

SECOND DIVISION

[G.R. No. 198139, September 08, 2014]

**NATIONAL POWER CORPORATION, PETITIONER, VS.
FELICISIMO TARCELO AND HEIRS OF COMIA SANTOS,
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

Execution must always conform to that decreed in the dispositive part of the decision, because the only portion thereof that may be the subject of execution is that which is precisely ordained or decreed in the dispositive portion; whatever is in the body of the decision can only be considered as part of the reasons or conclusions and serves as a guide in determining the *ratio decidendi*.^[1]

This Petition for Review on *Certiorari*^[2] seeks to set aside the January 20, 2011 Decision^[3] of the Court of Appeals (CA) and August 9, 2011 Resolution^[4] in CA-G.R. SP No. 112054, which denied the herein petitioner's Petition for *Certiorari* and Motion for Reconsideration, respectively, thus affirming the dispositions of the Regional Trial Court of Batangas City, Branch VII (Batangas City RTC) in Civil Case No. 5785.

Factual Antecedents

Civil Case No. 5785

Respondents Felicisimo Tarcelo (Tarcelo) and the heirs of Comia Santos (Santos heirs) are the owners of two lots measuring 4,404 and 2,611 square meters, respectively, which are situated in Brgy. Tabangao-Ambulong, Batangas City.

Sometime in 2000, petitioner National Power Corporation (NPC) filed Civil Case No. 5785 with the Batangas City RTC, seeking to expropriate portions of Tarcelo and the Santos heirs' lots to the extent of 1,595.91 square meters which are affected by the construction and maintenance of NPC's 1,200 MW Ilijan Natural Gas Pipeline Project. In other words, NPC's natural gas pipeline shall traverse respondents' lands to such extent.

On July 29, 2002, the Batangas City RTC issued an order of condemnation, thus authorizing NPC to take possession of the subject lots. Thereafter, it appointed three commissioners who in turn submitted their respective Reports^[5] and recommendations on the amount of just compensation to be paid to respondents.

On November 7, 2005, the Batangas City RTC rendered a Decision^[6] fixing just

compensation for the subject lots at P1,000.00 per square meter, thus:

In the Commissioner's Report filed by Chairman of the Board Emelinda C. Atienza, she recommended x x x the amount of P1,120.00 per square meter as just compensation for the properties involved in this case. She based her findings on the following:

Property of Felicisimo Tarcelo^[7]

1. The subject property is classified as agricultural land;
2. It is approximately 420 meters away from Shell Refinery and approximately 40 meters away from the Barangay Road;
3. Adjoining boundary owners property [sic] are also classified as agricultural lands.

Property of the Heirs of Santos Comia^[8]

1. The property is classified as agricultural land;
2. It is approximately 560 meters away from Shell Refinery and approximately 140 meters away from the Barangay Road;
3. Adjoining boundary owners property [sic] are also classified as agricultural land.

Commissioners Alberto M. Nuique and Eladio Taupa of the National Power Corporation (NPC) also submitted their own Commissioner's Report. They recommended that the amount of P475.00 per square meter be made as the payment of the affected portion of the subject property which is 10% of the fair market value pursuant to Republic Act No. 6395 as amended.

Commissioners Taupa and Nuique recommended the amount of P475.00 per square meter because only a right-of-way easement will be acquired. According to the Supreme Court in the case of NPC v. Manubay Agro Industrial Dev. Corp., G.R. No. 150936, August 18, 2004, even if what is acquired is only an easement of right of way, still, the plaintiff should pay the full value of the property and not a mere easement fee.

Based on the foregoing, the court fixes the just compensation for the subject properties situated in Brgy. Tabangao-Ambulong, Batangas City at ONE THOUSAND PESOS (P1,000.00) per square meter.

WHEREFORE, plaintiff National Power Corporation is ordered to pay the defendants the amount of P1,000.00 per square meter.

Upon payment of just compensation to the defendants, subject to the deductions of the sums due the Government for unpaid real estate taxes and other imposts, the plaintiff shall have a lawful right to enter, take possession and acquire easement of right-of-way over the portions of the properties together with the improvements sought to be expropriated for the purpose stated, free from any and all liens and encumbrances.

Finally, the plaintiff is directed to pay the corresponding Commissioner's fees per meeting or the following sums:

Chairman Emelinda C. Atienza - P1,000.00
Members Alberto M. Nuique - P 800.00
and Eladio Taupa - P 800.00

SO ORDERED.^[9]

CA-G.R. CV No. 86712

NPC filed an appeal – docketed as CA-G.R. CV No. 86712 – with the CA. On June 26, 2007, the appellate court issued a Decision,^[10] stating as follows:

At bar, it cannot be gainsaid that the construction of underground pipeline is a simple case of mere passage of gas pipeline. It will surely cause damage and prejudice to the agricultural potentials of appellees' property. Deep excavation will have to be done whereby plants and trees will be uprooted. A possible leakage could certainly do harm and adversely restrict the agricultural and economic activity of the land. This is not to mention that it will create an environmental health hazard dangerous to the occupant's life and limb.

