

## FIRST DIVISION

[ G.R. NO. 155605, September 27, 2006 ]

**LECA REALTY CORPORATION, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, RESPONDENT.**

**G.R. NO. 160179 REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PETITIONER, VS. BANK OF THE PHILIPPINE ISLANDS, CITYLAND INCORPORATED, LECA REALTY CORPORATION, AND LEELENG REALTY CORPORATION,<sup>[1]</sup> RESPONDENTS.**

### D E C I S I O N

#### **PANGANIBAN, CJ:**

Zonal valuation is simply one of the indices of the fair market value of real estate. By itself, however, this index cannot be the sole basis of "just compensation" in expropriation cases. The standard is not the taker's gain, but the owner's loss.

#### **The Case**

Before the Court are two consolidated Petitions:<sup>[2]</sup> the *first* is a Petition for Review<sup>[3]</sup> under Rule 45 filed by Leca Realty Corporation; and the *second*, a special civil action for certiorari<sup>[4]</sup> filed under Rule 65 by the Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) through the Office of the Solicitor General (OSG).

Both Petitions urge this Court to set aside the Decision dated September 25, 2002, rendered by the Court of Appeals (CA) in CA-GR CV No. 60731.<sup>[5]</sup> The assailed judgment affirmed in toto the Decision dated March 30, 1998, issued by the Regional Trial Court (RTC) of Pasig City, Branch 159, in SCA No. 1063.<sup>[6]</sup> The RTC approved the amount of compensation as determined by the commissioners in their Report dated January 8, 1998. This compensation was for the subject properties expropriated in connection with the construction of the EDSA-Shaw Boulevard (Mandaluyong City) flyover.

#### **The Facts**

The facts are narrated by the CA as follows:

"On 18 March 1996, the Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH), filed a complaint for eminent domain for the taking of some portions of the properties of Leca Realty Corp. (Leca), Leeleng Realty Inc. (Leeleng), Metropolitan Bank and

Trust Co. (Metrobank), Bank of the Philippine Islands (BPI), and Cityland Inc. (Cityland). The said properties would be affected by the construction of the EDSA-Shaw Boulevard Overpass Project in Shaw Boulevard, Mandaluyong City, a public purpose to be undertaken by the DPWH.

"The complaint was filed with the Regional Trial Court of Pasig City and was raffled to Branch 159 of the said court.

"Attached to the complaint is, among other things, Resolution No. 94-1 of the City Appraisal Committee of Mandaluyong, which was created to appraise the properties that would be affected by the construction of the project in question. In the said resolution, the City Appraisal Committee fixed the fair market values of defendants' properties, as follows:

1. All lots situated along Shaw Boulevard from Edsa going westward towards Manila up to Samat Street, that City, at THIRTY FIVE THOUSAND PESOS (P35,000) per square meter[.]
2. All lots situated along Shaw Boulevard from Edsa going eastward towards Pasig up to San Miguel Avenue, Pasig, Metro Manila at FORTY FIVE THOUSAND PESOS (P45,000) per square meter[.]

"The property of defendant-appellant Leca is approximately 297.00 meters from the intersection of Shaw Boulevard and EDSA while that of x x x Leeleng has an approximate distance of 146 meters from the intersection of EDSA-Shaw Boulevard.

"The property of Metrobank is approximately 200 meters from EDSA and located beside Shangri-La Plaza, within Ortigas Center while that of BPI is approximately 237 meters from EDSA and southeast of Shangri-La Plaza, within Ortigas Center.

"The property of Cityland, Inc. is one lot away from EDSA Plaza Hotel, Shangri-La Plaza and walking distance to SM Department Store, within Ortigas Center.

"On October 7, 1997, the court *a quo* appointed three (3) competent and disinterested persons; namely, Atty. Benjamin C. Angeles, Mr. Joselito E. Gunio and Mr. Melchor Savillo as commissioners to ascertain and report the just compensation of the properties sought to be taken.

