

## SECOND DIVISION

[ G.R. No. 184719, March 21, 2012 ]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HEIRS OF JESUS S. YUJUICO, MARIETTA V. YUJUICO AND DR. NICOLAS VALISNO, SR., RESPONDENTS.**

[G.R. NO. 184720]

**DEPARTMENT OF AGRARIAN REFORM, REPRESENTED BY SECRETARY NASSER PANGANDAMAN, PETITIONER, VS. HEIRS OF JESUS YUJUICO, MARIETTA YUJUICO AND NICOLAS VALISNO, SR., RESPONDENTS.**

### DECISION

**SERENO, J.:**

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the 23 May 2008 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-GR SP Nos. 90905 and 91047. The CA reversed the Decision of the Regional Trial Court (RTC), which upheld the assertion of Spouses Jesus Y. Yujuico and Marietta V. Yujuico (respondents) that they should be paid by the government in the amount of P150,000 per hectare of land distributed by public respondent Department of Agrarian Reform (DAR) to their farmer-beneficiaries.

Respondents were the registered owners of eight parcels of land as reflected in the following Transfer Certificates Title (TCT):<sup>[3]</sup>

Lot 1 – 52.9200 hectares (TCT No. NT-77818)

Lot 2 – 53.1741 hectares (TCT No. NT-77819)

Lot 3 – 44.5588 hectares (TCT No. NT-174919)

Lot 4 – 49.1347 hectares (TCT No. NT-77820)

Lot 5 – 52.9200 hectares (TCT No. NT-77821)

Lot 6 – 45.8068 hectares (TCT No. NT-77822)

Lot 7 – 37.6290 hectares (TCT No. NT-77823)

Lot 8 – 20.9027 hectares (TCT No. NT-110213)

The DAR claims that, following the mandate of Presidential Decree No. 27 (P.D. 27) [4] and Executive Order No. 228 (E.O. 228), Lots 3, 4, and 7 and parts of Lots 1, 5, and 6 were placed under the Operation Land Transfer (OLT) program of the government.[5] The remaining parts of Lots 1, 5, and 6 were covered by Republic Act No. 6657 (R.A. 6657), otherwise known as the Comprehensive Agrarian Reform Law of 1988 (CARL).[6] As a consequence of these moves, the properties were acquired by the DAR and thereafter distributed to the proper farmer-beneficiaries.

The Land Bank of the Philippines (LBP) offered respondents the amount of P2,422,883.88 as payment for their properties. Not satisfied with this amount, respondents filed an action for the payment of just compensation with the DAR Adjudication Board (DARAB) of Nueva Ecija, Cabanatuan City. After several hearings, the hearing adjudicator passed away.

Realizing that "there are many important and crucial issues related to the payment of just compensation, that are beyond the competence and jurisdiction of DARAB to decide and rule on,"[7] respondents filed a Complaint for determination and payment of just compensation[8] before the Special Agrarian Court (SAC) of the RTC on 20 August 2001, even before the DARAB could resolve the case. On 29 November 2001, they filed an Amended Complaint.[9]

Pending resolution of the Complaint, initial payments for some of the lots were accepted by respondents from the LBP. The parties agreed that these amounts should be deducted from whatever total amount the court would award to respondents. According to the LBP, P2,422,883.88 in the form of cash and bonds had already been deposited in the account of respondents.[10] However, Atty. Leandro Valisno, the lawyer and administrator of their properties, claims that his clients received only the following initial payments: P128,221.36 for Lot 1; P300,483.24 for Lot 4; P176,880.08 for Lot 5; and P205,516.75 for Lot 6[11] – or a total of P811,101.43. Yet, for no apparent reason, in the Memorandum they filed with this Court, they claim that the total amount they received as payment was only P810,806.43.[12]

During the pendency of the case with the trial court, Jesus Yujuico died. Consequently, his heirs—his surviving spouse and six of his children—were substituted as respondents in the case.[13]

In its Answer to the Amended Complaint,[14] the DAR avers that the determination of the just compensation for the Lots placed under the OLT program should be governed by the provisions of P.D. 27 and E.O. 228.[15]

Paragraph 4 of P.D. 27 reads:

For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to this Decree, the value of the land shall be equivalent to two and one-half (2 1/2) times the average harvest of three normal crop years immediately preceding the promulgation of this Decree;

Section 2 of E.O. 228 provides:

Sec. 2. Henceforth, the valuation of rice and corn lands covered by P.D. No. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, Series of 1973, and related issuances and regulations of the Department of Agrarian Reform. The average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty Five Pesos (P35.00), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.

Lease rentals paid to the landowner by the farmer beneficiary after October 21, 1972, shall be considered as advance payment for the land. In the event of dispute with the land owner regarding the amount of lease rental paid by the farmer beneficiary, the Department of Agrarian Reform and the Barangay Committee on Land Production concerned shall resolve the dispute within thirty (30) days from its submission pursuant to Department of Agrarian Reform Memorandum Circular No. 26, Series of 1973, and other pertinent issuances. In the event a party questions in court the resolution of the dispute, the landowner's compensation claim shall still be processed for payment and the proceeds shall be held in trust by the Trust Department of the Land Bank in accordance with the provisions of Section 5 hereof, pending the resolution of the dispute before the court.

The DAR concludes that if the foregoing provisions were reduced to an equation, this would be the resulting formula: "Land Value (LV) = AGP x 2.5 x P35.00 x no. of has."<sup>[16]</sup> The LBP concurs and asserts the same formula.<sup>[17]</sup>

As the taking of the other properties were carried out through the application of the provisions of the CARL, the DAR submits that it is the CARL that should be used or applied in determining the value of these properties.

