

SECOND DIVISION

[G.R. NO. 157753, February 12, 2007]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. JUAN H. IMPERIAL, RESPONDENT.

DECISION

QUISUMBING, J.:

The petition for review before us assails the Decision^[1] dated November 23, 2001, of the Court of Appeals in CA-G.R. CV No. 68980, which set aside the Decision^[2] dated August 4, 2000, of the Regional Trial Court of Legazpi City, Branch 3, acting as a Special Agrarian Court in Agrarian Case No. 94-01. The petition also prays for the reversal of the Resolution^[3] dated March 21, 2003, denying reconsideration.

Respondent Juan H. Imperial owned five parcels of land^[4] with a total area of 156.1000 hectares, located in Barangay Pawa, Manito, Albay. Pursuant to the Land Reform Program under Presidential Decree No. 27^[5] and Executive Order No. 228,^[6] the Department of Agrarian Reform (DAR) placed these lands under its Operation Land Transfer (OLT). On October 21, 1972, the lands were distributed to deserving farmer beneficiaries.

On July 20, 1994, Imperial filed a complaint for determination and payment of just compensation^[7] against petitioner Land Bank of the Philippines, the DAR, and the farmer beneficiaries. The case was docketed as Agrarian Case No. 94-01 and raffled to the Regional Trial Court of Legazpi City, Branch 3, as Special Agrarian Court.

During the course of the trial, the court created a commission to examine, investigate and ascertain facts relevant to the dispute including the lands' valuation.

On June 21, 1996, the commission submitted a report^[8] containing the following findings: (1) the lands were not first-class riceland; (2) the irrigation came from a creek which depended on rains; (3) the harvest was once a year; (4) about fifteen hectares were devoted to non-fruit bearing coconut trees; (5) approximately five hectares were upland rice while the rest of the area was uncultivated; and (6) the lands were rolling hills. Using the formula under P.D. No. 27 and E.O. No. 228 for computing the land value,

$$\mathbf{LV = 2.5 \times AGP \times GSP}$$

where LV = Land Value

AGP = Average Gross Production (23 cavans for 1969-1971)

GSP = Government Support Price (P35/cavan in 1972)

the commission fixed the just compensation at P2,012.50/hectare, for a total of P314,151.25. Imperial vigorously objected to the valuation. Thus, the trial court referred the report back to the commission for further reception of evidence. In the

meantime, Imperial amended his complaint on January 29, 1997,^[9] to reconcile the area of the lands stated in the original complaint with that in the transfer certificates of title.

On August 27, 1997, the commission submitted another report,^[10] with the following observations: (1) of the total land area of 156.1000 hectares, only 151.7168 hectares were compensable since 4.3832 hectares were either used by Imperial or devoted to right of way, barrio site, or feeder road; (2) the irrigated area was only 1,000 square meters; and (3) the lands were generally devoted to upland rice. Using the formula,

$$\mathbf{LV = 2.5 \times AGP \times GSP}$$

where LV = Land Value

AGP = Average Gross Production in 1989

(20 cavans at 46 kilos each for unirrigated land)

(40 cavans at 46 kilos each for irrigated land) x 2

GSP = Government Support Price (P3.50/kilo in 1989)

the commission fixed the just compensation at P8,050/hectare for unirrigated area, and P32,200/hectare for irrigated area, for a total of P1,088,251.57. It also computed the just compensation from December 4, 1989.

After due proceedings, the trial court issued on August 4, 2000, a judgment,^[11] the decretal portion of which reads:

WHEREFORE, based on the foregoing considerations, the just compensation for the following five (5) lots, namely: (1) TCT No. T-45747; (2) TCT No. T-45748; (3) TCT No. T-457^[4]9; (4) TCT No. T-45746 and (5) TCT No. T-45750 with a total compensable area of 151.7128 has. is fixed at **PhP2,185,241.50**, specifically broken down, as follows:

1.) PhP14,375.00/ha for the unirrigated area or a total of **PhP2,179,491.50** for the 151.6168 has.;

2.) PhP57,500.00/ha. for the irrigated area or a total of **PhP5,750.50** for the .1000 has.

The Land Bank of the Philippines is therefore ordered to pay the plaintiff the amount of **PhP2,185,241.50** in cash or in bonds or in any other mode of payment under Section 18 of R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988 at the option of the landowner.

