



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

REPUBLIC OF THE G.R. No. 233988  
PHILIPPINES REPRESENTED  
BY THE MANILA Present:  
INTERNATIONAL AIRPORT  
AUTHORITY (MIAA),  
Petitioner,

LEONEN, *J.*, Chairperson,  
CARANDANG,  
ZALAMEDA,  
ROSARIO, and  
DIMAAMPAO\*, *JJ.*

-versus-

SPOUSES MARIANO NOCOM  
AND ANACORETA O. NOCOM  
AND SPOUSES SY KA KIENG  
AND ROSA CHAN, AND  
GORGONIA CRUZ, NORBERTO  
DE LEON, ALEJANDRIA DE  
LEON ESPIRITU, GREGORIO  
CRUZ DE LEON, ANGELINA  
CRUZ RAMOS, ANGELES CRUZ,  
AND THE REGISTER OF DEEDS  
OF PARAÑAQUE CITY,  
Respondent.

Promulgated:  
November 15, 2021

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DECISION

LEONEN, *J.*:

The government, in taking private property for a public purpose, must comply with the duly constituted procedure for expropriation proceedings to

\* Designated additional Member per Special Order No. 2839 dated September 16, 2021.

determine the appropriate compensation due to the landowner. While just compensation is based on the fair market value of the property upon actual taking of the government, when there is delay in payment, landowners should be recompensed with the profit they did not gain due to the delay. Thus, the difference in the present value of the property and its value at the time of taking should be considered in the computation of just compensation.

Before this Court is a Petition for Review<sup>1</sup> filed by the Republic of the Philippines represented by the Manila International Airport Authority assailing the Court of Appeals Decision<sup>2</sup> and Resolution<sup>3</sup> which affirmed the trial court's Decision<sup>4</sup> ordering Manila International Airport Authority to pay rent and interest in favor of the Spouses Nocom.

At the center of this case are Lots No. 2817, 2818, and 2819 (Subject Lots) situated in Ibayo, Parañaque and originally owned by Emiliano Cruz.<sup>5</sup>

On January 25, 1982,<sup>6</sup> the Manila International Airport Authority instituted expropriation proceedings, docketed as Civil Case No. 9712-P, for the acquisition of lands for the Ninoy Aquino International Airport (NAIA) expansion program. The Subject Lots, among others, were included in the Complaint for Expropriation and were to be used as additional maintenance and parking space for the aircrafts<sup>7</sup> in NAIA Terminal 1 Taxiway 06/24.<sup>8</sup>

On January 24, 1983, the Regional Trial Court of Pasay City issued a Writ of Possession granting the expropriation of the lots in the complaint. In 1991, due to judicial reorganization, the civil case was transferred to the Regional Trial Court of Makati. On June 21, 1991, the Regional Trial Court of Makati confirmed the expropriation of the lots, including the Subject Lots, with an order for the Manila International Airport Authority to pay just compensation equivalent to ₱552.00/sq.m., plus 6% interest from 1983 until full payment.<sup>9</sup>

The Manila International Airport Authority elevated the case to the Court of Appeals assailing the amount of just compensation. While its appeal was pending, it subdivided each Subject Lot into two, namely, Lots 2817-A,

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<sup>1</sup> Rollo, pp. 12–94.

<sup>2</sup> Id. at 95–112. The April 19, 2017 Decision in CA-G.R. CV No. 105798 was penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a Member of this Court) of the Twelfth Division of the Court of Appeals, Manila.

<sup>3</sup> Id. at 114–115. The August 14, 2017 Resolution was penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a Member of this Court) of the Former Twelfth Division of the Court of Appeals, Manila.

<sup>4</sup> Id. at 116–128. The May 11, 2015 Joint Decision in Civil Cases No. 09-0276 and 10-0064 was penned by Judge Rolando G. How of the Regional Trial Court of Parañaque City, Branch 257.

<sup>5</sup> Id. at 96.

<sup>6</sup> Id. at 20.

<sup>7</sup> Id. at 97.

<sup>8</sup> Id. at 20.

<sup>9</sup> Id.

2817-B, 2818-A, 2818-B, 2819-A, and 2819-B. Among the six lots, only Lot 2817-B was found to be within the 150-meter clearance from the middle of the proposed extension of Taxiways 06/24.<sup>10</sup>

During the appeal, the Manila International Airport Authority filed a **Motion for Exclusion of Lots 2817-A, 2818-A, 2818-B, 2819-A, and 2819-B** from the expropriation proceedings after finding a more appropriate site for their purpose. The motion was granted by the Court of Appeals in a July 21, 1992 Resolution. Thus, the Subject Lots, save for Lot 2817-B, were excluded from the expropriation judgment.<sup>11</sup>

Meanwhile, the Regional Trial Court of Makati, acting as a land registrant court, granted registration of the Subject Lots filed by the heirs of Emiliano Cruz (heirs of Cruz). As the Republic failed to appeal this, Original Certificate of Title (OCT) No. 239 was issued for Lots 2817 and 2818, and OCT No. 246 for Lot 2819, under the names of the heirs of Cruz.<sup>12</sup>

Later, the heirs of Cruz sold the Subject Lots to Spouses Mariano and Anacoreta Nocom (Spouses Nocom), and Spouses Sy Ka Kieng and Rosa Chan. As a result, OCT No. 239 and OCT No. 246 were cancelled and Transfer Certificate Title (TCT) No. 74961 covering Lots 2817 and 2818 and TCT No. 74962 covering Lot 2819 were issued in favor of the Spouses Nocom, and Spouses Kieng and Chan.<sup>13</sup>

On December 27, 1993, the Court of Appeals affirmed the findings of the Regional Trial Court regarding the just compensation in the expropriation proceedings. The Decision attained finality on January 29, 1994.<sup>14</sup>

On August 12, 2009, Spouses Nocom filed a Petition for Recovery of Possession and Accounting against the Manila International Airport Authority before the Regional Trial Court of Parañaque City, docketed as Civil Case No. 09-0276. They claimed that Manila International Airport Authority never paid just compensation and remained in possession of Lots 2817-B, 2818-B, and 2819-B despite the exclusion of the latter two lots from the expropriation proceedings. Thus, they prayed that Manila International Airport Authority be ordered to pay rentals for their use of these lots.<sup>15</sup>

Manila International Airport Authority refused to pay just compensation. Likewise, it asserted that Spouses Nocom are not entitled to rentals as the Motion for Exclusion was void due to the non-fulfillment of a

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<sup>10</sup> Id. at 21 and 97.

