



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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SECOND DIVISION

NATIONAL TRANSMISSION
CORPORATION,

Petitioner,

G.R. No. 214782

Present:

- versus -

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

BERMUDA DEVELOPMENT
CORPORATION,

Respondent.

Promulgated:

03 APR 2019

JAK Cabalagorpe de -x

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DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review¹ (Petition) under Rule 45 of the Rules of Court seeking the review and reversal of the Decision² dated May 29, 2014 and Resolution³ dated October 7, 2014 of the Court of Appeals⁴ (CA) in CA-G.R. SP No. 120310. The CA Decision affirmed the Orders dated July 29, 2010⁵ and May 30, 2011⁶ of the Regional Trial Court, Branch 24, of Biñan, Laguna (RTC, Branch 24) in Civil Case No. B-7880⁷. The CA Resolution denied the motion for reconsideration filed by petitioner National Transmission Corporation (TransCo).

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

* On wellness leave.
1 Rollo, pp. 3-32, excluding Annexes.
2 Id. at 34-41. Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Vicente S.E. Veloso and Nina G. Antonio-Valenzuela concurring.
3 Id. at 43-44.
4 Eleventh (11th) Division and Former Eleventh (11th) Division.
5 Id. at 143-144. Penned by Presiding Judge Marino E. Rubia.
6 Id. at 153-154.
7 Stated as Civil Case No. B-2498 in the Order dated May 30, 2011, id. at 153.

On 22 December 2009, Respondent Bermuda Development Corporation (BDC) filed a case for Unlawful Detainer against Petitioner National Transmission Corporation ([TransCo] with the Municipal Trial Court (MTC) of Cabuyao. The case was docketed as Civil Case No. 2498.

On 23 January 2009, [TransCo] filed its Answer with Affirmative and Compulsory Counterclaim.

After due proceedings, on 24 August 2009, the MTC rendered a Decision, the *fallo* of which reads:

“WHEREFORE, judgment is rendered in favor of plaintiff and against defendant. Accordingly, defendant and all persons claiming rights under it are ordered:

1. to vacate the subject lot and remove all structures thereon, known as Lot 10-B, Psd. 043404-058243 consisting of 8,920 square meters located at Barangay Banlic, Cabuyao, Laguna and covered by TCT No. T-258244 of the Registry of Deeds of the Province of Laguna and peacefully surrender possession thereof to plaintiff;
2. to pay plaintiff the amount of P10,350,000.00 as reasonable monthly rental computed from December 13, 2008 until it and all persons claiming rights under it completely vacate the subject premises;
3. to pay plaintiff the amounts of P50,000.00 as attorney’s fee and P5,000.00 per Court appearance and the cost of suit.

SO ORDERED.”

On 17 September 2009, Petitioner [TransCo] interposed an appeal before the RTC, Branch 24 of Biñan, Laguna. Respondent BDC, on the other hand, filed an Urgent Motion for Execution of the aforesaid 24 August 2009 Decision of the MTC of Cabuyao.

On 28 October 2009, RTC, Branch 24 granted Respondent BDC’s Urgent Motion for Execution. A Writ of Execution Pending Appeal was then issued by the said court.

Proceeding from the immediately cited Writ of Execution, the trial court *a quo* issued a Notice of Garnishment on 06 November 2009, against Petitioner [TransCo’s] account with the Land Bank of the Philippines.

On 10 November 2009, Petitioner [TransCo] filed an Omnibus Motion asking for the reconsideration of the trial court *a quo*’s 28 October 2009 Order granting Respondent BDC’s Urgent Motion for Execution. Petitioner likewise prayed for the quashal of the 30 October 2009 Writ of Execution and 06 November 2009 Notice of Garnishment.

In the meantime, on 21 January 2010, Petitioner [TransCo] filed a Complaint for Expropriation of the parcel of land covered by Transfer Certificate of Title No. 258244, (the same property subject of the Unlawful Detainer Case) before the RTC of Biñan, Laguna. The case was



raffled to and eventually heard by Branch 25 thereof, and docketed as Civil Case B-7972.

