

## **SPECIAL TWENTIETH DIVISION**

**[ CA-G.R. SP NO. 06204 with CA-G.R. SP NO.  
06286, June 27, 2014 ]**

**NATIONAL POWER CORPORATION, PETITIONER, VS. HON.  
DEMOSTHENES L. MAGALLANES, IN HIS CAPACITY AS  
PRESIDING JUDGE OF BRANCH 54, REGIONAL TRIAL COURT,  
BACOLOD CITY, AND FELISA AGRICULTURAL CORP.,  
REPRESENTED BY ITS PRESIDENT, MRS. REYNALDA SAYSON,  
RESPONDENTS.**

### **D E C I S I O N**

#### **QUIJANO-PADILLA, J.:**

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the issuances of public respondent in Civil Case No. 01-11356, to wit: (1) Order dated May 7, 2010<sup>[1]</sup> directing petitioner National Power Corporation (NPC) or its assignee to compensate private respondent Felisa Agricultural Corporation (FAC) the sum of P7,845,000.00 in accordance with the guidelines of Republic Act No. 8974;<sup>[2]</sup> and (2) Order dated May 11, 2011<sup>[3]</sup> denying NPC's motion for reconsideration.

#### **The Antecedents**

On July 16, 2003, FAC filed a suit against NPC for recovery of possession with damages. FAC's Complaint<sup>[4]</sup> alleged that after a survey was conducted on its properties sometime in 1997, FAC discovered that some of NPC's transmission towers were located within portions of FAC's lands and the transmission lines connecting these towers also traversed FAC's properties. Upon inquiry, FAC learned that NPC constructed the transmission towers sometime before 1985 without informing FAC. The complaint prayed that the trial court direct NPC to vacate the portions it occupied and surrender possession thereof to FAC.

In its Answer,<sup>[5]</sup> NPC denied having entered the property without FAC's authority. NPC claimed that FAC's president, Jovito Sayson, gave NPC a permit to enter<sup>[6]</sup> the properties on September 21, 1989 pursuant to a Resolution<sup>[7]</sup> of FAC's board of directors authorizing the president to negotiate, sign and transact business with NPC.

In the course of the proceedings of the case, the parties, however, agreed to narrow down the issue into the payment of just compensation and agreed to settle the same at P400.00 per square meter. FAC executed drafts of deeds of sale over the portions of its properties occupied by NPC, which served as proposed compromise agreements. The documents were submitted to the Office of the Solicitor General for approval. However, more than two years passed since the submission of the draft deeds of sale but there had been no action on the part of NPC.

FAC became impatient of the protracted proceedings. Acting thereon, it filed with the trial court a motion<sup>[8]</sup> asking that NPC be immediately ordered to pay FAC the sum of Seven Million Eight Hundred Forty-five Thousand Pesos (P7,845,000.00) representing the amount equivalent to 100% of the relevant Bureau of Internal Revenue (BIR)-zonal valuation of the total area of 19,635 square meters occupied by NPC.

Public respondent granted FAC's motion and issued the first assailed order, the dispositive portion of which reads, *viz.*:

WHEREFORE, defendant NAPOCOR or its assignee is hereby ordered to compensate plaintiff the sum of P7,845,000.00 in accordance with the guidelines of Republic Act No. 8974.

SO ORDERED.<sup>[9]</sup>

NPC moved for reconsideration of the above order but public respondent denied its motion in the second assailed order. Aggrieved, NPC lodged this petition on a lone ground that:

RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DIRECTING PETITIONER TO PAY PRIVATE RESPONDENT THE ONE HUNDRED PERCENT (100%) CURRENT BUREAU OF INTERNAL REVENUE (BIR) ZONAL VALUATION OF THE SUBJECT PROPERTIES PURSUANT TO RA 8974.

In gist, NPC contended that RA 8974 is inapplicable to this case since there was no expropriation proceeding and there was no need for a writ of possession.

### **This Court's Ruling**

The petition is meritorious.

Public respondent's issuance of the assailed orders was premised on RA 8974, specifically Section 4 thereof, which provides, thus:

Section 4. *Guidelines for Expropriation Proceedings.* - **Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:**

(a) **Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;**