

## FIRST DIVISION

[ G.R. No. 160080, June 19, 2009 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. CARLOS VILLAMOR, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

Before the Court is a petition for review<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated 19 August 2002 and Resolution<sup>[3]</sup> dated 28 August 2003 of the Court of Appeals in CA-G.R. CV No. 61749.

#### The Facts

Petitioner National Power Corporation (NPC) is a government-owned and controlled corporation created and existing by virtue of Republic Act No. 6395 (RA 6395),<sup>[4]</sup> as amended by Presidential Decree No. 938.<sup>[5]</sup> The main objective of NPC is the development of hydro-electric generation power and the production of power from any other source. Its charter grants to NPC the power, among others, to exercise the right of eminent domain.<sup>[6]</sup>

Due to its Leyte-Cebu Interconnection Project, NPC's 230 KV Talisay-Compostela transmission lines and towers have to pass parcels of land in the City of Danao and Municipality of Carmen, both situated in the province of Cebu. Two of these lands situated in Cantipay, Carmen, Cebu are owned by respondent Carlos Villamor (Villamor). On these lands stand fruit-bearing trees, such as mango, coconut, avocado, soursop or *guyabano*, jackfruit, tamarind, breadfruit, sugar apple or *atis*, Spanish plum or *siniguelas* and banana; and non-fruit bearing trees, such as mahogany and gemilina.

On 22 July 1996, NPC filed with the Regional Trial Court, Branch 25, Danao City, Cebu (trial court), a complaint for eminent domain of Villamor's lands, docketed as Civil Case No. DNA-389. The lands were identified as Lot 3, 6191 Cad. 1046-D with a total area of 5,590.76 square meters and covered by Transfer Certificate of Title (TCT) No. 11970 and Lot 4, 6191 Cad. 1046-D with a total area of 3,134.53 square meters and covered by TCT No. 15-12045.<sup>[7]</sup>

NPC deposited with the Philippine National Bank, Fuente Osmeña branch, P23,115.70, representing the assessed value on the tax declaration of the lands. The trial court, in its Order dated 14 July 1997,<sup>[8]</sup> ordered the issuance of the corresponding writ of possession in favor of NPC.

In the course of the proceedings, several parties intervened, namely Teodolo Villamor, Teofilo Villamor and Nunila Abellar. They were allegedly the siblings of respondent Villamor and the heirs of the late spouses Jose and Dolores Villamor. The intervenors claimed that NPC violated their legal rights in negotiating only with Villamor, who is just one of seven heirs. Villamor was allegedly not authorized by the other legal heirs to negotiate and receive payment for the land sought to be expropriated.

The only issue between NPC and Villamor involves the reasonableness and adequacy of the just compensation of the properties.

The trial court created a board of three commissioners to determine the just compensation for the lands and improvements. As approved by the trial court, the following formed the board of commissioners: Sebastian C. Ocon, the Right-of-Way Supervisor of NPC; Nicolas Capoy, a collection agent of the Bureau of Internal Revenue; and Fortunato C. Ligutom (Ligutom), the Municipal Assessor of Carmen, Cebu. Ligutom was appointed as Chairman.

In the Joint Commissioners' Report<sup>[9]</sup> submitted to the trial court, the board of commissioners recommended the amount of P433 per square meter as the fair market value of Villamor's lands. The board based the formulation on the following: (1) the inspection report made by representatives of the court, (2) list of documentary exhibits, (3) opinion values of the different agencies submitted to the Provincial Appraisal Committee, (4) certification from the different government agencies, and (5) the owner's proposal. The amount of P290 per square meter was the average value submitted by the (1) Regional Investors, Inc., (2) Fil-Asia Agent, (3) International Exchange Bank, (4) Rural Bank of Carmen, (5) Municipal Assessor of Carmen, and (6) the owner's proposal. Also, the proposed fair market value of P350 per square meter was taken into consideration since the affected lands were identified as part of the industrial zone per Regional Development Council Resolution No. 38, series of 1993<sup>[10]</sup> dated 17 September 1993. Likewise included in the report were the respective values of the fruit bearing and non-fruit bearing trees planted on Lots 3 and 4.

On 24 November 1997, Villamor filed his Comment to the Commissioners' Report.<sup>[11]</sup> Villamor exhibited a similar expropriation case, Civil Case No. DNA-426, filed by NPC against Francisco Villamor, involving a lot, designated as Lot 2 of 6191, Cad. 1046-D, adjoining the lands of Villamor. In said case, the trial court rendered a decision fixing the just compensation at P600 per square meter. However, upon motion of NPC, the amount was reduced to P450.<sup>[12]</sup> Villamor prayed that the trial court consider the same amount of just compensation as that awarded to the landowner adjacent to his lands. Further, Villamor stated that a small portion of Lot 4 consisting of an area of 15.23 square meters had been separated from the remaining unaffected portion of the total area and would not be used by Villamor for any productive purposes. Thus, Villamor prayed that such small portion be included as part of the total area that should be compensated by NPC.

