

## SECOND DIVISION

[ G.R. No. 173226, January 20, 2009 ]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. MANUEL O. GALLEGOS, JR., JOSEPH L. GALLEGOS AND CHRISTOPHER GALLEGOS, RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

This instant petition for review on certiorari<sup>[1]</sup> under Rule 45 of the 1997 Rules of Civil Procedure seeks the reversal of the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 77676. The Court of Appeals' Decision modified the amount of just compensation awarded by the Regional Trial Court (RTC) sitting as a Special Agrarian Court, Branch 29, Cabanatuan City to respondents for the expropriation of their property for the comprehensive agrarian reform program of the Department of Agrarian Reform (DAR), while the Resolution denied petitioner's motion for reconsideration of the Decision.

The following factual antecedents are undisputed and are matters of record:

Respondents Manuel O. Gallegos, Jr., Joseph L. Gallegos and Christopher L. Gallegos are the co-owners of several parcels of agricultural lands located in Barangay Sta. Rita and Barangay Concepcion in Cabiao, Nueva Ecija. The lands have an aggregate area of 142.3263 hectares and are covered by Transfer Certificate of Title Nos. T-139629, T-139631 and T-139633.<sup>[4]</sup>

Sometime in 1972, the DAR placed a portion of the property under the coverage of Presidential Decree No. 27 (P.D. No. 27). However, the DAR and respondents failed to agree on the amount of just compensation, prompting respondents to file on 10 December 1998 a petition before the RTC of Cabanatuan City.<sup>[5]</sup> The petition, docketed as Agrarian Case No. 127-AF, named the DAR and herein petitioner Land Bank of the Philippines (LBP) as respondents and prayed that just compensation be fixed in accordance with the valuation formula under P.D. No. 27 based on an Average Gross Production of 109.535 *cavans* per hectare including interest at 6% compounded annually as provided under PARC Resolution No. 92-24-1.<sup>[6]</sup>

Petitioner LBP filed an answer, averring that only 76.8324 hectares and not 89.5259 hectares as was alleged in the petition were placed under the coverage of P.D. No. 27 and that just compensation should be determined based on an Average Gross Production of 65 *cavans* and/or 56.6 *cavans* per hectare which were the values at the time of taking of the property. Although the DAR did not file an answer, it was represented at the hearings by a certain Atty. Benjamin T. Bagui.<sup>[7]</sup>

During the course of the hearing of the petition, the coverage of respondents' lands

had expanded to a bigger area. In order to conform to the increase in the area placed under agrarian reform, respondents filed on 14 October 2002 an amended petition, stating that as certified by the Municipal Agrarian Reform Office (MARO) of Cabiao, Nueva Ecija, 122.8464 hectares of the property had already been placed under the operation of P.D. No. 27. In the answer filed by the DAR as well as during the pre-trial, the counsels for DAR and petitioner LBP stipulated that the property subject of the petition was irrigated and had a total area of 120 hectares, more or less.<sup>[8]</sup>

After the pre-trial conference, the trial court issued an Order dated 08 November 2002,<sup>[9]</sup> embodying the agreed stipulation that the property placed under agrarian reform had an area of 120 hectares, more or less, and directing the MARO of Cabiao, Nueva Ecija to submit the records pertaining to the exact landholdings already processed and acquired by petitioner LBP. In a Supplemental Pre-Trial Order dated 25 November 2002,<sup>[10]</sup> the trial court stated that in view of the parties' agreement that the property was irrigated and had an area of 120 hectares, the only factual issue to be resolved would be the correct Average Gross Production, based on which just compensation would be fixed.<sup>[11]</sup>

On 14 March 2003, the trial court rendered a Decision,<sup>[12]</sup> adopting respondents' formula which was based on an Average Gross Production of 121.6 *cavans* per hectare. The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered in favor of the petitioners, and the Land Bank of the Philippines is ordered to pay the petitioners Manuel O. Gallego, Joseph L. Gallego and Christopher L. Gallego in a manner set forth in Sections 17 and 18 of R.A. No. 6657 (Comprehensive Land Reform Code) the total amount of P52,209,720.00 as the just compensation for 122.8464 hectares of ricelands distributed and awarded to tenants-beneficiaries surveyed, described and subdivided into lots with corresponding lot numbers, and areas as indicated in the Summary of Farmer-Beneficiaries and Lot Distribution in Gallego Estate, consisting of six (6) pages, which is annexed hereto and made part of this Decision, including all improvements of roads and irrigation canals therein existing. The amount of P1,179,027.00 or whatever amount the Land Bank of the Philippines has paid to the Gallegos as initial or provisional valuation shall be deducted from the amount of P52,209,720.00.

