

## THIRD DIVISION

[ G.R. No. 179334, July 01, 2013 ]

**SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS AND DISTRICT ENGINEER CELESTINO R.  
CONTRERAS, PETITIONERS, VS. SPOUSES HERACLEO AND  
RAMONA TECSON, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Court of Appeals (CA) Decision<sup>[1]</sup> dated July 31, 2007 in CA-G.R. CV No. 77997. The assailed decision affirmed with modification the Regional Trial Court (RTC)<sup>[2]</sup> Decision<sup>[3]</sup> dated March 22, 2002 in Civil Case No. 208-M-95.

The case stemmed from the following factual and procedural antecedents:

Respondent spouses Heracleo and Ramona Tecson (respondents) are co-owners of a parcel of land with an area of 7,268 square meters located in San Pablo, Malolos, Bulacan and covered by Transfer Certificate of Title (TCT) No. T-43006<sup>[4]</sup> of the Register of Deeds of Bulacan. Said parcel of land was among the properties taken by the government sometime in 1940 without the owners' consent and without the necessary expropriation proceedings and used for the construction of the MacArthur Highway.<sup>[5]</sup>

In a letter<sup>[6]</sup> dated December 15, 1994, respondents demanded the payment of the fair market value of the subject parcel of land. Petitioner Celestino R. Contreras (petitioner Contreras), then District Engineer of the First Bulacan Engineering District of petitioner Department of Public Works and Highways (DPWH), offered to pay the subject land at the rate of P0.70 per square meter per Resolution of the Provincial Appraisal Committee (PAC) of Bulacan.<sup>[7]</sup> Unsatisfied with the offer, respondents demanded for the return of their property or the payment of compensation at the current fair market value.<sup>[8]</sup>

As their demand remained unheeded, respondents filed a Complaint<sup>[9]</sup> for recovery of possession with damages against petitioners, praying that they be restored to the possession of the subject parcel of land and that they be paid attorney's fees.<sup>[10]</sup> Respondents claimed that the subject parcel of land was assessed at P2,543,800.00.<sup>[11]</sup>

Instead of filing their Answer, petitioners moved for the dismissal of the complaint on the following grounds: (1) that the suit is against the State which may not be sued without its consent; (2) that the case has already prescribed; (3) that respondents have no cause of action for failure to exhaust administrative remedies;

and (4) if respondents are entitled to compensation, they should be paid only the value of the property in 1940 or 1941.<sup>[12]</sup>

On June 28, 1995, the RTC issued an Order<sup>[13]</sup> granting respondents' motion to dismiss based on the doctrine of state immunity from suit. As respondents' claim includes the recovery of damages, there is no doubt that the suit is against the State for which prior waiver of immunity is required.

When elevated to the CA,<sup>[14]</sup> the appellate court did not agree with the RTC and found instead that the doctrine of state immunity from suit is not applicable, because the recovery of compensation is the only relief available to the landowner. To deny such relief would undeniably cause injustice to the landowner. Besides, petitioner Contreras, in fact, had earlier offered the payment of compensation although at a lower rate. Thus, the CA reversed and set aside the dismissal of the complaint and, consequently, remanded the case to the trial court for the purpose of determining the just compensation to which respondents are entitled to recover from the government.<sup>[15]</sup> With the finality of the aforesaid decision, trial proceeded in the RTC.

The Branch Clerk of Court was initially appointed as the Commissioner and designated as the Chairman of the Committee that would determine just compensation,<sup>[16]</sup> but the case was later referred to the PAC for the submission of a recommendation report on the value of the subject property.<sup>[17]</sup> In PAC Resolution No. 99-007,<sup>[18]</sup> the PAC recommended the amount of P1,500.00 per square meter as the just compensation for the subject property.

