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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
FEB 19 2019



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE
PHILIPPINES, REPRESENTED BY
THE DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,

Petitioner,

- versus -

SPOUSES AURORA SILVESTRE
AND ROGELIO SILVESTRE, and
NATIVIDAD GOZO (FORMERLY
KNOWN AS "QQQQ"),

Respondents.

G.R. No. 237324

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,*
HERNANDO, and
CARANDANG,** JJ.

Promulgated:

February 6, 2019

Wilfredo V. Lapitan

X-----X

DECISION

PERALTA, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ dated August 12, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 105144 which affirmed, with modification, the Decision² dated March 6, 2015 of the Regional Trial Court (RTC) of Valenzuela City.

The antecedent facts are as follows:

The instant case stemmed from an action for expropriation filed by the petitioner Republic of the Philippines, represented by the Department of

* On leave.

** Designated as additional member per Special Order No. 2624 dated November 28, 2018.

¹ *Rollo*, pp. 24-39. Penned by Associate Justice Renato C. Francisco, with the concurrence of Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser.

² *Id.* at 40-44. Penned by Judge Nancy Rivas-Palmones.

Public Works and Highways (*Republic-DPWH*), in the exercise of its power of eminent domain under Republic Act (*R.A.*) No. 8974. In its original complaint dated October 11, 2007, the Republic-DPWH sought to expropriate a 3,856-square meter lot located in Barangay Ugong, Valenzuela City, the real owner of which was originally unknown (designated as “QQQQ”). The lot was to be used for the construction of the C-5 Northern Link Project, Segment 8.1, from Mindanao Avenue in Quezon City to the North Luzon Expressway, Valenzuela City. Pursuant to said project, the motoring public would supposedly have a faster and more comfortable travel going to and coming from the North thru Metro Manila.³

Since the owner of the property was unknown, the RTC of Valenzuela City resorted to summons by publication in a newspaper of general circulation. Subsequently, on May 5, 2008, the RTC issued the writ of possession prayed for by the Republic-DPWH following its ability and readiness to pay ₱4,627,200.00, the amount equivalent to 100% of the property’s zonal value. Next, on September 9, 2008, the trial court ordered the Republic-DPWH to issue a check payable to the order of its Clerk of Court.⁴ Discovering, thereafter, that an 811-square meter portion of the 3,856-square meter property sought to be expropriated was owned by Spouses Quintin, Victoriano Galguerra, Victoria Galguerra, Elisa Galguerra, Eñña Galguerra, and Ma. Belen Manalaysay (*Quintin, et al.*), the Republic-DPWH filed an Omnibus Motion (for Leave to File and Admit Attached Amended Complaint and for Replacement of Check) seeking to implead Quintin, et al. as defendants of the case. Accordingly, the RTC admitted Republic-DPWH’s amended complaint and ordered it to issue a manager’s check payable to Quintin, et al. in the amount of ₱973,200.00, the equivalent of the zonal value of the 811-square meter portion.⁵

On July 2, 2012, herein respondents, spouses Aurora and Rogelio Silvestre, and Natividad Gozo (*Silvestre, et al.*), filed a Manifestation (In Lieu of Answer to Amended Complaint) alleging that they are the registered owners of Lot No. 1-D-9-A-3, covered by Transfer Certificate of Title No. V-99470, located along Gen. T. De Leon, Valenzuela City, consisting of 6,629 square meters. Upon verification, they discovered that 4,367 square meters of the 6,629-square meter property was affected by the expropriation. Thus, they prayed that the Republic-DPWH be directed to pay them ₱9,389,050.00 (computed as follows: 4,367 square meters x ₱2,150.00 zonal value).⁶ On November 21, 2012, the Republic-DPWH filed a second amended complaint impleading Silvestre, et al., as additional defendants, and alleging that contrary to their claims, the area affected by the sought expropriation covered only 3,045 square meters of their property with a

³ *Id.* at 25.

⁴ *Id.*

⁵ *Id.* at 25-26.

⁶ *Id.* at 26

zonal value of ₱1,200.00 per square meter or a total zonal value of ₱3,654,000.00, which the Republic-DPWH already deposited with the court.

