

## FIRST DIVISION

[ G.R. No. 154411, June 19, 2003 ]

**NATIONAL HOUSING AUTHORITY, PETITIONER, VS. HEIRS OF  
ISIDRO GUIVELONDO, COURT OF APPEALS, HON. ISAIAS  
DICDICAN, PRESIDING JUDGE, REGIONAL TRIAL COURT,  
BRANCH 11, CEBU CITY, AND PASCUAL Y. ABORDO, SHERIFF,  
REGIONAL TRIAL COURT, BRANCH 11, CEBU CITY,  
RESPONDENTS.**

### DECISION

**YNARES-SANTIAGO, J.:**

On February 23, 1999, petitioner National Housing Authority filed with the Regional Trial Court of Cebu City, Branch 11, an Amended Complaint for eminent domain against Asociacion Benevola de Cebu, Engracia Urot and the Heirs of Isidro Guivelondo, docketed as Civil Case No. CEB-23386. Petitioner alleged that defendant Asociacion Benevola de Cebu was the claimant/owner of Lot 108-C located in the Banilad Estate, Cebu City; that defendant Engracia Urot was the claimant/owner of Lots Nos. 108-F, 108-I, 108-G, 6019-A and 6013-A, all of the Banilad Estate; that defendant Heirs of Isidro Guivelondo were the claimants/owners of Cadastral Lot No. 1613-D located at Carreta, Mabolo, Cebu City; and that the lands are within a blighted urban center which petitioner intends to develop as a socialized housing project.<sup>[1]</sup>

On November 12, 1999, the Heirs of Isidro Guivelondo, respondents herein, filed a Manifestation stating that they were waiving their objections to petitioner's power to expropriate their properties. Hence, the trial court issued an Order as follows:

WHEREFORE, the Court hereby declares that the plaintiff has a lawful right to expropriate the properties of the defendants who are heirs of Isidro Guivelondo.

The appointment of commissioners who would ascertain and report to the Court the just compensation for said properties will be done as soon as the parties shall have submitted to the Court the names of persons desired by them to be appointed as such commissioners.

SO ORDERED.<sup>[2]</sup>

Thereafter, the trial court appointed three Commissioners to ascertain the correct and just compensation of the properties of respondents. On April 17, 2000, the Commissioners submitted their report wherein they recommended that the just compensation of the subject properties be fixed at P11,200.00 per square meter.<sup>[3]</sup> On August 7, 2000, the trial court rendered Partial Judgment adopting the recommendation of the Commissioners and fixing the just compensation of the

lands of respondent Heirs of Isidro Guivelondo at P11,200.00 per square meter, to wit:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by the Court in this case fixing the just compensation for the lands of the defendants who are the heirs of Isidro Guivelondo, more particularly Lots Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 20, 6016-F, 6016-H, 6016-E and 6016-D of Csd-10219, which were sought to be expropriated by the plaintiff at P11,200.00 per square meter and ordering the plaintiff to pay to the said defendants the just compensation for the said lands computed at P11,200.00 per square meter.

IT IS SO ORDERED.<sup>[4]</sup>

Petitioner NHA filed two motions for reconsideration dated August 30, 2000 and August 31, 2000, assailing the inclusion of Lots 12, 13 and 19 as well as the amount of just compensation, respectively. Respondent Heirs also filed a motion for reconsideration of the Partial Judgment. On October 11, 2000, the trial court issued an Omnibus Order denying the motion for reconsideration of respondent Heirs and the August 31, 2000 motion of petitioner, on the ground that the fixing of the just compensation had adequate basis and support. On the other hand, the trial court granted petitioner's August 30, 2000 motion for reconsideration on the ground that the Commissioner's Report did not include Lots 12, 13 and 19 within its coverage. Thus:

WHEREFORE, in view of the foregoing premises, the Court hereby denies the motion of the heirs of Isidro Guivelondo (with the exception of Carlota Mercado and Juanita Suemith) for reconsideration of the partial judgment rendered in this case on August 7, 2000 and plaintiff's motion for reconsideration of said judgment, dated August 31, 2000.