Subsequently, on 25 February 2010, Petitioner [TransCo] filed with RTC Branch 25 an Urgent *Ex-Parte* Motion for the Issuance of a Writ of Possession.

Petitioner [Transco] then deposited the amount of P10,704,000.00 with the Landbank of the Philippines, purportedly representing the provisional value of the property sought to be expropriated. Consequently, on 29 March 2010, RTC Branch 25 issued an Order granting Petitioner's Urgent *Ex-Parte* Motion for the Issuance of a Writ of Possession.

Meanwhile, on 29 July 2010, RTC, Branch 24 dismissed Petitioner [TransCo's] appeal in the unlawful detainer case for being "moot and academic", viz.:

"With the filing of an expropriation proceeding covering subject property by defendant-appellant TRANSCO (NTC) and possession thereof having been formally delivered to it already per Sheriff's Report dated July 7, 2010 of Sheriff IV Andrew A. Santos, this Court is of the considered opinion that the issue in this appealed case which is also possession has become moot and academic. In filing said expropriation proceeding, defendant-appellant TRANSCO may also be considered to have abandoned its appeal.

WHEREFORE, premises considered, the instant appeal is hereby ordered Dismissed. Consequently, all pending incidents in this appealed case had been rendered mooted by the dismissal of the case.

x x x x"

Petitioner [TransCo] seasonably sought for a reconsideration of the adverse ruling but the same was denied by RTC Branch 24 in its Order dated 30 May 2011. [In addition, the said Order stated that with the dismissal of Petitioner [TransCo's] appeal, the record of the case was ordered remanded to the lower court for enforcement of the judgment regarding the rental in arrears which was not included in the computation of just compensation.⁸]

Hence, [the] Petition [for Review under Rule 42 of the Rules before the CA].⁹

Ruling of the CA

The CA in its Decision dated May 29, 2014 dismissed TransCo's petition and affirmed the Orders dated July 29, 2010 and May 30, 2011 both issued by the RTC, Branch 24.¹⁰

⁸ *Rollo*, pp. 9-10.

⁹ *Id.* at 35-38.

¹⁰ *Id.* at 41.



The CA reasoned out that it would be circuitous for the CA to require TransCo to first vacate the subject property covered by Transfer Certificate of Title No. T-258244 in view of the adverse judgment in the unlawful detainer case of the Municipal Trial Court of Cabuyao (MTC), and then soon thereafter, restore it again in possession of the property on account of the writ of possession issued by the RTC, Branch 25, the court where the expropriation case is pending.¹¹ The CA added that this sort of pernicious and unreasonable delay of government infrastructure/development projects will not be countenanced by it.¹²

As to the rental in arrears in the amount of P10,350,000.00 computed from December 13, 2008, which the MTC ordered TransCo to pay to Bermuda Development Corporation (BDC) in the unlawful detainer case, the amount should be collected in the enforcement of the judgment by the MTC once it has become final and executory considering that the said amount was not included in the computation of just compensation in the eminent domain case filed before the RTC, Branch 25.¹³

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the Petition is **DISMISSED**. Orders dated 29 July 2010 and 30 May 2011 both issued by the Regional Trial Court, Branch 24, of Biñan, Laguna are hereby **AFFIRMED**.

SO ORDERED.¹⁴

TransCo filed a motion for reconsideration, which was denied by the CA in its Resolution¹⁵ dated October 7, 2014.

Hence, the instant Rule 45 Petition. BDC filed its Comment¹⁶ dated September 10, 2015. TransCo filed its Reply¹⁷ dated January 29, 2016.

The Issue

The Petition raises the sole issue: whether the RTC erred in dismissing TransCo's appeal allegedly because it has become moot and academic with the filing of the expropriation complaint involving the same property subject of the unlawful detainer case.¹⁸

TransCo takes the position that a case for recovery of possession or ejectment suit against a public service corporation, endowed with the power

¹¹ Id. at 40.

¹² Id.

¹³ Id.