<sup>11</sup> Id. at 97-98.

<sup>12</sup> Id. at 98.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id. at 98-99.

condition found therein.<sup>16</sup> It then filed a Petition for Annulment of Titles of the Spouses Nocom docketed as Civil Case No. 10-0064.

Civil Cases Nos. 09-0276 and 10-0064 were consolidated upon motion of the Spouses Nocom.<sup>17</sup>

After trial on the merits, the Regional Trial Court issued a Decision on May 11, 2015, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

- 1) Deny the prayer of the Spouses Nocom in Civil Case No. 09-0276 to recover possession of Lots 2817-B, 2818-B and 2819-B, with an aggregate area of 4,560 square meters. However, MIAA may at its option exercise its rights of eminent domain or enter into a negotiated sale with the registered owners.
- 2) Order MIAA to pay the Spouses Nocom, et. al. in Civil Case No. 09276 the sum of P41,243,558.40 for the reasonable rentals of its use of Lots 2817-B, 2818-B and 2819-B from the period starting December 19, 1995 until December 2014 plus interest thereon at the rate of 12% per annum from the date of this decision until fully paid. And beginning January 2015 and every month thereafter, to pay the Spouses Nocom, et. al. the sum of P176,409.33 for the monthly rental with 12% interest from the date of default until fully paid.
- 3) Dismiss the Complaint of MIAA in Civil Case No. 10-0064 as this Court has no jurisdiction to nullify or cancel a final decree issued by another Regional Trial Court acting as a Land Registration Court.
- 4) Deny the claims for actual and exemplary damages and attorney's fees in Civil Cases Nos. 09-0276 and 10-0064 for failure of the parties to prove their entitlement thereto.
- 5) Upon finality of this judgment, the Clerk of Court of the Regional Trial Court of Parañaque City is directed to make a computation of the correct docket fees to be paid by the Spoues Nocom, et. al. in Civil Case No. 09-0276, and any deficiency in their payment for the docket fees shall constitute as a lien on the money judgment awarded in their favor and shall be duly collected by the said office.

IT IS SO ORDERED.<sup>18</sup>

The Manila International Airport Authority moved for reconsideration which the Regional Trial Court partially granted in its August 7, 2015 Order where it excluded Lot 2817-B from the properties considered owned by the heirs of Cruz. The pertinent portion of the Order reads:

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<sup>16</sup> Id. at 99.

<sup>17</sup> Id.

<sup>18</sup> Id. at 128.

For reasons already stated in the Joint Decision dated May 11, 2015 and considering that the arguments in the Motion for Reconsideration filed by the Manila International Airport Authority (MIAA) are mere rehash of those discussed in its Memorandum and no new matters have been raised, except the matter concerning the 150-meter clearance from Taxiway 06/24, to warrant a reconsideration of the Decision, the motion is hereby denied.

**The portion of the 150-meter clearance from the center of the proposed extension of Taxiway 06/24, as stated in the Resolution of the Court of Appeals, is not included in Lot 2817-B owned by the Heirs of Emiliano Cruz. That portion which was not clearly described in square meters is to be deducted from the computation of the rentals MIAA was ordered to pay to the Spouses, Nocom, et. al.**

IT IS SO ORDERED.<sup>19</sup> (Emphasis in the original)

Unsatisfied, the Manila International Airport Authority filed an appeal with the Court of Appeals under Rule 42 of the Rules of Civil Procedure raising both procedural and substantive issues. It asserted that the Regional Trial Court did not acquire jurisdiction over the civil cases filed by the Spouses Nocom due to non-payment of the correct docket fees. They further stated that even if the trial court did acquire jurisdiction, the civil cases should have been dismissed since the Spouses Nocom did not have a cause of action, did not exhaust administrative remedies, and are barred by laches.<sup>20</sup>

As for the substantial issues, the Manila International Airport Authority claimed that the expropriation decision of the Regional Trial Court of Makati amounts to *res judicata* which barred the Spouses Nocom from asserting their ownership over the lots and seeking rentals and damages against the State.<sup>21</sup>

On April 19, 2017, the Court of Appeals rendered a Decision affirming with modification the assailed Decision of the Regional Trial Court. The dispositive portion of the Decision read:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The Decision dated May 11, 2015 rendered by the Regional Trial Court Branch 257 of Parañaque City is hereby **AFFIRMED with MODIFICATIONS**, to wit:

1. Defendant-appellant is ordered to pay plaintiffs-appellees sum of PHP 37,993,190.4 as rentals for the use of Lots 2817-B, 2818-B and 2819-B from the period starting 19 December 1995 until 30 June 2013, subject to twelve percent (12%) interest per annum from the time of dispossession in 1995 until 30 June 2013.

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<sup>19</sup> Id. at 26–27.

<sup>20</sup> Id. at 102.

<sup>21</sup> Id. at 102.

2. Defendant-appellant is ordered to pay plaintiffs-appellees, the sum of PHP 3,250,368 as rentals for the use of Lots 2817-B, 2818-B and 2819-B starting 1 July 2013 until 31 December 2014 plus interest thereon at the rate of six (6%) per annum from 1 July 2013 until full satisfaction thereof.
3. Beginning January 2015 and every month thereafter, to pay the plaintiffs-appellees the sum of PHP 176,409.33 for the monthly rental with six percent (6%) interest reckoned from judicial demand until fully paid. Thereafter, the principal amount due as adjusted by the interest shall likewise earn interest at six percent (6%) per annum until fully paid.

**SO ORDERED.**<sup>22</sup> (Emphasis in the original)

The Court of Appeals found there is no *res judicata* as there is no identity of causes of action between the expropriation proceeding and the Recovery of Possession case.<sup>23</sup> It further declared that the validity of the Transfer of Certificates of Titles on the Subject Lots can no longer be questioned as the period to do so had already expired.<sup>24</sup> In addition, since the Spouses Nocom as registered owners of the Subject Lots were deprived of its use due to Manila International Airport Authority's occupation, the Spouses Nocom are entitled to reasonable compensation in the form of rent.<sup>25</sup>

The Manila International Airport Authority filed a Motion for Reconsideration, to no avail.<sup>26</sup> Hence, it filed this Petition.

