



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 28 April 2021 which reads as follows:

“G.R. No. 245261 (Republic of the Philippines, represented by the Department of Public Works and Highways v. Spouses Jose E. Vergel De Dios And Gloria Santos and Banco De Oro Unibank, Inc.) — Petitioner Republic of the Philippines, through the Department of Public Works and Highways (DPWH), sought to expropriate 1,387 square meters out of the 15,106 square meter parcel of land registered under the name of Spouses Jose E. Vergel De Dios and Gloria Santos (Spouses Vergel De Dios) and Banco de Oro Unibank, Inc. located at Barangay Maysan, Valenzuela City. The portion to be expropriated shall be made part of the C-5 Northern Link Road Project Phase 2 which shall connect the North Luzon Expressway and the MacArthur Highway, Valenzuela City.¹

Petitioner earlier offered to purchase the property based on its zonal value and the improvements based on the total replacement cost, but Spouses Vergel De Dios rejected it. The latter were impleaded as respondents, together with Banco de Oro Unibank, Inc. (BDO) as mortgagee of the property.²

Pursuant to Section 4 (a) of Republic Act No. 8974 (RA 8974),³ petitioner deposited with the Regional Trial Court (RTC)-Branch 269,

¹Rollo, p. 40.

²Id.

³ **Section 4. Guidelines for Expropriation Proceedings.** - Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(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: x x x x

Valenzuela City the total amount of ₱18,656,051.81, representing 100% of the zonal value of the land and the replacement cost of the improvements thereon.⁴

On October 2, 2014, the trial court issued a writ of possession in favor of petitioner.⁵

Thereafter, hearing on the determination of just compensation followed,⁶ starting off with the constitution of the board of commissioners.⁷

As borne in its Report dated June 27, 2016,⁸ the board did an ocular inspection of the property; viewed the conceptual land plans and other documents presented by the DPWH representative and those submitted by the parties to the court; reviewed the case records and other relevant public documents;⁹ took into consideration the classification of Valenzuela City as a highly urbanized city; the property's zonal value of ₱5,500.00 per square meter at the time the complaint was filed, the Sales Comparison Approach¹⁰ relevant to the sale in 2012 of a piece of land located in Barangay Maysan with an area of 180 square meters, the sale in 2014 of another real property measuring 1,032 square meters in the same barangay for ₱3,500,000.00 or ₱3,500.00 per square meter, and a recent offer for sale of a lot with an area of 267 square meters located on G. Lazaro Street, Barangay Maysan, in the amount of ₱2,000,000.00 or almost ₱7,500.00 per square meter;¹¹ the Court of Appeals' decision in CA-G.R. CV No. 103336 entitled "*Republic v. Zenaida Francisco*" involving the expropriation of a property also located on G. Marcelo St., Barangay Maysan, Valenzuela City where the just compensation was pegged at ₱7,000.00 per square meter;¹² and finally, the itemized and detailed computation of the replacement cost of the improvements, submitted by petitioner which Spouses Vergel De Dios did not dispute.¹³

On the bases of the aforementioned data, the board recommended the amount of ₱7,000.00 per square meter as just compensation for subject lot and the aggregate amount of ₱11,027,551.81 as replacement cost for the improvements.¹⁴

⁴ *Id.* at 40-41.

⁵ *Id.* at 14.

⁶ *Id.* at 41.

⁷ *Id.*

⁸ *Id.* at 58-61.

⁹ *Id.* at 41.

¹⁰ The sales comparison approach considers the sales of similar or substitute properties and related market data, and establishes a value estimate by processes involving comparison. In general, a property being valued is compared with sales of similar properties that have been transacted in the market.; 801 Phil. 217, 301 (2016).

¹¹ *Id.* at 42.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

The Ruling of the Trial Court

By Decision dated January 23, 2017,¹⁵ the trial court fixed the just compensation for subject property at ₱8,000.00 per square meter or a total of ₱11,096,000.00; and the replacement cost for its affected improvements at ₱11,027,551.81. Petitioner thus ordered to pay Spouses Vergel De Dios these amounts less the initial deposit of ₱18,656,051.81, leaving a balance of ₱3,467,500.00 plus 6% interest *per annum* on this amount from the time of the taking until full payment.