¹⁴ Id. at 41.

¹⁵ Id. at 43-44.

¹⁶ Id. at 243-254.

¹⁷ Id. at 258-264.

¹⁸ Id. at 10.



of eminent domain, will not prosper as there can only remain to the owner a right of just compensation and the RTC, Branch 24, after finding that TransCo is a public service corporation with expropriation powers, should have ordered the dismissal of the complaint for unlawful detainer for certainly BDC has no right to the remedies of ejectment or injunction, but only for the recovery of the value of the land taken, and the consequential damage, if any, especially given that the structure has been in existence before BDC acquired the subject property.¹⁹

The Court's Ruling

The Petition is meritorious.

The Court in *Forfom Development Corporation v. Philippine National Railways*²⁰ (*Forfom*) traced the jurisprudence dating back to 1915 involving the attempt to compel a public service corporation, endowed with the power of eminent domain, to vacate the property it had occupied without first acquiring title thereto by negotiated purchase or expropriation proceedings, viz.:

In *Manila Railroad Co. v. Paredes*,²¹ the first case in this jurisdiction in which there was an attempt to compel a public service corporation, endowed with the power of eminent domain, to vacate the property it had occupied without first acquiring title thereto by amicable purchase or expropriation proceedings, we said:

x x x whether the railroad company has the capacity to acquire the land in dispute by virtue of its delegated power of eminent domain, and, if so, whether the company occupied the land with the express or implied consent or acquiescence of the owner. If these questions of fact be decided in the affirmative, it is uniformly held that an action of ejectment or trespass or injunction will not lie against the railroad company, but only an action for damages, that is, recovery of the value of the land taken, and the consequential damages, if any. The primary reason for thus denying to the owner the remedies usually afforded to him against usurpers is the irremedial injury which would result to the railroad company and to the public in general. It will readily be seen that the interruption of the transportation service at any point on the right of way impedes the entire service of the company and causes loss and inconvenience to all passengers and shippers using the line. Under these circumstances, public policy, if not public necessity, demands that the owner of the land be denied the ordinary remedies of ejectment and injunction. The fact that the railroad company has the capacity to eventually acquire the land by expropriation proceedings undoubtedly assists in coming to the conclusion that the property owner

¹⁹ Id. at 14, 16.

²⁰ 594 Phil. 10 (2008).

²¹ 32 Phil. 534, 537-538 (1915).

has no right to the remedies of ejectment or injunction. There is also something akin to equitable estoppel in the conduct of one who stands idly by and watches the construction of the railroad without protest. x x x. But the real strength of the rule lies in the fact that it is against public policy to permit a property owner, under such circumstances, to interfere with the service rendered to the public by the railroad company. x x x. (I)f a landowner, knowing that a railroad company has entered upon his land and is engaged in constructing its road without having complied with a statute requiring either payment by agreement or proceedings to condemn, remains inactive and permits it to go on and expend large sums in the work, he is estopped from maintaining either trespass or ejectment for the entry, and will be regarded as having acquiesced therein, and will be restricted to a suit for damages.

Further, in *De Ynchausti v. Manila Electric Railroad & Light Co.*,²² we ruled:

The owner of land, who stands by, without objection, and sees a public railroad constructed over it, can not, after the road is completed, or large expenditures have been made thereon upon the faith of his apparent acquiescence, reclaim the land, or enjoin its use by the railroad company. In such a case *there can only remain to the owner a right of compensation.*

x x x x

One who permits a railroad company to occupy and use his land and construct its roads thereon without remonstrance or complaint, cannot afterwards reclaim it free from the servitude he has permitted to be imposed upon it. His acquiescence in the company's taking possession and constructing its works under circumstances which made imperative his resistance, if he ever intended to set up illegality, will be considered a waiver. But while this presumed waiver is a bar to his action to dispossess the company, he is not deprived of his action for damages for the value of the land, or for injuries done him by the construction or operation of the road.

x x x x

We conclude that x x x the complaint in this action praying for possession and for damages for the alleged unlawful detention of the land in question, should be dismissed x x x but that such dismissal x x x should be without prejudice to the right of the plaintiff to institute the appropriate proceedings to recover the value of the lands

²² 36 Phil. 908, 911-912 (1917).



actually taken, or to compel the railroad corporation to take the necessary steps to secure the condemnation of the land and to pay the amount of the compensation and damages assessed in the condemnation proceedings.

