

## THIRD DIVISION

**[ G.R. NO. 172243, June 26, 2007 ]**

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE TOLL  
REGULATORY BOARD, PETITIONER, VS. PHIL-VILLE  
DEVELOPMENT AND HOUSING CORPORATION AND SY CHI  
SIONG AND CO., INC., RESPONDENTS.**

### D E C I S I O N

**GARCIA, J.:**

Simply put, the lone legal issue involved in this petition for review is whether, under the facts obtaining in this case, a final determination of just compensation in an expropriation proceedings must first be made before an order of expropriation may be issued by the court. In its Decision<sup>[1]</sup> of January 27, 2006 in *CA-G.R. SP No. 89878*, as reiterated in its Resolution<sup>[2]</sup> of April 10, 2006, the Court of Appeals (CA) answered the issue in the affirmative. Disagreeing, petitioner Republic, as represented by the Toll Regulatory Board, has come to this Court *via* this recourse to seek the annulment and setting aside of the CA decision and resolution.

But first the facts:

In an effort to ease traffic congestion on the North Luzon Expressway, petitioner Republic, through the Toll Regulatory Board, sought to widen the Balintawak Toll Plaza which would necessarily affect two (2) parcels of land registered under the names of herein respondents Phil-Ville Development and Housing Corporation (Phil-Ville, for brevity) and Sy Chi Siong and Co., Inc. (Sy Chi Siong, for short). The parcels of land are more particularly described as follows:

<b>Owner</b>	<b>TCT No./ Lot No.</b>	<b>Total Area (sq. m.)</b>	<b>Assessed Value of Entire Area</b>	<b>Affected Area</b>	<b>Assessed Value of Affected Area</b>	<b>Zonal Value of the Affected Area</b>
Phil-Ville	243189	425	P45,900.00	425	45,900.00	P1,062,500.00
Sy Chi Siong	29737	8,425	P658,690.00	2,924	P228,606.47	P7,310,000.00

On January 3, 2001, petitioner filed a complaint for expropriation before the Regional Trial Court of Caloocan City for the acquisition of the aforescribed parcels of land. The case was raffled to Branch 131 of that court.

After filing an Amended Complaint to reflect the proper schedule of valuation of the properties sought to be expropriated, petitioner deposited with the Land Bank of the Philippines the amount of Two Million Three Hundred Eleven Thousand Two Hundred Pesos (P2,311,200.00), representing the total zonal value of the properties under

expropriation. Thereafter, it filed with the court a *Motion for Issuance of Writ of Possession*.

Both respondents separately moved to dismiss the complaint on the main ground that the trial court lacked jurisdiction over the *res*. However, in its Order of April 3, 2002, the trial court denied both motions and asserted jurisdiction over the case. In time, respondents separately moved for reconsideration but their motions were denied by the court in its subsequent Order of June 18, 2002. In the same Order, the court directed the issuance of a writ of possession in favor of petitioner and required the respondents to file their respective answers to the complaint.

Of the two respondents impleaded as defendants in the complaint, only Sy Chi Siong filed its Answer, thereunder reiterating the grounds pleaded in its earlier motion to dismiss. In the alternative, it prayed for just compensation.

As regards respondent Phil-Ville, petitioner alleged that this respondent "has yet to file its responsive pleading to the complaint for expropriation."

Thereafter, petitioner filed a *Motion for Issuance of Order of Expropriation and Appointment of Commissioners* on the rationale that the respondents had never challenged its right to expropriate their properties subject of the suit.

In an Order dated January 27, 2005, the trial court, even as it found the aforementioned motion meritorious, deferred action on the petitioner's prayer for an order of expropriation and instead set the same motion for hearing on March 7, 2005 "so that the parties may nominate the commissioners who will ascertain and report to the court the just compensation for the aforementioned properties." Partly reads the Order:

The motion is impressed with merit.

It is worthy to mention that: "The right of eminent domain is usually understood to be an ultimate right of the sovereign power to appropriate any property within its territorial sovereignty for a public purpose" [Republic vs. Court of Appeals, 383 SCRA 611, 2002].

An examination of the amended Complaint clearly show the overriding necessity of expropriating the subject properties in order to give way to the construction, rehabilitation and expansion of the North Luzon Expressway, which is undoubtedly for public purpose and benefit.

*Premises considered, the "Motion for issuance of Order of Expropriation" is hereby deferred pending final determination of just compensation.*

Meanwhile, let this case be set for hearing on March 7, 2005 at 8:30 in the morning so that the parties may nominate the commissioners who will ascertain and report to the court the just compensation for the aforementioned properties. [Emphasis supplied]

On February 22, 2005, petitioner filed a *Motion for Partial Reconsideration* of the above Order, arguing that since the case had been set for hearing on March 7, 2005 for the nomination of the commissioners and necessarily for the conduct of hearing

for the determination of just compensation, "it is proper that an order of expropriation be forthwith issued before such determination of just compensation proceeds," citing, as basis therefor, Section 4, Rule 67 of the 1997 Rules of Civil Procedure, and adding that where a defendant in an expropriation case raises only the issue of just compensation, the court "should forthwith enter an order of expropriation."

In an Order dated March 7, 2005, the trial court denied petitioner's motion for partial reconsideration, to wit:

The Court is of the opinion that the contentions of the counsel for the petitioner [are] exactly the opposite of what the rules provide. The provision of the rules relied upon, Section 4 Rule 67 is quite clear that this Court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation. *Thus, just compensation of the subject properties must first be determined and paid before the Court can issue an order of expropriation.*

Premises considered, the 'Motion for Partial Reconsideration' is hereby DENIED for lack of merit. (Italics supplied).

Dissatisfied, petitioner then went to the CA on *certiorari*, thereat docketed as CA-G.R. SP No. 89878, imputing grave abuse of discretion on the part of the trial court in insisting on the payment of just compensation before an order of expropriation may be issued.

As stated at the threshold hereof, the appellate court, in its herein assailed Decision dated January 27, 2006, upheld the trial court. Partly says the CA in its challenged decision:

Jurisprudential law has already settled that condemnation suits involve two stages: the order authorizing expropriation, and the judgment on just compensation. An order of expropriation is a court's resolution upholding the State's lawful right to take property sought to be expropriated and thus forecloses any objection to the petitioner's authority to expropriate for the public purpose stated in the complaint. This is implied in Rule 67, Section 4. The order can be issued unless there are objections and defenses against the condemnation proceedings that would require the presentation of evidence, and only after an adjudication of these objections and defenses can a court proceed with the second stage of the expropriation proceedings.

However, under the circumstances at bar, there is already no more issue as to the petitioner's authority to expropriate and the propriety of its exercise, which the lot owners themselves had acknowledged and admitted, and that the State has already been given the right to enter upon and to use the lots. In fact, the project has already been completed. **We thus find no grave abuse of discretion on the court's deferment of the issuance of the Order of expropriation pending the determination of just compensation, for this is not a major procedural flaw fatal to the action of the petitioner.**