The trial court pronounced that aside from the report of the board of commissioners, it also did its own independent assessment of the area. It found that the property is suitable for mixed residential and commercial use considering that small commercial, and primary education establishments are easily accessible within its vicinity. The same likewise housed facilities for hog farming.¹⁶ Real properties classified as commercial and devoted for such purpose usually demand a higher price than purely residential lands and the zonal value for commercial lots along the major roads abutting G. Marcelo Street is ₱8,000.00.¹⁷

The trial court, too, considered the property's zonal value, albeit this value is not conclusive of the property's actual current fair market value since based on historical circumstances, absent adverse factors, the market value of a land generally appreciates over time.¹⁸ Further, Department of Finance (DOF) Order No. 22-03¹⁹ showed that for the period starting 1994 to 2003, there was an increase by about thirty seven percent (37%) on the zonal value of properties on G. Marcelo Street, Barangay Maysan, Valenzuela City where Spouses Vergel de Dios' property is also situated.²⁰ Thus, the trial court disposed of the case, in this wise:

WHEREFORE, the COURT hereby fixes the just compensation for the defendants' expropriated property covered by Transfer Certificate of Title No. (T-99366) T-79372 at Php8,000.00 per square meter or a total of Php11,096,000.00 per square meter or a total of Php11,096,000.00; and the replacement cost for its affected improvements at Php11,027,551.81.

Plaintiff is hereby ordered to pay defendant-spouses Jose E. Vergel De Dios and Gloria Santos the additional amount of Php3,467,500.00, plus interest at the rate of 6% per annum computed from the time of the taking of the property until full payment.²¹

Petitioner moved for reconsideration which was denied per Order dated March 22, 2017.²²

¹⁵ Penned by Presiding Judge Emma C. Matammu; *id.* at 67-75.

¹⁶ *Id.* at 72.

¹⁷ *Id.* at 74.

¹⁸ *Id.* at 73.

¹⁹ Approved Zonal Values of Real Properties in Maysan, Valenzuela City.

²⁰ *Id.* at 74.

²¹ *Id.* at 75.

²² *Id.* at 76.

The Ruling of the Court of Appeals

By Decision dated September 14, 2018,²³ the Court of Appeals affirmed with modification, adopting the amount of ₱7,000.00 per square meter as just compensation for the property.²⁴ It reasoned that while it is true that the findings of the board of commissioners may be disregarded and the trial court may substitute its own estimate of the property's value, it may only do so only under exceptional circumstances which are not present here. It further held that contrary to the Republic's contention, the trial court did not rely exclusively on the potential use of the property, the Deeds of Sale of properties situated in Barangay Maysan, Valenzuela City, and the valuation used in Civil Case No. 184-V-12 in determining just compensation.²⁵ The decretal portion of the decision of the Court of Appeals states:

WHEREFORE, the appeal is PARTLY GRANTED. The assailed Decision dated January 23, 2017 and Order dated March 22, 2017 of the RTC of Valenzuela City, Branch 269 in Case No. 92-V-14, are AFFIRMED with the modification that just compensation for the land is reduced to Php 7,000.00 per square meter.

SO ORDERED.²⁶

Through Resolution dated February 8, 2019,²⁷ petitioner's motion for reconsideration was denied.

The Present Petition

The Republic now asks the Court to exercise its discretionary appellate jurisdiction to review and reverse the assailed dispositions of the Court of Appeals on the amount of just compensation for the subject property.

The Republic posits that the amount of ₱7,000.00 per square meter fixed by the Court of Appeals is excessive and not supported by evidence.²⁸ It essentially argues that:

First. The fact that the lot is located in Valenzuela City does not automatically make its fair market value equivalent to ₱7,000.00 per square meter.²⁹

²³ Penned by Associate Justice Gabriel T. Robeniol and Associate Justices Ricardo R. Rosario and Ramon Paul L. Hernando; *Id.* at 39-53.

²⁴ ₱9,709,000 (amount of just compensation multiplied by the land area taken) + ₱11,027,551.81 (replacement cost of improvements) = ₱20,736,551.81 - ₱18,656,051.81 (initial deposit corresponding to the zonal valuation of the property) = ₱2,080,500.00

²⁵ *Id.* at 46.

²⁶ *Id.* at 53.

²⁷ *Id.* at 54-55.

²⁸ *Id.* at 20.

²⁹ *Id.* at 21.

Second. The board of commissioners failed to show that the properties mentioned in the two Deeds of Sale are similarly situated with the subject lot.³⁰

Third. Assuming for the sake of argument that the properties subject of the Deeds of Sale are near or found within the immediate vicinity of the subject lot, the board of commissioners failed to show how these properties, if any, had enhanced the value of the lot in question.³¹

Fourth. The advertised price of ₱7,500.00 per square meter of a property also located in Barangay Maysan may not be used in determining just compensation since it is merely an estimate and unsupported by documentary evidence.³²

In sum, the amount of just compensation should have been fixed at ₱5,500.00 per square meter, the same being the zonal value of the property. This value was the product of a comprehensive process through consultation with competent appraisers, both from the public and private sectors.³³

On the other hand, Spouses Vergel De Dios counter that the present petition baseless, meant only to waste the Court's most precious time. The Republic improperly questions the technical findings on the valuation of the property, albeit the same found ample support in the records. Too, the petition must be dismissed outright for raising factual issues which is not proper under Rule 45.³⁴

Issue

Did the Court of Appeals commit reversible error in affirming the amount of ₱7,000.00 per square meter as just compensation for the property?

