

EN BANC

[G.R. No. 164195, October 12, 2010]

**APO FRUITS CORPORATION AND HIJO PLANTATION, INC.,
PETITIONERS, VS. LAND BANK OF THE PHILIPPINES,
RESPONDENT.**

RESOLUTION

BRION, J.:

We resolve the petitioners' *motion for reconsideration* addressing our Resolution of December 4, 2009 whose dispositive portion directs:

WHEREFORE, the Court denies the petitioners' second motion for reconsideration (with respect to the denial of the award of legal interest and attorney's fees), and reiterates the decision dated February 6, 2007 and the resolution dated December 19, 2007 of the Third Division.

For a fuller and clearer presentation and appreciation of this Resolution, we hark back to the roots of this case.

Factual Antecedents

Apo Fruits Corporation (AFC) and Hijo Plantation, Inc. (HPI), together also referred to as *petitioners*, were registered owners of vast tracks of land; AFC owned 640.3483 hectares, while HPI owned 805.5308 hectares. On October 12, 1995, they voluntarily offered to sell these landholdings to the government *via* Voluntary Offer to Sell applications filed with the Department of Agrarian Reform (DAR).

On October 16, 1996, AFC and HPI received separate notices of land acquisition and valuation of their properties from the DAR's Provincial Agrarian Reform Officer (PARO). At the assessed valuation of P165,484.47 per hectare, AFC's land was valued at P86,900,925.88, while HPI's property was valued at P164,478,178.14. HPI and AFC rejected these valuations for being very low.

In its follow through action, the DAR requested the Land Bank of the Philippines (LBP) to deposit P26,409,549.86 in AFC's bank account and P45,481,706.76 in HPI's bank account, which amounts the petitioners then withdrew. *The titles over AFC and HPI's properties were thereafter cancelled, and new ones were issued on December 9, 1996 in the name of the Republic of the Philippines.*

On February 14, 1997, AFC and HPI filed separate petitions for determination of just compensation with the DAR Adjudication Board (DARAB). When the DARAB failed to act on these petitions for more than three years, AFC and HPI filed separate complaints for determination and payment of just compensation with the Regional

Trial Court (RTC) of Tagum City, acting as a Special Agrarian Court. These complaints were subsequently consolidated.

On September 25, 2001, the RTC resolved the consolidated cases, fixing the just compensation for the petitioners' 1,338.6027 hectares of land^[1] at P1,383,179,000.00, with interest on this amount at the prevailing market interest rates, computed from the taking of the properties on December 9, 1996 until fully paid, minus the amounts the petitioners already received under the initial valuation. The RTC also awarded attorney's fees.

LBP moved for the reconsideration of the decision. The RTC, in its order of December 5, 2001, modified its ruling and **fixed the interest at the rate of 12% per annum from the time the complaint was filed until finality of the decision.** The Third Division of this Court, in its Decision of February 6, 2007, affirmed this RTC decision.

On motion for reconsideration, the Third Division issued its Resolution of December 19, 2007, modifying its February 6, 2007 Decision by **deleting the 12% interest** due on the balance of the awarded just compensation. *The Third Division justified the deletion by the finding that the LBP did not delay the payment of just compensation as it had deposited the pertinent amounts due to AFC and HPI within fourteen months after they filed their complaints for just compensation with the RTC.* The Court also considered that AFC had already collected approximately P149.6 million, while HPI had already collected approximately P262 million from the LBP. The Third Division also deleted the award of attorney's fees.

All parties moved for the reconsideration of the modified ruling. The Court uniformly denied all the motions in its April 30, 2008 Resolution. Entry of Judgment followed on May 16, 2008.

Notwithstanding the Entry of Judgment, AFC and HPI filed the following motions on May 28, 2008: (1) Motion for Leave to File and Admit Second Motion for Reconsideration; (2) Second Motion for Reconsideration, with respect to the denial of the award of legal interest and attorney's fees; and (3) Motion to Refer the Second Motion for Reconsideration to the Honorable Court *En Banc*.

