711 Phil. 98

FIRST DIVISION

[G.R. No. 185821, June 13, 2013]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. ATTY. RICARDO D. GONZALEZ, RESPONDENT.

D E C I S I O N

VILLARAMA, JR., J.:

This Rule 45 Petition[1] seeks the reversal of the Court of Appeals (CA) July 30, 2008 Decision[2] in CA-G.R. SP No. 00502-MIN which affirmed with modification the February 3, 2005 Decision[3] of the Regional Trial Court (RTC) of Butuan City, Branch 5 sitting as a Special Agrarian Court (SAC). Also assailed is the appellate court's Resolution[4] dated December 12, 2008 denying petitioner's motion for reconsideration.

The Facts

Respondent Atty. Ricardo D. Gonzalez is the registered owner of two contiguous parcels of land devoted to coconut production, covered by Transfer Certificate of Title (TCT) No. T-3927[5] with an area of 9,790 square meters and TCT No. T-3928[6] with an area of 20,210 square meters, or a total of 3 hectares, located at Barangay Abilan, Buenavista, Agusan del Norte (subject property). The subject property was tenanted by spouses Virgilio and Espera Tagupa, spouses Valeriano and Erlinda Inoc, spouses Isidro and Eden Soria and spouses Rudy and Rosario Peligro (the tenants). It is situated only about 1 ½ kilometers from the national highway and 2-3 kilometers from the local beaches.

Pursuant to the Comprehensive Agrarian Reform Program (CARP), respondent voluntarily offered to sell the subject property to the Department of Agrarian Reform (DAR) for P250,000.00 per hectare on December 9, 1996.[7] By way of reply to the Municipal Agrarian Reform Officer's (MARO) letter dated January 24, 1997, respondent, in his Letter[8] dated February 5, 1997, informed the MARO, among others, that the average coconut production of the subject property from 1994 to 1996 is at 75,000 kilograms with a price average of P2.00, and that its average annual net income is P100,000.00. Representatives of petitioner Land Bank of the Philippines (LBP), the DAR and the Barangay Agrarian Reform Committee (BARC) conducted an ocular inspection of the subject property, and issued a Field Investigation Report[9] on February 5, 1997. Pursuant to DAR Administrative Order (A.O.) No. 6, series of 1992, as amended by DAR A.O. No. 11, series of 1994, the DAR and the LBP valued the subject property at P150,795.51 or at P50,265.17 per hectare. Respondent rejected the valuation but the LBP deposited P60,318.20 of the said sum in cash and P90,477.31 thereof in bonds[10] in the name of respondent.[11] Respondent acknowledged the receipt thereof.[12]

The case was then referred to the Regional Agrarian Reform Adjudicator (RARAD) for the Caraga Region XIII for summary administrative hearing. In an Order[13] dated October 27, 1998, the RARAD affirmed the valuation made by the DAR and the LBP since DAR A.O. No. 5, series of 1998[14] was applied in coming up with the valuation.

Disappointed with the low valuation, respondent filed before the SAC a petition for just compensation against the LBP, the DAR and the tenants of the subject property on November 12, 1998.[15]

In his Amended Petition[16] dated January 5, 1999, respondent alleged that, in his desire to make his tenants the owners of the subject property, he voluntarily offered to sell the subject property for P250,000.00 per hectare taking into consideration the subject property's productivity, advantageous location, peaceful surroundings and the mode of installment payments. Respondent also alleged that his TCTs were already cancelled in favor of the Government, and that Certificates of Land Ownership Awards (CLOAs) were already generated in favor of the tenants.

With the conformity of the parties, the SAC appointed on March 3, 2000 Engr. Gil A. Guigayoma, Mr. Simeon E. Avila, Jr. and Atty. Fernando R. Fudalan, Jr. as members of the Board of Commissioners (the Board) to determine the amount of just compensation due to respondent.[17] In its Report[18] dated July 28, 2000, the Board recommended that the portion of the subject property devoted to coconut production be valued at P100,000.00 excluding the value of the trees planted thereon, valued at P400.00 per tree, and that the portion devoted to rice production be valued at P150,000.00. Both parties objected to the said report.