On March 22, 2002, the RTC rendered a Decision,<sup>[19]</sup> the dispositive portion of which reads:

WHEREFORE, premises considered, the Department of Public Works and Highways or its duly assigned agencies are hereby directed to pay said Complainants/Appellants the amount of One Thousand Five Hundred Pesos (P1,500.00) per square meter for the lot subject matter of this case in accordance with the Resolution of the Provincial Appraisal Committee dated December 19, 2001.

SO ORDERED.<sup>[20]</sup>

On appeal, the CA affirmed the above decision with the modification that the just compensation stated above should earn interest of six percent (6%) per annum computed from the filing of the action on March 17, 1995 until full payment.<sup>[21]</sup>

In its appeal before the CA, petitioners raised the issues of prescription and laches, which the CA brushed aside on two grounds: *first*, that the issue had already been raised by petitioners when the case was elevated before the CA in CA-G.R. CV No. 51454. Although it was not squarely ruled upon by the appellate court as it did not find any reason to delve further on such issues, petitioners did not assail said decision barring them now from raising exactly the same issues; and *second*, the

issues proper for resolution had been laid down in the pre-trial order which did not include the issues of prescription and laches. Thus, the same can no longer be further considered. As to the propriety of the property's valuation as determined by the PAC and adopted by the RTC, while recognizing the rule that the just compensation should be the reasonable value at the time of taking which is 1940, the CA found it necessary to deviate from the general rule. It opined that it would be obviously unjust and inequitable if respondents would be compensated based on the value of the property in 1940 which is P0.70 per sq m, but the compensation would be paid only today. Thus, the appellate court found it just to award compensation based on the value of the property at the time of payment. It, therefore, adopted the RTC's determination of just compensation of P1,500.00 per sq m as recommended by the PAC. The CA further ordered the payment of interest at the rate of six percent (6%) per annum reckoned from the time of taking, which is the filing of the complaint on March 17, 1995.

Aggrieved, petitioners come before the Court assailing the CA decision based on the following grounds:

I.

THE COURT OF APPEALS GRAVELY ERRED IN GRANTING JUST COMPENSATION TO RESPONDENTS CONSIDERING THE HIGHLY DUBIOUS AND QUESTIONABLE CIRCUMSTANCES OF THEIR ALLEGED OWNERSHIP OF THE SUBJECT PROPERTY.

II.

THE COURT OF APPEALS GRAVELY ERRED IN AWARDING JUST COMPENSATION TO RESPONDENTS BECAUSE THEIR COMPLAINT FOR RECOVERY OF POSSESSION AND DAMAGES IS ALREADY BARRED BY PRESCRIPTION AND LACHES.

III.

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION ORDERING THE PAYMENT OF JUST COMPENSATION BASED ON THE CURRENT MARKET VALUE OF THE ALLEGED PROPERTY OF RESPONDENTS.<sup>[22]</sup>

Petitioners insist that the action is barred by prescription having been filed fifty-four (54) years after the accrual of the action in 1940. They explain that the court can *motu proprio* dismiss the complaint if it shows on its face that the action had already prescribed. Petitioners likewise aver that respondents slept on their rights for more than fifty years; hence, they are guilty of laches. Lastly, petitioners claim that the just compensation should be based on the value of the property at the time of taking in 1940 and not at the time of payment.<sup>[23]</sup>

The petition is partly meritorious.

The instant case stemmed from an action for recovery of possession with damages

filed by respondents against petitioners. It, however, revolves around the taking of the subject lot by petitioners for the construction of the MacArthur Highway. There is taking when the expropriator enters private property not only for a momentary period but for a permanent duration, or for the purpose of devoting the property to public use in such a manner as to oust the owner and deprive him of all beneficial enjoyment thereof.<sup>[24]</sup>

It is undisputed that the subject property was taken by petitioners without the benefit of expropriation proceedings for the construction of the MacArthur Highway. After the lapse of more than fifty years, the property owners sought recovery of the possession of their property. Is the action barred by prescription or laches? If not, are the property owners entitled to recover possession or just compensation?