On March 1, 2018, respondents Spouses Nocom, Spouses Kieng and Chan, and the heirs of Emiliano Cruz filed their Comment<sup>27</sup> to the Petition.

On September 18, 2018, petitioners filed its Reply in compliance with this Court's June 13, 2018 Resolution.<sup>28</sup>

In its Petition, petitioner asserts that the assailed Court of Appeals Decision and Resolution were erroneous for being contrary to evidence and jurisprudence. It posits that the award of rental payments with interest in favor of respondents did not have basis in fact or law. It also questions the Court of Appeals' non-application of the principles of *res judicata* and sovereign immunity of the state.<sup>29</sup> Petitioner likewise contends that the Court of Appeals erred in finding that the titles under respondents' names are indefeasible.<sup>30</sup>

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<sup>22</sup> Id. at 112.

<sup>23</sup> Id. at 106.

<sup>24</sup> Id. at 110.

<sup>25</sup> Id.

<sup>26</sup> Id. at 28.

<sup>27</sup> Id. at 1435-1467.

<sup>28</sup> Id. at 1480-1493.

<sup>29</sup> Id. at 35.

<sup>30</sup> Id. at 37.

In their Comment, respondents insist that the Court of Appeals was correct in upholding the award of rentals and interest in their favor.<sup>31</sup> They claim that petitioner waived its sovereign immunity in its charter which provides it can sue and be sued.<sup>32</sup> Anent to this, they posit that petitioner's use of the Subject Lots was proprietary in nature and not in a governmental function.<sup>33</sup> They contend that petitioner cannot claim that the Subject Lots were part of the expropriation proceedings since they were excluded in the Court of Appeals' July 21, 1992 Resolution.<sup>34</sup>

Respondents add that the Court of Appeals did not err in finding *res judicata* inapplicable<sup>35</sup> and their titles indefeasible.<sup>36</sup> Lastly, they claim that the Court of Appeals was correct in sustaining the trial court's jurisdiction over the complaint in Civil Case No. 09-0276.

In its Reply, petitioner repeats its previous arguments, adding that its operation of the Ninoy Aquino International Airport was not in a proprietary nature but is a legitimate state function.<sup>37</sup> It also states that respondents withheld the fact that petitioner obtained possession of the subject properties in 1983 pursuant to the Writ of Possession in the expropriation proceedings.<sup>38</sup>

The following are the issues for this Court's resolution:

1) Whether or not the Court of Appeals erred in not finding grave abuse of discretion on the part of the Regional Trial Court for taking cognizance of respondents' civil complaint despite petitioner's claim of sovereign immunity and *res judicata*.

2) Whether or not petitioner's use of the Subject Lots was an exercise of a proprietary function.

3) Whether or not respondents are entitled to rental payments and interest.

The Petition is partly meritorious.

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<sup>31</sup> Id. at 1454.

<sup>32</sup> Id. at 1444.

<sup>33</sup> Id. at 1445.

<sup>34</sup> Id. at 1447.

<sup>35</sup> Id.

<sup>36</sup> Id. at 1450.

<sup>37</sup> Id. at 1437.

<sup>38</sup> Id. at 1438.

## I

Sovereign immunity of the state is a constitutional principle stating that “there can be no legal right against the authority which makes the law on which the right depends.”<sup>39</sup> The doctrine makes a sovereign nation immune from suit without its consent to ensure that government time, efficiency, and resources are not sacrificed to attend to litigation filed by private parties.<sup>40</sup> Thus, Article XVI, Section 3 of the Constitution provides that the State may not be sued without its consent.

However, this doctrine is not absolute. In *Department of Transportation and Communications v. Spouses Abecina*,<sup>41</sup> this Court explained the instances when sovereign immunity does not apply:

The State may not be sued without its consent. This fundamental doctrine stems from the principle that there can be no legal right against the authority which makes the law on which the right depends. This generally accepted principle of law has been explicitly expressed in both the 1973 and the present Constitutions.

***But as the principle itself implies, the doctrine of state immunity is not absolute. The State may waive its cloak of immunity and the waiver may be made expressly or by implication.***

Over the years, the State’s participation in economic and commercial activities gradually expanded beyond its sovereign function as regulator and governor. The evolution of the State’s activities and degree of participation in commerce demanded a parallel evolution in the traditional rule of state immunity. ***Thus, it became necessary to distinguish between the State’s sovereign and governmental acts (jure imperii) and its private, commercial, and proprietary acts (jure gestionis). Presently, state immunity restrictively extends only to acts jure imperii while acts jure gestionis are considered as a waiver of immunity.***<sup>42</sup> (Emphasis supplied, citations omitted)

Accordingly, *jure gestionis* acts of the state, or those exercised in its commercial or proprietary function, are capable of being challenged in a suit. Conversely, *jure imperii* acts or those exercised in a governmental capacity, are covered by the cloak of sovereign immunity.

Petitioner claims that the Court of Appeals seriously erred when it found that the Manila International Airport Authority waived its sovereign immunity pursuant to its charter. On the other hand, respondents argue that petitioner waived its sovereign immunity by entering into a Contract of Lease with respondents for the use of Lots 2817-B, 2818-B, and 2819-B.<sup>43</sup>

<sup>39</sup> *Republic v. Villasor*, 153 Phil. 356, 360 (1973) [Per J. Fernando, Second Division].

<sup>40</sup> *Air Transportation Office v. Spouses Ramos*, 659 Phil. 104 (2011) [Per J. Bersamin, Third Division].

<sup>41</sup> 788 Phil. 645 (2016) [Per J. Brion, Second Division].

<sup>42</sup> *Id.* at 653.

<sup>43</sup> *Id.* at 1444.



Both arguments are inaccurate. While Petitioner is not deemed to have waived its sovereign immunity, its action is nonetheless outside the ambit of immunity.

It is well-entrenched that the State cannot be sued without its consent. However, it cannot hide behind its cloak of immunity to perform acts detrimental and disadvantageous to its citizens.

In the landmark case of *Ministerio v. Court of First Instance of Cebu*,<sup>44</sup> this Court ruled that the Public Highway Commissioner is not protected by sovereign state immunity from a just compensation suit for privately-owned property used in a road widening project without the benefit of expropriation.

*The doctrine of governmental immunity from suit cannot serve as an instrument for perpetrating an injustice on a citizen.* Had the government followed the procedure indicated by the governing law at the time, a complaint would have been filed by it, and only upon payment of the compensation fixed by the judgment, or after tender to the party entitled to such payment of the amount fixed, may it “have the right to enter in and upon the land so condemned” to appropriate the same to the public use defined in the judgment.” If there were an observance of procedural regularity, petitioners would not be in the sad plight they are now. *It is unthinkable then that precisely because there was a failure to abide by what the law requires, the government would stand to benefit. It is just as important, if not more so, that there be fidelity to legal norms on the part of officialdom if the rule of law were to be maintained. It is not too much to say that when the government takes any property for public use, which is conditioned upon the payment of just compensation, to be judicially ascertained, it makes manifest that it submits to the jurisdiction of a court. There is no thought then that the doctrine of immunity from suit could still be appropriately invoked.*<sup>45</sup> (Emphasis supplied, citations omitted)

*Ministerio’s* removal of the State’s protective shroud of immunity in expropriation cases has been reiterated in a long line of jurisprudence.<sup>46</sup>

Thus, where a State entity exercising governmental function takes away private property for public use, without undergoing the appropriate legal processes, the State is not protected from suit filed by an aggrieved party. In *Republic v. Sandiganbayan*<sup>47</sup> this Court held:

<sup>44</sup> 148-B Phil. 474 (1971) [Per J. Fernando, Second Division].

<sup>45</sup> Id. at 480.

<sup>46</sup> *Amigable v. Cuenca*, 150 Phil. 422 (1972) [Per J. Makalintal, First Division]; *Santiago v. Republic*, 176 Phil. 609 (1978) [Per J. Fernando, Second Division]; *Gascon v. Arroyo*, 258-A Phil. 354 (1989) [Per J. Padilla, En Banc]; *Delos Santos v. Intermediate Appellate Court*, 295 Phil. 12 (1993) [Per J. Romero, Third Division]; *Heirs of Pidacan v. Air Transportation Office*, 643 Phil. 657 (2010) [Per J. Nachura, Second Division]; and *Philippine Navy Golf Club, Inc. v. Abaya*, G.R. No. 235619, July 13, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66402>> [Per J. Lopez, First Division].

<sup>47</sup> 281 Phil. 234 (1991) [Per J. Narvasa, En Banc].

It can hardly be doubted that in exercising the right of eminent domain, the State exercises its *jus imperii*, as distinguished from its proprietary rights or *jus gestionis*. Yet, even in that area, it has been held that ***where private property has been taken in expropriation without just compensation being paid, the defense of immunity from suit cannot be set up by the State against an action for payment by the owner.***<sup>48</sup> (Emphasis supplied, citation omitted)

Similarly, petitioner cannot hide behind the principle of state immunity when it appropriated respondents' properties for public use without following proper expropriation proceedings. To make it immune from suit would be to absolve it from paying reasonable compensation for use of private property for public interest, to the prejudice of the private owner who was forced to let go of their property only to get no form of compensation in return.

Likewise, petitioner's argument that the ruling in the expropriation case docketed as Civil Case No. 9712 constitutes *res judicata* which warrants the dismissal of the Complaint for Recovery of Possession and Accounting in Civil Case No. 09-0276, fails miserably.

For there to be *res judicata*, four conditions must be present: "(1) there must be a final judgment or order; (2) the court rendering it must have jurisdiction over the subject matter and the parties; (3) it must be a judgment or order on the merits; and (4) there must be, between the two cases, identity of parties, subject matter and causes of action."<sup>49</sup>

In this case, the requisites for the application of *res judicata* do not exist. While the first three elements are present, the last element is lacking: the subject matter and causes of action in the two cases are not identical.

Civil Case No. 9712-P was an expropriation case filed by the government to acquire parcels of land for public use while Civil Case No. 09-0276 was a complaint filed by private citizens for recovery of possession of lands used by the government and a claim for compensation thereof.

In addition, petitioner's contention that the Subject Lots have long been exclusively owned by the State through the expropriation proceedings in Civil Case No. 9712-P cannot stand. A perusal of the records would show that the lots were excluded from the Order of Expropriation at the motion of none other than the petitioner.<sup>50</sup> Thus, it knows full well that the lots in question are no longer made part of the expropriation judgment.

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<sup>48</sup> Id. at 262.

<sup>49</sup> *Aledro-Ruña v. Lead Export and Agro-Development Corporation*, 836 Phil. 946, 959 (2018) [Per J. Gesmundo, Third Division].

<sup>50</sup> *Rollo*, pp. 97-98.

Petitioner now then claims that the Motion for Exclusion is null and void since the first condition—that the alternative site be approved by management—was not complied with.<sup>51</sup> However, petitioner never assailed the Court of Appeals Resolution granting its Motion for Exclusion.<sup>52</sup> Consequently, the Resolution excluding Lots 2817-A, 2818-A, 2818-B, 2819-A and 2819-B from the expropriated property is now final and executory. It cannot now deny this development for its own convenience.

It is for the same reason that petitioner's prayer to cancel Transfer Certificates of Title Nos. 74961 and 74962 covering the Subject Lots is likewise untenable.

A review of the land titles involved in this case will show that the Land Registration Court, in 1992, granted the application for registration of the Subject Lots in the name of the heirs of Cruz. This was never appealed by petitioner. Consequently, Original Certificate of Title Nos. 239 and 246 were issued for Lots 2817 and 2818, and 2819, respectively, in 1993. After the heirs of Cruz sold the Subject Lots to respondents, Original Certificates of Title Nos. 239 and 246 were cancelled and Transfer Certificates of Title Nos. 74961 and 74962 were issued in favor of respondents.<sup>53</sup> This was likewise not appealed by petitioner.

Petitioner only questioned the validity of the said titles by virtue of the expropriation judgement when respondents filed their Complaint for Recovery of Possession of the Subject Lots. By this time, the Transfer Certificates of Titles have already attained finality and were indefeasible.

As the principles of sovereign immunity and *res judicata* are not applicable, respondents cannot be barred from using judicial remedies to seek compensation for the government's use of their properties for the public's benefit. It was held in *Vigilar v. Aquino*,<sup>54</sup> thus:

Although the *Amigable* and *Ministerio* cases generously tackled the issue of the State's immunity from suit *vis a vis* the payment of just compensation for expropriated property, this Court nonetheless finds the doctrine enunciated in the aforementioned cases applicable to the instant controversy, **considering that the ends of justice would be subverted if we were to uphold, in this particular instance, the State's immunity from suit.**

**To be sure, this Court — as the staunch guardian of the citizens' rights and welfare — cannot sanction an injustice so patent on its face,**

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<sup>51</sup> *Rollo*, p. 107.

<sup>52</sup> *Id.* at 107.

<sup>53</sup> *Id.* at 98.

<sup>54</sup> 654 Phil. 755 (2011) [Per J. Sereno, En Banc].

**and allow itself to be an instrument in the perpetration thereof. Justice and equity sternly demand that the States cloak of invincibility against suit be shred in this particular instance, and that petitioners-contractors be duly compensated — on the basis of quantum meruit — for construction done on the public works housing project.**<sup>55</sup> (Emphasis in the original)

## II

Petitioner asserts that the Court of Appeals erred in finding that its use of the Subject Lots was done in a proprietary function through a contract of lease.<sup>56</sup>

We agree with petitioner.

The act of petitioner in utilizing parts of the Subject Lots without the benefit of expropriation does not automatically transform the transaction between petitioner and respondents into a Contract of Lease. Moreover, petitioner is correct in observing that there is no evidence to support the existence of a contract of lease between the parties.

This Court does not agree with the Court of Appeals in its conclusion that by occupying the subject lots, petitioner exercised its proprietary function and entered into a contract with respondents. Petitioner's taking of the subject lots should be seen as an exercise of its power of eminent domain.

To reiterate, both the Regional Trial Court and the Court of Appeals found that in 1995, petitioner took possession and occupied Lot 2817-B with an area of 2,800 sq.m., Lot 2818-B with an area of 538 sq.m., and Lot 2819-B with an area of 1,222 sq.m.<sup>57</sup> These were used as part of the clearance at the Taxiway 06/24, as well as parking spaces for aircrafts and other facilities, until present. These portions were used in furtherance of the operations of the Manila International Airport Authority. Thus, it cannot be said that these were for a commercial or proprietary purpose.

In *Manila International Airport Authority v. Pasay*,<sup>58</sup> this Court held that the Manila International Airport Authority is a government entity whose properties are devoted for public use.

To summarize, MIAA is not a government-owned or controlled corporation under Section 2(13) of the Introductory Provisions of the Administrative Code because it is not organized as a stock or non-stock

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<sup>55</sup> Id. at 764.

<sup>56</sup> *Rollo*, p. 39.

<sup>57</sup> Id. at 110.

<sup>58</sup> 602 Phil. 160 (2009) [Per J. Carpio, En Banc].

corporation. Neither is MIAA a government-owned or controlled corporation under Section 16, Article XII of the 1987 Constitution because MIAA is not required to meet the test of economic viability. ***MIAA is a government instrumentality vested with corporate powers and performing essential public services pursuant to Section 2(10) of the Introductory Provisions of the Administrative Code.*** As a government instrumentality, MIAA is not subject to any kind of tax by local governments under Section 133(o) of the Local Government Code. The exception to the exemption in Section 234(a) does not apply to MIAA because MIAA is not a taxable entity under the Local Government Code. Such exception applies only if the beneficial use of real property owned by the Republic is given to a taxable entity.

***Finally, the Airport Lands and Buildings of MIAA are properties devoted to public use and thus are properties of public dominion. . . .***<sup>59</sup>  
(Emphasis supplied)

It has been established that petitioner is a public utility, organized to operate the Ninoy Aquino International Airport for public use. While it is vested with corporate powers, it is imbued with public interest. Moreover, its operation is a vital public service. Accordingly, the finding that petitioner utilized the subject lots in its proprietary function and for commercial purposes does not hold water.

### III

However, the public purpose for which the properties were used does not justify petitioner's unjust taking of respondents' lots. The Subject Lots were registered under the Torrens system in names of the heirs of Cruz and later transferred to herein respondents by sale.

It was petitioner itself that initiated expropriation proceedings for the lots in question and then subsequently moved for the exclusion of the lots. It cannot now feign ignorance of its own actions. Petitioner knew that its Motion for Exclusion was granted, and consequently, the subject lots were removed from the judgment for expropriation. This notwithstanding, petitioner continued to occupy the lots while disregarding the private rights of the legal owners. Its unwarranted occupation of the property does not transform its possession to ownership. In *Republic v. Hon. Tagle*,<sup>60</sup> this Court explained:

The expropriation of real property does not include mere physical entry or occupation of land. Although eminent domain usually involves a taking of title, there may also be compensable taking of only some, not all, of the property interests in the bundle of rights that constitute ownership.

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<sup>59</sup> Id. at 175 citing *Manila International Airport Authority v. Court of Appeals*, 528 Phil. 181 (2006) [Per J. Carpio, En Banc].

<sup>60</sup> 359 Phil. 892 (1998) [Per J. Panganiban, First Division].

In the instant case, it is manifest that the petitioner, in pursuit of an objective beneficial to public interest, seeks to realize the same through its power of eminent domain. In exercising this power, petitioner intended to acquire not only *physical* possession but also the *legal* right to possess and ultimately to own the subject property. Hence, its mere physical entry and occupation of the property fall short of the taking of title, which includes all the rights that may be exercised by an owner over the subject property. Its actual occupation, which renders academic the need for it to enter, does not by itself include its acquisition of all the rights of ownership. Its right to possess did not attend its initial physical possession of the property because the lease, which had authorized said possession, lapsed. In short, petitioner wanted not merely possession *de facto* but possession *de jure* as well.<sup>61</sup> (Emphasis in the original)

In this case, petitioner merely took possession of the subject lots without initiating a second expropriation proceeding so it may properly exercise its power of eminent domain. Contrary to its claim, the previous expropriation judgment did not involve the Subject Lots, and its continued use of certain portions of the lots in no way transformed its occupation to ownership. Accordingly, respondents had no other remedy but to file a suit against petitioner for the recovery of possession of the property and for payment of reasonable compensation.

However, the Regional Trial Court and the Court of Appeals, instead of awarding rental payments, should have awarded just compensation instead. This is because petitioner's taking of the lots were by virtue of its power of eminent domain, and not its proprietary function.

*Forfom Development Corporation v. Philippine National Railways*<sup>62</sup> is illustrative. In *Forfom*, Philippine National Railways occupied Forfom's land without any expropriation case being filed. Forfom contended that since the properties were being leased to third parties, the public use of the expropriation no longer existed. Thus, Forfom asked that the leased portions, as well as rental payments, be turned over to it.

In *Forfom*, this Court held that the public purpose of the expropriation was not removed when the property was leased to third parties as part of the social housing initiative of the government. Consequently, it found that Forfom could no longer recover the property but directed the institution of an expropriation case for the purpose of determining just compensation for the parcel of land involved.

A number of circumstances must be present in the taking of property for purposes of eminent domain: (1) the expropriator must enter a private property; (2) the entrance into private property must be for more than a momentary period; (3) the entry into the property should be under warrant

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<sup>61</sup> Id. at 902.

<sup>62</sup> 594 Phil. 10 (2008) [Per J. Chico-Nazario, Third Division].

or color of legal authority; (4) the property must be devoted to a public purpose or otherwise informally, appropriately or injuriously affected; and (5) the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property.

In the case at bar, the expropriator (PNR) entered the property of Forfom, a private land. The entrance into Forfom's property was permanent, not for a fleeting or brief period. PNR has been in control, possession and enjoyment of the subject land since December 1972 or January 1973. PNR's entry into the property of Forfom was with the approval of then President Marcos and with the authorization of the PNR's Board of Directors. The property of Forfom measuring around eleven hectares was devoted to public use — railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service. With the entrance of PNR into the property, Forfom was deprived of material and beneficial use and enjoyment of the property. It is clear from the foregoing that there was a taking of property within the constitutional sense.

....

Where actual taking was made without the benefit of expropriation proceedings, and the owner sought recovery of the possession of the property prior to the filing of expropriation proceedings, the Court has invariably ruled that it is the value of the property at the time of taking that is controlling for purposes of compensation. In the case at bar, the just compensation should be reckoned from the time of taking which is January 1973. The determination thereof shall be made in the expropriation case to be filed without delay by the PNR after the appointment of commissioners as required by the rules.<sup>63</sup> (Citations omitted)

In this case, Manila International Airport Authority occupied the Subject Lots owned by respondents. The nature of its occupation was in line with its power to exercise eminent domain in pursuit of its purpose and objectives.<sup>64</sup> The area it occupied was used for parking space for aircraft, cargo facilities, and was within 150 meter from the Taxiways. This arrangement made it impossible for respondents to make use of the properties for their own benefit or enjoyment.

Like in *Forfom*, there was a taking of the property of respondents without payment of any just compensation. Similarly, it is no longer feasible to return the property to respondents. It is undisputed that petitioner remains in continued use of the Subject Lots and its operations therein now forms regular part of the Manila International Airport operations. As such, what can only be given now is the payment of just compensation plus interest for the unjust delay.

In computing just compensation, the June 21, 1991 Decision of the expropriation court pegging it at ₱552.00/sq.m. computed from the time petitioner took possession of the properties in January 1983 cannot apply.

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<sup>63</sup> Id. at 27–44.

<sup>64</sup> Executive Order No. 903 (1983), sec. 5.

While the Subject Lots were included in the Writ of Possession issued by the trial court sitting as an expropriation court, they were later excluded from the expropriation judgment. Thus, they are not covered by the just compensation amount originally issued. In effect, just compensation was neither determined nor paid for and respondents were deprived of their property without the government being judicially obliged to pay them.

Moreover, both the Court of Appeals and the Regional Trial Court found that the actual taking of the Subject Lots of respondents were in 1995 and not in 1983, when the amount was computed for.<sup>65</sup> Factual findings of the trial court, especially when affirmed by the Court of Appeals, are binding and conclusive on this Court.<sup>66</sup>

In *Secretary of the Department of Public Works and Highways v. Spouses Tecson*,<sup>67</sup> this Court laid down the remedies for an aggrieved private party when property is taken by the government for public use. It also enumerated cases illustrating an aggrieved party's remedy when deprived of their property without the benefit of just compensation.

When a property is taken by the government for public use, jurisprudence clearly provides for the remedies available to a landowner. The owner may recover his property if its return is feasible or, if it is not, the aggrieved owner may demand payment of just compensation for the land taken. For failure of respondents to question the lack of expropriation proceedings for a long period of time, they are deemed to have waived and are estopped from assailing the power of the government to expropriate or the public use for which the power was exercised. What is left to respondents is the right of compensation. The trial and appellate courts found that respondents are entitled to compensation. The only issue left for determination is the propriety of the amount awarded to respondents.

Just compensation is "the fair value of the property as between one who receives, and one who desires to sell, . . . **fixed at the time of the actual taking by the government.**" This rule holds true when the property is taken before the filing of an expropriation suit, and even if it is the property owner who brings the action for compensation.

....

In *Forfom Development Corporation [Forfom] v. Philippine National Railways [PNR]*, PNR entered the property of Forfom in January 1973 for public use, that is, for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR. In *Eusebio v. Luis*, respondent's parcel of land was taken in 1980 by the City of Pasig and used

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<sup>65</sup> *Rollo*, p. 110.

<sup>66</sup> *Mactan-Cebu International Airport Authority v. Lozada, Sr.*, 627 Phil. 434 (2010) [Per J. Nachura, En Banc].

<sup>67</sup> 713 Phil. 55 (2013) [Per J. Peralta, En Banc].



as a municipal road now known as A. Sandoval Avenue in Pasig City without the appropriate expropriation proceedings. In 1994, respondent demanded payment of the value of the property, but they could not agree on its valuation prompting respondent to file a complaint for reconveyance and/or damages against the city government and the mayor. In *Manila International Airport Authority v. Rodriguez*, in the early 1970s, petitioner implemented expansion programs for its runway necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent demanded the payment of the value of the property, but the demand remained unheeded prompting him to institute a case for *accion reivindicatoria* with damages against petitioner. In *Republic v. Sarabia*, sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal and the headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners where ATO intervened claiming that the storeowners were its lessees.

The Court in the above-mentioned cases was confronted with common factual circumstances where the government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. The Court thus determined the landowners' right to the payment of just compensation and, more importantly, the amount of just compensation. ***The Court has uniformly ruled that just compensation is the value of the property at the time of taking that is controlling for purposes of compensation.*** In *Forfom*, the payment of just compensation was reckoned from the time of taking in 1973; in *Eusebio*, the Court fixed the just compensation by determining the value of the property at the time of taking in 1980; in *MIAA*, the value of the lot at the time of taking in 1972 served as basis for the award of compensation to the owner; and in *Republic*, the Court was convinced that the taking occurred in 1956 and was thus the basis in fixing just compensation. As in said cases, just compensation due respondents in this case should, therefore, be fixed not as of the time of payment but at the time of taking, that is, in 1940.<sup>68</sup> (Emphasis in the original, citations omitted)

With this, the controlling doctrine is that when there is actual taking by the government without expropriation proceedings, the owner of the property is entitled to just compensation which is pegged at the value of the property at the time of taking.<sup>69</sup>

The logic behind the rule is to compensate the property owner for the actual value of the lot when the government occupied it. It covers the

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<sup>68</sup> Id. at 70–72.

