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SEP 20 2019
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LAND BANK OF THE PHILIPPINES,

G.R. No. 233401

Petitioner,

Present:

- versus -

HEIRS OF THE ESTATE OF MARIANO and ANGELA VDA. DE VENERACION, namely: PORFERIA V. VIDOLA, ENRIQUETA Q. VENERACION, SONIA VDA. DE VENERACION, REMEDIOS VDA. DE MARASIGAN, SOLDELICIA V. FLORES, JOSE Q. VENERACION, ROSARIO VDA. DE VENERACION, and CRISOSTOMO Q. VENERACION, represented by their Attorney-in-Fact, CRISOSTOMO Q. VENERACION,

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

Promulgated:

17 JUN 2019

Respondents.

Handwritten signature: H.M. Cabalag Perfecto

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated April 25, 2017 and the Resolution³ dated August 10, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 132400, affirming the Decision⁴ dated September 6, 2013 of the Regional Trial Court of Naga City, Branch 23 (RTC) in Civil Case No. 99-4225, which fixed the just compensation for the subject land at ₱1,523,204.50⁵ using the formula⁶ under Department of

¹ *Rollo*, pp. 12-29.
² *Id.* at 37-47. Penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion, concurring.
³ *Id.* at 50-51.
⁴ Not attached to the petition.
⁵ See *rollo*, p. 40.
⁶ See *id.* at 18.

Agrarian Reform (DAR) Administrative Order (AO) No. 1, Series of 2010,⁷ with the modification imposing legal interest on the just compensation at 12% per annum (p.a.) to run from 1998 up to June 30, 2013, and thereafter, at 6% p.a. until full payment.⁸

The Facts

Respondents Heirs of the Estate of Mariano and Angela Vda. De Veneracion, namely: Porferia V. Vidola, Enriqueta Q. Veneracion, Sonia Vda. De Veneracion, Remedios Vda. De Marasigan, Soldelicia V. Flores, Jose Q. Veneracion, Rosario Vda. De Veneracion, and Crisostomo Q. Veneracion, represented by their attorney-in-fact, Crisostomo Q. Veneracion (respondents) are the co-owners of a 24.4170 hectare (ha.) parcel of riceland located in Barrio Taguilid (now Veneracion), Batang, Pamplona, Camarines Sur covered by Transfer Certificate of Title No. RT 1405 (4487). A 21.8513 ha. portion (subject land) of the said land was acquired by the DAR in 1972, and distributed to farmer-beneficiaries⁹ pursuant to Presidential Decree No. (PD) 27.¹⁰

On February 3, 1999, respondents filed a petition for the fixing of just compensation, accounting, collection of rental arrears, and damages against the Land Bank of the Philippines (LBP) President and the DAR Secretary¹¹ before the RTC, designated as the Special Agrarian Court. They alleged that they have not yet received the just compensation for the subject land which they claimed to be a first class irrigated rice land that should be valued at not less than ₱300,000.00/ha.¹²

The LBP countered that the petition states no cause of action against it as it has yet to receive the Claim Folder (CF) for the subject land from the DAR.¹³

On the other hand, respondents and the DAR stipulated on the existence of the Certificates of Land Transfer (CLTs) and Emancipation Patents (EPs) awarded to the farmer-beneficiaries (FBs).¹⁴

⁷ Re: Rules and Regulations on Valuation and Landowners Compensation Involving Tenanted Rice and Corn Lands under Presidential Decree (P.D.) No. 27 and Executive Order (E.O.) No. 228, adopted on February 12, 2010.

⁸ See *rollo*, p. 46.

⁹ See *id.* at 38.

¹⁰ Entitled "DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR," approved on October 21, 1972.

¹¹ The farmer-beneficiaries were initially impleaded as party-respondents to the case but eventually dropped upon respondents' motion. See *rollo*, p. 39.

¹² See *id.* at 38-39.

¹³ See *id.* at 39.

¹⁴ See *id.*

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Thereafter, the parties presented their respective evidence.¹⁵ The LBP valued the land at ₱69,707.73/ha. or a total of ₱1,523,204.50¹⁶ using the formula under DAR AO No. 1, Series of 2010,¹⁷ *i.e.*, $LV = (CNI \times 0.90) \times (MV \times 0.10)$.¹⁸

The RTC Ruling

In a Decision¹⁹ dated September 6, 2013, the RTC adopted the LBP's computation fixing the just compensation for the subject land at ₱1,523,204.50 but further directed the LBP to pay interest at the rate of 12% p.a. reckoned from 1998, the year tax declarations were issued to the FBs,²⁰ until full payment.²¹

Dissatisfied, the LBP filed a motion for partial reconsideration raising the sole challenge against the imposition of interest,²² but the same was denied in an Order²³ dated October 11, 2013, prompting it to appeal before the CA.²⁴

¹⁵ See *id.* at 40.