SO ORDERED.<sup>[13]</sup>

In arriving at the amount of just compensation, the trial court adopted the formula prescribed in P.D. No. 27, which fixed the land value as equivalent to 2.5 multiplied by the Government Support Price of *palay* multiplied by the Average Gross Production per hectare of the three preceding agricultural years. The trial court used the values of P500.00 as Government Support Price for *palay* and 121.6 *cavans* per hectare as Average Gross Production of respondents' property. Applying Article 1958<sup>[14]</sup> of the Civil Code, the trial court also imposed "interest in kind" payable from 1972 to 2002 by multiplying by 1.8 the Average Gross Production of *palay* of 121.6 *cavans* per hectare multiplied by 2.5.

Both petitioner LBP and the DAR separately moved for the reconsideration of the

trial court's Decision. In its Order dated 28 April 2003, the trial court denied both motions.<sup>[15]</sup>

Only petitioner LBP appealed from the trial court's Decision. According to petitioner LBP, the trial court erred in applying values that had no basis in law instead of adopting the Average Gross Production established by the Barangay Committee on Land Production under DAR Circular No. 26, series of 1973, and the mandated Government Support Price of P35 per *cavan* of *palay* under Section 2 of Executive Order (E.O.) No. 228.

Upon motion by respondents, the Court of Appeals issued a Resolution on 5 November 2004, ordering the release of P2,000,000.00 in favor of respondents as partial execution of the Decision of the trial court. The appellate court allowed the partial execution on the grounds that respondent Manuel Gallego was in need of an urgent medical operation and that there was no longer any question that respondents were entitled to just compensation.<sup>[16]</sup>

The Court of Appeals rendered the assailed Decision on 29 September 2005.<sup>[17]</sup> The appellate court agreed that the values applied by the trial court in fixing just compensation had no legal basis because the formula under P.D. No. 27 and E.O. No. 228 mandated a Government Support Price of P35.00 per *cavan* of *palay*. It also held that the imposition of interest based on Article 1958 of the Civil Code was improper because said article does not apply to the expropriation of land but contemplates cases of simple loan or *mutuum*.

According to the Court of Appeals, the peculiar circumstances of the case persuaded the appellate court to fix just compensation based on the current market value of the subject property on the premise that the provisions of P.D. No. 27 and E.O. No. 228 serve only as guiding principles and are not conclusive on the courts. The appellate court fixed the property's value at the current market rate of P25.00 per square meter similar to that of other properties located in Barangay Sta. Rita and Barangay Concepcion.

The dispositive portion of the Decision reads:

**WHEREFORE**, the foregoing considered, the assailed Decision is hereby **MODIFIED** in that the award in the amount of P52,209,720.00 as just compensation for 122.8464 hectares of ricelands is hereby **REDUCED** to THIRTY MILLION SEVEN HUNDRED ELEVEN THOUSAND SIX HUNDRED PESOS (P30,711,600.00) computed based on the current fair market value of the expropriated parcels of land at the rate of P25.00 per square meter.

The amount of One Million One Hundred Seventy Nine Thousand and Twenty Seven Pesos (P1,179,027.00) or whatever amount the petitioner has paid to the Gallegos as initial or provisional valuation, as well as the Two Million Pesos (P2,000,000.00) already released pursuant to this Court's Resolution dated 5 November 2004 as partial execution of the court a quo's decision shall be deducted from the foregoing award.<sup>[18]</sup>

Petitioner LBP sought reconsideration but was denied in a Resolution dated 23 June 2006. Hence, the instant petition, raising the following issues:

1. IS IT LAWFUL OR VALID FOR THE COURT A QUO AND THE APPELLATE COURT TO USE THE ALLEGED CURRENT MARKET VALUE IN DETERMINING SUBJECT PROPERTY'S JUST COMPENSATION, IN EFFECT RETROACTIVELY APPLYING R.A. NO. 6657 IN OBVIOUS CONTRAVENTION OF P.D. NO. 27/E.O. NO. 228.

2. IS IT LAWFUL OR VALID FOR THE COURT A QUO AND THE APPELLATE COURT TO USE AN INEXISTENT GOVERNMENT SUPPORT PRICE ALLEGEDLY IN THE AMOUNT OF FIVE HUNDRED PESOS (P500.00) IN APPARENT VIOLATION OF THE LEGISLATED GOVERNMENT SUPPORT PRICE (GSP) AMOUNTING TO THIRTY FIVE PESOS (P35.00) FOR EVERY CAVAN OF 50 KILOS OF PALAY?