Hence, defendants-appellees are entitled for [sic] just compensation to [sic] the *full* market value of their property not just ten percent (10%) of it.

x x x x

Taking all the consideration [sic] of the subject property, Commissioners Taupa and Nuique placed the value of the property at P475.00 per square meter based on the Land Bank valuation and Cuervo Appraisers, Inc. and the Provincial/City Appraisal Committees of Batangas, Laguna and Lipa City, while Commissioner Atienza valued the property at P1,120.00 per square meter, based on the average value per findings of the Committee composed of the City Assessor, City Treasurer, City Engineer under Resolution No. 9-99 dated June 18, 1999 that the subject property will cost P1,000.00 to P1,300.00 per square meter, and the opinion value of her Team's survey and Report which revealed that the prevailing price of agricultural land in Tabangao-Ambulong, Batangas City is NINE HUNDRED THIRTY PESOS (P930.00) per square meter.

In pronouncing the just compensation in this case, We fix the rate of the subject property at SEVEN HUNDRED NINETY SEVEN [sic] and FIFTY CENTAVOS (P797.50) per square meter by averaging P475.00 and P1,120.00 of the commissioner's report. This is nearest to and in consonance with the ruling that in expropriation proceedings, the owner of the property condemned is generally entitled to the fair market value, that is the sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell.

IN VIEW OF ALL THE FOREGOING, appealed decision dated November 7, 2005 is AFFIRMED with MODIFICATION that the just compensation in this case is lowered from ONE THOUSAND PESOS (P1,000.00) to SEVEN HUNDRED NINETY SEVEN and FIFTY CENTAVOS (P797.50) per square meter. No pronouncement as to costs.

SO ORDERED.^[11]

The above Decision of the appellate court became final and executory, and entry of judgment was done accordingly.^[12]

Respondents moved for execution.^[13] In a March 6, 2009 Order,^[14] the Batangas City RTC granted their respective motions, and a Writ of Execution^[15] was issued.

On May 14, 2009, a Notice of Garnishment^[16] was served on the Manager of the Land Bank of the Philippines, NPC Branch, Quezon City for the satisfaction of the amount of P5,594,462.50 representing just compensation for the **whole** of respondents' 4,404- and 2,611-square meter lots – or 7,015 square meters – and not merely the supposedly affected portions thereof totaling 1,595.91 square meters as NPC originally sought to acquire.

On May 29, 2009, NPC filed an Urgent Omnibus Motion^[17] seeking to quash the Writ of Execution and Notice of Garnishment, which it claimed were inconsistent with the Batangas City RTC's November 7, 2005 Decision and the CA's June 26, 2007 Decision in CA-G.R. CV No. 86712 where just compensation was fixed at P1,000.00 per square meter only for the affected area of 1,591.91 square meters, and not for the whole of respondents' respective lots. It argued that the appeal in CA-G.R. CV No. 86712 resolved only the issue of whether respondents should be paid the full market value of the affected 1,595.91-square meter area or just a 10% easement fee therefor; it did not decide whether NPC should pay just compensation for the entire area of 7,015 square meters.

On September 24, 2009, the Batangas City RTC issued an Order^[18] denying NPC's Urgent Omnibus Motion, declaring that –

The cases cited by plaintiff are not in point. These cases involved either the construction and maintenance of electric transmission lines x x x or the widening of road component x x x. None of the cited cases involved underground natural gas pipelines, as in this case. It does not take an expert to be able to infer that there is a world of difference on the

probable effects of the two (2) kinds of projects on the properties upon which these are imposed. In the case of transmission lines, the NPC imposes a limitation on the property owner's use of their property in that below said transmission lines no plant higher than three (3) meters is planted. In the case of underground pipelines, similar, if not more burdensome restrictions, are imposed for the reason that the ground under which the natural gas pipelines are located could not be cultivated in view of the dangers that might result from accidental injury or damage to the pipelines. Moreover, there is the possible inestimable damage that an unpredictable natural disaster such as an earthquake of tectonic origin, the precise date and time of occurrence of which are yet beyond the powers of man to accurately foretell, could inflict on the underground natural gas pipelines and consequently, on all things, living and non-living, that exist in the vicinity of the defendants' properties.

Moreover, the ruling that just compensation should be paid for the entire area of the owner's property and not just the affected portion thereof is not without precedent. In NPC vs. Court of Appeals (436 SCRA 195, 201 [August 12, 2001]), the Supreme Court [noted] that "Pobre's property suffered permanent injury because of the noise, water, air, and land pollution generated by NPC's geothermal plants[; t]he construction and operation of the geothermal plants drastically changed the topography of the property making it no longer viable as a resort-subdivision[; and t]he chemicals emitted by the geothermal plants damaged the natural resources in the property and endangered the lives of the residents. Accordingly, the Supreme Court held that "NPC did not only take the 8,311.60 square meter portion of the property but also the remaining area of the 68,969 square-meter property. NPC had rendered Pobre's entire property useless as a resort-subdivision. The property has become useful only to NPC. NPC must therefore take Pobre's entire property and pay for it. x x x

In the case at bar, it was not disputed that the subject properties are agricultural lands. In order to be useful to its owners, such agricultural lands must be cultivated to yield a harvest of agricultural produce. But when such lands are burdened with an easement even of the non-apparent kind, but which to all intents and purposes restrict, nay, preclude the very activity that would render it useful to its owners because the existence of such easement poses an undeniable danger to the life and limb of the occupants, then such lands cease to be useful to the property owners and useful only to the entity that imposed the easement upon the land. The Honorable Court of Appeals recognized this fact when it declared that:

"At bar, it cannot be gainsaid that the construction of underground pipeline is a simple case of mere passage of gas pipeline. It will surely cause damage and prejudice to the agricultural potentials of appellees' property. Deep excavation will have to be done whereby plants and trees will be uprooted. A possible leakage could certainly do harm and adversely restrict the agricultural and economic activity of the