On January 14, 2014, the RTC issued a partial decision insofar as Quintin, et al. are concerned as they no longer pursued the second stage of the expropriation proceedings, receiving from the Republic-DPWH the amounts of ₱973,200.00, representing the zonal value of the lot, and ₱208,060.82, for the cost of the fence thereof. Accordingly, the RTC condemned the 811-square meter portion of the property in favor of the Republic-DPWH. As for the portion of Silvestre, et al., however, the RTC proceeded with the second stage of the expropriation and directed the appointed Board of Commissioners (*BOC*) to submit a report on just compensation.⁷

On September 30, 2014, the *BOC* recommended the amount of ₱5,000.00 per square meter as the reasonable, just, and fair market value of the 4,367-square meter portion owned by Silvestre, et al. It relied on a Certification dated August 15, 2012 issued by Project Director Patrick Gatan finding that the project would affect 4,367 square meters of Silvestre, et al.'s property. Moreover, in arriving at the recommended amount, the *BOC* took into consideration the following:

[T]he size, location, accessibility, the BIR Zonal Valuation, the previously decided expropriation case of DPWH v. Mapalad Serrano, where the fair market value was fixed at Php5,000.00 per square meter x x x; the Opinion Value conducted by the Assessor's Office personnel on February 21, 2007, in the properties within the vicinity of the property of defendants where 10 disinterested persons [were] interviewed as to the fair market value of the property within the vicinity which yielded a weighted average fair market value at Php5,150 per square meter x x x; the Deed of Absolute [S]ale executed by and between PBCOM FINANCE CORPORATION and FRANCISCO ERWIN & IMELDA F. BERNARDO over the property situated at Ge. T. De Leon, Valenzuela City where the fair market value of the property was pegged at Php8,484.85 per square meter; the pictures of the existing subdivision within the vicinity of the property x x x; the pictures of Foton Motor Philippines, an industrial corporation involved in the manufacture of motor vehicles[.]⁸

On October 17, 2014, however, the Republic-DPWH filed a Comment, assailing the recommendation of the *BOC*, arguing that said board erroneously considered the August 15, 2012 Certification issued by Project Director Gatan when there exists a more recent Certification dated October 4, 2012 issued by Geodetic Engineer Efipanio Lopez which was, thereafter, affirmed by Project Director Gatan in his Certification dated October 11, 2012. These recent certifications indicate that only 3,045 square

⁷ *Id.* at 26-27.

⁸ *Id.* at 27.

meters of Silvestre, et al.'s property was to be affected by the project and not 4,367 square meters as they allege. As regards the basis for just compensation, the Republic-DPWH faulted the BOC in valuing the property at ₱5,000.00, making reference to the Mapalad Serrano property and disregarding the actual characteristics thereof. The Republic-DPWH added that since the zonal value of the property is ₱1,200.00 per square meter, it cannot command a price higher than said value.⁹

On March 6, 2015, the RTC partially adopted the recommendation of the BOC and pegged the just compensation at ₱5,000.00 per square meter, but found the total affected property to be only 3,045 square meters. The *fallo* of the Decision reads:

WHEREFORE, judgment is hereby rendered fixing the just compensation of the total area of 3,045 square meters lot (TCT No. T-799470) at Php15,225,000.00 (3,045 square meters x Php5,000.00) and authorizing the payment thereof by the plaintiff to the defendants for the property condemned deducting the provisional deposits of Php3,654,000.00 previously made and subject to the payment of all unpaid real property taxes and other relevant taxes by the defendants up to the taking of the property by plaintiff, if there be any.

The plaintiff is directed to pay interest at the rate of 12% per annum in the unpaid balance of just compensation of Php11,571,000.00 (Php15,225,000.00 - Php3,654,000.00) computed from the time of the filing of the complaint until the plaintiff pays the balance.

The plaintiff is also directed to pay the defendants the amount of Php50,000 as attorney's fees; and the members of the Board as commissioner's fee the amount of Php3,000.00 each.

X X X X

SO ORDERED.¹⁰

In a Decision dated August 12, 2016, the CA affirmed, with modification, the RTC ruling, and disposed of the case as follows:

WHEREFORE, premises considered, the appeal is PARTIALLY GRANTED insofar as the legal interest imposed on the amount of just compensation. The assailed 30 April 2014 Decision of the Regional Trial Court in Civil Case No. 153-V-10 is AFFIRMED with MODIFICATION as regards interest which shall accrue as follows:

- (a) The difference between the principal amount of just compensation (Php15,225,000.00) and the provisional deposit of Php3,654,000.00, shall earn legal interest of 12% per annum from the date of taking of the property until June 30, 2013; and

⁹ *Id.* at 28.