The SAC's Ruling

On February 3, 2005, the SAC held that respondent's asking price of P250,000.00 per hectare was quite high while LBP's valuation of P50,265.17 per hectare was considerably low. Thus, the SAC came up with the following computation:

> x x x x
>
> Below is the formula used by LBP in the valuation of lands covered by VOS or CA regardless of the date of offer or coverage:
>
> LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)
>
> Where:
>
> LV = Land Value
> CNI = Capitalized Net Income
> CS = Comparable Sales
> MV = Market Value per Tax Declaration
>
> More often the CS factor is not available, hence, the formula shall be:
>
> LV = (CNI x 0.9) + (MV x 0.1)

CNI = (AGP x SP) 70%
.12

Where:

AGP = Average Gross Production
(latest available 12 months)

SP = Selling Price (average of the latest available 12 months
[)]

CO = Cost of Operations

CNI = (3,375 x 7.96) 70%
.12

= (26[,]865) 70%
.12

= 18[,]805.50

= 156,712.50

LV = (156,712.50 x 0.9) + (28[,]630 x 0.1)

= 141[,]041.25 + 2[,8]63

= 143,904.25 (x3)

= P431,712.75
= = = = = =

x x x x[19]

The SAC opined that P143,904.25 per hectare was the fair valuation of the subject property. The SAC took judicial notice of the fact that "the value of the Philippine peso had nose[-]dived ever since – from a low of P2.00 to a dollar to P55[.00] to a dollar."[20] Thus, the SAC disposed of the case in this wise:

> **WHEREFORE,** foregoing premises considered, judgment is hereby rendered ordering public respondents to pay to the plaintiff the following:
>
> 1) P143,904.25/hectare or a total of P431,712.75 for the 3 hectares land of the plaintiff;
>
> 2) P25,000.00 as Commissioners' fees;
>
> 3) Ten percent (10%) of the total amount due as attorney's fees; and
>
> 4) Cost of the suit.
>
> SO ORDERED.[21]

Both the DAR and LBP sought reconsideration of the decision but the SAC denied their respective motion in a Resolution[22] dated June 23, 2005. Aggrieved, LBP appealed the decision to the CA.

The CA's Ruling

On July 30, 2008, the CA affirmed the findings and the ruling of the SAC. Invoking our ruling in *Apo Fruits Corporation v. Court of Appeals,*[23] the CA held that DAR A.O. No. 5, series of 1998 cannot strictly bind the courts which, in the exercise of their judicial discretion, can make their own computation pursuant to Section 17[24] of Republic Act (R.A.) No. 6657. The CA found that the SAC actually took into consideration factors enumerated in said Section 17 in the valuation of the subject property, and said that the valuation was supported by evidence on record. On the matter of the imposed commissioners' fees, the CA decreed that LBP, being the defeated party, must bear the same. However, the CA opined that the SAC failed to substantiate and justify the award of attorney's fees. Thus, the CA deleted the same. The *fallo* of the said CA Decision reads:

> **WHEREFORE**, the petition for review is **PARTLY GRANTED.** The Decision dated 3 February 2005 of the Regional Trial Court, Branch 5 of Butuan City sitting as a Special Agrarian Court in Civil Case No. 4797 for Just Compensation is hereby **AFFIRMED** with **MODIFICATION** that the award of attorney's fees is **DELETED.**
>
> SO ORDERED.[25]

LBP filed a motion for reconsideration, but the CA denied the same in its Resolution[26] dated December 12, 2008.

Hence this petition, raising the following questions:

1) CAN THE COURT OF APPEALS DISREGARD THE VALUATION FACTORS UNDER SECTION 17 OF R.A. 6657 AS TRANSLATED INTO A BASIC FORMULA IN DAR ADMINISTRATIVE ORDER NO. 05, SERIES OF 1998, AS AMENDED, IN FIXING THE JUST COMPENSATION OF THE SUBJECT PROPERTY OF THE RESPONDENT?

