

THIRD DIVISION

[CA-G.R. CV NO. 101947, March 30, 2015]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS & HIGHWAYS (DPWH),
PLAINTIFF-APPELLANT, VS. MERLIE C. SANTOS AND MARIA
THERESA C. SANTOS, DEFENDANTS-APPELLEES.**

DECISION

BARZA, J.:

The Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH), appeals to this Court the Decision^[1] dated December 12, 2013, rendered by the Regional Trial Court, Branch 172, Valenzuela City, fixing the price of the properties subject for appropriation at Php9,000.00 per square meter. It prays, among others, that the price be set at Php2,750.00 per square meter.

The factual antecedents:

Appellees Merlie C. Santos and Maria Theresa C. Santos are the registered owners of two parcels of land covered by TCT No. V-23960 and V-18995, containing an area of 491 square meters and 100 square meters, respectively, situated at Barangay Ugong, Valenzuela City.

The property covered by TCT No. V-18995 has a semi-concrete residential improvement thereon covering an area of 78 square meters.

Pursuant to Sec. 7 of E.O. 1035, the DPWH implemented the construction of C-5 Northern Link Road Project, Segment 8.1 from Mindanao Avenue, Quezon City to the North Luzon Expressway, Valenzuela City. Since the said construction would traverse the properties belonging to appellees, the Republic, on December 7, 2007, filed a complaint for Expropriation.

The zonal valuation of the affected properties are, as follows:

TCT (with Total Area)	Affected Area (in sq.m.)	Zonal Value of the Per sq.m.	Affected Area Total Zonal Value
V-23960	491 sq.m.	Php2,750.00	Php1,350,250.00
V-18995	100 sq.m.	Php2,750.00	Php275,000.00
		Sub Total	Php1,625,250.00
Improvement of One-storey	78 sq.m.		Php335,688.04

residential structure (Semi- concrete)			
		TOTAL	Php1,960,938.04

Appellees admitted the zonal valuation of the subject properties at Php2,750.00 per square meter but claims for a just compensation based on the prevailing market value of the other properties within the vicinity which ranges from Php10,000.00 to Php15,000.00 per square meter. According to appellees, it must be considered that the properties sought to be expropriated are situated in an industrial site which are near Mindanao Avenue and some nearby lots have been devoted to good business ventures. Appellees also objected to the zonal valuation of the residential house at Php335,688.04 and claimed that the physical condition and worth of the said improvement is almost double the amount pegged by the Republic.

On November 4, 2008^[2], the court *a quo* issued a writ of possession and order of expropriation ordering the Republic to deposit the DBP-Head Office Manager's Check No. 0000615352 dated October 31, 2008 in the amount of Php 1,625,250.00 before the Branch Clerk of Court. The said check was released to appellees after they established their ownership over the subject properties.

On the same date, the court *a quo* issued another Order^[3] appointing three (3) Commissioners who were tasked to ascertain and report to the court *a quo* the just compensation of the properties subject of expropriation.

On September 14, 2009, the Republic deposited in the Office of the Clerk of Court, the amount of Php335,688.04, representing the amount of improvement on the subject lot.

Due to the death of Maria Theresa Santos, the court *a quo* ordered that said deceased be substituted by her heirs, Carmelo Siccion and Carissa Siccion. In the Order^[4] dated February 9, 2010, the court *a quo* ordered that the amount of Php335,688.04 be released to appellee Merlie Santos, who received the same on February 16, 2010.^[5] Upon Order^[6] of the court *a quo*, the Republic replaced DBP Manager's Check No. 0000615352 in the amount of Php1,625,250.00 with DBP Manager's Check 0000618824 in the name of Merlie Santos, who received the same on April 30, 2010.^[7]

The constituted Board of Commissioners is composed of Osita F. De Guzman, RTC, Br. 172, Branch Clerk of Court, Atty. Cecilynne Andrade,⁸ City Assessor, Valenzuela City and Engr. Romeo Selva,^[9] Private Appraiser.

At the hearing before the Board of Commissioners, the Republic presented the Judicial Affidavit of its witnesses Zenaida Galvez,^[10] Community Relations Chief B of the NHA and Fe Peserbe,¹¹ OIC of the Institutional Development Division of the National Housing Authority. Zenaida Galvez testified that one of her duties and responsibilities is to provide assistance in the relocation of Informal Settler Families (ISF). In relation to her duty, she was requested by appellant to relocate the ISF's in Barangay Ugong and Barangay Gen. T. De Leon affected by the North Luzon Expressway (NLEX), Phase 2, C-5 Northern Link Project Segment 8.1. The NHA

relocated 471 ISF's in Brgy. Ugong from November 29, 2007 to February 16, 2010. According to Zenaida Galvez, the areas occupied by the ISF's in Brgy. Ugong are underdeveloped, have no proper drainage, dirt roads and some areas have very narrow access roads and no sufficient water supply.

Witness Fe Peserbe, in her Judicial Affidavit, stated that in connection with her work as the OIC of the NHA's Development Division, she was requested by the DPWH to conduct a census and tagging operations in the areas affected by the NLEX Phase 2, C-5 Northern Link Project. The census and tagging operations yielded that there were 3,347 ISF's in both Brgy. Ugong and Brgy. Gen. T. de Leon. Fe Peserbe described the said areas as depressed, low-income and substandard residential community.