¹⁰ *Id.* at 28-29.

- (b) The difference between the principal amount of just compensation (Php15,225,000.00) and the provisional deposit of Php3,654,000.00, shall earn legal interest of 6% per annum from July 1, 2013, until the finality of this Court's decision;

The sum of the above-mentioned amounts and the unpaid balance of just compensation of Php11,571,000.00 (Php15,225,000.00 less Php3,654,000.00) shall earn legal interest of 6% per annum from the finality of the Court's ruling until full payment.

Further, the order directing appellant to pay commissioner's fee and the award of attorney's fees are DELETED for lack of factual and legal basis.

SO ORDERED.¹¹ (Citations omitted.)

Aggrieved, the Republic-DPWH filed the instant petition on April 13, 2018, invoking the following argument:

I.

THE HONORABLE COURT OF APPEALS ERRED IN FIXING THE AMOUNT OF JUST COMPENSATION FOR THE SUBJECT LOT AT FIVE THOUSAND PESOS (P5,000.00) PER SQUARE METER. INSTEAD, THE JUST COMPENSATION FOR THE SUBJECT LOT SHOULD BE FIXED BETWEEN SIX HUNDRED PESOS (P600.00) AND ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) PER SQUARE METER.¹²

In its petition, the Republic-DPWH submits that because of several factors that diminish the value of the subject lot, the just compensation for the same must be pegged only between ₱600.00 and ₱1,200.00 per square meter and not at ₱5,000.00 as held by the courts *a quo*. First, the subject lot is occupied by 3,347 informal settler families as revealed by the census and tagging operations conducted by the National Housing Authority from November 2006 to January 2007. Second, according to a certain Fe Pesebre, the over-all supervisor, the subject area is located within a depressed, low-income, and substandard residential community, its surroundings being filthy, muddy, and polluted. Third, Tax Declaration No. C-018-28698 states that the subject lot is classified as a residential lot and carries a unit value of only ₱600.00 per square meter or a total market value of ₱3,977,400.00. Thus, such amount should be controlling for in the ordinary scheme of things, tax declarations carry a high evidentiary value, being, as to the tax declaring respondents, in the nature of admissions against self-interest. Fourth, the Republic-DPWH asserts that the current and relevant zonal valuation of the Bureau of Internal Revenue (*BIR*) for the subject lot is only ₱1,200.00 per square meter. The just compensation, therefore, should not

¹¹ *Id.* at 38-39.

¹² *Id.* at 16.

exceed this amount since it has been held that the BIR Zonal Value is reflective of the fair market value of the real property within a given area. Just because it is the government that is purchasing the property, which is an entity whose financial resources are supposed to be inexhaustible, does not mean that the fair market value thereof must be higher.¹³

At the outset, the Court notes that only questions of law should be raised in a petition for review on *certiorari* under Rule 45. Factual findings of the lower courts will generally not be disturbed. Thus, the issues pertaining to the value of the property expropriated are questions of fact which are generally beyond the scope of the judicial review of this Court under Rule 45.¹⁴ Here, in claiming that the courts *a quo* should have pegged the just compensation between ₱600.00 and ₱1,200.00 per square meter and not at ₱5,000.00, the Republic-DPWH is asking the Court to recalibrate and weigh anew the evidence already passed upon by the courts below. But unfortunately for the Republic-DPWH, it has not alleged, much less proven, the presence of any of the exceptional circumstances that would warrant a deviation from the rule that the Court is not a trier of facts. On this ground alone, the denial of the petition is warranted. Nevertheless, even if the propriety of the instant petition is assumed, we still resolve to deny the same.

Just compensation, in expropriation cases, is defined as the full and fair equivalent of the loss of the property taken from its owner by the expropriator. Its true measure is not the taker's gain, but the owner's loss. The word "just" is used to modify the meaning of the word "compensation" to convey the idea that the equivalent to be given for the property to be taken shall be real, substantial, full and ample.¹⁵ It has been consistently held, moreover, that though the determination of just compensation in expropriation proceedings is essentially a judicial prerogative, the appointment of commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement nonetheless. Thus, while it is true that the findings of commissioners may be disregarded and the trial court may substitute its own estimate of the value, it may only do so for valid reasons; that is, where the commissioners have applied illegal principles to the evidence submitted to them, where they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive. As such, "trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all."¹⁶ Evidently, the recommendations of the BOC carry with it great weight and value insofar as the determination of just compensation is concerned.

