

## FOURTH DIVISION

[ G.R. No. 177607, January 19, 2009 ]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. PACITA AGRICULTURAL MULTI-PURPOSE COOPERATIVE, INC., REPRESENTED BY ITS PRESIDENT, AGNES CUENCA AND ITS MANAGER, HON. MARCELO AGUIRRE, JR., RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court are the Decision<sup>[2]</sup> dated 12 December 2005 and Resolution<sup>[3]</sup> dated 20 April 2007 of the Court of Appeals in CA-G.R. CV No. 73774. The appellate court decided to reverse and set aside the Decision<sup>[4]</sup> of the Special Agrarian Court (SAC) dated 18 May 2000 in CA-G.R. CV No. 73774, and resolved to deny the Motion for Reconsideration of petitioner.

The factual antecedents of the case are as follows:

The eight parcels of land disputed in this case are all located in Barangay Ayungon, La Carlota City, Negros Occidental, and contain an aggregate area of 34.95 hectares, more or less (collectively referred to herein as the subject property). The subject property was previously covered by Transfer Certificates of Title (TCTs) No. T-567, No. T-1203, No. T-1204, No. T-1205, No. T-1208, No. T-1209, No. T-1210, and No. T-1213 of the Registry of Deeds for the City of La Carlota in the name of the Ayungon Agricultural Corporation (AAC).

Sometime in 1972, the Department of Agrarian Reform (DAR) acquired the subject property under its Operation Land Transfer Program, pursuant to Presidential Decree No. 27.<sup>[5]</sup> The subject property was thereafter distributed to farmer-beneficiaries. From the years 1978 to 1983, Certificates of Land Transfer (CLTs) were issued to the said beneficiaries, and from the years 1986 to 1990, the corresponding Emancipation Patents (EPs) were granted.<sup>[6]</sup>

On 10 February 1986 and 3 March 1987, petitioner Land Bank of the Philippines (LBP) paid in favor of the AAC the amount of P35,778.70, the value of only two out of the eight parcels of land comprising the subject property taken by the DAR in 1972, particularly, those covered by TCTs No. T-567 and No. T-1205.<sup>[7]</sup>

On 28 May 1987, respondent Pacita Agricultural Multi-Purpose Cooperative, Inc. purchased the subject property from the AAC.<sup>[8]</sup> By the latter part of the year 1987, respondent inquired from the petitioner about the balance of payment for the six other parcels of land constituting the subject property.

On 13 November 1987, petitioner, through its Assistant Vice President Ruben V. Mabagos, sent a letter<sup>[9]</sup> to respondent, stating that the value of the remaining parcels of land was pegged at **P148,172.21**.<sup>[10]</sup> Respondent, however, refused to accept this valuation.

In the interregnum, Republic Act No. 6657<sup>[11]</sup> was signed into law by then President Corazon Aquino. The said law took effect on 15 June 1988, after it was published in two newspapers of general circulation. Republic Act No. 6657 was enacted to promote social justice to the landless farmers and provide "a more equitable distribution and ownership of land with due regard for the rights of landowners to just compensation and to the ecological needs of the nation."<sup>[12]</sup> Section 4 of Republic Act No. 6657 provides that the Comprehensive Agrarian Reform Law shall cover all public and private agricultural lands including other lands of the public domain suitable for agriculture. Section 7 provides that rice and corn lands under Presidential Decree No. 27, among other lands, will comprise Phase One of the acquisition plan and distribution program. Section 75 states that the provisions of Presidential Decree No. 27 and Executive Order No. 228<sup>[13]</sup> and No. 229,<sup>[14]</sup> and other laws not inconsistent with Republic Act No. 6657 shall have suppletory effect.<sup>[15]</sup>

In a Memorandum<sup>[16]</sup> dated 12 August 1994 addressed to respondent, petitioner reiterated that the value of the remaining subject property amounted only to **P148,172.21**. In the same Memorandum, petitioner required respondent to submit certain documentary requirements so that full payment for the subject property could be finally effected. Respondent, through counsel, protested petitioner's proposed value for the remainder of the subject property and requested a revaluation.<sup>[17]</sup>

In October 1994, the DAR issued Administrative Order No. 13, Series of 1994 (A. O. No. 13),<sup>[18]</sup> which imposed, on the value of land not yet paid to the landowner, an increment of six percent (6%) yearly interest, compounded from the date of coverage, with 21 October 1972 as the earliest date, up to 21 October 1994.