Ruling

The petition utterly lacks merit.

In a petition for review on certiorari under Rule 45 of the Revised Rules of Court, only questions of law may be raised. Not being a trier of facts, the Court will not take cognizance of factual issues which require the presentation and appreciation of the parties' evidence. It will not calibrate anew the same evidence which the courts below had already passed upon in full where there is no showing of grave abuse of discretion, misapprehension of facts, conflicting findings, or erroneous appreciation of the evidence.³⁵

In any event, just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not

³⁰ *Id.* at 22.

³¹ *Id.* at 23.

³² *Id.* at 24.

³³ *Id.* at 25-26.

³⁴ *Id.* at 107-125.

³⁵ See 820 Phil. 1107, 1124-1125 (2017).

the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word "compensation" and to convey the idea that the equivalent for the property to be taken shall be real, substantial, full, and ample.³⁶

Section 5 of RA 8974³⁷ enumerates the following relevant standards the court may consider, among others, in the determination of just compensation, viz.:

Section 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. - In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

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

Did the trial court consider these relevant standards in its determination of just compensation in the case? This question requires a quick reference to the decision itself, viz:

According to the Commissioners' Report, the subject property, which is situated in Barangay Maysan, Valenzuela City, Metro Manila, is classified as a residential lot. There are neighboring residential houses; it is a few meters away from the Sabino Compound, a residential area and basic facilities and utilities are available in the area. In the BIR Certification relative to the zonal value of the property, it is classified as a residential lot. An independent assessment of the area, which is approximately two kilometers from the court premises, further reveals that small commercial and primary educational establishments are within and easily accessible to the vicinity of the subject property. The Court further notes that in its Tax Declaration, the property is described as a "poultry site." The Complaint filed by plaintiff further alleges that several pigpens were found in the

³⁶ 815 Phil. 91, 116 (2017).

³⁷An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes, November 7, 2000.

property as improvements. Plaintiff does not dispute that defendants' property actually houses facilities for hog farming. Considering the foregoing premises, we believe that the subject property is suitable for mixed residential and commercial use.

Another recognized assessment standard that may be taken into consideration in assessing the value of the expropriated property is its current zonal valuation. Based on the Certification dated April 8, 2011, issued by the Valenzuela Revenue District Office, the zonal valuation of defendants' property is at P5,500 per square meter. The zonal valuation of the property is not, however, conclusive with respect to its actual current fair market value. The court takes judicial notice of the fact that the zonal value of real properties, which is determined by government agencies albeit in consultation with the private sector, is usually a conservative and lower estimate of their actual fair market value, which is the accepted basis of just compensation for expropriated properties. Furthermore, based on historical circumstances, absent adverse factors (none of which was alleged and proven in this case), the market value of land generally appreciates over time.

Section 5 of RA 8974 also allows the current selling price of similar lands in the vicinity to be considered in assessing the value of the expropriated property. In this relation, the Board considered four properties, all located also in Barangay Maysan, Valenzuela City. The first is the subject of a Deed of Absolute Sale of the land and its improvements in November 2012 for about P3,900.00 (rounded off by the Board as P4,000.00) per square meter. The second is also the subject of a Deed of Absolute Sale in June 2014 (the same year that the instant complaint was filed), involving four contiguous lots with a total area of 1,032 square meters, for about P3,400.00 (rounded off by the Board as P3,500.00) per square meter. The third property, purportedly located along the same street as the property being expropriated in the instant case, was being offered for sale in 2014 for almost P7,500.00 per square meter. The fourth and the last property is subject of an expropriation case filed in 2012 where the just compensation was pegged at P7,000.00 per square meter. That expropriated property is also located along the same street as the property subject of the instant case, and also with the same BIR zonal value of P5,500.00 per square meter; but classified as residential, and was vacant and undeveloped at the time of expropriation.