"On January 9, 1998, the commissioners submitted their report dated January 8, 1998, and recommended the fair market value of the subject properties as follows:

1. Properties of Leca Realty Corporation and Leeleng Realty Inc.: P50,000 per sq.m.
2. Metropolitan Bank and Trust Co., Bank of the Philippine Islands: P125,000 per sq.m.
3. Cityland, Inc.: P137,500 per sq.m. plus 10% corner influence, for a total of P137,500 per sq.m. (sic)"

"In arriving at the said Report, the Commissioners took into consideration the following factors: property location, identification[,], neighborhood data, community facilities and utilities, highest and best use, valuation and reasonable indication of land values within the vicinity.

"On March 30, 1998, the court rendered the decision whereby the Commissioners' Report was adopted."<sup>[7]</sup>

### **Ruling of the CA**

The CA affirmed the lower court's judgment for the following reasons. *First*, the RTC's appointment of the commissioners was fair and impartial. *Second*, the fair market values of the affected properties were unanimously arrived at by the appointed commissioners after a thorough and objective investigation and analysis of the properties, with due consideration of the various factors affecting those values: location, existing facilities, desirability, neighborhood, and size.<sup>[8]</sup>

The appellate court likewise debunked the contention of the Republic of the Philippines that the commissioners had erred in fixing the fair market values of the properties, because the appraisals exceeded the zonal values determined in Department of Finance Order No. 71-96. The CA held that the zonal valuation was made for taxation purposes only and was not necessarily reflective of the actual market values of the properties in the area.<sup>[9]</sup>

Hence, these Petitions.<sup>[10]</sup>

### **The Issues**

The following issues were submitted to this Court for resolution:

1. "Is the Republic bound and put in estoppel by the gross negligence/mistake of its agent/former counsel? Is the Court of Appeals' Decision of September 25, 2002 in accord with law and jurisprudence"<sup>[11]</sup>
2. "Whether the Court of Appeals incurred an error of law in affirming the amount fixed by the trial court based on the report of the board of commissioners of P50,000 per square meter as just compensation for the taking of petitioner [Leca's] 1,217 square meter property at Shaw Boulevard, Mandaluyong City, while adjudging other parties whose lands were also expropriated in the same vicinity to payment of P125,000.00 per square meter for Metrobank and BPI, and P137,500.00 per square meter for City Land, Inc. [or] more than double the value fixed for petitioner [Leca's] land."<sup>[12]</sup>

### **The Court's Ruling**

The Petition in GR 155605 is meritorious, while that in GR 160179 is not.

### **First Issue:**

## **Estoppel by the Government**

Before this Court is the issue of whether Petitioner Republic is estopped by its agent's failure to file an appeal of the CA Decision.

Clearly, the questioned Decision was received by the Republic through the OSG on October 7, 2002. Accordingly, the government's lawyers had fifteen (15) days or until October 22, 2002, to file a motion for reconsideration with the CA; and, in case this motion was denied, another fifteen (15) days from the notice of the denial to file a petition for review under Rule 45. But it was only on October 20, 2003, more than one year later, that the Republic filed the present Petition for Certiorari. Presumably, it resorted to the special civil action because of its failure to file an appeal within the 15-day reglementary period.

Time and time again, this Court has emphasized that a special civil action for certiorari under Rule 65 lies only when "there is no appeal[;] nor any plain, speedy and adequate remedy in the ordinary course of law."<sup>[13]</sup> That action is not a substitute for a lost appeal; in general, it is not allowed when a party to a case fails to appeal a judgment to the proper forum.<sup>[14]</sup>

In this case, there was no reason why the Republic could not have moved to reconsider the assailed CA Decision or appealed it within the reglementary period. These procedural devices (reconsideration and appeal) were not only available; they would have also constituted plain, speedy and adequate remedies for questioning the alleged errors in the CA Decision.