¹⁶ Computed as follows:

Computed land value/ha.	₱ 69,707.73
Area acquired (in ha.)	<u>x 21.8513</u>
Just compensation for the subject land	<u>₱1,523,204.50</u>

¹⁷ See *rollo*, p. 18.

¹⁸ Where:

LV = Land Value

CNI = Capitalized Net Income which refers to the gross sales (AGP x SP) with assumed net income rate of 20% capitalized at 0.12

Expressed in equation form:

$$CNI = \frac{(AGP \times SP) \times 0.20}{0.12}$$

Where:

AGP = Annual Gross Production corresponding to the latest available 12 month's gross production immediately preceding 30 June 2009. The AGP shall be secured from the Department of Agriculture (DA) or Bureau of Agriculture Statistics (BAS). The AGP data shall be gathered from the barangay or municipality where the property is located. In the absence thereof, AGP may be secured within the province or region.

SP = The average of the latest available 12 months' selling prices prior to 30 June 2009 such prices to be secured from the Department of Agriculture (DA) or Bureau of Agricultural Statistics (BAS). If possible, SP data shall be gathered from the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

MV = Market Value per Tax Declaration which is the latest Tax Declaration and Schedule of Unit of Market Value (SUMV) issued prior to 30 June 2009. MV shall be grossed-up up to 30 June 2009.

The reckoning date of the AGP and SP shall be June 30, 2009.

See Item IV (1) of DAR AO No. 1, Series of 2010.

¹⁹ Not attached to the petition.

²⁰ See *rollo*, p. 18.

²¹ See *id.* at 40.

²² *Id.*

²³ Not attached to the petition.

²⁴ See *rollo*, p. 40.

The CA Ruling

In a Decision²⁵ dated April 25, 2017, the CA affirmed the RTC ruling but imposed legal interest on the just compensation at 12% p.a. to run from 1998 up to June 30, 2013, and thereafter, at 6% until full payment, in line with the amendment introduced by Bangko Sentral ng Pilipinas Monetary Board (BSP-MB) Circular No. 799,²⁶ Series of 2013.²⁷

Unperturbed, the LBP moved for reconsideration,²⁸ which was denied by the CA in a Resolution²⁹ dated August 10, 2017; hence, the instant petition.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA erred in adjudging the LBP liable to pay legal interest on the amount of just compensation.

The Court's Ruling

It is undisputed that DAR AO No. 1, Series of 2010 which was issued in line with Section 31 of Republic Act No. (RA) 9700³⁰ (further amending RA 6657, as amended) was the governing rules and regulations to determine the just compensation for the subject land. Among the notable provisions under the said AO is the reckoning of the Annual Gross Production (AGP) and Selling Price (SP)³¹ to the latest available 12 month's data immediately preceding June 30, 2009³² (hereinafter, *current prices*) instead of the values at the time of taking,³³ in this case, the issuance of EPs in favor of the FBs.

Prior to the passage of RA 6657, lands acquired under PD 27 and EO 228 were valued in accordance with the formula under EO 228, as amended by DAR AO No. 13, Series of 1994,³⁴ as amended³⁵ *i.e.*, $LV = (AGP \times 2.5 \times$

²⁵ Id. at 37-47.

²⁶ Rate of interest in the absence of stipulation; dated June 21, 2013.

²⁷ *Rollo*, p. 46.

²⁸ See Motion for Reconsideration (Re: Decision dated April 25, 2017) dated May 12, 2017; id. at 54-60.

²⁹ Id. at 50-51.

³⁰ See Item VIII of DAR AO 1, Series of 2010 on "Effectivity."

³¹ AGP and SP are factors essential in the computation of the Capitalized Net Income (CNI) of the subject land.

³² See Item IV (1) of DAR AO 1, Series of 2010.

³³ See id.

³⁴ Re: Rules and Regulations Governing the Grant of Increment of Six Percent (6%) Yearly Interest Compounded Annually on Lands covered by Presidential Decree No. 27 and Executive Order No. 228 dated October 27, 1994 issued by then DAR Secretary Ernesto D. Garilao.