We expound that in the expropriation case (Civil Case No. 184-V-12) cited in the Commissioners' Report (involving the last property adverted to in the preceding paragraph), this Court noted that Department of Finance (DOF) No. 22-03 (approved zonal values of real properties in Maysan, Valenzuela City) shows the increase over a period of time in the value of real properties within G. Marcelo Street, Maysan, Valenzuela City. In September 1994, the zonal value per square meter was P4,000.00; in December 1996, it was P4,600.00; and in November 2003 (covering almost 10 years), there was an increase of about 37% in the zonal value of real properties in G. Marcelo Street, Maysan, Valenzuela City, where defendants' property is also situated.³⁸

The decision speaks for itself. Land capabilities, use, classification as residential property, surroundings, improvements, adjacent properties, final decision in similar expropriation cases of adjacent properties, are the relevant standards considered by the trial court in determining the amount of just compensation for the property. In fact, the Court of Appeals aptly took notice of the meticulous process by which the trial court determined the amount of just compensation here, *viz*:

Contrary to plaintiff-appellant's contention, the Trial Court did not limit its reliance on the potential use of the subject lot, the Deeds of Sale of properties

³⁸ *Id.* at 72-74.

situated in Brgy. Maysan, Valenzuela City, and the valuation used in the Civil Case No. 184-V-12, in determining just compensation.

More importantly, it constituted a Board of Commissioners (Commissioners) for the purpose, pursuant to Section 5, Rule 67 of the Rules of Court xxx

xxx xxx xxx

Per the Commissioners' Report, they inspected the subject lot, and reviewed the conceptual land plans and other pertinent documents presented by the DPWH representative during the ocular inspection, as well as those submitted to them by defendants-appellees. The Commissioners factored in the circumstance that Valenzuela City, where the subject lot is situated, is a highly urbanized city. They utilized the Sales Comparison Approach by comparing recent sales of similar properties within the same market area referred to as "*comparable*," subject to adjustments for dissimilarities.

xxx xxx xxx

xxx the Commissioners' valuation of Php7,000.00 per square meter should be accorded the greatest respect. Said valuation is binding on the court absent proof that the Commissioners committed error in establishing the facts and in drawing the conclusions from them.³⁹

In sum, the challenge of the Republic against the process by which "just compensation" was determined by the trial court and the Court of Appeals is devoid of factual and legal bases.

The Republic's persistent plea for a remarkably reduced amount should give way to what is otherwise a fair and just compensation. Although the property's BIR zonal value of ₱5,500.00 per square meter was also included in the estimation of the amount of just compensation, the same is a mere provisional value and is not a final determination of just compensation and may not necessarily be equivalent to the prevailing market value of the property. If the zonal values of the properties, standing alone, would equate to just compensation, the determination of just compensation would cease to be judicial in nature. For all the court has to do is adopt the zonal value of the property in its decision. Surely, this is highly irregular if not totally illegal. Precisely, RA 8974 prescribes relevant standards which the courts may consider in fixing the amount of just compensation subject to the court's exercise of judicial discretion.

To reiterate, the property's zonal value is just one of the factors to consider in determining just compensation. Here, the courts below not only considered the property's zonal value but also assiduously analyzed other relevant factors such as the property's actual use, classification, improvements, adjacent properties and final decision in similar expropriation cases of adjacent properties and documentary evidence presented by the parties.

³⁹ *Id.* at 46-49.

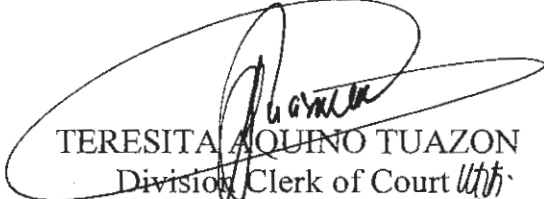
April 28, 2021

All told, the Court of Appeals did not err when it set the amount of ₱7,000.00 per square meter as just compensation for the expropriated property owned by respondent Spouses Jose E. Vergel and Gloria Vergel de Dios.

WHEREFORE, the petition is **DENIED**. The Decision dated September 14, 2018 and Resolution dated February 8, 2019 of the Court of Appeals are **AFFIRMED**.

SO ORDERED." (*Rosario, J.*, recused from the case due to prior action in the Court of Appeals; *Inting, J.*, designated additional member per Raffle dated 15 February 2021. *J. Lopez, J.*, designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court
 15 JUL 2021

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

S.P MADRID & ASSOCIATES (reg)
 Counsel for Respondents
 Units 1907 & 1911, 19/F, Herrera Tower
 VA Rufino corner Valero Street
 1200 Makati City

THE HON. SECRETARY (reg)
 Department of Public Works and Highways
 Bonifacio Drive, Port Area, Manila

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 269
 1440 Valenzuela City
 (Civil Case No. 92-V-14)

JUDGMENT DIVISION (x)
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
 LIBRARY SERVICES (x)
 [For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
 OFFICE OF THE REPORTER (x)
 PHILIPPINE JUDICIAL ACADEMY (x)
 Supreme Court, Manila

COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. CV No. 109001

Please notify the Court of any change in your address.
 GR245261. 4/28/2021(1)URES