

THIRD DIVISION

[G.R. No. 176487, August 25, 2009]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER,
VS. FAR EAST ENTERPRISES, INC., ARSOL MANAGEMENT
CORPORATION,* MARIA CHRISTINA C. BERNASCONI, JORGE C.
BERNASCONI, RENE C. BERNASCONI, REGINA B. TUASON,
CHRISTIAN C. BERNASCONI, MARTIN C. BERNASCONI, JAIME C.
BERNASCONI AND CHRISTINA MARIE C. BERNASCONI,
RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision^[1] of the Court of Appeals dated 9 November 2006 in CA-G.R. SP No. 72425 which dismissed petitioner Republic of the Philippines' Petition for *Certiorari*, and its Resolution^[2] dated 5 February 2007 denying petitioner's motion for reconsideration. The Court of Appeals held that the Regional Trial Court of Nasugbu, Batangas, Branch 14, in Civil Case No. 674, did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolution dated 17 June 2002 ordering petitioner to make an additional payment of P425.00 per square meter for the subject properties of respondents Far East and the Bernasconis before the issuance of an Order to take possession of the subject properties, and a writ of possession.

On 23 November 2001, the Republic of the Philippines, represented by the Secretary of the Department of Public Works and Highways (DPWH), filed a Complaint^[3] for Eminent Domain before the Regional Trial Court of Nasugbu, Batangas against Far East Enterprises, Inc. (Far East), Arsol Management Corporation (Arsol), Maria Christina C. Bernasconi, Jorge C. Bernasconi, Rene C. Bernasconi, Regina B. Tuason, Christian C. Bernasconi, Martin C. Bernasconi, Jaime C. Bernasconi and Christina Marie C. Bernasconi (Bernasconis).

The complaint alleged, *inter alia*, that:

5. Defendants are the declared owners of parcels of land situated at Barangay Balaytigue, Nasugbu, Batangas as shown in the Tax Declarations attached as Annexes "A", "B", "C", "D", "E", "F", "G", "H", "I", "J", "K", "L", "M", and "N", and certificates of title attached as annexes "O", "P", "Q", "R", "S", "T", "U", "V", "W", "X", "Y", "Z" and "AA" and more particularly described below together with the affected areas sought to be expropriated and the corresponding zonal values, to wit:

x x x x

6. To enable the plaintiff to construct the Ternate-Nasugbu Tali Batangas Road, a public purpose authorized by law to be undertaken by plaintiff, it is both necessary and urgent for plaintiff to acquire portions of the above parcels of land consisting of a total area of 29, 786 sq. m., more or less, shown in the attached sketch plan marked as Annex "CC" and made and integral part hereof.

7. The portion of above-described parcels of land sought to be expropriated have not been applied to nor expropriated for any public use and are selected by plaintiff as the site of the right-of-way in connection with the construction of the Ternate-Nasugbu Tali Batangas in a manner compatible with the greatest public good and the least public injury.

8. Plaintiff has negotiated with defendants for the acquisition of portions of the properties for the public purpose as above-stated at a price prescribed by law, but failed to reach an agreement with them notwithstanding the negotiations.

9. Under Section 7 of the Executive Order No. 1035 dated June 25, 1985, plaintiff represented by the DPWH is authorized to institute expropriation proceedings through the Office of the Solicitor General.

10. Pursuant to Section 4 of Republic Act No. 8974^[4] in relation to Section 12 of the Implementing Rules and Regulations thereof, plaintiff shall have the right to take or enter upon the possession of the real properties involves upon the issue of this Honorable Court of a Writ of Possession in favor of the plaintiff.

x x x x

11. Plaintiff is willing to deposit the total amount of P2.233M representing the zonal valuation of the affected portions of the subject parcels of land as stated in paragraphs 5 and 6 hereof and which for purposes of the issuance of the corresponding writ if possession, is required to be deposited by plaintiff with the authorized government depository, subject to the orders and final disposition of this Honorable Court.^[5]