¹³ *Id.* at 17-21.

¹⁴ *Evergreen Manufacturing Corporation v. Republic*, G.R. Nos. 218628 and 218631, September 6, 2017, 839 SCRA 200, 215.

¹⁵ *Id.* at 216, citing *Rep. of the Phils., et al. v. Judge Mupas, et al.*, 785 Phil. 40 (2016).

¹⁶ *Id.* at 217, citing *Spouses Ortega v. City of Cebu*, 617 Phil. 817 (2009).



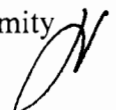
Here, it was precisely the findings of the BOC that the courts below adopted. In its assailed Decision, the CA affirmed the RTC's ruling when it held that the BOC properly took into consideration the relevant factors in arriving at its recommendation of just compensation. In fact, these relevant factors were based not on mere conjectures and plain guesswork of the BOC, but on the statutory guidelines set forth in Section 5 of R.A. No. 8974, to wit:

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;
- (c) The value declared by the owners;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvement on the land and for the value of improvements thereon;
- (f) [The] size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

In view of the foregoing, the Court finds no error on the part of the courts below in finding that there was nothing arbitrary about the pegged amount of ₱5,000.00 per square meter, recommended by the BOC, as it was reached in consideration of the property's size, location, accessibility, as well as the BIR zonal valuation, among other things. We quote, with approval, the words of the appellate court:

Firstly, the BOC significantly noted that the subject property has a residential classification and is similarly situated [within] the *Mapalad Serrano* property (similarly affected by the C-5 Northern Link Road Project), which was earlier expropriated by the government in Civil Case No. 52-V-08. The Decision dated 22 August 2012, the RTC-Branch 172 fixed the amount of just compensation at P5,000.00 per square meter. Per Entry of Judgment, such Decision became final and executory on 08 March 2013. In the said Decision, the *Mapalad Serrano* property was described as having mixed residential and industrial use. In conformity



with the standards set forth in Section 5, the two properties can be said to be similarly-situated as would reasonably lead to the conclusion that they have the same market value.

Secondly, the BOC took note of the existing business establishments (Foton Philippines, Inc., Shell gasoline station, Seven Eleven Convenient Store, Banco de Oro, Allied Bank and Eastwest Bank), educational institutions (St. Mary's School, Gen. T. de Leon National High School, Our Lady of Lourdes School), Parish of the Holy Cross Church, subdivisions (Bernardino Homes and Miguelito Subdivision) near the vicinity of appellee's property.

Thirdly, as reasonable basis for comparison, the BOC took into consideration the Deed of Absolute Sale executed by and between PBCOM Finance Corporation and Francisco Erwin D. & Imelda F.[.] Bernardo covering a property similarly situated with the subject property where the fair market value was pegged at P8,484.85 per square meter. This comparison made by the BOC finds support in Section 5 (d) which provides that "[t]he current selling price of similar lands in the vicinity" may [be] considered as a factor in determining just compensation.¹⁷ (Citations omitted.)

Thus, the Court cannot subscribe to the Republic-DPWH's plain and simplistic assertions that the subject property must be valued at a significantly lower price due to the presence of informal settlers, as well as the opinion of a certain Fe Pesebre. It is clear, from the records, that the BOC endeavored painstaking efforts in determining just compensation. From court promulgations on similarly situated lands to the numerous commercial establishments within the property's vicinity and even sales contracts covering nearby lots, the BOC obviously took the statutory guidelines to heart and considered several factors in arriving at its recommendation.

As for the contention of the Republic-DPWH that it is the value indicated in the property's tax declaration, as well as its zonal valuation that must govern, the Court adopts the findings of the BOC, the RTC, and the CA in ruling that the same are not truly reflective of the value of the subject property, but is just one of the several factors to be considered under Section 5 of R.A. No. 8974. Time and again, the Court has held that zonal valuation, although one of the indices of the fair market value of real estate, cannot, by itself, be the sole basis of just compensation in expropriation cases.¹⁸

In fine, the Court finds no cogent reason to reverse the findings of the CA, insofar as the amount of just compensation is concerned. In the absence, moreover, of any legal basis to the contrary, or any objection from the parties, the Court further affirms the appellate court's imposition of legal interest, as well as its deletion of the payment of commissioner's fee and the

¹⁷ *Rollo*, pp. 32-33.

