

THIRD DIVISION

[G.R. No. 168631, April 07, 2009]

LAND BANK OF THE PHILLIPINES, PETITIONER, VS. CAROLINA B. VDA. DE ABELLO AND HEIRS OF ELISEO ABELLO, NAMELY: NENITA, SULITA, ROLANDO, IMELDA AND ELISEO, JR., ALL SURNAMED ABELLO, RESPONDENTS.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari*, under Rule 45 of the Rules of Court, seeking to annul and set aside the Decision^[1] dated February 28, 2005, and Resolution^[2] dated June 27, 2005, of the Court of Appeals (CA) in CA-G.R. SP No. 85091.

The antecedents are as follows:

Respondent Carolina Vda. de Abello (Carolina) is the widow of the late Eliseo Abello, while the rest of the respondents are their children. Respondents are the owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. NT-55863, containing an area of 12.1924 hectares, situated at Brgy. Sto. Niño 3rd, San Jose City.^[3]

In a letter^[4] dated March 6, 2000 addressed to a certain Dalmacio Regino, thru Eliseo Abello, the Land Valuation and Landowner's Compensation Office III of the Land Bank of the Philippines (LBP) informed the respondents that 10.3476 hectares of the their property have been placed under the government's Operation Land Transfer^[5] and that the assessed compensation for the land's expropriation was P146,938.54.

Using the guidelines for just compensation embodied in Presidential Decree No. 27^[6] (PD 27) and implemented in Executive Order No. 228^[7] (EO 228), and taking into consideration the Government Support Price (GSP) for one *cavan* of 50 kilos *palay* in October 21, 1972 which was P35.00,^[8] the Department of Agrarian Reform (DAR) and the LBP computed the value of the 10.3476 hectare land at P40,743.66.^[9] Based on DAR Administrative Order No. 13 (DAR AO 13),^[10] series of 1994, a 6% increment in the amount of P106,194.88 was added to the original valuation.^[11] Thus, the formula they used to compute the value of the property was:

**Land value = Average Gross Production (AGP) x 2.5
Government Support Price (GSP)**

Or = 45 x 2.5 x 35

$$= P3,937.5 \times 10.3476 \text{ hectare}$$

$$= P40,743.66 + P106,198.88 \text{ Increment per CAR AO 13, S. 1994}$$

$$= P 146,938.54$$

Claim No. 03-EO-94-0573 reflects that the proceeds of the claim amounts as follows:

	Original Increment per DAR AO 13, S. 1994	Total
Cash	4,074.37	10,619.48
P		14,693.85
Bond	36,669.29	95,575.40
		132,244.69
Total	40,743.66	106,194.88
		146,938.54 ^[12]

In a letter^[13] dated June 6, 2000, Carolina informed LBP that she is the owner of the said parcel of land and not Dalmacio Regino. Further, she stated that the prevailing market value of an agricultural land at Sto. Niño 3rd, San Jose City at that time was P300,000.00 to P400,000.00 per hectare. She pegged the value of the subject property at P350,000.00 per hectare or a total of P4,267,340.00, which should be paid to her and the other heirs of Eliseo Abello.^[14]

Subsequently, respondents filed a Petition for Just Compensation^[15] before the Special Agrarian Court (SAC), Regional Trial Court, Branch 33, Guimba, Nueva Ecija, which petition was later docketed as Special Agrarian Case No. 1193-G.

Respondents alleged that they are the owners of an agricultural land covered by TCT No. NT-55863 consisting of 12.1924 hectares situated at Barangay Sto. Niño 3rd, San Jose City, their ownership being evidenced by a deed of absolute sale executed in favor of the spouses Eliseo Abello and Carolina Abello by the registered owner, Eleuteria Vda. de Ignacio; that 10.3476 hectares of the aforesaid land was placed under Operation Land Transfer by the government; that the defendant LBP fixed the value of their land at P145,938.54; that their land yields an average harvest of 120 *cavans* of *palay* per hectare per cropping; that the prevailing purchase price per hectare in the area ranges from P300,000.00 to P400,000.00 per hectare; and that the petitioners are willing to sell aforesaid landholding for P350,000.00 per hectare.

^[16] Ultimately, they prayed, among other things, that the just compensation for the subject property be fixed in the amount of not less than P4,267,340.00.

On July 26, 2002, LBP filed its Answer.^[17] Among other things, LBP alleged that the said landholding was under Operation Land Transfer by the DAR, and was valued in accordance with PD 27 and EO 228; that it was endorsed to the LBP for payment in November 1994; that LBP reviewed the claim and found the same in order; that the subject landholding was valued at P40,743.66 for the 10.3426 hectares covered; that the average gross production (AGP) was determined to be 45 *cavans* per hectare; that the government support price in 1972 per *cavan* of *palay* was P35.00,

the price obtaining at that time; that in addition to the amount of P40,743.66, DAR AO 13 provides for an incremental increase of 6% compounded annually, hence, the total compensation due the landowner is P146,938.54.^[18] LBP prayed that the said valuation be adopted by the SAC or that it be judicially determined in accordance with law and jurisprudence.