2) IS PETITIONER LBP LIABLE FOR COMMISSIONERS' FEE CONSIDERING THAT IT IS PERFORMING A GOVERNMENTAL FUNCTION? IF SO, HOW MUCH?[27]

LBP avers that the compensation fixed by the SAC in the amount of P143,904.25 per hectare violated Section 17 of R.A. No. 6657 as translated into a basic formula in DAR A.O. No. 5, series of 1998; that the SAC's valuation as affirmed by the CA and the LBP's valuation differ as to the proper Average Gross Production (AGP) because the LBP used an AGP of 1,125 kilograms of copra per hectare while the SAC used an exorbitant AGP of 3,375 kilograms of copra per hectare, or three (3) times the figure of LBP's determined AGP which was based on the Field Investigation Report; that the SAC failed to explain how it arrived at a high AGP of 3,375 kilograms of copra per hectare; and that the AGP which LBP used can be easily deduced from the Field Investigation Report, duly signed by the representatives of the DAR, the LBP and the BARC. The LBP submits that the SAC overstated the value of the subject

property by three times since the SAC merely multiplied the AGP per hectare as jointly determined by the LBP, the DAR and the BARC by 3 hectares. The LBP explains that the AGP of 3,375 kilograms of copra per hectare used by the SAC is highly improbable since per ocular inspection, only 100 trees per hectare were found, and the number of nuts per kilogram was reported to be 4. The LBP further explains that per Philippine Coconut Authority (PCA) Data mentioned in the Field Investigation Report, the number of nuts per tree per year is 45. Thus, considering that the average production per crop cycle per hectare would result only in 281.25 kilograms, for one year, the average gross production per hectare would only be 1,125 kilograms, i.e., 281.25 kilograms multiplied by 4 production periods. The LBP claims that subscribing to respondent's position of 3,375 kilograms of copra per hectare would mean that there are 300 trees per hectare which is not anymore realistic. Hence, the LBP posits that the compensation fixed by the SAC and affirmed by the CA was not computed in accordance with DAR A.O. No. 5, series of 1998. Moreover, LBP opines that it cannot be held liable for commissioners' fees and costs of the suit. Relying on our ruling in Republic v. Garcia,[28] the LBP claims that there is no law which requires the Government to pay costs in eminent domain proceedings. Since the commissioners' fees in expropriation cases are taxed as part of the costs and the government is not liable for costs, the LBP, serving as the financial intermediary of the government in the implementation of the CARP is not liable for costs.[29]

On the other hand, respondent contends that the SAC and the CA even erred in computing the just compensation because, as established by the evidence on record, the tenants produced a total of 18,603 kilograms of coconut per year; that said total production should be used as the AGP in this case, and thus, the correct valuation of the subject property should be in the amount of P591,559.50; that with respect to the determination of just compensation, courts are not bound by the findings of administrative agencies such as the LBP because the courts are the final authority in this matter; and that, while the valuation made by the courts in the amount of P143,904.25 per hectare is below his asking price of P250,000.00 per hectare, said amount may be considered as reasonable under the circumstances. Respondent insists that his proposed valuation is supported by actual data as compared to the PCA's data which is based merely on a national average. Respondent likewise submits that the law did not intend to impoverish the landowners. Moreover, respondent claims that 12% interest and attorney's fees may be imposed in this case due to the long delay of payment incurred by LBP. Finally, respondent argues that LBP should shoulder the costs of the suit since it was exercising proprietary and not governmental functions in making the valuation over the subject property.[30]

Our Ruling

The petition is impressed with merit.

Without doubt, Section 17 of R.A. No. 6657 is the principal basis of the computation for just compensation in this case. The factors enumerated in Section 17 have been translated into a basic formula outlined in DAR A.O. No. 5, series of 1998,[31] Item II of which pertinently provides:

II. The following rules and regulations are hereby promulgated to govern