

THIRD DIVISION

[G.R. No. 164195, December 19, 2007]

**APO FRUITS CORPORATION AND HIJO PLANTATION, INC.,
PETITIONERS, VS. THE HON. COURT OF APPEALS AND LAND
BANK OF THE PHILIPPINES, RESPONDENTS.**

RESOLUTION

CHICO-NAZARIO, J.:

For resolution is the Omnibus Motion^[1] filed by the Land Bank of the Philippines (LBP) for (a) the reconsideration of the Decision dated 6 February 2007; (b) the referral of the case to the Supreme Court sitting *en banc*; and (c) the setting of its Motion for Oral Argument.

The dispositive portion of our Decision reads:

WHEREFORE, premises considered, the instant Petition is **PARTIALLY GRANTED**. While the Decision, dated 12 February 2004, and Resolution, dated 21 June 2004, of the Court of Appeals in CA-G.R. SP No. 76222, giving due course to LBP's appeal, are hereby **AFFIRMED**, this Court, nonetheless, **RESOLVES**, in consideration of public interest, the speedy administration of justice, and the peculiar circumstances of the case, to give **DUE COURSE** to the present Petition and decide the same on its merits. Thus, the Decision, dated 25 September 2001, as modified by the Decision, dated 5 December 2001, of the Regional Trial Court of Tagum City, Branch 2, in Agrarian Cases No. 54-2000 and No. 55-2000 and No. 55-2000 is **AFFIRMED**. No costs.^[2]

LBP cites the following grounds for the Motion for Reconsideration:

- A. THE HONORABLE COURT RULED IN THE FAIRLY RECENT CASE OF *LAND BANK OF THE PHILIPPINES v. CELADA*, G.R. NO. 164876 THAT SPECIAL AGRARIAN COURTS ARE NOT AT LIBERTY TO DISREGARD THE FORMULA DEvised TO IMPLEMENT SECTION 17 OF REPUBLIC ACT NO. 6657 OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988.
- B. RESPONDENT LBP SATISFIED OR COMPLIED WITH THE CONSTITUTIONAL REQUIREMENT ON PROMPT AND FULL PAYMENT OF JUST COMPENSATION.
- C. RESPONDENT LBP ENSURED THAT THE INTERESTS ALREADY EARNED ON THE BOND PORTION OF THE REVALUED AMOUNTS WERE ALIGNED WITH 91-DAY TRASURY BILL (T-BILL) RATES AND ON THE CASH PORTION THE NORMAL BANKING INTEREST RATES.

D. PETITIONERS ARE NOT ENTITLED TO AN AWARD OF ATTORNEY'S FEES AND COMMISSIONERS' FEES.

E. RESPONDENT LBP'S COUNSEL DID NOT UNNECESSARILY DELAY THE PROCEEDINGS.

F. THE IMMINENT MODIFICATION, IF NOT THE REVERSAL, OF THE SUPREME COURT RULINGS IN BANAL AND CELADA BY THE QUESTIONED DECISION NECESSITATES A REFERRAL OF THE INSTANT CASE TO THE HONORABLE COURT SITTING *EN BANC*.

The Motion for Reconsideration is partially meritorious.

In its first ground, LBP asserts the use of the formula set forth in the Department of Agrarian Reform (DAR) Administrative Order (AO) No. 5, Series of 1998, citing *Land Bank of the Philippines v. Celada*,^[3] in which it was declared that:

While SAC is required to consider the acquisition cost of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declaration and the assessments made by the government assessors to determine just compensation, it is equally true that these factors have been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of RA No. 6657. As the government agency principally tasked to implement the agrarian reform program, it is the DAR's duty to issue rules and regulations to carry out the object of the law. DAR AO No. 5, s. of 1998 precisely "filled in the details" of Section 17, RA No. 6657 by providing a basic formula by which the factors mentioned therein may be taken into account. The SAC was at no liberty to disregard the formula **which was devised to implement the said provision**. (Emphasis supplied.)

LBP relies heavily on our pronouncement in the said case that the RTC acting as a special agrarian court cannot disregard the formula under DAR AO No. 5, Series of 1998.

LBP also argues that the trial court erred in arriving at its valuation of the properties of the Apo Fruits Corporation (AFC) and Hijo Plantation, Inc. (HPI). To quote:

The Schedule of Market Values of the City of Tagum cannot be used as a factor in determining just compensation of the subject property since said schedule of market values refers to residential and industrial properties are outside the coverage of the Comprehensive Agrarian Reform Law. The Comprehensive Agrarian Reform Law of 1988 covers only public and private agricultural lands "devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial land." (Please see Sec. 3(c) of R.A. No. 6657; emphasis supplied). Furthermore, Section 17 of the R.A. No. 6657 speaks of "current value of like properties," which necessarily refers to values of similar agricultural properties.

The data on "Comparative Sales" can be used only when similar properties are involved. In this case, however, the data relative to "Comparative Sales," which were presented to the trial court, could not

be used as factors for determining just compensation, as these data pertain to sales of properties which are residential, commercial and industrial in nature.

The proximity of the agricultural land to residential, commercial and industrial properties and the "potential use" of subject properties cannot also be used as factors since Section 17 of R.A. No. 6657 refers to "actual use." In fact, the farmer-beneficiaries have devoted the said lands to agricultural productivity, not to other purposes.