Appellees, for their part, opted not to present evidence before the Board of Commissioners.

In its Memorandum, the Republic prayed that the properties subject of appropriation be pegged at Php1,375.00 per square meter considering that these are classified as residential purposes only and were infested with ISF's which affects the value of the given properties.

Appellees, on the other hand, opposed the valuation of appellant and asked that the appointed Commissioners must come up with an average appraisal amount of Php10,000.00 to Php15,000.00 per square meter as purchase price, considering that it is the prevailing market value of the affected properties, being situated within the high intensity commercial zone of Valenzuela City and therefore within Metropolitan Manila. Appellees contended that the appraisal of the expropriated properties are not limited to the zonal valuation by the BIR but also on location, accessibility and selling prices of comparable properties.

On July 10, 2013, the *Joint Commissioner's Report (Re: Just Compensation)*^[12] was issued whereby the amount of Php10,000.00 per square meter was recommended as the just, fair and reasonable fair market value of the properties. It was also recommended that the amount of Php471,120.00 is the just, fair and reasonable compensation of the one-storey residential structure erected on the lot since this is the amount declared for taxation purposes.

The commissioners' basis of valuation contains:

C. BASIS OF VALUATION:

1) Expropriation cases previously decided by this Honorable Court which already attained its finality, as follows:

Case No.	Name of Defendants	Location	Affected Area/sq.m.	Value/sq.m.	Date Decided	Date of Finality
15-V-08	Hobart Realty Dev't. Corporation	Brgy. Ugong, Valenzuela City	14,641 sq.m.	Php15,000.00	03/16/10 The decision rendered by this Court was	01/07/13

					appealed by the plaintiff with the Court of Appeals and on 3/21/12, the CA rendered its Decision affirming the decision of this Honorable Court.	
52-V-08	Sps. Mapalad Serrano, et al.	Brgy. Gen. T. de Leon, Valenzuela City	41,833 sq.m.	Php5,000.00	08/22/12	03/08/13

2) Distance from the property of the defendants to Hobart Realty Development Corporation and Sps. Mapalad Serrano, et al., as follows:

Case No.	T.C.T. No.	Distance from the property of Hobart Realty Dev't. Corporation to the property of defendants	Distance from the property of Sps. Mapalad Serrano, et al. to the property of the defendants
255-V-07	V-23960	494.03m.	1,619.52m.
	V-18995	503.25m.	1,611.50m.

It is the Commissioner's recommendation that:

"After the careful consideration of the location, the land usage and the distance of the property of the defendants to that of Hobart Realty Development Corporation and Sps. Mapalad Serrano, et al., where this Honorable Court in its Decision dated March 16, 2010 and August 12, 2012 rendered the aforesaid cases pegged the fair market value at Php15,000.00 and Php5,000.00, respectively, the undersigned commissioners unanimously recommended the amount of Php 10,000.00 per square meter as the just, fair and reasonable fair market value of the property of the defendants subject of the appropriation proceedings in this case."^[13]

On December 12, 2013, the court *a quo* rendered its decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered fixing the just compensation of the 491 square meters lot (TCT No. V-23960) at Php 4,419,000.00 (491 sq. meters x Php 9,000.00) and as well as the 100 square meters lot (TCT No. V-18995) at Php 900,000.00 (100 sq meters x Php9,000.00) with a total amount of Php 5,319,000.00 and authorizing the payment thereof by the plaintiff to the defendants for the property condemned deducting the provisional deposit of Php 1,625,250.00 previously made and subject to the payment of all unpaid real property taxes and other relevant taxes by the defendants, if there be any.

The plaintiff is directed to pay interest at the rate of 12% per annum on the amount of deposit of Php1,625,250.00 from the time of the filing of the complaint on December 7, 2007 up to the time that the said amount was deposited in court by the plaintiff on November 4, 2008 and to pay the interest rate of 12% per annum on the unpaid balance of just compensation of Php 3,693,750.00 (Php 5,319,000.00 – Php 1,625,250.00) computed from the time of the filing of the complaint until the plaintiff fully paid the balance.

Considering that defendants failed to substantiate their claim as to the replacement costs of the one-storey residential house improvement, no additional amount for the replacement costs of the improvements erected on the lot owned by the defendants is awarded.^[14]

Hence, this appeal.

The Republic raised that:

The Honorable Court erred in:

I

Pegging the just compensation award for the subject properties at Nine Thousand Pesos (Php 9,000.00) per square meter for being excessive and contrary to evidence, existing law and jurisprudence;

II

Awarding an interest rate of twelve percent (12%) per annum instead of six percent (6%) per annum, as provided by Bangko Sentral ng Pilipinas Circular No. 799.

III

Directing plaintiff-appellant to pay the amount of Three Thousand pesos (Php 3,000.00) per commissioner as commissioner's fee.^[15]

The Republic avers that the manner of the court *a quo* in determining the just compensation is arbitrary because it took into account the alleged distance of the Hobart property to the subject properties but did not take into consideration the evidence showing the actual use, classification, size, area and actual condition of the same. The Republic argues that the properties subject of expropriation which are