

THIRD DIVISION

[G.R. No. 178046, June 13, 2012]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS.
MONTINOLA-ESCARILLA AND CO., INC., RESPONDENT.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

This Petition for Review on Certiorari^[1] assails the August 18, 2006 Decision^[2] and May 18, 2007 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 75133, which set aside the October 8, 2002 Decision^[4] of the Regional Trial Court of Bayugan, Agusan del Sur, Branch 7 (RTC) and rendered a new judgment fixing the just compensation due to respondent at P4,615,194.00 and deleting the award of attorney's fees.

The Factual Antecedents

Respondent Montinola-Escarilla and Co., Inc. (MECO) is the owner of a parcel of agricultural land situated in Esperanza, Agusan del Sur covered by Original Certificate of Title (OCT) No. T-70, out of which 159.0881 hectares^[5] (has.) were acquired by the government in 1995 under Republic Act (R.A.) No. 6657 (Comprehensive Agrarian Reform Law of 1988).

Petitioner Land Bank of the Philippines (LBP) initially valued the subject land at P823,204.08^[6] but respondent rejected the valuation. Pending summary administrative proceedings for determination of just compensation before the DAR Regional Agrarian Reform Adjudicator (RARAD),^[7] MECO filed a complaint for determination of just compensation before the RTC, which constituted a four-member Board of Commissioners (Board of Commissioners) to evaluate and appraise the just compensation for the subject property covering 4.4825 has. of rainfed rice land and 154.6056 has. of idle land.^[8] Meanwhile, the RARAD rendered a Decision dated December 29, 1998 fixing the just compensation at P823,204.08.

On the other hand, the Board of Commissioners was not able to come up with a unified valuation of the subject property. One commissioner adopted the findings and recommendation of MECO's appraiser, Asian Appraisal Co., Inc. (Asian), while another commissioner adopted the valuation of petitioner LBP. The remaining two commissioners submitted their Commissioners' Report^[9] recommending the amount of P4,615,194.00^[10] as the "just and fair market value of the land subject of the case considering that the land was cleared, worked and cultivated by the farmers and/or parents of the farmers-beneficiaries as early as 1980 and introduced valuable improvements thereon such as coconuts, falcattas, bananas, corn and

other agricultural crops.”^[11]

The RTC Ruling

On October 8, 2002, the RTC, rendered a Decision^[12] fixing the just compensation of the property at P7,927,660.60^[13] computed as follows:

Cornland (3rd class)	– 143.5528 has @ P52,000/ha.	– P 7,464,745.60
Cocoland (3rd class)	– 15.4305 has. @ P30,000/ha.	– P 462,915.00
Total	-----	P 7,927,660.60

The reclassification of the acquired property from rainfed riceland, bushland and bushland rolling to cornland and cocoland was allegedly “supported by plaintiff's evidence,”^[14] which was not particularly identified. Nonetheless, while the RTC gave more credence to the Appraisal Report submitted by Asian, it did not adopt its valuation of P11,395,000.00 and instead fixed lower values but higher than those recommended by the Board of Commissioners at P4,615,194.00. It likewise awarded 5% attorney's fees in consonance with Article 2208 of the Civil Code, holding that the plaintiff was compelled to litigate due to defendant's acts.

Petitioner LBP and the DAR Secretary filed separate motions for reconsideration which were both denied in the Order^[15] dated December 27, 2002.

LBP appealed to the CA, averring that the RTC erred in disregarding R.A. No. 6657 and its implementing guidelines, DAR Administrative Order (A.O.) No. 6, Series of 1992, as amended, in valuing the subject land. It contended that the valuation heavily banked on present considerations or future potentials of the subject property instead of its value at the time of taking. It likewise assailed the propriety of the award of attorney's fees.

The CA Ruling

In the Decision^[16] dated August 18, 2006, the CA set aside the RTC's valuation for failure to give due consideration to the factors enumerated in Section 17 of R.A. No. 6657. While it observed that LBP considered some factors, not all the factors were taken into account and substantiated. It thereby adopted the Commissioners' Report submitted by the two commissioners as the only unbiased determination of just compensation. However, it deleted the award of attorney's fees for being improper.

In the instant petition for review, LBP contends that the CA erred in adopting the valuation in the Commissioners' Report which did not state the basis thereof, and was based on the fair market value approach instead of the basic formula prescribed by DAR A.O. No. 6, Series of 1992, as amended by DAR A.O. No. 11, Series of 1994. Moreover, the classification of the acquired property into coconut and corn lands was misleading because at the time of actual taking, 154.6055 has. were idle and abandoned and 4.4825 has. consisted of rainfed riceland.

The Court's Ruling

For purposes of determining just compensation, the fair market value of an expropriated property is determined by its *character* and *price* at the time of taking.
[17] In the implementation of R.A. No. 6657, Section 17 provides the manner by which just compensation is determined, thus:

Section 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 the 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.[18]

The potential use of the expropriated property is only considered in cases where there is a great improvement in the general vicinity of the expropriated property, but should never control the determination of just compensation.[19]

In the present case, while the Amended Complaint[20] described the acquired property as:

Classification	Area/Has.
Rainfed riceland	4.4825
Bushland flat	1.5880
Bushland rolling	<u>153.0176</u>
	<u>159.0881</u>

which coincided with its physical characteristics[21] as indicated in LBP's Field Investigation Report[22] dated September 28, 1994, both the RTC and the CA considered its *actual use* at the time of appraisal, and reclassified the property, as follows: 143.5528 has. of 3rd class cornland and 15.4305 has. of 3rd class cocoland. The RTC and the CA ignored the fact that, as indicated in the aforementioned report, at the time of the ocular inspection in September 1994, a substantial portion of the subject property was idle and abandoned, but the farmer-beneficiaries "were already starting to cultivate their designated area of occupancy as evidenced by the cutting of trees and some has (sic) already started to plant corn, bananas and other crops." [23] Under DAR A.O. No. 11, Series of 1994, "(t)he landowner shall not be compensated or paid for improvements introduced by third parties such as the government, farmer-beneficiaries or others." Hence, it was erroneous to reclassify the acquired property into cornland and cocoland "based on plaintiff's (MECO) evidence" [24] considering that the improvements were introduced by the farmer-beneficiaries. At most, they may be considered only as economic benefits contributed by the farmers and farmworkers to the property in determining its valuation pursuant to Section 17 of R.A. No. 6657.

Consequently, there is a need to remand the case to the court a quo for reception of