

## SECOND DIVISION

**[ CA-G.R. SP NO. 93206, August 17, 2006 ]**

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HON.  
ERNESTO P. PAGAYATAN, PRESIDING JUDGE, REGIONAL TRIAL  
COURT, BRANCH 46, SAN JOSE, OCCIDENTAL MINDORO AND  
JOSEFINA S. LUBRICA, ASSIGNEE OF FEDERICO SUNTAY,  
RESPONDENTS.**

### DECISION

**ENRIQUEZ, JR., J.:**

This is a petition for certiorari with application for issuance of a temporary restraining order and/or writ of preliminary injunction under *Rule 65 of the 1997 Rules of Civil Procedure, as amended*, seeking to set aside the Orders dated March 4, 2005 and -December 8, 2005, issued by the Regional Trial Court (RTC), Branch 46, San Jose, Occidental Mindoro, in Civil Case No. R-1390, their respective dispositive portions are:

"The foregoing considered and as prayed for by the respondent-movant, The Land Compensation Department, Land Bank of the Philippines, is hereby directed to deposit the preliminary compensation as determined by the PARAD, in cash and bonds in the total amount of Php71,634,027.30, with the Land Bank of the Philippines, Manila, within seven (7) days from receipt of this order, and to notify this Court of compliance within such period.

SO ORDERED."

After going over the parties' pleadings and the cases cited in support thereto, the court resolves, as follows:

1. There being no reversible error in the order of the court dated March 04, 2005, the court denies the motion for reconsideration.
2. The motion to amend petition to implead the Department of Agrarian Reform for the purpose of preparing the claim folder is likewise denied for being unnecessary in the matter of land valuation.

SO ORDERED."

The facts of the case as culled from the records are:

Josefina S. Lubrica (hereafter Lubrica), in her capacity as assignee of Federico Suntay, filed a petition for summary determination of just compensation against Land Bank of the Philippines (LBP) and the Department of Agrarian Reform (DAR)

with the Office of the Provincial Agrarian Reform Adjudicator (PARAD).

The property subject of the claim for just compensation is irrigated/unirrigated rice and corn land with an aggregate area of 431.1407 hectares, more or less, and is located within the Suntay Estate covered by TCT No. T-31 (1326) with a total area of 3,682.0286 hectares.

The LBP and DAR failed to file their respective answers. During the hearing, the parties were ordered to submit their respective position papers attaching all the documentary evidence in support of their claims and defenses.

After due proceedings, on March 31, 2003, the PARAD rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

1. Fixing the preliminary just compensation for 431.1407 hectare property at P166,150.00 per hectare or a total of P71,634,027.30.
2. Directing the Land Bank of the Philippines to immediately pay the aforestated amount to the Petitioner.
3. Directing the DAR to immediately comply with all the applicable administrative requirements so that the subject property may be formally distributed and turned over to the farmer beneficiaries thereof, in accordance with the Decision of the DARAB Central in DARAB CASE NO. 2846.

No cost.

SO ORDERED."

LBP's Motion for Reconsideration thereto was denied in the Order dated December 15, 2003.

On March 5, 2004, the LBP filed a petition for fixing just compensation with the RTC.

Pending resolution of the petition, Lubrica filed a motion to deposit the preliminary valuation fixed by the PARAD pursuant to *Section 16 (e) of Republic Act 6657*.

On November 3, 2004, LBP filed an Amended Petition. Meanwhile, Lubrica moved for early resolution of the motion to deposit the preliminary valuation.

On March 4, 2005, the RTC issued an Order in the terms earlier set forth. The Motion for Reconsideration thereto was denied in the Order dated December 8, 2005. Hence, this petition for certiorari raising the following issues:

- A. RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ORDERING THE DEPOSIT (I.E., RELEASE OF THE COMPENSATION FIXED BY THE PROVINCIAL AGRARIAN REFORM ADJUDICATOR (PARAD) WITHOUT THE DAR DOCUMENTATION OR CLAIM FOLDER