The Third Division found the motion to admit the Second Motion for Reconsideration and the motion to refer this second motion to the Court *En Banc* meritorious, and accordingly referred the case to the Court *En Banc*. On September 8, 2009, the Court *En Banc* accepted the referral.

The Court *En Banc* Resolution

On December 4, 2009, the Court *En Banc*, by a majority vote, denied the petitioners' second motion for reconsideration based on two considerations.

First, the grant of the second motion for reconsideration runs counter to the immutability of final decisions. Moreover, the Court saw no reason to recognize the case as an exception to the immutability principle as the petitioners' private claim for the payment of interest does not qualify as either a substantial or transcendental matter or an issue of paramount public interest.

Second, on the merits, the petitioners are not entitled to recover interest on the just compensation and attorney's fees because they caused the delay in the payment of the just compensation due them; they erroneously filed their complaints with the DARAB when they should have directly filed these with the RTC acting as an agrarian court. Furthermore, the Court found it significant that the LBP deposited the pertinent amounts in the petitioners' favor within fourteen months after the petitions were filed with the RTC. Under these circumstances, the Court found no unreasonable delay on the part of LBP to warrant the award of 12% interest.

The Chico-Nazario Dissent

Justice Minita V. Chico-Nazario,^[2] **the ponente of the original December 19, 2007 Resolution (deleting the 12% interest)**, dissented from the Court *En Banc*'s December 4, 2009 Resolution.

On the issue of immutability of judgment, Justice Chico-Nazario pointed out that under extraordinary circumstances, this Court has recalled entries of judgment on the ground of substantial justice. Given the special circumstances involved in the present case, the Court *En Banc* should have taken a second hard look at the petitioners' positions in their second motion for reconsideration, and acted to correct the clearly erroneous December 19, 2007 Resolution.

Specifically, Justice Chico-Nazario emphasized the obligation of the State, in the exercise of its inherent power of eminent domain, to pay just compensation to the owner of the expropriated property. To be just, the compensation must not only be the correct amount to be paid; it must also be paid within a reasonable time from the time the land is taken from the owner. If not, the State must pay the landowner interest, by way of damages, from the time the property was taken until just compensation is fully paid. This interest, deemed a part of just compensation due, has been established by prevailing jurisprudence to be 12% per annum.

On these premises, Justice Nazario pointed out that the government deprived the petitioners of their property on December 9, 1996, and paid the balance of the just compensation due them only on May 9, 2008. The delay of almost twelve years earned the petitioners interest in the total amount of P1,331,124,223.05.

Despite this finding, Justice Chico-Nazario did not see it fit to declare the computed interest to be totally due; she found it unconscionable to apply the full force of the law on the LBP because of the magnitude of the amount due. **She thus reduced the awarded interest to P400,000,000.00, or approximately 30% of the computed interest.**

The Present Motion for Reconsideration

In their motion to reconsider the Court *En Banc*'s December 4, 2009 Resolution (*the present Motion for Reconsideration*), the petitioners principally argue that: (a) the principle of immutability of judgment does not apply since the Entry of Judgment was issued even before the lapse of fifteen days from the parties' receipt of the April 30, 2008 Resolution and the petitioners timely filed their second motion for reconsideration within fifteen days from their receipt of this resolution; (b) the April 30, 2008 Resolution cannot be considered immutable considering the special and compelling circumstances attendant to the present case which fall within the

exceptions to the principle of immutability of judgments; (c) the legal interest due is at 12% per annum, reckoned from the time of the taking of the subject properties and this rate is not subject to reduction. The power of the courts to equitably reduce interest rates applies solely to liquidated damages under a contract and not to interest set by the Honorable Court itself as due and owing in just compensation cases; and (d) the Honorable Court's fears that the interest payments due to the petitioners will produce more harm than good to the system of agrarian reform are misplaced and are based merely on conjectures.