However, the Court hereby grants the plaintiff's motion for reconsideration of said judgment, dated August 30, 2000. Accordingly, the judgment rendered in this case on August 7, 2000 is hereby set aside insofar as it has fixed just compensations for Lots Nos. 12, 13 and 19 of Csd-10219 because the fixing of said just compensations appears to lack adequate basis.

SO ORDERED.<sup>[5]</sup>

Petitioner filed with the Court of Appeals a petition for certiorari, which was docketed as CA-G.R. SP No. 61746.<sup>[6]</sup> Meanwhile, on October 31, 2000, the trial court issued an Entry of Judgment over the Partial Judgment dated August 7, 2000 as modified by the Omnibus Order dated October 11, 2000.<sup>[7]</sup> Subsequently, respondent Heirs filed a Motion for Execution, which was granted on November 22, 2000.

On January 31, 2001, the Court of Appeals dismissed the petition for certiorari on the ground that the Partial Judgment and Omnibus Order became final and executory when petitioner failed to appeal the same.<sup>[8]</sup>

Petitioner's Motion for Reconsideration and Urgent Ex-Parte Motion for a Clarificatory Ruling were denied in a Resolution dated March 18, 2001.<sup>[9]</sup> A petition for review was filed by petitioner with this Court, which was docketed as G.R. No. 147527. However, the same was denied in a Minute Resolution dated May 9, 2001 for failure to show that the Court of Appeals committed a reversible error.<sup>[10]</sup>

Petitioner filed a Motion for Reconsideration which was however denied with finality on August 20, 2001.<sup>[11]</sup>

Prior to the aforesaid denial of the Motion for Reconsideration, petitioner, on July 16, 2001, filed with the trial court a Motion to Dismiss Civil Case No. CEB-23386, complaint for eminent domain, alleging that the implementation of its socialized housing project was rendered impossible by the unconscionable value of the land sought to be expropriated, which the intended beneficiaries can not afford.<sup>[12]</sup> The Motion was denied on September 17, 2001, on the ground that the Partial Judgment had already become final and executory and there was no just and equitable reason to warrant the dismissal of the case.<sup>[13]</sup> Petitioner filed a Motion for Reconsideration, which was denied in an Order dated November 20, 2001.<sup>[14]</sup>

Petitioner thus filed a petition for certiorari with the Court of Appeals, which was docketed as CA-G.R. SP No. 68670, praying for the annulment of the Order of the trial court denying its Motion to Dismiss and its Motion for Reconsideration.<sup>[15]</sup>

On February 5, 2002, the Court of Appeals summarily dismissed the petition. Immediately thereafter, respondent Sheriff Pascual Y. Abordo of the Regional Trial Court of Cebu City, Branch 11, served on petitioner a Notice of Levy pursuant to the Writ of Execution issued by the trial court to enforce the Partial Judgment of August 7, 2000 and the Omnibus Order of October 11, 2000.<sup>[16]</sup>

On February 18, 2002, the Court of Appeals set aside the dismissal of the petition and reinstated the same.<sup>[17]</sup> Thereafter, a temporary restraining order was issued enjoining respondent sheriff to preserve the status quo.<sup>[18]</sup>

On May 27, 2002, respondent sheriff served on the Landbank of the Philippines a Notice of Third Garnishment against the deposits, moneys and interests of petitioner therein.<sup>[19]</sup> Subsequently, respondent sheriff levied on funds and personal properties of petitioner.<sup>[20]</sup>

On July 16, 2002, the Court of Appeals rendered the assailed decision dismissing the petition for certiorari.<sup>[21]</sup>

Hence, petitioner filed this petition for review, raising the following issues:

- 1) WHETHER OR NOT THE STATE CAN BE COMPELLED AND COERCED BY THE COURTS TO EXERCISE OR CONTINUE WITH THE EXERCISE OF ITS INHERENT POWER OF EMINENT DOMAIN;
- 2) WHETHER OR NOT JUDGMENT HAS BECOME FINAL AND EXECUTORY AND IF ESTOPPEL OR LACHES APPLIES TO

GOVERNMENT;

3) WHETHER OR NOT WRITS OF EXECUTION AND GARNISHMENT MAY BE ISSUED AGAINST THE STATE IN AN EXPROPRIATION WHEREIN THE EXERCISE OF THE POWER OF EMINENT DOMAIN WILL NOT SERVE PUBLIC USE OR PURPOSE {APPLICATION OF SUPREME COURT ADMINISTRATIVE CIRCULAR NO. 10-2000}.<sup>[22]</sup>