Petitioner then adjusted its proposed valuation for the remaining portions of the subject property by adding the increment provided under A. O. No. 13, thus, increasing the same to **P537,538.34**.<sup>[19]</sup> Respondent still rejected the said amount, contending that petitioner committed a mistake in computing the increment.

Feeling aggrieved and without any other recourse, respondent filed, on 18 September 1995, a Petition for Land Valuation and Determination of Just Compensation<sup>[20]</sup> before the Regional Trial Court of Negros Occidental against petitioner. The case was docketed as SPL. CAR CASE NO. 95-08 and was raffled to Branch 54, the designated Special Agrarian Court (SAC).

In an Order dated 24 January 1996, the SAC allowed the amendment of the respondent's Petition therein so it may include additional parties for a complete determination of the case. In the Amended Petition in SPL. CAR CASE NO. 95-08,<sup>[21]</sup> the DAR, as well as the farmer-beneficiaries of the subject property, were named as additional respondents. In its Amended Petition in SPL. CAR CASE NO. 95-08, herein respondent prayed that the just compensation to be paid by petitioner for

the rest of the subject property be fixed at the amount of P2,763,622.50<sup>[22]</sup> or higher. In the alternative, respondent prayed that Executive Order No. 228 and A.O. No. 13 be declared unconstitutional for being violative of the due process clause of the Constitution and the principle of just compensation.

On 18 May 2000, the SAC promulgated its Decision, decreeing that the valuation prescribed in Presidential Decree No. 27 and Executive Order No. 228, which enactments have already been declared constitutional, must be strictly applied. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. The [herein petitioner], Land Bank of the Philippines, is hereby ordered to pay [herein respondent] for the remaining 26.2514 hectares of rice land taken under Presidential Decree No. 27 in October 1972, valuated at 112.5 cavans of 50 kilo *palay* per sack per hectare, and computed in accordance with Executive Order No. 228, plus [an] increment of six percent (6%) interest and compounded per annum effective October 21, 1972 until fully paid;  
<sup>[23]</sup>
2. The rights acquired by the farmer beneficiaries under Presidential Decree No. 27 shall be recognized and respected; and
3. No pronouncement as to costs.<sup>[24]</sup>

Respondent filed a Motion for Clarificatory Order,<sup>[25]</sup> alleging that the Decision of the SAC merely provided for a formula to be used in determining the value of the land but did not provide the exact amount therefor. Acting thereon, the SAC issued a Clarificatory Order<sup>[26]</sup> on 22 June 2000, with the following decree:

WHEREFORE, par. (1) of the dispositive portion of the DECISION dated May 18, 2000, (sic) is hereby amended to read as follows:

- 1) The [herein petitioner], Land Bank of the Philippines, is hereby ordered to pay [herein respondent] for the remaining 28.2514 hectares of rice land taken under Presidential Decree No. 27 on October 21, 1972 valuated at 112.5 cavans of 50-kilo *palay* per sack per hectare and computed in accordance with Executive Order No. 228, plus increment of six (6%) percent interests (sic) and compounded per annum effective October 21, 1972 until fully paid, and with the present accrued amount of P506,649.28.

Unsatisfied, respondent filed a Motion for Reconsideration<sup>[27]</sup> of the SAC Decision dated 18 May 2000 and Order dated 22 June 2000, but the same was denied by the SAC in an Order<sup>[28]</sup> dated 20 September 2001.