The properties subjects of this case are all located in Barangay Balaytigue, Nasugbu, Batangas. The particulars of the parcels of land are as follows:

Owner	OCT/TCT No.	Lot/Block No.	Tax Declaration No.	Area Affected in Square Meters
Far East	T-60966	Block 7 ^[6]	014-01029	1,704
Far East	T-15189	Lot 339	014-01102	2,988
Far East	T-60540	Lot 536	014-01106	2,346
Far East	T-57762	Lot 535	014-01105	3,051

Far East	TP-1835	Lot 51	014-01313	2,317
Bernasconis	T-54825	Lot 549	014-01119	2,053
Bernasconis	T-54825	Lot 550	014-01120	190
Arsol	T-50152	Lot 534	014-00182	1,432
Arsol	T-50168	Lot 254	014-0098	1,356
Arsol	T-50158	Lot 53	014-0097	2,960
Arsol	T-51059	Lot 190	014-0088	2,398
Arsol	T-50160	Lot 191	014-0087	4,484
Arsol	T-50170	Lot 256	014-00175	457
Arsol	T-51064	Lot 250	014-00109	1,898

Arsol filed its Answer with Counterclaim^[7] dated 7 January 2002. It prayed that the prayer of petitioner (plaintiff therein) for a writ of possession be denied unless full payment of just compensation would be made after trial on the merits. It likewise asked that petitioner, after trial, be ordered to pay just compensation plus interest and penalties due for a property (Lot 272) located along the Nasugbu-Ternate Road in Natipunan, Nasugbu, Batangas, which was taken from it by the petitioner and used in a previous road project without payment of just compensation.

Respondent Far East filed its Answer^[8] dated 11 January 2002 which raised the following affirmative special defenses:

10.2 That answering defendant manifests that on or about March 2001, during the meeting held at its office, plaintiff made an offer to purchase the properties, of the answering defendant, subject matter of this case, at P200.00 per square meter. x x x.

10.2.1 That during the said meeting, answering defendant bargained for a higher price but Atty. Lamberto Aguilar, Legal Office of Department of Public Works and Highway (DPWH, for brevity), suggested that answering defendant accept the said amount of compensation at P75.00 per square meter because he claims that the actual use of the real estate properties, although classified as residential by the Municipal Assessor of Nasugbu, is agricultural;

10.2.2 That in compliance with the suggestion of plaintiff to put into writing our counter-offer, answering defendant wrote the former informing it of its desired amount and requesting for a copy of the revised parcellary survey plan showing the area to be affected after reduction in width of the right of way from 30 meters to 20 meters intended by the DPWH.

10.2.3 That after learning of its rights as landowner under Administrative Order No. 50 and Republic Act (RA, for brevity) No. 8974, answering defendant in a letter dated July 16, 2001, retracted the previous amount offered to plaintiff in its letter dated April 6, 2001 and, instead offered the said properties on a negotiated sale at the amount of at least P600.00 per square meter.

x x x x.

10.2.4 That Plaintiff never replied to answering defendant's letter under date of April 6, 2001. However, instead of commenting to the price we offered by way of negotiated sale on the July 16, 2001 letter, and acting in bad faith as well by not observing due process as evidenced by failure of the DPWH to provide the requested revised parcellary plan necessary for the defendant to make an informed final decision, plaintiff chose instead to endorse its complaint to the OSG for filing in court and, true to the statement made by Atty. Aguilar, fixed the amount of compensation at the amount of P75.00 per square meter. x x x.