Respondent Heirs of Isidro Guivelondo filed their Comment, arguing as follows:

I

AS EARLIER UPHELD BY THE HONORABLE COURT, THE JUDGMENT OF THE TRIAL COURT IS ALREADY FINAL AND EXECUTORY, HENCE, COULD NO LONGER BE DISTURBED NOR SET ASIDE

II

THE FUNDS AND ASSETS OF THE PETITIONER ARE NOT EXEMPT FROM LEVY AND GARNISHMENT

III

THE ISSUES RAISED IN THIS SECOND PETITION FOR REVIEW WERE ALREADY RESOLVED BY THE HONORABLE COURT<sup>[23]</sup>

In the early case of *City of Manila v. Ruymann*,<sup>[24]</sup> the Court was confronted with the question: May the petitioner, in an action for expropriation, after he has been placed in possession of the property and before the termination of the action, dismiss the petition? It resolved the issue in the affirmative and held:

The right of the plaintiff to dismiss an action with the consent of the court is universally recognized with certain well-defined exceptions. If the plaintiff discovers that the action which he commenced was brought for the purpose of enforcing a right or a benefit, the advisability or necessity of which he later discovers no longer exists, or that the result of the action would be different from what he had intended, then he should be permitted to withdraw his action, subject to the approval of the court. The plaintiff should not be required to continue the action, subject to some well-defined exceptions, when it is not to his advantage to do so. Litigation should be discouraged and not encouraged. Courts should not require parties to litigate when they no longer desire to do so. Courts, in granting permission to dismiss an action, of course, should always take into consideration the effect which said dismissal would have upon the rights of the defendant.<sup>[25]</sup>

Subsequently, in *Metropolitan Water District v. De Los Angeles*,<sup>[26]</sup> the Court had occasion to apply the above-quoted ruling when the petitioner, during the pendency of the expropriation case, resolved that the land sought to be condemned was no longer necessary in the maintenance and operation of its system of waterworks. It was held:

It is not denied that the purpose of the plaintiff was to acquire the land in question for a public use. The fundamental basis then of all actions brought for the expropriation of lands, under the power of eminent domain, is public use. That being true, the very moment that it appears at any stage of the proceedings that the expropriation is not for a public use, the action must necessarily fail and should be dismissed, for the reason that the action cannot be maintained at all except when the expropriation is for some public use. That must be true even during the pendency of the appeal or at any other stage of the proceedings. If, for example, during the trial in the lower court, it should be made to appear to the satisfaction of the court that the expropriation is not for some public use, it would be the duty and the obligation of the trial court to dismiss the action. And even during the pendency of the appeal, if it should be made to appear to the satisfaction of the appellate court that the expropriation is not for public use, then it would become the duty and the obligation of the appellate court to dismiss it.<sup>[27]</sup>

Notably, the foregoing cases refer to the dismissal of an action for eminent domain at the instance of the plaintiff during the pendency of the case. The rule is different where the case had been decided and the judgment had already become final and executory.

Expropriation proceedings consists of two stages: first, condemnation of the property after it is determined that its acquisition will be for a public purpose or public use and, second, the determination of just compensation to be paid for the taking of private property to be made by the court with the assistance of not more than three commissioners.<sup>[28]</sup> Thus:

There are two (2) stages in every action for expropriation. The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint." An order of dismissal, if this be ordained, would be a final one, of course, since it finally disposes of the action and leaves nothing more to be done by the Court on the merits. So, too, would an order of condemnation be a final one, for thereafter, as the Rules expressly state, in the proceedings before the Trial Court, "no objection to the exercise of the right of condemnation (or the propriety thereof) shall be filed or heard."

The second phase of the eminent domain action is concerned with the determination by the Court of "the just compensation for the property sought to be taken." This is done by the Court with the assistance of not more than three (3) commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the commissioners would be final, too. It would finally dispose of the second stage of the suit, and leave nothing more to be done by the Court regarding the issue. Obviously, one or another of the parties may believe