The Comment of the Land Bank of the Philippines

The LBP commented on the petitioners' motion for reconsideration on April 28, 2010. It maintained that: (a) the doctrine of immutability of the decisions of the Supreme Court clearly applies to the present case; (b) the LBP is not guilty of undue delay in the payment of just compensation as the petitioners were promptly paid once the Court had determined the final value of the properties expropriated; (c) the Supreme Court rulings invoked by the petitioners are inapplicable to the present case; (d) since the obligation to pay just compensation is not a forbearance of money, interest should commence only after the amount due becomes ascertainable or liquidated, and the 12% interest per annum applies only to the liquidated amount, from the date of finality of judgment; (e) the imposition of 12% interest on the balance of P971,409,831.68 is unwarranted because there was no unjustified refusal by LBP to pay just compensation, and no contractual breach is involved; (f) the deletion of the attorney's fees equivalent to 10% of the amount finally awarded as just compensation is proper; (g) this case does not involve a violation of substantial justice to justify the alteration of the immutable resolution dated December 19, 2007 that deleted the award of interest and attorney's fees.

The Court's Ruling

We find the petitioners' arguments meritorious and accordingly GRANT the present motion for reconsideration.

Just compensation - a Basic Limitation on the State's Power of Eminent Domain

At the heart of the present controversy is the Third Division's December 19, 2007 Resolution which held that the petitioners are not entitled to 12% interest on the balance of the just compensation belatedly paid by the LBP. In the presently assailed December 4, 2009 Resolution, we affirmed the December 19, 2007 Resolution's findings that: (a) the LBP deposited "pertinent amounts" in favor of the petitioners within fourteen months after they filed their complaint for determination of just compensation; and (b) the LBP had already paid the petitioners P411,769,168.32. We concluded then that these circumstances refuted the petitioners' assertion of unreasonable delay on the part of the LBP.

A re-evaluation of the circumstances of this case and the parties' arguments, viewed in light of the just compensation requirement in the exercise of the State's inherent power of eminent domain, compels us to re-examine our findings and conclusions.

Eminent domain is the power of the State to take private property for public use.^[3] It is an inherent power of State as it is a power necessary for the State's existence;

it is a power the State cannot do without.^[4] As an inherent power, it does not need at all to be embodied in the Constitution; if it is mentioned at all, it is solely for purposes of limiting what is otherwise an unlimited power. The limitation is found in the Bill of Rights^[5] - that part of the Constitution whose provisions all aim at the protection of individuals against the excessive exercise of governmental powers.

Section 9, Article III of the 1987 Constitution (which reads "*No private property shall be taken for public use without just compensation.*") provides two essential limitations to the power of eminent domain, namely, that (1) the purpose of taking must be for **public use** and (2) **just compensation** must be given to the owner of the private property.

It is not accidental that Section 9 specifies that compensation should be "just" as the safeguard is there to ensure a balance - property is not to be taken for public use at the expense of private interests; the public, through the State, must balance the injury that the taking of property causes through compensation for what is taken, **value for value**.

Nor is it accidental that the Bill of Rights is interpreted liberally in favor of the individual and strictly against the government. The protection of the individual is the reason for the Bill of Rights' being; to keep the exercise of the powers of government within reasonable bounds is what it seeks.^[6]

The concept of "just compensation" is not new to Philippine constitutional law,^[7] but is not original to the Philippines; it is a transplant from the American Constitution.^[8] It found fertile application in this country particularly in the area of agrarian reform where the taking of private property for distribution to landless farmers has been equated to the "public use" that the Constitution requires. In *Land Bank of the Philippines v. Orilla*,^[9] a valuation case under our agrarian reform law, this Court had occasion to state:

Constitutionally, "just compensation" is the sum equivalent to the market value of the property, broadly described as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition, or the fair value of the property as between the one who receives and the one who desires to sell, it being fixed at the time of the actual taking by the government. **Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator.** It has been repeatedly stressed by this Court that the true measure is not the taker's gain but the owner's loss. The word "just" is used to modify the meaning of the word "compensation" to convey the idea that **the equivalent to be given for the property to be taken shall be real, substantial, full and ample.**^[10] [Emphasis supplied.]

In the present case, while the DAR initially valued the petitioners' landholdings at a total of P251,379,104.02,^[11] the RTC, acting as a special agrarian court, determined the actual value of the petitioners' landholdings to be P1,383,179,000.00. *This valuation, a finding of fact, has subsequently been affirmed by this Court, and is now beyond question.* In eminent domain terms, this