SPECIAL SECOND DIVISION

[G.R. No. 173226, July 29, 2013]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. MANUEL O. GALLEGO, JR., JOSEPH L. GALLEGO AND CHRISTOPHER L. GALLEGO, RESPONDENTS.

RESOLUTION

BRION, J.:

We rule on the amount of just compensation due respondents Manuel O. Gallego, Jr., Joseph L. Gallego, and Christopher L. Gallego for the 120-hectare portion, more or less, of their property situated in Barangays Sta. Rita and Concepcion, Cabiao, Nueva Ecija, placed under the government's land reform program under Presidential Decree No. 27 and Republic Act (R.A.) No. 6657 (the *Comprehensive Agrarian Reform Law of 1988*).

On August 10, 2006, petitioner Land Bank of the Philippines (*LBP*) filed a Rule 45 petition for review on *certiorari*^[1] challenging the September 29, 2005 Decision^[2] and the June 23, 2006 Resolution^[3] of the Court of Appeals (*CA*) in CA-G.R. SP No. 77676. In its September 29, 2005 decision, the CA affirmed with modification the March 14, 2003 Decision^[4] of the Regional Trial Court, Third Judicial Region, Branch 29, Cabanatuan City, acting as a Special Agrarian Court (*RTC-SAC*), in Agr. Case No. 127. The CA reduced the amount of just compensation that the RTC-SAC fixed at P52,209,720.00 to P30,711,600.00.

The Factual Antecedents

We restate the facts of the case, as found by this Court in its January 20, 2009 Decision,^[5] as follows:

Respondents Manuel O. Gallego, Jr., Joseph L. Gallego and Christopher L. Gallego are the co-owners of several parcels of agricultural lands located in Barangay Sta. Rita and Barangay Concepcion in Cabiao, Nueva Ecija. The lands have an aggregate area of 142.3263 hectares and are covered by Transfer Certificate of Title Nos. T-139629, T-139631 and T-139633.

Sometime in 1972, the DAR placed a portion of the property under the coverage of Presidential Decree No. 27 (P.D. No. 27). However, the DAR and respondents failed to agree on the amount of just compensation, prompting respondents to file on 10 December 1998 a petition before the RTC of Cabanatuan City. The petition, docketed as Agrarian Case No. 127-AF, named the DAR and herein petitioner Land Bank of the Philippines (LBP) as respondents and prayed that just compensation be fixed in accordance with the valuation formula under P.D. No. 27 based

on an Average Gross Production of 109.535 cavans per hectare including interest at 6% compounded annually as provided under PARC Resolution No. 92-24-1.

Petitioner LBP filed an answer, averring that only 76.8324 hectares and not 89.5259 hectares as was alleged in the petition were placed under the coverage of P.D. No. 27 and that just compensation should be determined based on an Average Gross Production of 65 cavans and/or 56.6 cavans per hectare which were the values at the time of taking of the property. Although the DAR did not file an answer, it was represented at the hearings by a certain Atty. Benjamin T. Bagui.

During the course of the hearing of the petition, the coverage of respondents' lands had expanded to a bigger area. In order to conform to the increase in the area placed under agrarian reform, respondents filed on 14 October 2002 an amended petition, stating that as certified by the Municipal Agrarian Reform Office (MARO) of Cabiao, Nueva Ecija, 122.8464 hectares of the property had already been placed under the operation of P.D. No. 27. In the answer filed by the DAR as well as during pre-trial, the counsels for DAR and petitioner LBP stipulated that the property subject of the petition was irrigated and had a total area of 120 hectares, more or less.

After the pre-trial conference, the trial court issued an Order dated 08 November 2002, embodying the agreed stipulation that the property placed under agrarian reform had an area of 120 hectares, more or less x x x. In a Supplemental Pre-Trial Order dated 25 November 2002, the trial court stated that in view of the parties' agreement that the property was irrigated and had an area of 120 hectares, the only factual issue to be resolved would be the correct Average Gross Production x x x on which just compensation would be fixed.

On 14 March 2003, the trial court rendered a Decision, adopting respondents' formula which was based on an Average Gross Production of 121.6 cavans per hectare. $x \times x$

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Both petitioner LBP and the DAR separately moved for the reconsideration of the trial court's Decision. In its Order dated 28 April 2003, the trial court denied both motions.

Only petitioner LBP appealed from the trial court's Decision. According to petitioner LBP, the trial court erred in applying values that had no basis in law instead of adopting the Average Gross Production established by the Barangay Committee on Land Production under DAR Circular No. 26, series of 1973, and the mandated Government Support Price of P35 per cavan of palay under Section 2 of Executive Order (E.O.) No. 228.

Upon motion by respondents, the Court of Appeals issued a Resolution on 5 November 2004, ordering the release of P2,000,000.00 in favor of respondents as partial execution of the Decision of the trial court. The

appellate court allowed the partial execution on the grounds that respondent Manuel Gallego was in need of an urgent medical operation and that there was no longer any question that respondents were entitled to just compensation.

