

THIRTEENTH DIVISION

[CA-G.R. CV No. 101948, November 10, 2014]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH),
PLAINTIFF-APPELLANT, VS. SPOUSES WILLIAM G. HERNANDEZ
AND ROSEMARIE Z. HERNANDEZ, DEFENDANTS-APPELLEES.**

DECISION

DIAMANTE, J.:

This is an appeal under Rule 41 of the Revised Rules of Court assailing the December 3, 2013 Decision^[1] of Valenzuela City, Metro Manila Regional Trial Court, Branch 172 (hereinafter referred to as RTC) in Civil Case No. 266-v-07, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered fixing the just compensation of the 979 square meters lot at Php [4,500,00.00] (500 sq meters x Php [9,000.00]) and authorizing the payment thereof by the plaintiff to the defendants for the property condemned deducting the provisional deposit of Php 1,150,000.00 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 Php 1,150,000.00 from the time of the filing of the complaint on December 10, 2007 up to the time that the said amount was deposited in court by the plaintiff on June 12, 2008 and to pay the interest rate of 12% per annum on the unpaid balance of just compensation of Php 3,350,000.00 (Php [4,500,000.00] – Php 1,150,000.00) computed from the time of the filing of the complaint until the plaintiff fully paid the balance.

The plaintiff is also directed to pay the members of the Board of Commissioners the amount of Php 3,000.00/each as Commissioner's fees.

SO ORDERED."

The antecedent facts of the case, as culled from the assailed Decision, are as follows:

On December 10, 2007, plaintiff filed a complaint for expropriation of a residential parcel of land belonging to the defendants situated [in]

Barangay Ugong, Valenzuela City, consisting of FIVE HUNDRED (500) square meters, covered by Transfer Certificate of Title No. V-79546 of the Registry of Deeds of Valenzuela City, for the construction of C-5 Northern Link Road Project, Segment 8.1 from Mindanao Avenue in Quezon City to the North Luzon Expressway, Valenzuela City, a public purpose authorized by law. The current zonal valuation of the property within the vicinity is Php 2,300.00 per square meter.

In the complaint, plaintiff alleged that the subject property has not been applied to nor expropriated for any public use and is indispensable in implementing the C-5 [Northern Link] Road Project, a public purpose authorized by law. Plaintiff offered to purchase the said property for an amount based on the current zonal valuation to which the defendants refused to agreed [*sic*] on to.

In their Answer, defendants admitted that they are supportive [of] all the government projects intended for faster and comfortable travel for the motoring public in going to and coming from Northern Luzon and Metropolitan Manila. They admit the zonal valuation of the lot at Php 2,300.00 per square meter but [claim] for a just compensation based on the prevailing market value of other properties within the vicinity of the place which ranges between Php 10,000.00 to Php 15,000.00 per square meter considering that they are already situated in an industrial site, quite near to Mindanao Avenue, apart from the fact that some nearby lots have been devoted to good business ventures such as construction of warehouses.

During the hearing on the prayer for issuance of Writ of Possession, defendants-spouses [were] able to establish ownership of the property sought to be expropriated. On June 6, 2008, this branch of court ordered the issuance and release of a check issued by the plaintiff payable to the defendants-spouses in the amount of One Million [One] Hundred Fifty Thousand pesos (Php 1,150,000.00) representing the zonal valuation of the property. The court likewise ordered the issuance of a writ of possession in favor [of] herein plaintiff.

On June 27, 2008, the aforementioned amount of Php1,150,000.00 was released to defendants-spouses William Hernandez and Rosemarie Hernandez [through] their [attorney]-in-fact, Mr. Roberto F. Benitez.

On July 16, 2008, the Writ of Possession and Order of Expropriation were correspondingly issued by this Court in the above-entitled case.

At the second stage of the proceedings, three members of the board of commissioners were duly appointed to ascertain and report to the Court the compensation of the properties sought to be taken in this case.

The sole issue to be determined by this Court is whether or not the just compensation should be based on the current zonal valuation of the property at the time of the taking of the prevailing market value of the said property.