The DAR issued Administrative Order No. 5, Series of 1998 (A.O. 5) in order to implement Section 17 of the CARL, which reads:

**SEC. 17. Determination of Just Compensation** .---In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors, shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by government to the property as well as the non-payment of taxes or loans secured from

any government financing institution on the said land shall be considered as additional factors to determine its valuation.

The LBP asserts that in determining the value of respondents' properties, it merely applied and conformed to the mandate of Section 17 of the CARL as implemented by A.O. 5.<sup>[18]</sup>

Respondents, for their part, explain that the lots expropriated yielded an average of 90-100 cavans per harvest per hectare. They claim that since their properties are surrounded by the Diapo River and the Tamale Creek, these have a natural year-round supply of irrigation water, making it possible for them to have two harvesting periods per year.<sup>[19]</sup>

Respondents thus insist that in determining the just compensation owed to them, the following formula should be adhered to: "90 cavans x 50 kgs. x 204.8507 has. x P6.00/kg. x 2 cropping season = total amount payable."<sup>[20]</sup>

They further submit that P.D. 27 is inapplicable to this case, since the Emancipation Patents (EPs) issued to the farmer-beneficiaries in Lots 1, 5, and 7<sup>[21]</sup> were issued "not in 1972 when P.D. 27 was approved, but just after the approval of CARP."<sup>[22]</sup> Since P.D. 27 is not the proper law to be applied, respondents assert thus:

Consequently, the just compensation for the aforementioned titled lands should legally be plugged and anchored in the vicinity of sales of lands thereat in 1988-1991 when said lands were issued E.P.s and other like titles.<sup>[23]</sup>

Respondents presented as a witness the Municipal Assessor, who testified that the prevailing market price of the properties in the area at the time they were taken was from P150,000 to P200,000 per hectare. This testimony was, in petitioner's opinion, corroborated by the testimonies of their other witness, the manager of a community rural bank in the area. The bank manager testified that he followed the aforementioned appraisal values in processing loan applications.<sup>[24]</sup>

Out of the 357.0461 hectares of agricultural land owned by respondents, the DAR took 204.8507 hectares, for which respondents demand that they be justly compensated in the amount of P30,727,605.<sup>[25]</sup> This amount is the product of 204.8507 hectares multiplied by P150,000.

The DAR claims that with respect to Lot 2 respondents have no cause of action against it, because it never endorsed to the LBP the alleged transfer of this property "for either processing and payment (R.A. 6657) or simply payment (P.D. 27/E.O. 228)."<sup>[26]</sup> In the same vein, the LBP also claims that no cause of action can be imputed to it by respondents in this regard. It contends that, until and unless the DAR endorses the claim folder of a particular landholding to respondents, there arises no obligation to determine the value of the lot—much less, pay the value thereof to the owners.<sup>[27]</sup>

The questions that need to be resolved in this case are the following:

1. The exact land area actually taken by the government from respondents;
2. The law that should be followed in determining the amount owed by the government to respondents for such taking; and
3. The amount the government should pay respondents.

In a Decision<sup>[28]</sup> dated 30 January 2005, the RTC asserted that the Supreme Court had already declared the application of E.O. 228 and P.D. 27 in valuing expropriated properties as “unfair and unjust” to landowners,<sup>[29]</sup> to wit:

Tackling the issues formulated by the parties, the Supreme Court has ruled in several decisions that the application of Executive Order No. 228 in conjunction with the provisions of P.D. No. 27, used by defendants DAR and LBP, in arriving at a valuation of properties is unfair and unjust to the landowner. For just compensation means the equivalent for the value of the property at the time of its taking. Anything beyond is more and anything short of that is less, than just compensation.

The valuation at an average of P3,120.25 per hectare for the lands of plaintiffs covered by PD 27 is ridiculously low. Hence the formula used by the DAR and LBP using that provided under PD 27 and Executive Order No. 228 in arriving at the landholdings’ valuation should be disregarded.

On the other hand regarding those covered by R.A. 6657, the valuation at an average of P18,000.00 per hectare, more or less, is still low. In this connection the Court is convinced that it is not the just compensation contemplated by law.<sup>[30]</sup>

The trial court found that the actual area of the landholding placed under the coverage of land reform was 179.2302 hectares.<sup>[31]</sup> Finding that the price of P150,000 per hectare was more reflective of the actual value of the properties, the RTC awarded an amount of P26,884,530 in favor of respondents. The dispositive portion reads:

WHEREFORE, let judgment be rendered ordering defendant Department of Agrarian Reform through the defendant Land Bank of the Philippines to pay plaintiffs the Heirs of Jesus Yujuico, and Marietta Valisno-Yujuico, the total amount of Twenty Six Million Eight Hundred Eighty Four Thousand Five Hundred Thirty (P26,884,530.00) Philippine Currency, representing the just compensation of the property with a total area of 179.2302 hectares, situated at Digmala (formerly Macabaclay), Bongabon, Nueva Ecija, covered by: (1) TCT No. NT-77818; (2) TCT No. NT-77819; (3) TCT No. NT-174919; (4) TCT No. NT-77820; (5) TCT No. NT-77821; (6) TCT No. NT-77822; and (7) TCT No. NT-77823, with legal interest of six percent (6%) per annum from date of taking (which the Court determines to be November 29, 2001) until fully paid.