As aptly noted by the CA, the issues of prescription and laches are not proper issues for resolution as they were not included in the pre-trial order. We quote with approval the CA's ratiocination in this wise:

Procedurally, too, prescription and laches are no longer proper issues in this appeal. In the pre-trial order issued on May 17, 2001, the RTC summarized the issues raised by the defendants, to wit: (a) whether or not the plaintiffs were entitled to just compensation; (b) whether or not the valuation would be based on the corresponding value at the time of the taking or at the time of the filing of the action; and (c) whether or not the plaintiffs were entitled to damages. Nowhere did the pre-trial order indicate that prescription and laches were to be considered in the adjudication of the RTC.<sup>[25]</sup>

To be sure, the pre-trial order explicitly defines and limits the issues to be tried and controls the subsequent course of the action unless modified before trial to prevent manifest injustice.<sup>[26]</sup>

Even if we squarely deal with the issues of laches and prescription, the same must still fail. Laches is principally a doctrine of equity which is applied to avoid recognizing a right when to do so would result in a clearly inequitable situation or in an injustice.<sup>[27]</sup> This doctrine finds no application in this case, since there is nothing inequitable in giving due course to respondents' claim. Both equity and the law direct that a property owner should be compensated if his property is taken for public use.<sup>[28]</sup> Neither shall prescription bar respondents' claim following the long-standing rule "that where private property is taken by the Government for public use without first acquiring title thereto either through expropriation or negotiated sale, the owner's action to recover the land or the value thereof *does not prescribe*."<sup>[29]</sup>

When a property is taken by the government for public use, jurisprudence clearly provides for the remedies available to a landowner. The owner may recover his property if its return is feasible or, if it is not, the aggrieved owner may demand payment of just compensation for the land taken.<sup>[30]</sup> For failure of respondents to question the lack of expropriation proceedings for a long period of time, they are deemed to have waived and are estopped from assailing the power of the government to expropriate or the public use for which the power was exercised.

What is left to respondents is the right of compensation.<sup>[31]</sup> The trial and appellate courts found that respondents are entitled to compensation. The only issue left for determination is the propriety of the amount awarded to respondents.

Just compensation is “the fair value of the property as between one who receives, and one who desires to sell, x x x **fixed at the time of the actual taking by the government.**” This rule holds true when the property is taken before the filing of an expropriation suit, and even if it is the property owner who brings the action for compensation.<sup>[32]</sup>

The issue in this case is not novel.

In *Forfom Development Corporation [Forfom] v. Philippine National Railways [PNR]*,<sup>[33]</sup> PNR entered the property of Forfom in January 1973 for public use, that is, for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings.<sup>[34]</sup> In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR. In *Eusebio v. Luis*,<sup>[35]</sup> respondent’s parcel of land was taken in 1980 by the City of Pasig and used as a municipal road now known as A. Sandoval Avenue in Pasig City without the appropriate expropriation proceedings. In 1994, respondent demanded payment of the value of the property, but they could not agree on its valuation prompting respondent to file a complaint for reconveyance and/or damages against the city government and the mayor. In *Manila International Airport Authority v. Rodriguez*,<sup>[36]</sup> in the early 1970s, petitioner implemented expansion programs for its runway necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent’s property, no expropriation proceedings were initiated. In 1997, respondent demanded the payment of the value of the property, but the demand remained unheeded prompting him to institute a case for *accion reivindicatoria* with damages against petitioner. In *Republic v. Sarabia*,<sup>[37]</sup> sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal and the headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners where ATO intervened claiming that the storeowners were its lessees.

The Court in the above-mentioned cases was confronted with common factual circumstances where the government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. The Court thus determined the landowners’ right to the payment of just compensation and, more importantly, the amount of just compensation. **The Court has uniformly ruled that just compensation is the value of the property at the time of taking that is controlling for purposes of compensation.** In *Forfom*, the payment of just compensation was reckoned from the time of taking in 1973; in *Eusebio*, the Court fixed the just compensation