Besides, it is a hornbook doctrine that mere errors of judgment cannot be the proper subject of a special civil action for certiorari.<sup>[15]</sup> *International Exchange Bank v. Court of Appeals*<sup>[16]</sup> stressed this rule as follows:

"x x x Where the issue or question involved affects the wisdom or legal soundness of the decision - not the jurisdiction of the court to render said decision - the same is beyond the province of a special civil action for certiorari. *Erroneous findings and conclusions do not render the appellate court vulnerable to the corrective writ of certiorari, for where the court has jurisdiction over the case, even if its findings are not correct, they would, at the most, constitute errors of law and not abuse of discretion correctible by certiorari.*"<sup>[17]</sup> (Emphasis supplied)

Furthermore, petitions under Rule 65 must be filed within 60 days. In the present case, the Petition was filed after over a year.

Faced with the inevitable brick wall, the Republic through the OSG invokes the principle that a lawyer's gross negligence will not bind the client.<sup>[18]</sup> The Republic imputes the failure to file a timely appeal to one of its lawyers, Solicitor Mauro Elinzano, who allegedly took no action after receiving the adverse Decision of the Court of Appeals.<sup>[19]</sup> In support of its claim, the OSG cites this Court's pronouncements that a lawyer's procedural blunder constitutes an exception to the rule that clients are bound by the mistakes of their counsel. Hence, it implores this Court to give due course to the Petition to prevent a miscarriage of justice.

We are not convinced.

*First*, the time-honored rule that the government cannot be estopped by the mistakes or errors of its agent is not without exceptions. In *Republic of the Philippines v. G Holdings*,<sup>[20]</sup> this Court held thus:

"While the Republic or the government is usually not estopped by the mistake or error on the part of its officials or agents, the Republic cannot now take refuge in the rule as it does not afford a blanket or absolute immunity. Our pronouncement in *Republic v. Court of Appeals* is instructive: the Solicitor-General may not be excused from its shortcomings by invoking the doctrine as if it were some magic incantation that could benignly, if arbitrarily, condone and erase its errors."

The rule on non-estoppel of the government is not designed to perpetrate an injustice. In general, the rules on appeal are created and enforced to ensure the orderly administration of justice. The judicial machinery would run aground if late petitions, like the present one, are allowed on the flimsy excuse that the attending lawyer was grossly lacking in vigilance.

Besides, to countenance the Republic's plea for liberality would mean a reexamination of issues that have long been settled, at least from the points of view of the other respondents that did not appeal the CA Decision - BPI, Cityland and Leeleng. As far as they are concerned, the appellate court's judgment dated September 25, 2002, already attained finality on October 23, 2002.<sup>[21]</sup> Accordingly, the entry of judgment was ordered by the CA in its Resolution dated July 25, 2003.<sup>[22]</sup>

*Second*, as Respondent BPI observed in its Memorandum, nowhere in the pleadings of the OSG in the lower courts did the name of Solicitor Mauro Elinzano appear. The Republic's Brief before the Court of Appeals was signed by Assistant Solicitor General Pio C. Guerrero and Associate Solicitor Roland C. Villaluz.<sup>[23]</sup> Neither was evidence adduced to show the participation in the case of Solicitor Elinzano, particularly as the attending counsel of the Republic.

*Third*, we are hard-pressed in appreciating the so-called "grave injustice" against the government. In a letter dated May 20, 1998, Secretary Gregorio R. Vigilar of the DPWH instructed the OSG "to file the necessary pleading in court to either withdraw or drop the appeal on the Decision promulgated on March 30, 1998 by the RTC, National Capital Judicial Region, Pasig City, Branch 159."<sup>[24]</sup>

The request was predicated on the conclusion that the "compensation costs as recommended by the commissioners and fixed by the court in the above-mentioned Decision are reasonable and acceptable"; and that the "move will hasten the legal process, thereby shorten the time of the proceedings and stop the running of interest in the amount P6,240,000.00 per annum."<sup>[25]</sup> The same request was reiterated in a second letter dated August 18, 1998, stating that "the market values recommended by the commissioners are [f]air and reflective values prevailing in the area."<sup>[26]</sup>