591 Phil. 534

FIRST DIVISION

[G.R. No. 155407, November 11, 2008]

PHILIPPINE NATIONAL OIL COMPANY, PETITIONER, VS.LEONILO A. MAGLASANG AND OSCAR S. MAGLASANG, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the January 23, 2002 Decision[1] of the Court of Appeals (CA) in *CA-G.R. CV No. 67341*, as reiterated in its Resolution[2] of September 20, 2002, affirming with modification the *Joint Judgment*[3] dated December 16, 1999 of the Regional Trial Court (RTC) of Ormoc City, Branch 35, in *Civil Case No. 3267-O* and *Civil Case No. 3273-O*.

On October 25, 1994, the Philippine National Oil Company (PNOC) filed a complaint for eminent domain against respondent Oscar S. Maglasang, the registered owner of a 63,333-square meter parcel of land identified as Lot No. 11900 and covered by TCT No. T-4097. The case was docketed at the RTC, Ormoc City, Leyte as *Civil Case No. 3267-O*.

On November 10, 1994, the PNOC filed another expropriation complaint, this time against respondent Leolino A. Maglasang, owner of the 98,206-square meter parcel of land identified as Lot No. 11907, covered by OCT No. P-18869. The case was docketed with the same RTC as *Civil Case No. 3273-O*.

The subject parcels of land are located at Lim-ao, Municipality of Kananga, Leyte and to be used by the PNOC in the construction and operation of the 125MW Upper Mahiao Geothermal Power Plant Project.

The RTC issued writs of possession over Lot No. 11907 and Lot No. 11900 on December 5, 1994 and December 13, 1994, respectively, after PNOC posted the required provisional deposit.

On March 21, 1997, upon finality of the orders of condemnation in both expropriation cases, the trial court appointed three commissioners to ascertain and make a recommendation on the just compensation for the condemned lots in accordance with Section 5, Rule 67 of the Rules of Court. Those appointed were: Branch Clerk of Court Atty. Bibiano Reforzado, City Assessor Briccio D. Supremo and businessman Augusto T. Pongos.

Upon conduct of hearing and ocular inspections and reception of the parties' position papers and documentary evidence, Atty. Reforzado submitted a Commissioners' Report dated February 18, 1999, attaching therewith the different valuations

recommended by the three commissioners. City Assessor Supremo recommended the price of P 1,000.00 per square meter,[4] Clerk of Court Reforzado pegged the value of the lots at P 900.00 per square meter.[5] In his report, Mr. Pongos arrived at the lowest valuation of P 400.00 per square meter for the developed area and P 85.00 for the undeveloped area.[6]

Confronted with the commissioners' varying land valuations, the trial court made its own determination of the just compensation taking into account the range of prices recommended in the Commissioners' Report and documentary evidence presented by the parties. Setting the reckoning period for the computation of the just compensation at the time of the filing of the complaints, the trial court pegged the value of the two lots at P 300.00 per square meter. However, in the same decision, the trial court further increased said initial valuation to P 700.00 per square meter to compensate for what it termed as *inflation factor* and *adjustment factor.* Relying on the case of *Cosculluela v. Court of Appeals,*[7] the trial court ruled:

> After examining the data, the Court would like to take the mean position but similar to the ones taken by the Commissioners. For this, therefore, the Commissioners' Report is hereby accepted. From the reckoning date of 1994, the Court wants to apply a three-year period therefrom to ascertain the prevailing price. The court has in mind the dictum in Cosculluela vs. Court of Appeals (164 SCRA 393) which runs as follows: `just compensation means not only the correct determination of the amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered just for the property owner is made to suffer the consequence of being immediately deprived of his land.'
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> The Court thus believes an inflation factor is to be applied in the computation considering the time that elapsed since late 1994 up to the present. Also an adjustment factor commonly adopted by appraisers is included in the computations.
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> Wherefore, after considering all the foregoing, judgment is hereby rendered fixing the amount of P 700.00 per square meter as just compensation for Lot 11900 under TCT T-4097 in Civil Case No. 3267-0 or the amount of P 44,333,100 and for Lot 11907 under OCT No. P-18869 in Civil Case No. 3273-0 or the amount of P 68,744,200 to be paid by the plaintiff to the respective defendants plus cost of the proceedings.
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> SO ORDERED.

From the foregoing decision, both parties filed their respective appeals with the CA.