10.3 That plaintiff misleads the Honorable Court in stating that the zonal valuation of the subject properties is P75.00 per square meter as the said amount corresponds only to agricultural lands, not to residential lands owned by answering defendant and subject of this complaint, as determined in the schedule of BIR zonal valuation attached as Annex "BB" in its complaint;

x x x x

10.4 That the subject properties except for one (1) property, are parts and parcels of Talibeach Subdivision, a residential subdivision, in line with the approved subdivision plans and/or by the said subdivision's Deed of Restriction, xerox copies of which are attached as annexes "4" to "4-1";

10.4.1 That, in addition, the properties are located in the same general area of other residential subdivisions such as Peninsula de Punta Fuego, and Maya-Maya Subdivisions as well as approximately 3 kilometers from two other residential subdivisions currently being developed as sold, specifically, Terrazas de Punta Fuego and Kawayan Cove Subdivision;

10.4.2 That Per Proclamation 1801 and Zoning Ordinance No. 03 of the Municipality of Nasugbu under date of April 1982, as approved by the Human Settlements Regulatory Commission under Resolution No. 123 under date of May 4, 1983, the area is declared as a Residential, Tourism and tourism potential area and therefore, may not even moreso be considered, classified as agricultural as self-servingly claimed by the DPWH Legal Officer, Atty. Aguilar. x x x.

10.5 That as previously stated, the amount of P75.00 per square meter corresponds to agricultural lands located at Brgy. Balaytigue, Nasugbu, Batangas and not to residential lands such as those of answering defendant subject of the complaint, as determined in Annex "BB" in the complaint;

x x x x

10.6 That similarly situated developed lots in the area are sold at the

range of P4,000.00 to 9,000.00 per square meter more or less. x x x.

10.7 All in all answering defendant is not objecting to the expropriation of its properties but it must be paid justly in respect to not only the final compensation but also in respect to the initial compensation to be deposited in full with the court, in conformity with R.A. No. 8974 & A.O. No. 50 x x x.^[9]

Respondent Far East prayed that, after due notice and hearing, the complaint be given due course by ordering petitioner to comply with the mandate of Section 4 (a) of Republic Act No. 8974 by depositing in its name the initial amount of P7,433,600.00 or P600.00 per square meter for the total area of 12,406 sq.m. of its properties to be used in the construction of the Ternate-Nasugbu Tali Batangas Road. It also asked that said amount be released to it and that the just compensation for its lands be fixed.

In their Joint Answer^[10] dated 11 January 2002, the Bernasconis admitted they were the lawful and registered owners of parcels of land - Lots Nos. 549 and 550 - covered by Transfer Certificates of Title (TCTs) No. T-54825, containing a total area of 2,243 sq.m., being expropriated by petitioner. They denied that petitioner made an offer to purchase the properties, subject matter of the case. They further adopted all the claims and defenses that were interposed by Far East and were applicable to their properties. Thus, they prayed that the complaint be given due course and petitioner be ordered to comply with Section 4(a) of Republic Act No. 8974 by depositing in their names the initial amount of P 1,345,800.00 or P600.00 per square meter for the 2,243 sq.m. of their property being expropriated. They asked that said amount be released to them, and that the just compensation for their properties be fixed.

Petitioner filed separate replies to the Answers of Arsol and Far East/the Bernasconis.^[11] Far East and the Bernasconis submitted their respective rejoinders to the reply filed by petitioner.^[12]

On 7 February 2002, respondent Arsol filed a Motion to Release Deposit, praying that the amount that may properly accrue for its lands sought to be expropriated be released as partial payment, to be taken from the funds deposited by petitioner for the benefit of all the defendants.^[13]

In its Order dated 8 February 2002, the trial court ordered petitioner to comply and manifest its compliance with the guidelines of Section 12 of the Implementing Rules and Regulations of Republic Act No. 8974, within ten days from receipt thereof, before it would issue an order for petitioner to take possession of the affected properties, so it may commence the implementation of the project mentioned in the complaint.^[14]

On 15 March 2002, petitioner filed its Compliance and Motion for Issuance of Order and Writ of Possession.^[15] It stated that DPWH Region IV certified that the amount of two million two hundred twenty-two thousand five hundred fifty pesos (P2,222,550.00) had been allotted and made available to cover payment of