3. IS IT LAWFUL OR VALID FOR THE APPELLATE COURT TO REQUIRE THE RELEASE OF TWO MILLION PESOS (PhP 2,000,000.00), WHICH DOES NOT CONSTITUTE AS THE INITIAL AMOUNT OF VALUATION FOR SUBJECT PROPERTY, IN FAVOR OF RESPONDENTS?<sup>[19]</sup>

On 26 July 2006, the Court issued a Resolution requiring the LBP Legal Department, the counsel for petitioner LBP, to submit proof of written conformity of the Office of the Government Corporate Counsel (OGCC) to represent petitioner LBP in the instant petition to conform to the Court's directive in *Land Bank of the Philippines v. Teresita Panlilio-Luciano*.<sup>[20]</sup> Pursuant to said Resolution, the LBP Legal Department submitted through a Compliance/Manifestation<sup>[21]</sup> a copy of the Letter of Authority issued by the OGCC authorizing Atty. Rafael L. Berbaño and Atty. Jose Marie A. Quimboy to appear as collaborating counsels in all LBP cases. The OGCC likewise filed a Manifestation and Motion<sup>[22]</sup> stating its conformity to the appearance of the LBP Legal Department on behalf of petitioner LBP and formally entering its appearance as collaborating counsel for petitioner LBP. In a Resolution dated 13 November 2006, the Court noted the separate manifestations of the OGCC and the LBP Legal Department and directed respondents to file a comment on the petition.<sup>[23]</sup>

Contrary to respondents' claim, the petition is accompanied by a valid verification and certification of non-forum shopping. Annexed to the petition is a special power of attorney<sup>[24]</sup> issued by Wilfredo C. Maldia, Officer-In-Charge, Agrarian and Domestic Banking Sector of the LBP pursuant to Board Resolution No. 03-077. In the resolution, the LBP Board of Directors approved the designation of any LBP lawyer as attorney-in-fact to appear before the courts in all cases where LBP is a party.<sup>[25]</sup> Pursuant thereto, Attys. Berbaño and Quimboy were constituted as duly authorized representatives and attorneys-in-fact in the instant case with full power to sign the verification of non-forum shopping.<sup>[26]</sup>

After petitioner filed a reply<sup>[27]</sup> to respondents' comment, respondents filed a Motion for Partial Execution, praying for the release of P3,179,027.00 by way of partial execution of judgment, alleging that no partial execution of the award to respondents had been effected so far notwithstanding the Court of Appeals' Resolution dated 05 November 2004 and Decision dated 29 September 2005. Thereafter, respondents filed a Supplemental Comment dated 24 March 2008. For its part, petitioner LBP filed a Comment dated 10 April 2008 on respondents' Motion for

Partial Execution and a Reply to respondents' Supplemental Comment.

Now to the core issue of just compensation.

Citing *Gabatin v. Land Bank of the Philippines*,<sup>[28]</sup> petitioner LBP argues that respondents' property was acquired under the effectivity of P.D. No. 27 and E.O. No. 228; thus, the formula provided therein should apply in fixing just compensation. Petitioner also pointed out the trial court's failure to take judicial notice of the mandated Government Support Price of P35.00 per *cavan* for *palay* at the time of taking in 1972.

The petition lacks merit.

The Court has already ruled on the applicability of agrarian laws, namely, P.D. No. 27/E.O. No. 228 in relation to Republic Act (R.A.) No. 6657, in prior cases concerning just compensation.

In *Paris v. Alfeche*,<sup>[29]</sup> the Court held that the provisions of R.A. No. 6657 are also applicable to the agrarian reform process of lands placed under the coverage of P.D. No. 27/E.O. No. 228, which has not been completed upon the effectivity of R.A. No. 6657. Citing *Land Bank of the Philippines v. Court of Appeals*,<sup>[30]</sup> the Court in *Paris* held that P.D. No. 27 and E.O. No. 228 have suppletory effect to R.A. No. 6657, to wit:

We cannot see why Sec. 18 of RA [No.] 6657 should not apply to rice and corn lands under PD [No.] 27. Section 75 of RA [No.] 6657 clearly states that the provisions of PD [No.] 27 and EO [No.] 228 shall only have a suppletory effect. Section 7 of the Act also provides -

Sec. 7. *Priorities.*--The DAR, in coordination with the PARC shall plan and program the acquisition and distribution of all agricultural lands through a period of (10) years from the effectivity of this Act. Lands shall be acquired and distributed as follows:

Phase One: *Rice and Corn lands under P.D. 27*; all idle or abandoned lands; all private lands voluntarily offered by the owners of agrarian reform; x x x and all other lands owned by the government devoted to or suitable for agriculture, which shall be acquired and distributed immediately upon the effectivity of this Act, with the implementation to be completed within a period of not more than four (4) years (emphasis supplied).

This eloquently demonstrates that RA [No.] 6657 includes PD [No.] 27 lands among the properties which the DAR shall acquire and distribute to the landless. And to facilitate the acquisition and distribution thereof, Secs. 16, 17 and 18 of the Act should be adhered to. In *Association of Small Landowners of the Philippines v. Secretary of Agrarian Reform*,[,] this Court applied the provisions (of) RA 6657 to rice and corn lands when it upheld the constitutionality of the payment of just compensation for PD [No.] 27 lands through the different modes stated in Sec. 18.<sup>[31]</sup>