court noted the following:

1. There is an existing toll plaza on the right lane of the expressway facing the direction of Manila with blue colored roofing.
2. Comprised in the aforesaid toll plaza are three toll booths. The third booth located on the extreme right facing Manila occupies a portion of the expropriated portion of defendant's property.
3. The expropriated portion which is shown in a sketch which was marked as Exhibit H is indicated by its color: green. It has an area of 2,021 square meters. The remaining unexpropriated portion of defendant's land has an area of 15,151 square meters.
4. The unexpropriated portion of the land of defendant is presently very much below the level of the expressway because the expressway was upgraded. It is immediately adjacent to the existing expressway, located as it is, on its right side facing Manila. It is swampy with little water.^[13]

In its Decision, the trial court ruled as follows:

x x x Although there was no documentary evidence attached to substantiate the opinions of the banks and the realtors indicated in the Commissioners' Report, the Court finds the commissioners' recommendation of the valuation of industrial lands at P1,000.00 to P1,500.00 to be fair, absent any showing that the valuation is exorbitant or otherwise unjustified. There was no fraud or prejudice that tainted the report.

The Court finds the valuation of the Republic of the Philippines which was pegged at Php300.00 per square meter to be very low. The zonal valuation of the Bureau of Internal Revenue (Exhibits A and B with submarkings) is merely a gauge or is necessary in the assessment of correct transfer taxes by the said office. Furthermore the Department Order No. 23-98 took effect only last February 2, 1998 which was four (4) years prior to the filing of the complaint. The same is true with

Ordinance No. 17, Series of 1994 issued by the Sangguniang Panlalawigan of Pampanga (Exhibit E) which was issued eight (8) years also prior to the filing of the complaint.

Concerning the Deed of Absolute Sale (Exhibit C) notarized on July 19, 2002, the same was undated and pertains only to a right of way. An easement of right of way transmits no rights except the easement itself. Hence, the just compensation pertaining to easement of right of way should be lower than that in the Deed of Absolute Sale. x x x

x x x x

Using the recommendation of the three (3) commissioners as guide, the Court finds the amount of ONE THOUSAND THREE HUNDRED PESOS (Php1,300.00) per square meter as just compensation for the property subject of expropriation.

WHEREFORE, premises considered, judgment is rendered:

- 1) Ordering the plaintiff to pay the defendant in the amount of TWO MILLION TWENTY FOUR THOUSAND PESOS (Php2,024,000.00) representing the net amount of just compensation after deducting the partial payment of P607,200.00 based on the valuation of Php1,300.00 per square meter on the expropriated portion of the parcel of land [Lot 329-A of the subdivision, plan (LRC) Psd-246403, being a portion of lot 329, San Simon, LRC. Cad Rec. No. 1316] with an area of 2,024 square meters situated in Sta. Monica, San Simon, Pampanga covered by Transfer Certificate of Title No. 271813-R plus legal interest of 12% per annum from the time of taking (March 21, 2002) until fully paid less taxes due on the land.
- 2) Ordering the plaintiff to pay the costs and/or expenses in relation to the transfer of ownership of the property in its favor from defendant Asia Pacific Integrated Steel Corporation.
- 3) Condemning the property subject of expropriation free from all liens and encumbrances for the construction, rehabilitation and expansion of the North Luzon Expressway.

SO ORDERED.^[14]

Petitioner appealed to the CA, arguing that the just compensation should not be more than P300.00 per square meter and that the correct rate of interest is 6% per annum.

The CA upheld the trial court's ruling, reiterating the principle that the determination of just compensation is an inherently judicial function. It stressed that any valuation for just compensation laid down in statutes merely serve as guides or factors and may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount.^[15]

Further, the CA noted that petitioner itself admitted that the BIR zonal valuation is only for the purpose of determining the correct amount of transfer taxes. It held that while BIR zonal valuation may be a factor in determining just compensation, the same is not a competent basis thereof. Citing R.A. 8974, the CA pointed out the distinction between provisional value as a precondition for the issuance of a writ of possession and the payment of just compensation for the expropriated property. While the provisional value is based on the zonal value as may be determined by the BIR, just compensation is based on the prevailing fair market value of the property. Necessarily, the zonal valuation of properties is not equivalent to their fair market value.^[16]

After examining the records, the CA found no reversible error in the trial court's determination of just compensation and held that the valuation of P1,500.00 per square meter is more in consonance with the concept of just compensation based upon due consideration of all evidence. Thus:

It is equally settled that the valuation of a property in tax declarations cannot be a substitute to just compensation. Elsewise stated, the market value reflected in the tax declaration of the condemned property is no longer conclusive. Accordingly, we cannot appreciate the herein tax declaration in favor of the Republic.

Further, it is uncontested that the deed of sale dated July 19, 2002 between San Simon Realty, Inc. and the Republic pertained only to a right of way, hence, the value thereof should be considerably lower. Ordinance No. 17, as correctly found by the RTC, was issued on June 22, 1994 or eight (8) years prior to the institution of the herein complaint. Certainly, the valuation of properties therein can by no means be reflective of the current, prevailing and fair value of the subject property. The Republic failed to present evidence to controvert the RTC's finding on the matter. Neither has it shown that the property sold thereunder shares the same features as the herein subject property as to warrant a similar valuation. We cannot, thus, yield to the Republic's submission that its evidence are the proper basis in determining just compensation for Asia Pacific's property.^[17]

However, the CA modified the rate of interest imposed on the amount due as just compensation from 12% to 6% in conformity with prevailing jurisprudence.

On April 28, 2010, the CA denied petitioner's motion for reconsideration, stating that the argument on valuation by petitioner was merely a rehash of what the CA had already passed upon.

Hence, this petition assailing the CA's affirmance of the trial court's award of just compensation, the legal basis of which is allegedly insufficient.

Petitioner argues that the evidence for determining the amount of just compensation in expropriation cases should be on those factors provided in Section 5 of R.A. 8974. Considering such factors and the evidence submitted by the parties before the trial court, petitioner maintains that just compensation for the subject property