Based on the hearing conducted by the members of the Board of Commissioners, plaintiffs presented Ms. Zenaida Galvez, Community Relations Chief B and Fe Pesebre, [Officer-In-Charge] OIC of the Institutional Development Division and worked as Chief A in the Resettlement and Development Service Department of the National Housing Authority. Their testimonies consisted on proving that in several portions of C-5 Northern Link Road Project, Segment 8.1 Valenzuela City, there were informal settlers numbering 3,347 in Barangay Ugong and Barangay Gen. T. De Leon in 2006 to 2007 and 2,617 in Barangay Ugong and Gen. T. [De Leon] in 2007 to 2010 [as] per census they conducted.

Defendants opted not to present testimonial evidence as they relied on the Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Case provided under Sec. 5 of Republic Act [RA] No. 8974. [They] adopted their marked evidence on record in proving ownership of expropriated lot aside from the plaintiff's parcellary plan prepared by the [Department of Public Works and Highways] DPWH attached to the complaint and invoked the doctrine of "stare decisis" insofar as Decision had been passed by the RTC of Valenzuela City in other expropriation cases.

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Taking into consideration the recommended [Bureau of Internal Revenue] BIR zonal valuation as appearing in the complaint of Php [2,300.00] per square meter, the value declared by the defendants in the amount of Php [15,000.00] per square meter in their position paper, the recommendation of the Board of Commissioners in the amount of Php [10,000.00] and this court's observation on the location of the property which is 136.12 meters away from Hobart Realty Development Corporation, a commercial lot which value of the property was pegged by this court at Php [15,000.00]/sq. meter in a decision dated March 16, 2010 in Civil Case No. 15-v-08 which decision was affirmed by the Court of Appeals and Supreme Court, the classification of the lot which is for mixed residential and/or industrial lot usage, and the selling price of the property within the vicinity, the Court rules that the just compensation for the [defendants'] property sought to be taken in this case is fixed at Php [9,000.00] per square meter.

Plaintiff tried to lower the value of the subject property by proving that in several portions of C-5 Northern Link Road Project, Segment 8.1, Valenzuela City, there were informal settlers, no improvements/drainages and there were also wanted criminals in some areas. Plaintiff, however, failed to prove that the subject property is near the areas mentioned.

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On December 3, 2013, the RTC rendered the assailed Decision ordering plaintiff-appellant Republic of the Philippines to pay defendants-appellees the unpaid balance

of the just compensation in the sum of P3,350,000.00 and the interest rate of 12% per annum on the amount deposited and on said unpaid balance.^[2]

Hence, herein plaintiff-appellant comes before this Court *via* an ordinary appeal raising the following assignment of errors:

THE HONORABLE REGIONAL TRIAL COURT ERRED: **(i)** IN PEGGING THE JUST COMPENSATION AWARD FOR THE SUBJECT PROPERTY 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; AND **(iii)** DIRECTING PLAINTIFF-APPELLANT TO PAY THE AMOUNT OF THREE THOUSAND PESOS (PHP 3,000.00) PER COMMISSIONER AS COMMISSIONER'S FEE.^[3]

The appeal is meritorious.

The factual issue is whether or not the determination of just compensation made by the trial court was proper. We rule in the negative.

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It simply means the property's fair market value at the time of the filing of the complaint, or that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as price to be given and received therefor. The measure is not the taker's gain, but the owner's loss.^[4] While market value may be one of the bases of determining just compensation, the same cannot be arbitrarily arrived at without considering the factors to be appreciated in arriving at the fair market value of the property, *e.g.*, the cost of acquisition, the current value of like properties, its size, shape, location, as well as the tax declarations thereon.^[5]

In *Republic of the Philippines vs. Asia Pacific Integrated Steel Corporation*,^[6] the Supreme Court, citing Republic Act No. 8974 and various jurisprudential pronouncements, has elaborately delineated the several factors considered in the determination of just compensation in expropriation proceedings, *viz*:

SECTION 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. – In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

(a) The classification and use for which the property is suited;

(b) The developmental costs for improving the land;