On January 23, 2002, the CA rendered the herein challenged decision[8] which modified the decision of the trial court insofar as it reduced the just compensation for the subject lots from P 700.00 to P 300.00. In arriving at such a decision, the CA ratiocinated, thus:

> We are of the opinion that the trial court reversibly erred in taking into account such 'inflation factor' and `adjustment factor' for the determination of just compensation in this case. It has misapplied the ruling in *Cosculluela* by substituting such `inflation factor' and or `adjustment factor' for the legally mandated interest in the price to be paid as just compensation in expropriation cases.
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> xxx Nowhere in the said decision may it be inferred that damages for such delay in the payment of just compensation, other than the legal interest provided by law, may be granted in addition or considered in computing the amount of just compensation such as the `inflation factor' applied by the trial court. On the contrary, our Supreme Court has even ruled that the *de facto* devaluation of the peso is not a factor in land valuation for purposes of expropriation. Therefore, there is absolutely no legal basis for the trial court's application of an `inflation factor' and `adjustment factor' in the determination of just compensation in these expropriation cases. The consistent rule has always been that the owner of the property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of the property at the time it is taken. This is the only way that compensation to be paid can be truly just, *i.e.*, just `not only to the individual whose property is taken, but to the public, which is to pay for it.' Hence, the price level for 1994 when the property was taken by plaintiff-appellant should be the proper valuation for defendant-appellants' properties and not their subsequent increased value after the passage of time.
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> WHEREFORE, premises considered, the present appeals are hereby PARTLY GRANTED. The Joint Judgment appealed from in Civil Case Nos. 3267-O and 3273-O is hereby AFFIRMED with MODIFICATIONS in that the just compensation for the expropriated properties is hereby ordered to be paid to defendant-appellants in the amount of P 300.00 per square meter, or the total amounts of P18,999,900.00 to defendant-appellant Oscar S. Maglasang for Lot No. 11900 and P 29,461,800.00 to defendant-appellant Leolino A. Maglasang for Lot No. 11907, with interest at the legal rate of 6% per annum from October 25, 1994 and November 10, 1994, respectively, until full payment is made.
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> No pronouncement as to costs.
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> SO ORDERED

Still unsatisfied, petitioner filed a motion for reconsideration of the foregoing decision but its motion was denied by the CA in the resolution of September 20, 2002.

Unable to accept the CA's decision for allegedly being contrary to law and established jurisprudence, PNOC is now before the Court with the following grounds in support of its petition:

A. CONTRARY TO THE RULING OF THE HONORABLE COURT OF APPEALS, THE INITIAL VALUATION OF THE TRIAL COURT OF P 300.00 PER SQUARE METER IS NOT WELL SUPPORTED BY THE EVIDENCE ON RECORD AS REPRESENTING THE FAIR MARKET VALUE OF THE EXPROPRIATED PARCELS OF LAND.

B. LIKEWISE CONTRARY TO THE RULING OF THE HONORABLE COURT OF APPEALS, THE SUBJECT PROPERTIES WERE AGRICULTURAL, NOT INDUSTRIAL, PARCELS OF LAND AT THE TIME THEY WERE TAKEN FOR PUBLIC USE.

As we see it, other than the question as to the precise time the fixing of just compensation should be reckoned, the rest of petitioner's arguments dwell solely on questions of fact.

In expropriation proceedings, the value of the land and its character at the time it was taken by the government are the criteria for determining just compensation.[9] This is so because, there are instances when the expropriating agency takes over the property prior to the expropriation suit, in which situation just compensation shall be determined as of the time of taking.[10] The reason for the rule, as pointed out in *Republic v. Lara*,[11] is that —

> (W)here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enchanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just; i.e., 'just not only to the individual whose property is taken,' 'but to the public, which is to pay for it.

Here, petitioner insists that contrary to the findings of the two courts below, the determination of just compensation should be reckoned prior to the time of the filing of the complaint for expropriation. According to petitioner in *Civil Case No. 3267-O*, petitioner took possession of the land on January 1, 1992 when PNOC leased the same from its administrator as evidenced by a Lease Agreement[12] for the period of January 1, 1992 to December 31, 1992. Thus, taking, for purposes of computing just compensation, should have been reckoned from January 1, 1992.

We are not persuaded.

In the context of the State's inherent power of eminent domain, there is "taking" where the owner is actually deprived or dispossessed of his property; where there is a practical destruction or a material impairment of the value of his property; or when he is deprived of the ordinary use thereof.[13]

In *Republic v. Castellvi*,[14] this Court held that there is a "taking" when the