³⁵ As amended by DAR AO No. 06, Series of 2008 (re: Amendment to DAR Administrative Order No. 2. S. of 2004 on the Grant of Increment of Six Percent (6%) Yearly Interest Compounded Annually on Lands Covered by Presidential Decree (PD) No. 27 and Executive Order (EO) No. 228 dated July 28,

₱35.00) x (1.06)ⁿ,³⁶ which included 6% incremental interest. **The purpose of the incremental interest under DAR AO No. 13 is to compensate the landowners for unearned interests.** Had they been paid in 1972 when the Government Support Price (GSP) for palay was valued at ₱35.00, and such amount was deposited in a bank, they would have earned a compounded interest of 6% p.a.³⁷ The grant of said incremental interest was reckoned from October 21, 1972 if tenanted as of that date, or the date the land was actually tenanted if later, up to the time of actual payment.³⁸

After the enactment of RA 6657, when the acquisition process under PD 27 is still incomplete, such as where the just compensation due the landowner has yet to be settled, just compensation is to be determined and the process concluded considering the factors under RA 6657,³⁹ as translated into a basic formula by the DAR, such as DAR AO No. 5, Series of 1998,⁴⁰ *i.e.*, $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$.⁴¹ While the formula under DAR AO No. 5, Series of 1998 and DAR AO No. 1, Series of 2010 are basically similar,⁴² they materially vary in the reckoning point of the AGP and SP which are factors essential in computing the CNI or the Capitalized Net Income.⁴³ As opposed to the latter AO which uses *current prices*, in the former, the AGP corresponds to the latest available 12-months' gross production immediately preceding the date of field investigation (FI), and the SP is the average of the latest available 12-months' selling prices prior to the date of receipt of the CF by the LBP for processing.

However, in cases where the just compensation is computed pursuant to the formula under DAR AO No. 5, Series of 1998, the Court has imposed **legal interest on the amount of just compensation reckoned from the time of taking**, or the time when the landowner was deprived of the use and

2008 issued by then DAR Secretary Nasser C. Pangandaman.

³⁶ Where:

LV = Land Value

AGP = Average Gross Production in cavan of 50 kilos in accordance with DAR Memorandum Circular No. 26, series of 1973

₱35.00 = Government Support Price (GSP) of palay in 1972 pursuant to Executive Order No. 228

n = number of years from date of tenancy up to the effectivity date of DAR AO No. 13, series of 1994, as amended by DAR AO No. 06-08.

³⁷ See *LBP v. Rivera*, 705 Phil. 139, 149 (2013).

³⁸ See Item II of DAR AO No. 06, Series of 2008. It must be noted that the term "actual payment" in the said AO is to be interpreted as "full payment" of just compensation, pursuant to the rulings in *LBP v. Obias* (684 Phil. 296, 302 [2012]), and *LBP v. Soriano* (634 Phil. 426, 435 [2010]).

³⁹ See *Heirs of Feliciano v. LBP*, 803 Phil. 253, 260-261 (2017).

⁴⁰ *Alfonso v. LBP*, 801 Phil. 217, 321 (2016).

⁴¹ Where:

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

⁴² Under DAR AO No. 1, Series of 2010, the formula, $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$, applies to lands falling under Phase 1 of RA 9700 [see item IV (2)].

⁴³ Under Item IV (1) of DAR AO No. 10, Series of 2010, Capitalized Net Income refers to the gross sales with assumed net income rate of 20% capitalized at 0.12.

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benefit of his property,⁴⁴ such as when EPs⁴⁵ are issued by the government⁴⁶ – **for the delay in the payment of the just compensation to the owner since the obligation is deemed to be an effective forbearance on the part of the State.**⁴⁷

However, it must be emphasized that the allowance of **legal interest on the value of the acquired property, as an effective forbearance, is intended to eradicate the issue of the constant variability of the value of the currency over time,**⁴⁸ and to **limit the opportunity loss of the owner from non-payment of just compensation** that can drag from days to decades.⁴⁹

Notably, the CNI factor in the DAR formulas refers to the **Income Capitalization Approach** under the standard appraisal approaches which is considered the most applicable valuation technique for income-producing properties such as agricultural landholdings. Under this approach, the value of the land is determined by taking the sum of the net present value (NPV) of the streams of income, in perpetuity, that will be forgone by the landowner due to the coverage of his landholding under the government's agrarian reform laws.⁵⁰ The operational assumption is that the agricultural properties to be valued are, in general, operating on a stabilized basis, or are expected to produce on a steady basis.⁵¹

While both DAR AO No. 5, Series of 1998 and DAR AO No. 1, Series of 2010 commonly use a capitalization rate⁵² of 12%, the NPV of the streams of income are computed using different values reckoned from different points in time. Thus, the use of the higher prices from a later time under DAR AO No. 1, Series of 2010 assumes that the property to be acquired is already operating at such capacity as of the earlier time of taking, and will continue operating at such capacity in perpetuity. **Hence, the apparent purpose of using the higher prices reckoned from the 12 month-period immediately preceding June 30, 2009 instead of the lower prices as of the time of taking is to address the issue of the variability of the value of the currency between the time of taking and the said period, and thus, to “update” the value of the property.**

⁴⁴ See *LBP v. Santos*, 779 Phil. 587, 610-611 (2016).