On 22 December 1997, the trial court rendered a decision in favor of Villamor.<sup>[13]</sup> The dispositive portion states:

WHEREFORE, facts and law considered, the Court hereby renders judgment condemning property subject of expropriation in favor of plaintiff; declaring in favor of the defendants for plaintiff to pay the fair market value of the portions of the lots condemned by this expropriation proceedings at P450.00 per square meter and to pay to defendant Carlos Villamor, the following amounts:

1. P2,515,842.00 for the 5,590.76 sq. mts. as the total affected area of Lot 3 of 6191, Cad. 1046-D;
2. P1,410,538.50 for the 3,134.53 sq. mts. as the total affected area of Lot 4 of 6191, Cad. 1046-D;

or the total amount of Three Million Nine Hundred Twenty-Six Thousand Three Hundred Eighty Pesos and 50/100 (P3,926,380.50);

Declaring that the fair market value of all the improvements inside the affected lots to be in the amounts recommended in the Commissioners' Unit Base Market Value of the Land and Improvements Owned by Carlos Villamor attached to the Commissioners' Report and ordering the Plaintiff National Power Corporation to pay to the defendant Carlos Villamor the following amounts:

1. P648, 932.00 for the total fair market value of the improvements in Lot 3, of 6191, Cad. 1046-D;
2. P372,968.00 for the total fair market value of the improvements in Lot 4, of 6191, Cad. 1046-D.

or the total amount of One Million Twenty One Thousand Nine Hundred Pesos (P1,021,900.00).

Ordering the amount of One Million Seven Hundred Eighty Three Thousand Five Hundred Six Pesos and 50/100 (P1,783,506.50) representing just compensation of Lot 4 and improvements described in the Amended Complaint, to be divided among the Hrs. of Jose and Dolores Villamor, or to be awarded solely to defendant Carlos Villamor, whichever is favored by the decision of the case pending litigation and under appeal with the Court of Appeals.

SO ORDERED.

Villamor filed a Motion for Reconsideration praying that the trial court's decision be reviewed by ordering NPC to likewise pay for the small isolated portion of Lot 4, consisting of 15.23 square meters.<sup>[14]</sup>

On 22 January 1998, the trial court, acting on Villamor's motion, rendered a Resolution amending its earlier decision.<sup>[15]</sup> The dispositive portion of the resolution states:

WHEREFORE, Motion for Reconsideration is given due course.

Let therefore the dispositive portion of the Decision in the last paragraph be amended by adding the following:

Ordering the plaintiff to pay the sum of P6,853.50 to defendant Carlos Villamor, same amount to be included in the deposit for valid claimants as proceeds of Lot 4, described in the complaint.

SO ORDERED.<sup>[16]</sup>

NPC filed an appeal with the Court of Appeals, docketed as CA-G.R. CV No. 61749.

### **The Ruling of the Court of Appeals**

On 19 August 2002, the Court of Appeals dismissed the petition and affirmed the decision of the trial court.<sup>[17]</sup> The relevant portions of the decision state:

A perusal of the decision rendered by the trial court will show that before the trial court arrived at the amount of P450.00 per square meter as just compensation for the expropriated property, the court *a quo* considered the following factors:

"The Committee on Appraisal through its Chairman, Mr. Fortunato Ligutom, submitted the Commissioner's Report.

Based on the opinion values of the different agencies, namely, Regional Investors, Inc., Fil Asia Agent, International Exchange Bank, Rural Bank of Carmen, Municipal Assessor of Carmen and Owner's Proposal, the Committee in computing the average value per square meter appraised P290.00 per square meter. Pursuant however to RDC Res. No. 38, s. 1993, the area under expropriation is covered by the industrial zone to which the proposed market value of the land per square meter is P350.00 more or less.

Opinion values submitted by the different agencies, namely, the Municipal Agriculturist Officer of Sogod, Cebu of Carmen, Cebu, Mandaue City, and the new schedule of market values from Provincial Assessor of Cebu, for mango trees and coconut trees, the Committee reached by average computation per tree at P22,756.00 for mango tree and P2,310 per coconut tree. The land on which the improvements grow is classified as first class, it being a fertile land and trees growing thereon produce plenty of fruits.

x x x

The Commissioner's Report did not consider the fact that in expropriating that portion of Lot 4 of 6191, Cad. 1046-D, a small dangling portion of the said lot consisting of 15.23 square meters is left out and separated from the remaining portion of said Lot 4. Considering that the 15.23 square meters cannot anymore be used by defendant Carlos Villamor for any productive purposes and the same will cease to have commercial value to the defendant Carlos Villamor, said dangling area should also be paid by plaintiff NPC.