The Court of Appeals rendered the assailed Decision on 29 September 2005. The appellate court agreed that the values applied by the trial court in fixing just compensation had no legal basis because the formula under P.D. No. 27 and E.O. No. 228 mandated a Government Support Price of P35.00 per cavan of palay. $x \times x$

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Petitioner LBP sought reconsideration but was denied in a Resolution dated 23 June 2006. Hence, the instant petition[.]^[6] (citation omitted)

In a decision dated January 20, 2009, we denied the petition, reversed and set aside the September 29, 2005 and the June 23, 2006 rulings of the CA, and remanded the case to the CA for further reception of evidence and for the determination of the amount of just compensation under the terms of Section 17 of R.A. No. 6657 and Department of Agrarian Reform Administrative Order (*DAR A.O.*) No. 05-98, as amended.

On February 18, 2009, the LBP filed an urgent omnibus motion (for partial reconsideration of the January 20, 2009 decision and for referral of the instant case to the Court sitting *en banc*).^[7] In its April 29, 2009 resolution, the Court denied the LBP's motion. The CA submitted its Report^[8] on April 30, 2009.

The CA's Report

In the April 30, 2009 Report,^[9] the CA recommended two alternative solutions for computing the disputed just compensation. In the *first alternative*, the CA recommended the use of the alternate formula " $LV = (CS \times 0.9) + (MV \times 0.1)$ " as proposed by the respondents, for a just compensation of Ninety-Five Million, Three Hundred Fifty Thousand, Forty-Nine Pesos and 27/100 (P95,350,049.27). In the **second alternative**, the CA recommended the use of the basic formula " $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$ " as provided under Item II.A. of DAR A.O. No. 05-98, for a just compensation of Fifty Million, Four Hundred Thirty-One Thousand, Five Hundred Six Pesos (P50,431,506.00).

First alternative recommended by the CA for computing just compensation

In determining the amount of just compensation, both parties agreed that reference should be made to DAR A.O. No. 05-98. The formula for computing just compensation, as outlined in Item II.A. of DAR A.O. No. 05-98, reads:

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

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

The above formula shall be used if all the three factors are present, relevant, and applicable.

When, however, the factors of Capitalized Net Income *(CNI)*, Comparable Sales (CS) or Market Value per Tax Declaration *(MV)* are not all present, relevant and applicable, Item II.A. of DAR A.O. No. 05-98 provides for three alternate formulae:

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

 $LV = (CNI \times 0.9) + (MV \times 0.1)$

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

 $LV = (CS \times 0.9) + (MV \times 0.1)$

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

Since DAR A.O. No. 05-98 provides for alternate formulae depending on the presence, relevance and applicability of the indicated factors, the LBP and the respondents arrived at significantly divergent amounts for land value when the presence, relevance and applicability of the indicated factors were differently appreciated.

A. The LBP's computation

The LBP claimed that the amount of just compensation should be fixed at Twenty Four Million, Six Hundred Sixty-Five Thousand, Seven Hundred Forty-Nine Pesos and 99/100 (P24,665,749.99) using the alternate formula " $LV = (CNI \times 0.9) + (MV \times 0.1)$, "^[10] as provided under Item II.A.1 of DAR A.O. No. 05-98. The LBP insisted that the Appraisal Report^[11] presented by the respondents, as basis for computing the CS factor, should not be used, following Items II.C.2.b and II.C.2.c of DAR A.O. No. 05-98.^[12] Item II.C.2.b requires that the expropriated property, as well as the property subject of the comparable sales transactions, should be similar in topography and land use, while Item II.C.2.c provides that the comparable sales transactions should have been executed within the period of January 1, 1985 to June 15, 1988 and registered within the period of January 1, 1985 to September 13, 1988. The LBP claimed that the property subject of the comparable sales

transactions (some were residential subdivision lots)^[13] and the respondents' property (which is agricultural) are not devoted to identical purposes and the data used in the Appraisal Report were not registered and were executed beyond the allowable period. Considering the absence of CS, the LBP applied the alternate formula " $LV = (CNI \times 0.9) + (MV \times 0.1)$."

In arriving at the amount of P24,665,749.99, the LBP separately computed the CNI and the MV and then added the figures arrived at for each factor. The LBP used the following formula (as provided under Item II.B, DAR A.O. No. 05-98) and data in computing for the "CNI":^[14]

 $CNI = \frac{AGP \times SP \times NIR}{0.12}$

Where: AGP = Annual Gross Production

SP = Selling Price NIR = Net Income Rate

AGP = 9,000 kg/ha based on the AGP of irrigated lands in Brgy. San Fernando Sur for the years 2005 and 2006 as certified to by the Municipal Agriculturist of Cabiao, Nueva Ecija^[15]

SP = 15.54 /kg based on the selling price of palay for the year 2008 as shown on the Farm Prices Survey Provincial Summary^[16]

NIR = 20% as fixed by DAR A.O. No. 5

Thus: $CNI = \frac{9,000 \times 15.54}{kg \times 0.20}$

CNI = P233,100.00/ha or P23.31/sqm^[17]

In computing for the "MV," the LBP used the following formula (per DAR A.O. No. 05-98) and data:^[18]

 $MV = UMV \times LAF \times RCPI$

Where: UMV = Unit Market Value

LAF = Location Adjustment Factor RCPI = Regional Consumer Price Index

UMV = P200,050.00/ha for first class irrigated rice lands based on the schedule of unit market values of different agricultural lands for the year 2006 from the Provincial Assessor of Nueva Ecija^[19]

LAF = 91% as fixed by DAR A.O. No. 5