Respondent, thus, filed an Appeal with the Court of Appeals under Rule 41 of the Rules of Court, which was docketed as CA-G.R. CV No. 73774.

On 12 December 2005, the Court of Appeals promulgated its assailed Decision, the pertinent portions of which provide:

We find for the [herein respondent].

**There is no doubt that PD 27 and the implementing rule EO 228 are constitutional.** Their constitutionality has been upheld in the landmark case of *Association of Small Landowners vs. DAR* and reiterated in a long line of cases. That notwithstanding, this Court opines that the application of the formula under PD 27 and EO 228 in arriving at the just compensation in the case at bar is not only unjust, but is also oppressive to the rights of [respondent].

Be it noted that the lands subject matter of this case were taken in 1972, but remained unpaid to this day. The compensation offered by the [herein petitioner] in the amount of P148,172.21 for the remaining lands was based on the land valuation some 20 years ago, at the time of its taking in 1972, pursuant to PD 27. EO 228, series of 1987 declared that the valuation of rice and corn lands covered by PD 27 shall be based on the *average gross production* determined by the Barangay Committee on Land Production in accordance with Department Memo Circular No. 26, series of 1973 and related issuances and regulation (sic) of the DAR. 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)*, 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 land owner (sic). **Following a literal interpretation of said rule, the price of rice and corn lands today would be based on prices 20 years ago. If such were the case, it would clearly result in an injustice to the landowner. No further argument is needed to illustrate the unjustness of fixing the price of *palay* at P35.00 per cavan even if the payment will be made now.**

The determination of just compensation under PD 27 is not final or conclusive. Determination of just compensation is a judicial prerogative. Section 2 of Executive Order No. 228, however, may serve as a guiding principle, or one of the factors in determining just compensation, but may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount. A perusal of the assailed decision shows that in arriving at the just compensation to be paid to the landowner, the lower court strictly applied the provisions of PD 27 and EO 228, anchoring its argument solely on the ground that the lands were taken pursuant to the said law, and even went on to state that the courts in treating the valuation under PD 27 are bound by the formula set by law and there is not much room for discretion as in the cases under the CARP. To reiterate, the determination of just compensation is a task unmistakably within the prerogative of the courts. **In determining just compensation, not only must the courts consider the value of the land, but also other factors as well, in accordance with the particular circumstances of each case. The resolution of just compensation cases for the taking of lands under agrarian reform**

**is, after all, essentially a judicial function.**

Pertinent hereto is the recent case of *Land Bank of the Philippines vs. Eli G. Natividad, et al.*, which we partly quote hereunder, viz:

"Land Bank's contention that the property was acquired for purposes of agrarian reform on October 21, 1972, the time of the effectivity of PD 27, ergo just compensation should be based on the value of the property as of that time and not at the time of possession in 1993, is likewise erroneous. In *Office of the President, Malacañang, Manila v. Court of Appeals*, we ruled that the seizure of the landholding did not take place on the date of effectivity of PD 27 but would take effect on the payment of just compensation.

Under the factual circumstances of this case, the agrarian reform process is still incomplete as the just compensation to be paid private respondents has yet to be settled. Considering the passage of Republic Act No. 6657 (RA 6657) before the completion of this process, the just compensation should be determined and the process concluded under the said law. Indeed, RA 6657 is the applicable law, with PD 27 and EO 228 having only suppletory effect.

x x x x

That just compensation should be determined in accordance with RA 6657, and not PD 27 and EO 228, is especially imperative considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample."<sup>[29]</sup> (Emphasis ours.)

On the application of the provisions of Republic Act No. 6657, the Court of Appeals further elucidated that:

Moreover, Section 75 of RA 6657 clearly states that the provisions of PD 27 and EO 228 shall only have a suppletory effect. Section 7 of the Act also provides -

"SECTION 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 year 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 for agrarian reform; . . . 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."