In the end, however, the court *a quo* disregarded said factors and zeroed in on the "LOWEST VALUE FOR RESIDENTIAL LAND at P100/sq.m. for 4th class RESIDENTIAL LAND in 1993," "THE LOWEST VALUE of Php130.00/sq.m. x x x FOR INDUSTRIAL LAND" as the sole factor in determining the just compensation for subject plantations. It then exclusively used THE AVERAGE OF THE AFORESTATED FIGURES as basis in arriving at the amount of Php103.33 for EVERY SQUARE METER of the ACQUIRED AREA consisting of 1,338.6027 hectares, in **utter disregard of Section 17 of R.A. No. 6657.**^[4] (Emphasis supplied.)

As to the purported conflict between our decision in this case and that in *Land Bank of the Philippines v. Celada*, the more acceptable practice has always been to interpret and reconcile apparently conflicting jurisprudence, instead of placing one jurisprudence over another in a destructive confrontation; not to uphold one and annul the other, but instead to give effect to both by harmonizing the two.^[5] Hence, the pronouncement made in the aforementioned case as to the application of the formula in DAR AO No. 5, Series of 1998, must be put in its proper context and understood in light of the following ratiocination preceding the same,^[6] to wit:

With regard to the third assigned error, however, we agree with petitioner that the SAC erred in setting aside petitioner's valuation of respondent's land on the **sole** basis of the higher valuation given for neighboring properties. In this regard, the SAC held:

"It appears from the evidence of petitioner that the neighboring lands of similar classification were paid higher than what was quoted to her land by respondent Land Bank as the value per square meter to her land was only quoted at P2.1105517 while the others which were of the same classification were paid by respondent Bank at P2.42 more or less, per square meter referring to the land of Consuelito Borja (Exh. "D") and Cesar Borja (Exh. "F"). Furthermore, the land of petitioner was allegedly mortgage for a loan of P1,200,000.00 before the Rural Bank of San Miguel, Bohol and that it was purchased by her from a certain Felipe Dungog for P450,000.00 although no documents therefore were shown to support her claim. Nevertheless, the Court finds a patent disparity in the price quotations by respondent Land Bank for the land of petitioner and that of the other landowners brought under CARP which could be caused by deficient or erroneous references due to the petitioner's indifference and stubborn attitude in not cooperating with respondent bank in

submitting the data needed for the evaluation of the property.
x x x At any rate, the price quotation by respondent Land Bank on the land of the petitioner is low more so that it was done some four years ago, particularly, on June 22, 1998 (Exh. "1") and the same has become irrelevant in the course of time due to the devaluation of the peso brought about by our staggering economy."

As can be gleaned from above ruling, the SAC based its valuation solely on the observation that there was a "patent disparity" between the price given to respondent and the other landowners. We note that it did not apply the DAR valuation formula since according to the SAC, it is Section 17 of RA No. 6657 that "should be the principal basis of computation as it is the law governing the matter." The SAC further held that said Section 17 "cannot be superseded by any administrative order of a government agency," thereby implying that the valuation formula under DAR Administrative Order No. 5, Series of 1998 (DAR OA No. 5, s. of 1998), is invalid and of no effect. (Emphasis supplied.)

A careful review of *Land Bank of the Philippines v. Celada* would thus show that this Court set aside the just compensation arrived at by the trial court, acting as a Special Agrarian Court (SAC), and instead assented to the valuation of the LBP, on the ground that the valuation of the SAC was based "solely on the observation that there was a patent disparity between the price given to the respondent and the other landowners."

Section 17 of Republic Act No. 6657 identified the factors to be considered for the determination of just compensation:

SEC. 17. *Determination of Just Compensation.* – In determining just compensation, the **cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors**, shall be considered. **The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the nonpayment of taxes or loans secured from any government financing institution on the said land** shall be considered as additional factors to determine its valuation.

To implement the foregoing, DAR AO No. 5, Series of 1998, laid down the following formula:

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where:

LV = Land Value

CNI = Capitalized Net
Income

CS = Comparable Sales

MV = Market Value per
Tax Declaration

The above formula shall be used if all three factors are present, relevant, and applicable.

A1. When the CS factor is not present and CNI and MV are applicable, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

A2. When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

A3. When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2^{[7]}$$

In *Land Bank of the Philippines v. Celada*, the Supreme Court recognized that the factors specified in Section 17, Republic Act No. 6657 "have been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of Republic Act No. 6657."^[8] The Court found that the SAC significantly used only a single factor as a basis for arriving at the valuation of the land involved in the said case, arbitrarily disregarding all other factors.

It bears stressing that in the case before us, unlike in *Land Bank of the Philippines v. Celada*, the trial court, in arriving at its valuation of the properties of AFC and HPI, actually took into consideration **all the factors in the determination of just compensation as articulated in Section 17 of Republic Act No. 6657**. And it bears emphasizing, too, that precisely these factors have been translated into a basic formula in DAR AO No. 5, Series of 1998. In other words, the DAR formula merely encapsulated and implemented the guideposts in the determination of just compensation embodied in Section 17 of Republic Act No. 6657.

In arriving at a valuation of P103.33 per square meter, the RTC in its decision considered the following, among other things:

- (1) The recommendation of the Commissioners based on the Schedule of Market Values of the City of Tagum as per its 1993 and 1994 Revision of Assessment and property classification
- (2) The fact that certain portions of the land have been classified as a Medium Industrial District
- (3) Permanent improvements on the land and value of said improvements
- (4) Comparative sales of adjacent land
- (5) Actual use