⁴⁵ In *LBP v. Heirs of Domingo* (567 Phil. 593, 608 [2008]), Court explained why the date of taking of the acquired land for purposes of computing just compensation should be reckoned from the issuance dates of the emancipation patents, to wit:

“[A]n emancipation patent constitutes the conclusive authority for the issuance of a Transfer Certificate of Title in the name of the grantee. It is from the issuance of an emancipation patent that the grantee can acquire the vested right of ownership in the landholding, subject to the payment of just compensation to the landowner.”

⁴⁶ *LBP v. Lajom*, 741 Phil. 655, 665 (2014).

⁴⁷ *LBP v. Santos*, supra note 44, at 610.

⁴⁸ See *Republic v. CA*, 433 Phil. 106, 123 (2002).

⁴⁹ See *Sy v. Local Government of Quezon City*, 710 Phil. 549, 559 (2013).

⁵⁰ See *Alfonso v. LBP*, supra note 40, at 305.

⁵¹ *Id.* at 312.

⁵² Capitalization rate is the interest rate used in calculating the present value of future periodic payments. See *Black's Law Dictionary*, Eight Edition, p. 223.

Nonetheless, it is well to point out that despite the use of current or updated prices, the just compensation remains unpaid as of June 30, 2009, while the landowners, herein respondents, have already been deprived of the use and benefit of their property with the issuance of CLTs and EPs in favor of the FBs. In *LBP v. Orilla*,⁵³ the Court elucidated the concept of just compensation, to wit:

Constitutionally, “just compensation” is the sum equivalent to the market value of the property, broadly described as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition, or the fair value of the property as between the one who receives and the one who desires to sell, it being fixed at the time of the actual taking by the government. Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It has been repeatedly stressed by this Court that **the 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.** (Emphasis supplied)

It is doctrinal that the concept of just compensation contemplates of just and timely payment (prompt payment). It embraces not only the correct determination of the amount to be paid to the landowner, but also the payment of the land within a reasonable time from its taking, as otherwise compensation cannot be considered “just,” for the owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for years before actually receiving the amount necessary to cope with his loss.⁵⁴ **Verily, prompt payment encompasses the payment in full of the just compensation to the landholders as finally determined by the courts.** Thus, it cannot be said that there is already prompt payment of just compensation when there is none or only a partial payment thereof.⁵⁵

Certainly, respondents’ entitlement to prompt payment for the taking of their property cannot be disregarded by the mere absence of the CFs covering the same, as otherwise, the Court would be abetting the perpetration of a grave injustice against them, occasioned by the undue delay and unjustified failure of the DAR to forward to the LBP the said folders even after the taking of the subject land and the issuance of CLTs and EPs to the FBs.⁵⁶ Consequently, the Court cannot subscribe to the LBP’s argument that it shall only be liable to pay interest from the time that the RTC decision fixing the just compensation for the subject land becomes final.

⁵³ 578 Phil. 663, 676 (2008).

⁵⁴ *LBP v. Santos*, supra note 44, at 609.

⁵⁵ *LBP v. Orilla*, supra note 53, at 677.

⁵⁶ See *DAR v. Beriña*, 738 Phil. 605, 617 (2014).

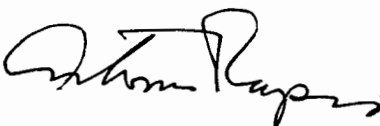
However, the Court finds that it will not be fair and just to reckon the rate of imposable legal interest on the just compensation for the subject land (or any other property/ies valued under DAR AO No. 1, Series of 2010) from the time of taking since the land had been valued using *current prices* and had already considered income that the same would have earned and/or the variability of the value of the currency between the time of taking and June 30, 2009. Accordingly, interest on the unpaid balance of the just compensation is hereby imposed at the rate of 12% p.a. reckoned from June 30, 2009 up to June 30, 2013, and thereafter, at 6% p.a. until full payment, in line with the amendment introduced by BSP-MB Circular No. 799, Series of 2013.

WHEREFORE, the petition is **DENIED**. The Decision dated April 25, 2017 and the Resolution dated August 10, 2017 of the Court of Appeals in CA-G.R. SP No. 132400 are hereby **AFFIRMED with MODIFICATION** imposing legal interest on the just compensation at 12% per annum reckoned from June 30, 2009 up to June 30, 2013, and thereafter, at 6% per annum until full payment.


SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

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



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second 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 cases were assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice