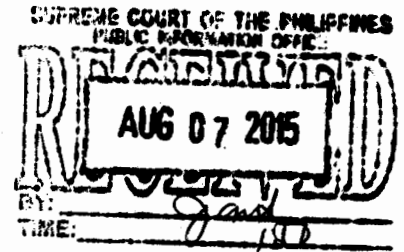




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2015** which reads as follows:

"G.R. No. 211508 – Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Olas Del Mar, Inc.

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the December 2, 2013 Decision¹ and the February 26, 2014 Resolution² of the Court of Appeals (*CA*), in CA-G.R. SP No. 122947 which affirmed the November 4, 2011 Order³ of the Regional Trial Court, Branch 15, Naic, Cavite (*RTC*), involving the issue of conflicting claimants in an expropriation case filed by the Department of Public Works and Highways (*DPWH*), representing the Republic of the Philippines (*Republic*).

The Factual Antecedents

On June 3, 2009, DPWH filed five (5) separate complaints before the RTC, docketed as Civil Case Nos. NC-2009-1905, NC-2009-1906, NC-2009-1907, NC-2009-1911, and NC-2009-1912, seeking expropriation of several parcels of land owned by respondent Olas Del Mar, Inc. (*ODMI*) for the construction and improvement of the *Ternate-Nasugbu Road* to provide faster and comfortable travel to the motoring public.

Although the subject properties were registered in the name of ODMI, the Office of the Solicitor General (*OSG*), counsel for DPWH, manifested that the said properties were the subjects of litigation in *Republic of the Philippines v. Enriquez* (*Civil Case No. 0014*), a case for reconveyance, reversion, accounting, restitution, and damages filed by the Presidential Commission on Good Government (*PCGG*) before the Sandiganbayan on July 23, 1987. The Sandiganbayan later dismissed the complaint against several defendant corporations, including ODMI. Civil Case No. 0014 then became the subject of two petitions before the Court, docketed as G.R. No. 154560 and G.R. No. 181458 both filed by the OSG, as counsel for PCGG.

¹ Penned by Associate Justice Danton Q. Bueser with Associate Justice Rebecca De Guia-Salvador and Associate Justice Ramon R. Garcia, concurring; *rollo*, pp. 32-39.

² *Id.* at 40-41.

³ *Id.* at 450-453.

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In G.R. No. 154560, the Court, in its September 8, 2010 Resolution, decided with finality that it was not necessary to implead ODMI in Civil Case No. 0014 and lifted the sequestration orders against its properties. It stated that impleading the corporations, which were alleged to have been capitalized with ill-gotten wealth, was unnecessary because judgment could be rendered against the individual defendants, divesting them of their shares of stocks. The Court, however, stressed that such pronouncement was without prejudice to the final resolution and outcome of the original action for reconveyance, reversion, accounting, restitution, and damages. In G.R. No. 181458, the Court, through Chief Justice Sereno, reinstated Civil Case No. 0014, after the Sandiganbayan ordered its dismissal for failure of PCGG's special counsel to appear despite due notice. The Court held that the circumstances in the said case indicated that PCGG never lacked interest in prosecuting the same considering that its counsel had actively participated in the case for two decades, and filed a timely motion for reconsideration.

Meanwhile, in the present case of expropriation before the RTC, the OSG, as counsel for DPWH, filed its motion for issuance of writs of possession in Civil Case Nos. NC-2009-1905, NC-2009-1906 and NC-2009-1907, as it was ready, willing and able to deposit or pay the amount equivalent to 100% of the zonal values of the subject properties. ODMI filed its Answer to the complaints and its opposition to DPWH's motion for issuance of writs of possession.

In its Order,⁴ dated October 5, 2009, the RTC granted DPWH's motion for issuance of writs of possession. Subsequently, DPWH deposited with the RTC the total amount of ₱10,192,440.00 for the provisional value of ODMI's affected properties in Civil Case Nos. NC-2009-1905, NC-2009-1906 and NC-2009-1907. On October 20, 2009, the RTC issued the writs of possession.

ODMI then filed its motion to Withdraw Deposits *Ad Cautelam*, dated June 16, 2010, seeking the release of the initial deposits of DPWH in all five expropriation cases amounting to ₱10,192,440.00.

DPWH filed its Comment/Opposition, dated July 19, 2010, to which ODMI filed a Reply, dated August 3, 2010.

In its Order,⁵ dated August 27, 2010, the RTC granted the motion and ordered the release of the initial deposits as provisional payments but only in the three of the five cases, Civil Case Nos. NC-2009-1905, NC-2009-1906 and NC-2009-1907.

⁴ Id. at 290-294.

⁵ Id. at 387-393.

Consequently, ODMI filed its Manifestation and Urgent *Ex-parte* Motion for Immediate Release of Deposits and its *Ex-Parte* motion for Clarification *Ad Cautelam*. On the other hand, the OSG filed a motion for reconsideration of the August 27, 2010 Order to which ODMI filed an opposition.

In its Order,⁶ dated September 28, 2010, the RTC stated that its August 27, 2010 Order was immediately executory in accordance with the express mandate of Republic Act (R.A.) No. 8974 (An Act to Facilitate the Acquisition of Right-of-Way, site or Location for National Government Infrastructure Projects and for Other Purposes), requiring the implementing agency to immediately pay the owner of the affected property 100% of the value thereof.

The DPWH then filed a motion for reconsideration of the September 28, 2010 RTC Order, which ODMI opposed.

After more than ten months and upon the filing of a motion to resolve by OSG, the RTC issued its Order, dated November 4, 2011, denied DPWH's motion for reconsideration and ruled that its August 27, 2010 Order remained in effect.

CA Ruling

Aggrieved, DPWH elevated the matter to the CA *via* petition for *certiorari* under Rule 65 of the Rules of Court, ascribing grave abuse of discretion on the part of the RTC. DPWH claimed that there existed a situation of conflicting claims over the subject properties in view of the pending Civil Case No. 0014 before the Sandiganbayan where the PCGG had been seeking to recover alleged ill-gotten wealth, including the subject properties. By reason of these conflicting claims, DPWH insisted that the provisional payments should not be released.

In its assailed Decision, dated December 2, 2013, the CA dismissed the petition and affirmed the November 4, 2011 Order of the RTC, disposing as follows:

⁶ Id. at 430-431.

WHEREFORE, premises considered, the petition is hereby **DISMISSED** and the **ORDER** dated 04 November 2011 of the Regional Trial Court, Branch 15 of Naic, Cavite **AFFIRMED in TOTO**.

SO ORDERED.⁷

The CA stated that the RTC did not commit grave abuse of discretion when it ordered the immediate release of the initial deposits to ODMI. It explained that the RTC Order was in accordance with the provisions of R.A. No. 8974 which required the implementing agency of the government to immediately pay the owner of the property the amount equivalent to the sum of 100% of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue.

The CA added that DPWH could not collaterally attack ODMI's Torrens title of its properties in an expropriation proceeding, as it was not a direct action to attack a landowner's ownership and title over its properties.

The OSG filed a motion for reconsideration, but it was denied by the CA in its assailed February 26, 2014 Resolution.

Hence, this petition.

ISSUE

WHETHER OR NOT THE *DECISION* DATED 02 DECEMBER 2013, AND *RESOLUTION* DATED 26 FEBRUARY 2014, OF THE COURT OF APPEALS AFFIRMING THE *ORDERS* OF THE TRIAL COURT DIRECTING THE IMMEDIATE RELEASE OF THE 100% ZONAL VALUATION OF THE PROPERTIES SUBJECT OF CIVIL CASE NOS. NC-2009-1905, NC-2009-1906 AND NC-2009-1907, DESPITE THE EXISTENCE OF CONFLICTING CLAIMS OVER SAID PROPERTIES, ARE IN ACCORDANCE WITH LAW AND APPLICABLE JURISPRUDENCE.⁸

DPWH asserts that because there are conflicting claims over the subject properties, it is erroneous for the RTC to order the release of the provisional payment to ODMI. Instead, the RTC should merely order the deposit of the provisional payment pending the resolution of the issue of ownership in Civil Case No. 0014, pursuant to Section 9, Rule 67 of the Rules of Court.

⁷ Id. at 38.

⁸ Id. at 18-19.

In its petition, DPWH cited the case of *Philippine Veterans Bank v. Bases Conversion Development Authority*,⁹ where the Court explained that the above-mentioned rule empowered a court to order payment to itself of the proceeds of the expropriation whenever questions of ownership were yet to be settled.

In their Comment,¹⁰ dated September 15, 2014, ODMI posited that the CA correctly affirmed the RTC order directing the immediate release of the expropriation deposits, pursuant to R.A. No. 8974. It claimed that the properties subject of the expropriation complaints were indubitably titled in the name of ODMI under Transfer Certificate of Title (TCT) Nos. 101674, 101679, 101680, 101681, 101683 and 101684. As the Torrens titles and ownership over the expropriated properties were duly covered and evidenced by such TCTs, the same could not be collaterally attacked in an expropriation proceeding. ODMI asserted that to assail its Torrens titles, there must be a separate and direct action for that purpose. It claimed that Civil Case No. 0014 before the Sandiganbayan did not involve the issue of ownership of ODMI over its titled properties. On the contrary, the said case involved the issue of whether therein individual defendants' sequestered corporate shares, not ODMI's titled properties, were ill-gotten.

In its Reply,¹¹ dated February 13, 2015, the Republic stood firm in its assertion that the pendency of Civil Case No. 0014 was in the nature of a conflicting claim over the subject properties. It argued that its claim, through the PCGG, posed as a conflicting claim which brought to fore the applicability of Section 9, Rule 67 of the Rules of Court. It is, therefore, imperative that the deposit remain with the RTC pending the determination of the issue on whether or not the subject properties were ill gotten.

The Court's Ruling

The petition is bereft of merit.

The RTC and the CA did not commit any error when they ordered the immediate release of the initial deposits to ODMI because the latter is the registered owner of the subject properties, pursuant to the mandate of R.A. No. 8974. Section 4, par. 4 of the said law provides:

⁹ 655 Phil. 104 (2011).

¹⁰ *Rollo*, pp. 513-534.

¹¹ *Id.* at 545-550.

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(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

In the case of *Republic v. Gingoyon*,¹² the Court made it clear that the plain intent of R.A. No. 8974 was to supersede the system of deposit under Rule 67 with the scheme of "immediate payment" in cases involving national government infrastructure projects.

Only if the ownership of the property is being contested by opposing claimants that the compensation is not immediately paid to an owner. It should be paid to the clerk of court who would later on turn it over to the claimant who would be finally adjudged as the owner. The situation is governed by Section 9, Rule 67 of the Rules of Court which reads:

SEC. 9. *Uncertain ownership. Conflicting claims.* — If the ownership of the property taken is uncertain, or there are conflicting claims to any part thereof, the court may order any sum or sums awarded as compensation for the property to be paid to the clerk of court for the benefit of the persons adjudged in the same proceeding to be entitled thereto. But the judgment shall require the payment of the sum or sums awarded to either the defendant or the clerk before the plaintiff can enter upon the property, or retain it for the public use or purpose if entry has already been made.

The pendency of Civil Case No. 0014 before the Sandiganbayan is not the situation contemplated under the Rules. The aforesaid provision contemplates a situation where the expropriated property is being claimed by two or more parties invoking ownership thereof. The claimants must be parties in the case. In this case, the PCGG, although also represented by the OSG, is not a party in the case.

The PCGG should have properly intervened pursuant to Section 1, Rule 19 of the Rules of Court which reads:

Section 1. *Who may intervene.* — A person who has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of

¹² 514 Phil. 657 (2005).

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the court or of an officer thereof may, with leave of court, be allowed to intervene in the action... xxx

The PCGG can intervene in the expropriation case because there is no other pending case between it and ODMI. There can be no case of forum shopping. As aforesaid, in G.R. No. 154560, the Court let stay the order of the Sandiganbayan dropping ODMI as a party in Civil Case No. 0014 before the Sandiganbayan.

Although the OSG is the counsel of DPWH and PCGG, it only represents the interest of DPWH in the expropriation cases before the RTC. PCGG is not a party here and it cannot be represented by the OSG unless it intervenes. Perforce, it would be improper to allow DPWH to restrain the immediate release of the initial deposits despite PCGG's inaction and lack of intervention to assert its right over the subject properties.

DPWH cannot seek refuge in the case of *Philippine Veterans Bank v. Bases Conversion Development Authority*.¹³ In the said case, the conflicting claimants were parties in an expropriation proceeding. Thus, their conflicting interests constituted a proper case of conflicting claims. Initially, the Philippine Veterans Bank, a government bank, was not a party thereto. It, however, actively asserted its claim over the property subject of expropriation and filed a motion for intervention in the expropriation proceeding, alleging that the ownership of the said property is under litigation before the Department of Agrarian Reform Adjudication Board.

WHEREFORE, the petition is **DENIED**. (*Leonen, J., on official leave, Jardeleza, J., designated Acting Member, per Special Order No. 2056, dated June 10, 2015*)

SO ORDERED.⁰

Very truly yours,

MA. LOURDES C. PERFECTO
 MA. LOURDES C. PERFECTO
 Division Clerk of Court
08/14

¹³ Supra note 9.

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