<sup>69</sup> *Felisa Agricultural Corp. v. National Transmission Corp.*, 834 Phil. 398 (2018) [Per J. Perlas-Bernabe, Second Division].

possibility that the entrance of the government may bring economic effect to the area, either increasing or decreasing its value. If the compensation is pegged at another time, the private owner risks gaining more than what is taken from him or may receive less than what he rightly deserves. This Court explained in *Republic v. Lara*:<sup>70</sup>

[W]here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just; *i.e.*,”just not only to the individual whose property is taken,” “but to the public, which is to pay for it[.]”<sup>71</sup> (Citations omitted)

The doctrine is embodied in Rule 67 of the Rules of Court which provides, among others, that just compensation is “to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.”

However, there are instances where this Court held that just compensation should not be reckoned from the time of taking of the properties, but from the time the property owners initiated inverse condemnation proceedings as a matter of justice and equity.

*National Power Corporation v. Heirs of Macabangkit Sangkay*<sup>72</sup> involved the underground tunnels constructed by National Power Corporation in 1970 to divert water flow from the Agus River to hydroelectric plants. The heirs of Macabangkit belatedly discovered that one of the underground tunnels traversed their land which prompted them to file a suit against National Power Corporation for the recovery of the property and damages in 1997. There, this Court held that the value of just compensation should be based on the value of the property at the time the suit was initiated as following the rule would be unjust and would only reward the National Power Corporation for its inaction.

We rule that the reckoning value is the value at the time of the filing of the complaint, as the RTC provided in its decision. Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by

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<sup>70</sup> 96 Phil. 170 (1954) [Per J. JBL Reyes, En Banc].

<sup>71</sup> *Id.* at 177–178.

<sup>72</sup> 671 Phil. 569 (2011) [Per J. Bersamin, First Division].

NPC's entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPC's entry denied elementary due process of law to the owners since then until the owners commenced the inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profiting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted.<sup>73</sup>

Meanwhile, in *National Power Corporation v. Spouses Saludares*,<sup>74</sup> the National Power Corporation constructed high-tension transmission lines to implement the Davao Manat Transmission Line Project. Spouses Saludares filed a complaint for just compensation against the National Power Corporation for the latter's installation of transmission lines on their property without paying them. The National Power Corporation claimed that it had already paid just compensation based on a previous ruling which involved the same transmission lines. However, this Court held that the properties involved were not identical and National Power Corporation's insistence on the same was merely to evade obligation to pay. There, this Court found that the value of just compensation should be based on the value of the property prevailing at the time of the filing of the inverse condemnation proceedings, thus:

Indeed, respondent spouses would be deprived of their right to just compensation if the value of the property is pegged back to its value in the 1970s. To reiterate, NAPOCOR should have instituted eminent domain proceedings before it occupied respondent spouses' property. Because it failed to comply with this duty, respondent spouses were constrained to file the instant Complaint for just compensation before the trial court. From the 1970s until the present, they were deprived of just compensation, while NAPOCOR continuously burdened their property with its transmission lines. This Court cannot allow petitioner to profit from its failure to comply with the mandate of the law. We therefore rule that, to adequately compensate respondent spouses from the decades of burden on their property, NAPOCOR should be made to pay the value of the property at the time of the filing of the instant Complaint when respondent spouses made a judicial demand for just compensation.<sup>75</sup>

In both cases, this Court permitted a deviation from the general rule because its strict application would prejudice the owners of the property and reward the inaction of the government.

As no doctrine or principle of law laid down by the Supreme Court in a decision rendered *en banc* or in a division may be modified or reversed only

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<sup>73</sup> Id. at 597.

<sup>74</sup> 686 Phil. 967 (2012) [Per J. Sereno, Second Division].

<sup>75</sup> Id. at 979–980.

by this Court sitting *en banc*,<sup>76</sup> the rule remains that just compensation must be determined on the date of taking of the property or filing of the complaint, whichever comes first.

However, just compensation must not only be fair, it must likewise be prompt. Thus, in *Apo Fruits Corporation, et. al. v. Land Bank of the Philippines*,<sup>77</sup> this Court held that:

*Apart from the requirement that compensation for expropriated land must be fair and reasonable, compensation, to be “just,” must also be made without delay. Without prompt payment, compensation cannot be considered “just” if the property is immediately taken as the property owner suffers the immediate deprivation of both his land and its fruits or income.*

This is the principle at the core of the present case where the petitioners were made to wait for more than a decade after the taking of their property before they actually received the full amount of the principal of the just compensation due them. What they have not received to date is the income of their landholdings corresponding to what they would have received had no uncompensated taking of these lands been immediately made.

.....

The owner’s loss, of course, is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. The just compensation is made available to the property owner so that he may derive income from this compensation, in the same manner that he would have derived income from his expropriated property. If full compensation is not paid for property taken, then the State must make up for the shortfall in the earning potential immediately lost due to the taking, and the absence of replacement property from which income can be derived[.]<sup>78</sup> (Emphasis supplied, citations omitted)

In *Apo Fruits*, this Court found that the down payment of the principal amount of just compensation was “not enough to compensate the petitioners for the potential income”<sup>79</sup> as its property could have earned had it not been taken by the government. To recompense therein petitioners, they were awarded interest at the rate of 12% per annum on the unpaid balance of just compensation.

In this case, there is no down payment to speak of. Moreover, respondents were made to wait, and still waits for reasonable compensation for the properties occupied by petitioner. Accordingly, it is important to

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<sup>76</sup> CONST., art. VIII, sec. 4.

<sup>77</sup> 647 Phil. 251 (2010) [Per J. Brion, En Banc].

<sup>78</sup> Id. at 273–276.

<sup>79</sup> Id. at 272.

ensure that the value of just compensation awarded to respondents takes into consideration not only the fair market value of the property upon taking, but also the opportunity loss respondents suffered due to petitioner's taking without payment. For it to be legitimately just, one must look not at the taker's gain, but at the owner's loss.