¹⁸ *Evergreen Manufacturing Corporation v. Republic*, *supra* note 14, at 221.



award of attorney's fees for being in accord with applicable law and recent jurisprudence.

Indeed, the delay in the payment of just compensation is a forbearance of money and, as such, is necessarily entitled to earn interest. Thus, the difference in the amount between the final amount as adjudged by the Court, which in this case is ₱15,225,000.00, and the initial payment made by the government, in the amount of ₱3,654,000.00 — which is part and parcel of the just compensation due to the property owner — should earn legal interest as a forbearance of money. Moreover, with respect to the amount of interest on this difference between the initial payment and the final amount of just compensation, as adjudged by the Court, we have upheld, in recent pronouncements, the imposition of 12% interest rate from the time of taking, when the property owner was deprived of the property, until July 1, 2013, when the legal interest on loans and forbearance of money was reduced from 12% to 6% per annum by Bangko Sentral ng Pilipinas Circular No. 799. Accordingly, from July 1, 2013 onwards, the legal interest on the difference between the final amount and initial payment is 6% per annum.¹⁹

Here, the Republic-DPWH filed the expropriation complaint on October 11, 2007. But it was able to take possession of the property on May 5, 2008, when the RTC issued the writ of possession prayed for by the Republic-DPWH following its ability and readiness to pay 100% of the property's zonal value. Thus, a legal interest of 12% per annum shall accrue from May 5, 2008 until June 30, 2013 on the difference between the final amount adjudged by the Court and the initial payment made. From July 1, 2013 until the finality of the Decision of the Court, the difference between the initial payment and the final amount adjudged by the Court shall earn interest at the rate of 6% per annum. Thereafter, the total amount of just compensation shall earn legal interest of 6% per annum from the finality of this Decision until full payment thereof.

WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Decision dated August 12, 2016 of the Court of Appeals is **AFFIRMED** such that the just compensation for the 3,045-square meter of the expropriated property is ₱5,000.00 per square meter, or a total of ₱15,225,000.00. Hence, the following amounts are due to the respondents, Spouses Aurora Silvestre and Rogelio Silvestre, and Natividad Gozo:

1. The unpaid portion of the just compensation which shall be the difference between the principal amount of just compensation, or ₱15,225,000.00, and the amount of initial deposit made by

¹⁹ *Id.* at 230.

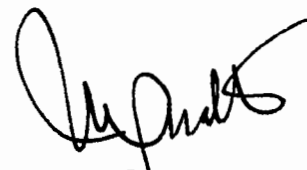


petitioner Republic of the Philippines, represented by the Department of Public Works and Highways, or ₱3,654,000.00; and

2. Interest, which shall accrue as follows:

- i. The difference between the principal amount of just compensation, or ₱15,225,000.00, and the amount of initial deposit, or ₱3,654,000.00, shall earn legal interest of 12% per annum from the date of the taking, or May 5, 2008, until June 30, 2013.
- ii. The difference between the principal amount of just compensation, or ₱15,225,000.00, and the amount of initial deposit, or ₱3,654,000.00, shall earn legal interest of 6% per annum from July 1, 2013 until the finality of the Decision.
- iii. The total amount of just compensation, or the sum of legal interest in items i and ii above, plus the unpaid portion of ₱11,571,000.00 (₱15,225,000.00 less ₱3,654,000.00) shall earn legal interest of 6% per annum from the finality of this Decision until full payment thereof.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice

On leave
ANDRES B. REYES, JR.
Associate Justice



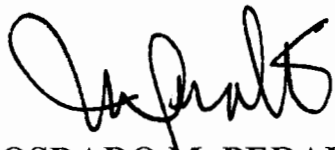
RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

ATTESTATION

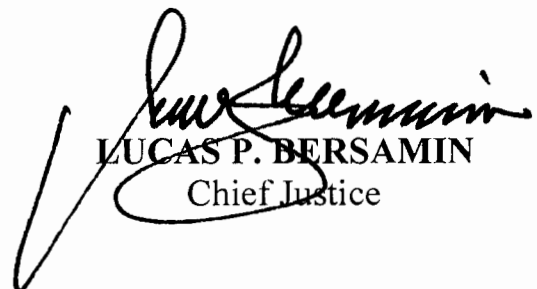
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



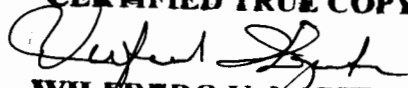
DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
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