In *Ansaldo v. Tantuico, Jr.*,²³ x x x we directed the expropriator to forthwith institute the appropriate expropriation action over the land, so that just compensation due the owners may be determined in accordance with the Rules of Court.

From the afore-cited cases, it is clear that recovery of possession of the property by the landowner can no longer be allowed on the grounds of estoppel and, more importantly, of public policy which imposes upon the public utility the obligation to continue its services to the public. The non-filing of the case for expropriation will not necessarily lead to the return of the property to the landowner. What is left to the landowner is the right of compensation.²⁴

Thus, in *Forfom*, the Court partially denied the petition therein “insofar as it denies Forfom Development Corporation’s prayer for recovery of possession (in whole or in part) of the subject land, unearned income, and rentals.”²⁵

In *Republic of the Philippines v. Mendoza*,²⁶ which involved an ejectment suit against the Government for its failure to acquire ownership of a privately-owned property that it had long used as a school site and to pay just compensation for it, the Court ruled:

The Court holds that, where the owner agrees voluntarily to the taking of his property by the government for public use, he thereby waives his right to the institution of a formal expropriation proceeding covering such property. Further, as the Court also held in *Eusebio v. Luis*,²⁷ the failure for a long time of the owner to question the lack of expropriation proceedings covering a property that the government had taken constitutes a waiver of his right to gain back possession. The Mendozas’ remedy is an action for the payment of just compensation, not ejectment.

In *Republic of the Philippines v. Court of Appeals*,²⁸ the Court affirmed the RTC’s power to award just compensation even in the absence of a proper expropriation proceeding. It held that the RTC can determine just compensation based on the evidence presented before it in an ordinary civil action for recovery of possession of property or its value and damages. As to the time when just compensation should be fixed, it is settled that where property was taken without the benefit of expropriation proceedings and its owner filed an action for recovery of possession

²³ 266 Phil. 319, 325 (1990).

²⁴ *Supra* note 20, at 28-30.

²⁵ *Id.* at 35.

²⁶ 641 Phil. 562 (2010).

²⁷ 618 Phil. 586, 595-596 (2009).

²⁸ 494 Phil. 494 (2005).

before the commencement of expropriation proceedings, it is the value of the property at the time of taking that is controlling.²⁹

Since the MTCC did not have jurisdiction either to evict the Republic from the land it had taken for public use or to hear and adjudicate the Mendozas' right to just compensation for it, the CA should have ordered the complaint for unlawful detainer dismissed without prejudice to their filing a proper action for recovery of such compensation.³⁰ (Emphasis and underscoring supplied)

Thus, it is well-settled that a case filed by a landowner for recovery of possession or ejectment against a public utility corporation, endowed with the power of eminent domain, which has occupied the land belonging to the former in the interest of public service without prior acquisition of title thereto by negotiated purchase or expropriation proceedings, will not prosper. Any action to compel the public utility corporation to vacate such property is unavailing since the landowner is denied the remedies of ejectment and injunction for reasons of public policy and public necessity as well as equitable estoppel. The proper recourse is for the ejectment court: (1) to dismiss the case without prejudice to the landowner filing the proper action for recovery of just compensation and consequential damages; or (2) to dismiss the case and direct the public utility corporation to institute the proper expropriation or condemnation proceedings and to pay the just compensation and consequential damages assessed therein; or (3) to continue with the case as if it were an expropriation case and determine the just compensation and consequential damages pursuant to Rule 67 (Expropriation) of the Rules of Court, if the ejectment court has jurisdiction over the value of the subject land.