Thereafter, the SAC appointed commissioners to assist it in examining, investigating, and ascertaining the facts relevant to the dispute, including the valuation of the subject landholding. The team was headed by Officer-in-Charge, Branch Clerk of Court, Mr. Arsenio S. Esguerra, Jr. (Esguerra), with Mr. Gil Alvarez and Mr. Willy Wong as members.

On January 30, 2003, Commissioner Esguerra submitted a Consolidated Commissioner's Report^[19] detailing their findings. Based on their ocular inspection, the land is situated four kilometers from the town proper and accessible by a feeder road. The topography is generally flat and there are water pumps installed. He recommended that the compensation for the subject land should be pegged at P200,000.00 per hectare. It reads:

x x x x

The landholdings of the plaintiff has an aggregate area of 10.3476 hectares situated at Barangay Sto. Niño 3rd, San Jose City.

The landholding is classified as riceland. It is four (4) kilometers away from the city proper of San Jose City and traversed by a feeder road. It is accessible to all kinds of transportation. It is along the San Jose City-Lupao, Nueva Ecija provincial highway. The topography is generally flat and there is a creek (Linamuyak Creek) near the landholdings where farmer-beneficiaries can derive water. There are also water pumps installed, hence, the landholding is artificially irrigated. There is electricity in the site. The average gross harvest ranges from 100 to 110 cavans per hectare.

Based from the foregoing considerations, the undersigned believes that the compensation of plaintiff's landholdings with an aggregate area of 10.3476 hectares is P200,000.00 per hectare.

On April 12, 2004, the SAC rendered a Decision^[20] adopting the recommendation of its appointed commissioners which fixed the just compensation for the subject property at P200,000.00 per hectare. The decretal portion of which reads:

WHEREFORE, judgment is hereby rendered:

1. Fixing the just compensation for plaintiffs' 10.342 hectare land at P200,000 per hectare or a total of P2,068,520.00
2. Ordering the defendant Land Bank of the Philippines to pay the above amount to the plaintiffs.

SO ORDERED.^[21]

Both the LBP and the DAR filed separate motions for reconsideration which was denied in the Order^[22] dated July 5, 2004.

Pursuant to Section 60 of RA 6657, LBP sought recourse before the CA in CA-G.R. SP No. 85091, arguing that:

A. THE COURT A *QUO* ERRED IN FIXING THE JUST COMPENSATION OF THE COVERED AREA OF 10.3476 HECTARES AT P200,000.00 PER HECTARE BY **NOT** FOLLOWING THE APPROPRIATE LAND VALUATION FORMULA PRESCRIBED UNDER PD 27 AND EO NO. 288.

B. THE COURT A *QUO* ERRED IN APPLYING THE VALUATION FACTORS UNDER R.A. 6657 TO SUBJECT LANDHOLDING ACQUIRED UNDER P.D. 27.^[23]

On February 28, 2005, the CA rendered a Decision^[24] denying the petition, the dispositive portion of which reads:

WHEREFORE, finding no reversible error from the order abovementioned, the petition is hereby **DENIED** and the decision of the Regional Trial Court[,] Branch No. 33 of Guimba, Nueva Ecija in Agrarian Case No. 1193-G is **AFFIRMED** in all respect.

SO ORDERED.^[25]

The CA opined that the SAC made no mistake when it ruled that the provisions of RA 6657 is controlling and that the provisions of PD 27 and EO 228 shall apply only in suppletory character to RA 6657.^[26]

LBC filed a motion for reconsideration, but it was denied in the Resolution^[27] dated June 27, 2005.

Hence, this present petition.

The core issue submitted by LBP to be resolved in the present case is:

WHETHER OR NOT THE SPECIAL AGRARIAN COURT CAN DISREGARD THE FORMULA PRESCRIBED UNDER

P.D. NO. 27 AND E.O. 228 IN FIXING THE JUST COMPENSATION OF P.D. 27-COVERED LAND.^[28]

LBP maintains that the formula under PD 27 and EO 228, coupled with the grant of compounded interest pursuant to DAR AO 13, is sufficient to arrive at a just compensation for the subject property. Moreover, LBP insists that it is the value of the property at the time of taking -- not at the time of payment -- that is controlling.^[29]

To buttress its claim, LBP argues that the property was legally taken by the government upon the effectivity of PD 27 or on October 21, 1972, and it is such date that ownership over the subject land was deemed transferred from the landowner to the farmer-beneficiaries. When EO 228 fixed the basis in determining