SO ORDERED.^[12]

The trial court declared as non-compensable 4.3832 hectares which were either used by Imperial or devoted to right of way, barrio site, or feeder road. Using the formula,

$$\mathbf{LV = 2.5 \times AGP \times GSP}$$

where LV = Land Value

AGP = Average Gross Production in 1989

(23 cavans at 50 kilos each for unirrigated land)

(46 cavans at 50 kilos each for irrigated land) x 2

GSP = Government Support Price (P5/kilo in 1989)

the trial court fixed the just compensation at P14,375/hectare for unirrigated area, and P57,500/hectare for irrigated area, for a total of P2,185,241.50. It also computed the just compensation from December 4, 1989.

The parties elevated the controversy to the Court of Appeals. Finding partly in favor of Imperial, the appellate court, in a decision^[13] dated November 23, 2001, set aside the trial court's decision, decreeing thus:

WHEREFORE, the assailed Decision is hereby **SET ASIDE**. The records of this case are ordered **REMANDED** to the court of origin for reevaluation of the correct compensation for the land, including the portions identified as feeder road, right of way and barrio site, but excluding the portion or portions retained by the plaintiff as owner-cultivator, with legal interest thereon at the rate of 6% per annum reckoned from the date of the compensable taking on October 21, 1972.

SO ORDERED.^[14]

In a Resolution^[15] dated March 21, 2003, the appellate court denied reconsideration. Hence, the instant petition.

The petitioner now assigns the following errors:

A.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN INCLUDING THE INTEREST OF 6% PER ANNUM IN THE CONCEPT OF DAMAGES IN COMPUTING THE JUST COMPENSATION FOR THE EXPROPRIATED PROPERTIES UNDER P.D. NO. 27 RATHER THAN APPLYING DAR ADMINISTRATIVE ORDER NO. 13 WHICH WAS UPHELD IN THE CASE OF LBP VS. COURT OF APPEALS AND JOSE PASCUAL, G.R. NO. 128557, DECEMBER 29, 1999.

B.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN CONSIDERING NON-COMPENSABLE AREAS CONSISTING OF FEEDER ROAD, THE RIGHT OF WAY AND THE BARRIO SITE FOR VALUATION AND PAYMENT UNDER R.A. 6657.^[16]

The assigned errors pose two principal issues: (1) whether a 6% annual interest should be included in computing the just compensation; and (2) whether the areas used as feeder road, right of way, and barrio site should be considered as compensable.

Let us now consider the first issue involving the annual interest.

Petitioner Land Bank does not dispute that the computation of the just compensation should start from October 21, 1972, and that the Government Support Price (GSP) for *palay* of P35/cavan in 1972 should be used in the equation.

However, it claims that a 6% annual interest in the concept of damages should not be imposed because (1) the delay in the payment of the just compensation was not its fault, and (2) DAR Administrative Order No. 13^[17] already provides for the payment of a 6% annual interest, compounded annually, provided that the just compensation is computed in accordance with its prescribed formula.

At the outset, it should be stressed that DAR A.O. No. 13 applies to all landowners: (1) whose lands are actually tenanted as of October 21, 1972, or thereafter, and covered by the OLT; (2) who opted for government-financing through the petitioner as the mode of compensation; and (3) who have not yet been paid the value of their land.^[18] It provides a formula for determining the land value and the additional interests it would have earned, to wit:

$$\textbf{For palay: } \underline{\underline{LV = (2.5 \times AGP \times GSP) \times (1.06)^n}}$$

where LV = Land Value

AGP = Average Gross Production

GSP = Government Support Price (P35/cavan in 1972)

n = Number of years from the date of tenancy up to the effectivity date of the Order

Furthermore, DAR A.O. No. 13, as amended, provides that:

3. The grant of six percent (6%) yearly interest compounded annually shall be reckoned as follows:

3.1 Tenanted as of 21 October 1972 and covered under OLT

From 21 October 1972 up to the time of actual payment but not later than December 2006

3.2 Tenanted after 21 October 1972 and covered under OLT

From the date when the land was actually tenanted (by virtue of Regional Order of Placement issued prior to August 18, 1987) up to the time of actual payment but not later than December 2006 (Emphasis supplied.)

As can be clearly gleaned from the foregoing, the 6% interest, compounded annually, could be granted only up to the time of actual payment but not later than December 2006. In effect, there could be no award of interest from January 1, 2007 onwards.

Such being the case, it is inequitable to determine the just compensation based solely on the formula provided by DAR A.O. No. 13, as amended. Thus, we return to the guidelines provided under P.D. No. 27 and E.O. No. 228 since the same