Pursuant to Republic Act No. 9136³¹ or the Electric Power Industry Reform Act of 2001, the National Transmission Corporation (TransCo or TRANSCO), a government agency, was created to assume the electrical transmission functions of the National Power Corporation and is vested with the power of eminent domain subject to the requirements of the Constitution and existing laws.³²

Given that BDC filed before the MTC a complaint for unlawful detainer against TransCo, which erected and then energized a 230 KV transmission traversing the whole extent of the subject property,³³ the MTC should have found or taken judicial notice that TransCo is a public service corporation with the power to expropriate. Upon such finding, the MTC, pursuant to the aforecited prevailing jurisprudence, should have then ordered the dismissal of the unlawful detainer case without prejudice to BDC's right

²⁹ Citing *Eusebio v. Luis*, supra note 27, at 598.

³⁰ Supra note 26, at 568-569.

³¹ AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES.

³² R.A. No. 9136, Sec. 8.

³³ *Rollo*, p. 5.



to recover the value of the land actually taken, or ordered TransCo to institute the proper expropriation or condemnation proceedings and to pay the just compensation and damages assessed therein. The MTC could not have proceeded to determine just compensation given that the value of the subject property is clearly beyond its jurisdiction.

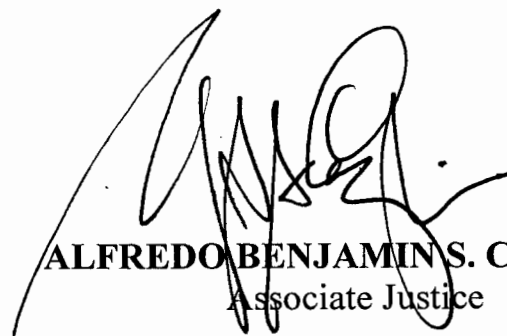
Further, the award of rental in arrears by the MTC is improper because BDC is only entitled to the just compensation of the subject land and consequential damages as determined pursuant to Sections 5 and 6, Rule 67 of the Rules of Court. While the award of rental in arrears is proper in an unlawful detainer action, its award in the present case cannot be upheld since an unlawful detainer action is not a sanctioned remedy in case a public service or utility corporation, endowed with the power of eminent domain, like TransCo in this case, has occupied privately-owned property without first acquiring title thereto by negotiated purchase or expropriation proceedings.

The MTC being bereft of jurisdiction to entertain the unlawful detainer case, its Decision mandating TransCo to vacate the subject property and remove all structures thereon and to pay BDC ₱10,350,000.00 as reasonable rental computed from December 13, 2008 is without legal basis.

The subsequent filing by TransCo of the expropriation proceedings could not have rendered the unlawful detainer case moot and academic inasmuch as the MTC erred in proceeding with the unlawful detainer case and not dismissing it following the prevailing jurisprudence.

WHEREFORE, the Petition is hereby **GRANTED**. The Decision dated May 29, 2014 and Resolution dated October 7, 2014 of the Court of Appeals in CA-G.R. SP No. 120310 as well as the Decision dated August 24, 2009 of the Municipal Trial Court of Cabuyao, Laguna in Civil Case No. 2498 are **REVERSED** and **SET ASIDE**. The complaint for unlawful detainer filed before the Municipal Trial Court of Cabuyao, Laguna in Civil Case No. 2498 is **DISMISSED**.

SO ORDERED.

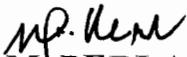


ALFREDO BENJAMINS. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice

(On wellness leave)

JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

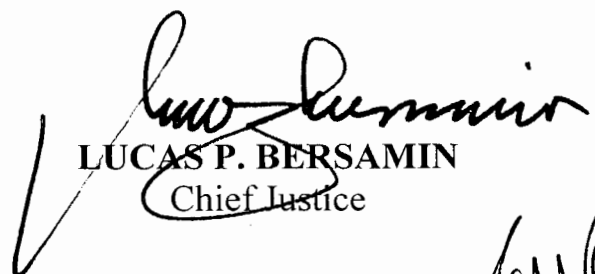
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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



LUCAS P. BERSAMIN
Chief Justice