Accordingly, it would result in great injustice if this Court grants the prayer of petitioner that the just compensation be pegged at the value of the subject properties in 1983, or the alleged time of taking of the government. To do so would reward petitioner for its disregard of procedural due process in its exercise of the power of eminent domain.

Notably, if petitioner promptly recompensed respondents for the use of their property, the latter would have the opportunity to gain profit from the amount received. The non-payment of compensation deprived respondents of the principal amount as well as its prospective fruits.

To address this dilemma, an Opinion in *Secretary of the Department of Public Works* is illuminating. There, the economic concept of present value was explained thus:

If the parties in an expropriation case would have perfect foresight, they would have known the amount of "fair market value at the time of taking." If this amount of money was deposited in a bank pending expropriation proceedings, by the time proceedings are over, the property owner would be able to withdraw the principal (fair market value at the time of taking) and the interest earnings it has accumulated over the time of the proceedings. Economists have devised a simple method to compute for the value of money in consideration of this future interest earnings.

For purposes of explaining this method, consider property owner AA who owns a piece of land. The government took his property at Year 0. Let us assume that his property had a fair market value of P100 at the time of taking. In our ideal situation, the government should have paid him P100 at Year 0. By then, AA could have put the money in the bank so it could earn interest. Let us peg the interest rate at 5% per annum (or in decimal form, 0.05).

If the expropriation proceedings took just one year (again, another ideal situation), AA could only be paid after that year. The value of the P100 would have appreciated already. We have to take into consideration the fact that in Year 1, AA could have earned an additional P5 in interest if he had been paid in Year 0.

In order to compute the present value of P100, we have to consider this formula:

**Present Value in Year 1 = Value at the Time of Taking +  
(Interest Earned of the Value at the Time of Taking)**

In formula terms, it will look like this:

$$PV_1 = V + (V * r)$$

$$PV_1 = V * (1 + r)$$

**PV<sub>1</sub>** = present value in Year 1

**V** = value at the time of taking

**r** = interest rate

So in the event that AA gets paid in Year 1, then:

$$PV_1 = V * (1 + r)$$

$$PV_1 = P100 (1 + 0.05)$$

$$PV_1 = P105$$

So if AA were to be paid in Year 1 instead of in Year 0, it is only just that he be paid P105 to take into account the interest earnings he has foregone due to the expropriation proceedings. If he were to be paid in Year 2, we should take into consideration not only the interest earned of the principal, but the fact that the interest earned in Year 1 will also be subject to interest earnings in Year 2. This concept is referred to as *compounding* interest rates. So our formula becomes:

**Present Value in Year 2 = [Present Value in Year 1] + [Interest Earned of Present Value in Year 1].**<sup>80</sup> (Citations omitted)

In advocating the use of present value and compounding interest, this Court meets the middle ground between established doctrine and substantial justice. Moreover, the result would be more in keeping with the concept of just compensation. By using the present value method, this Court recognizes that the value of money is not static. The amount of ₱552.00 in 1983 does not carry the same monetary or buying power in 1995 or in 2021. Thus, the method takes into consideration the present economic value of the property taken by the government if just compensation at the time of taking was paid promptly. It compensates for the opportunity loss due to the non-payment of a sum of money that is due and demandable.

In using this method, the powers that be would have a stronger incentive to comply with duly constituted procedures regarding the power of eminent domain instead of continuing its practice of taking property without filing the proper expropriation proceedings. At the same time, it remains consistent with the doctrine that just compensation must be reckoned from the time of actual taking. It merely directs the courts, which have the judicial function to determine the amount of just compensation, to make use of the formula to ensure that the profit loss suffered by private owners are computed for as well.

The interest prescribed above must be distinguished from legal interest which penalizes the payor for its delay in payment. Thus, it is without

<sup>80</sup> J. Leonen, Separate Opinion in *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, 713 Phil. 55, 75–77 (2013) [Per J. Peralta, En Banc].

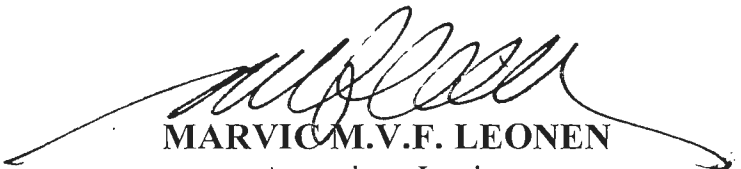
question that petitioner's occupation of the Subject Lots, for more than two decades without the proper expropriation proceedings also entitles respondents with the payment of legal interest at the rate of six (6%) percent on the value of the land at the time of taking until full payment is made.<sup>81</sup>

**WHEREFORE**, the Petition is **PARTIALLY DENIED** as to the prayer of Manila International Airport Authority to declare Lots 2818-B and 2819-B of the Parañaque Cadastre as part of the parcels of land expropriated in CA-G.R. CV No. 105798, it being excluded from the parcels of land expropriated. The Petition is **PARTIALLY GRANTED** and the Court of Appeals' award of rentals to respondents in its April 19, 2017 Decision and August 14, 2017 Resolution are hereby **DELETED**.

Manila International Airport Authority is ordered to pay respondents just compensation for the portion of the lots actually occupied by the runway consisting of its value at the time of taking in 1995 plus the interest earned of the value at the time of taking, and with legal interest at the rate of six percent (6%) per annum on the total fair market value from the time of the taking until full payment is made.

The case is **REMANDED TO THE LOWER COURT** for the determination of just compensation in accordance with this Decision. Said court is ordered to make the determination with deliberate dispatch.

**SO ORDERED.**

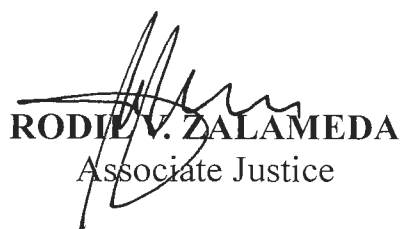
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

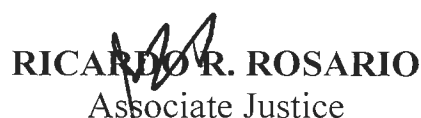
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<sup>81</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

WE CONCUR:

  
**ROSMARIE B. CARANDANG**  
Associate Justice

  
**RODIE V. ZALAMEDA**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
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.

  
**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson

**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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice