

## SECOND DIVISION

[ G.R. No. 177611, April 18, 2012 ]

**REPUBLIC OF THE PHILIPPINES (UNIVERSITY OF THE PHILIPPINES), PETITIONER, VS. RODOLFO L. LEGASPI, SR., QUEROBIN L. LEGASPI, OFELIA LEGASPI-MUELA, PURISIMA LEGASPI VDA. DE MONDEJAR, VICENTE LEGASPI, RODOLFO LEGASPI II, AND SPOUSES ROSALINA LIBO-ON AND DOMINADOR LIBO-ON, RESPONDENTS.**

### DECISION

**PEREZ, J.:**

Assailed in this petition for review on *certiorari* filed pursuant to Rule 45 of the 1997 *Rules of Civil Procedure* is the Decision dated 26 April 2007<sup>[1]</sup> rendered by the Eighteenth Division of the Court of Appeals (CA) in CA-G.R. SP No. 85735,<sup>[2]</sup> denying for lack of merit the Rule 65 petition for *certiorari* filed by petitioner Republic of the Philippines, thru the University of the Philippines in the Visayas (UPV), for the nullification of the orders dated 17 November 2003<sup>[3]</sup> and 31 May 2004<sup>[4]</sup> issued by the Hon. Roger B. Patricio, Presiding Judge of Branch 38 of the Regional Trial Court (RTC) of Iloilo City, in the expropriation case docketed thereat as Civil Case No. 19921.

#### *The Facts*

In December 1978, respondent Rosalina Libo-on (Rosalina) accomplished a letter of intent signifying her willingness to sell to UPV Lot No. 1 of Psu-193912 Amd., the 40,133-square meter property situated at Miag-ao, Iloilo registered in her name under Original Certificate of Title (OCT) No. F-20020 of the Iloilo provincial registry.

<sup>[5]</sup> Forthwith, a Deed of Definite Sale was executed by the parties whereby Rosalina, with the conformity of her then tenant, Vicente Libo-on, sold the subject parcel in favor of UPV for the stated consideration of P56,479.50.<sup>[6]</sup> As a consequence, UPV immediately took possession of the property and, in line with its educational development plan, started building thereon road networks, infrastructure and school facilities. The record shows that further use and development of the property was subsequently taken up at the 1093rd meeting of the UP Board of Regents held in Quezon City on 15 December 1995.<sup>[7]</sup>

On 4 January 1980, however, Rosalina wrote a letter, informing UPV that she was rescinding the sale of the subject parcel on the ground that she was no longer the owner of the property in view of her 5 September 1978 conveyance thereof by way of barter or exchange in favor of respondents Rodolfo Legaspi, Sr., Querobin Legaspi,<sup>[8]</sup> Ofelia Legaspi-Muela, Purisima Legaspi Vda. De Mondejar, Vicente Legaspi, Rodolfo Legaspi II and the Spouses Rosalina and Dominador Libo-on, among others. UPV subsequently learned that Lot 1 was subdivided into ten lots

denominated and later registered in the names of respondents<sup>[9]</sup> in the following wise:

Lot No.	Area (Sqm.)	TCT No.	Registered Owner
21609-A	9,078	8192	Querobin Legaspi, et al.
21609-B	2,648	8193	Rodolfo Legaspi, Sr.
21609-C	4,374	8194	Rodolfo Legaspi, Sr.
21609-D	16,286	8195	Querobin Legaspi, et al.
21609-E	1,494	8196	Rodolfo Legaspi, Sr.
21609-F	1,250	8197	Ofelia Legaspi Muela
21609-G	1,251	8198	Rodolfo Legaspi
21609-H	1,250	8199	Querobin Legaspi
21609-I	1,251	8200	Purissima Legaspi Vda. De Mondejar
21609-J	1,251	8201	Vicente Legaspi

On 8 August 1991, petitioner, thru UPV, filed against respondents the complaint for eminent domain docketed before the RTC as Civil Case No. 19921. Petitioner alleged, among other matters, that the subject parcel is within the approved and delineated campus of the UPV which had well-established its presence in the area by building its laboratories, classrooms, faculty and student centers, among other facilities; and, that it had been constrained to resort to expropriation in view of the failure of its efforts to negotiate with respondents for the retention of the property on which it constructed considerable improvements already being used for academic purposes. Maintaining that the fair market value of the property at the time of its entry was P49,298.00, UPV sought confirmation of its right of condemnation as well as the fixing of the just compensation for the property.<sup>[10]</sup>

On 2 September 1991, the RTC issued an order granting petitioner's motion to allow UPV to continue its possession of the subject parcel upon deposit with the Iloilo Provincial Treasurer of the sum of P50,070.00, representing the provisional valuation of the property.<sup>[11]</sup> In their answer dated 16 December 1991, however, respondents averred that petitioner's right of expropriation should only be limited to the three lots covered by Transfer Certificate of Title (TCT) Nos. T-8193, 8194 and 8196,<sup>[12]</sup> containing an aggregate area of 8,516 square meters. Finding no opposition to petitioner's motion for a declaration on its right to expropriate the same, the RTC issued an order of condemnation dated 1 April 1992,<sup>[13]</sup> upholding UPV's right to expropriate said three parcels which had been denominated as Lot Nos. 21609-B, 21609-C and 21609-E, to wit:

WHEREFORE, an ORDER OF CONDEMNATION is hereby entered covering the above-mentioned parcels of land, [petitioner] having a lawful right to take the properties sought to be condemned, for the public use or purpose described in the complaint, upon payment of just compensation to be determined by three (3) Commissioners who shall ascertain and report to the court the just compensation for the properties sought to be

taken.

Appointment of the three (3) Commissioners is hereby held in abeyance to give the court sufficient time to select the three (3) competent and disinterested persons as Commissioners provided for under Section 5 of Rule 67 of the Revised Rules of Court.

Notify Counsels.

Considering that the foregoing condemnation order covered only three (3) of the ten (10) lots comprising the subject property, petitioner moved for the continuation of the condemnation proceedings insofar as the remaining seven lots were concerned.

[14] On 10 November 1994, petitioner also filed an amended complaint, impleading as additional defendants the Rural Bank of Miag-ao (Iloilo), Inc. (RBMI), the Philippine National Bank (PNB) and the Iloilo Finance Corporation (IFC), in view of the mortgages constituted in their favor by respondents over some of the lots into which the Lot 1 had been subdivided.[15] Claiming to have relied on the certificates of title presented to them by the mortgagors, however, RBMI, PNB and IFC filed their individual answers maintaining that the said mortgages were entered into for value and in good faith.[16] The issues thus joined and the pre-trial conference subsequently terminated, the RTC went on to issue the 7 July 1997 pre-trial order summarizing the parties' admissions, their respective positions as well as the issues to be tried in the case.[17]

On 13 April 1998, the Office of the UPV Chancellor sent respondent Rodolfo Legaspi a letter, protesting against the latter's occupation of a portion of the property in litigation.[18] Calling the RTC's attention to its 2 September 1991 Order which allowed UPV's continued possession of the property, petitioner also filed its 7 July 1998 manifestation and motion praying for the grant of a writ of possession over the entirety of Lot 1.[19] Without resolving the motion, however, the RTC went on to issue the 16 June 2000 order,[20] fixing the just compensation for Lot Nos. 21609-B, 21609-C and 21609-E, based on the evidence adduced by the parties and the report submitted by the commissioners, to wit:

WHEREFORE, in view of all the foregoing, order is hereby issued fixing the just compensation of subject Lots Nos. 21609-B, 21609-C and 21609-E covering a total area of 8,516 sq. meters, as fifty one thousand ninety six pesos (P51,096.00) at the rate of six pesos (P6.00) per sq. meter. Accordingly, the [petitioner] is hereby ordered to pay [respondents] Judge Rodolfo L. Legaspi, et al fifty one thousand ninety six pesos (P51,096.00) for the total just compensation of the three (3) aforementioned subject lots. This amount includes the amount of fifty thousand seventy pesos (P50,070.00) deposited by the [petitioner] in the Office of the Provincial Treasurer of Iloilo.

There being no evidence presented by the parties to support their respective claims for damages, none is herein awarded.[21]

On 17 November 2003, the RTC further issued the herein assailed condemnation order of the same date, upholding petitioner's authority to expropriate the remaining seven lots comprising the property, namely, Lot Nos. 21609-A, 21609-D, 21609-F, 21609-G, 21609-H, 21609-I and 21609-J. Excluding therefrom the area occupied by the Villa Marina Beach Resort which respondent Rodolfo Legaspi, Sr. operated in the premises,<sup>[22]</sup> the RTC ruled as follows:

WHEREFORE, an Order of Condemnation is hereby entered allowing the [petitioner] to expropriate for public use the remaining seven (7) subject Lot Nos. 21609-A, 21609-D, 21609-F, 21609-G, 21609-H, 21609-I and 21609-J all situated in Barangay Sapa, Miag-ao, Iloilo, except such area therein as is occupied by the Villa Marina Beach resort and which [respondent] Rodolfo L. Legaspi, Sr. has been operating a business.

In properly fixing the just compensation to be paid to the [respondents] Legaspis over the aforesaid 7 lots, the Provincial Treasurer, the Provincial Assessor and the Provincial Engineer, all of the Province of Iloilo, are hereby appointed as commissioners to assist the Court in the fixing the just compensation of the subject lots. Before these commissioners so appointed discharge their respective duties, they may take their oath to faithfully perform their duties as such commissioners and their oaths shall be filed before this Court as part of the records of the proceedings in this case.

The commissioners who are hereby appointed are requested to make known their acceptance within ten (10) days from receipt of this order.

On 19 December 2003, petitioner<sup>[23]</sup> and UPV<sup>[24]</sup> filed motions for reconsideration of the foregoing order on the ground that the exclusion of the Villa Marina Beach Resort area from the condemned lots is bereft of legal basis and contrary to the evidence presented in the case which showed that the same is an integral part of the UPV's developmental plan for research and educational use. On 22 December 2003, respondents also filed their manifestation and partial motion for reconsideration of the same order alleging, among other matters, that Lot Nos. 21609-F, 21609-G, 21609-H, 21609-I and 21609-J comprise the area occupied by Villa Marina Beach Resort; that Lot No. 21609-A is the area where respondent Rodolfo Legaspi, Sr. operates a business called Omp's Corner; that UPV has no intended use for Lot No. 21609-D which is being used for residential purposes by respondent Vicente Legaspi; and, that the foregoing lots, together with the portion of Lot No. 1 of Psu-193912 Amd. utilized by the Municipality of Miag-ao as a public cemetery should be excluded from petitioner's exercise of its right of expropriation. <sup>[25]</sup> Finding that the exclusion of the aforesaid lots would not defeat UPV's plan for its campus, the RTC issued the order dated 31 May 2004,<sup>[26]</sup> the decretal portion of which states as follows:

WHEREFORE, finding the [petitioner's] Motion for Reconsideration dated December 19, 2003 without merit, the same is denied. The Manifestation and Partial Motion for Reconsideration dated December 19,

2003 of [respondents] Legaspi being meritorious is, thus, granted and the Order dated November 17, 2003 of this Court is partially reconsidered and judgment is hereby entered denying the expropriation of subject Lots Nos. 21609-A, 21609-D, 21609-F, 21609-G, 21609-H, 21609-I and 21609-J.

As a consequence hereof, the order of this Court appointing as Commissioners the Provincial Treasurer, the Provincial Assessor and the Provincial Engineer, all of the Province of Iloilo is likewise reconsidered and set aside.

Let copies of this Order be furnished the Office of the Solicitor General, Atty. Cornelio Salinas, Atty. Rodolfo Legaspi, Sr., Atty. Legaspi II, Atty. Alejandro Somo, the Provincial Treasurer, the Provincial Assessor and the Provincial Engineer, all of the Province of Iloilo.

No pronouncement as to costs.<sup>[27]</sup>

Aggrieved, petitioner filed on 16 August 2004 the Rule 65 petition for *certiorari* and *mandamus* docketed before the CA as CA-G.R. SP No. 85735, assailing the RTC's order dated 31 May 2004 on the ground that grave abuse of discretion attended the denial of the expropriation of the subject lots after the right to expropriate the same was earlier upheld in the likewise assailed order dated 17 November 2003.<sup>[28]</sup> On 26 April 2007, the CA's then Eighteenth Division rendered the herein assailed decision denying the petition on the ground that, under Rule 67 of the *1997 Rules of Civil Procedure*, the proper remedy from said assailed orders was an ordinary appeal which, once lost, cannot be substituted by a Rule 65 petition for *certiorari* and *mandamus*. Even if petitioner's choice of remedy were, moreover, to be considered proper under the circumstances, the CA ruled that the RTC's issuance of said assailed orders was well within its power and duty to review, amend or reverse its findings and conclusions if it deems it necessary for the administration of justice within the scope of its jurisdiction.<sup>[29]</sup> Without moving for a reconsideration of the foregoing decision, petitioner filed the petition at bench on 25 June 2007.

### ***The Issue***

Petitioner urges the nullification of the CA's assailed 26 April 2007 Decision on the following ground:

**THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN DENYING THE PETITION FOR CERTIORARI AND AFFIRMING THE ORDER DATED MAY 31, 2004 OF BRANCH 38 OF THE REGIONAL TRIAL COURT OF ILOILO CITY WHICH DID NOT STATE THE FACTS AND THE LAW ON WHICH IT IS BASED.**<sup>[30]</sup>

### ***The Court's Ruling***

We find the petition impressed with merit.