



Republic of the Philippines
Supreme Court
Manila

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SECOND DIVISION

SPOUSES HERBERT E. G.R. No. 240720
BUOT and OPHELIA R.
COMPLETO, Present:

Petitioners,

- versus -

PERLAS-BERNABE,* S.A.J.,
HERNANDO, Acting Chairperson,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

NATIONAL TRANSMISSION
CORPORATION, now
substituted by NATIONAL
GRID CORPORATION OF
THE PHILIPPINES,

Respondent.

Promulgated:

NOV 17 2021

[Signature]

X ----- X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed by Spouses Herbert E. Buot and Ophelia R. Completo (Spouses Buot) seeking to reverse and set aside the Decision² dated February 9, 2018 and the Resolution³ dated June 18, 2018 of the Court of Appeals (CA) in CA-G.R. CEB CV. No. 05483.

The CA set aside the Decision dated September 21, 2011 of Branch 26, Regional Trial Court (RTC), Argao, Cebu in Civil Case No. AV-1437, and remanded the case to the trial court for: (1) determination of just compensation for the expropriated property and the affected improvements; and (2) the execution of a quitclaim on the property covered by the legal easement of right-of-way.⁴

* On official leave.

¹ *Rollo*, pp. 3-32.

² *Id.* at 34-60; penned by Associate Justice Gabriel T. Ingles with Associate Justices Marilyn B. Lagura-Yap and Gabriel T. Robeniol, concurring.

³ *Id.* at 62-64.

⁴ *Id.* at 59-60.

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The Antecedents

Spouses Buot are the registered owners of a parcel of land located in Abugon, Sibonga, Cebu, denominated as Lot No. 1415 CAD 315-D, covered by Transfer Certificate of Title No. P-2260, and classified as "Agri" in its tax declaration (subject property).⁵ The land has an area of approximately 117,850 square meters. It was originally registered pursuant to a grant by free patent carrying a general reservation for all conditions, public easements and servitudes as recognized and prescribed by law.⁶

The present case arose when National Transmission Corporation (Transco) filed a complaint for expropriation with the RTC against Spouses Buot for the acquisition of a 196-square-meter portion of the subject property and the enforcement of an easement of right-of-way over 7,382 square meters thereof for its Naga-Suba 138KV T/L Upgrading Project.⁷

Spouses Buot opposed the complaint and countered that the danger, hazard, and adverse effects on the safety and health of persons posed by the tower would consequently render the subject property useless. Thus, they sought just compensation for their *entire* lot because the already existing transmission lines traversing and occupying a 5,420-square-meter portion of their land, plus the present proposed area for Transco's Naga-Suba 138KV T/L Upgrading Project, would affect a bigger area of 7,578 square meters.⁸

In its Order dated August 3, 2007, the RTC appointed a Panel of Commissioners to determine the fair market value of the property, as follows: (1) Genoveva R. Vasquez, as Chairperson; (2) Nathaniel A. Baluyo, as Member for Transco; and (3) Tomasito Z. Academia, as Member for Spouses Buot.⁹

Transco thereafter filed a motion for the issuance of a writ of possession and furnished Spouses Buot a notice to take possession. Thus, the RTC, in its Order dated February 12, 2008, directed Transco to

⁵ *Id.* at 35.

⁶ *Id.* at 35-36.

⁷ *Id.* at 35.

⁸ *Id.* at 36.

⁹ *Id.* at 37.

pay Spouses Buot the amount of ₱4,546,800.00 for the value of the land and ₱567,500.00 for the improvements thereon, or a total of ₱5,114,300.00.¹⁰

On July 31, 2008, the RTC issued an Order for the issuance of a writ of possession in Transco's favor considering Spouses Buot's encashment of a check in the amount of ₱5,114,300.00 constituting the former's payment of the provisional value as fixed by the trial court.¹¹

In their Consolidated Report, the Panel of Commissioners recommended ₱600.00 per square meter as the least/minimum/lowest valuation that could be given to the subject property, which is classified as agricultural land.¹²

Meanwhile, during the pendency of the case, the National Grid Corporation of the Philippines (NGCP) took over the operations of Transco.¹³ Consequently, on June 22, 2011, Transco and NGCP jointly moved for the former's substitution as plaintiff. The RTC granted the motion in its Order dated June 29, 2011.¹⁴

Ruling of the RTC

In its Decision dated September 21, 2011, the RTC ruled that the amount of just compensation to be paid by NGCP shall be ₱1,000.00 per square meter for the expropriated portion of the subject property measuring a total of 7,578 square meters, which amounted to ₱7,578,000.00, plus ₱567,500.00 as payment for the improvements thereon, or a total of ₱8,145,500.00.

The dispositive portion of the Decision reads:

“WHEREFORE, premises considered, the complaint for expropriation is GRANTED and a Decision is hereby rendered directing the parties to do the following acts, to wit:

1. Plaintiff shall pay the defendants the amount of THREE MILLION THIRTY-ONE THOUSAND TWO

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 8 and 38.

¹³ *Id.* at 39.

¹⁴ *Id.*

HUNDRED PESOS (P3,031,200.00) as balance of the just compensation for the affected area consisting of 7,578 square meters to be taken from Lot No. 1145, Cad. 315-D, Title No. P-2260. TD-ARP No. 9142-007274, located in Abugon, Sibonga, Cebu;

2. That for and in consideration of the sum of P8,145,500.00, the defendants shall cede, sell, transfer and convey to the plaintiff that portion of land measuring 7,578 square meters to be taken from Lot No. 1415, Cad, 315-D, covered by Title No. P-2260 and by TD/ARP No. 9142-007274;
3. Plaintiff shall pay to the defendants the aforementioned balance of P3,031,200.00 in full after the new Tax Declaration for the 7,578 square meter-portion of Lot No. 1415 is issued in the name of the plaintiff.

The Register of Deeds of the Province of Cebu is directed to cancel Certificate of Title No. P-2260 and to issue a new Certificate of Title in the name of the plaintiff National Grid Corporation of the Philippines for the expropriated area of 7,578 square meters as well as to issue another Certificate of Title in the name of the defendants for the remaining area of 110,272 square meters.

The Provincial Assessor of Cebu and/or the Municipal Assessor of Sibonga, Cebu, is directed to cancel Tax Declaration/ARP No. 9142-007274 and to issue a new Tax Declaration for the expropriated area of 7,578 square meters in the name of the National Grid Corporation of the Philippines as well as to issue a new Tax Declaration for the remaining area of 110,272 square meters in the name of defendants.

SO ORDERED.¹⁵

Ruling of the CA

On February 9, 2018, the CA rendered the assailed Decision declaring that a remand of the case to the RTC is proper for the determination of the actual area for expropriation, after deduction of the 60-meter wide reservation provided by law.¹⁶ It further directed that after such determination, NGCP shall obtain a quitclaim from Spouses Buot over the appropriated 60-meter wide portion,¹⁷ pursuant to Section 5 of the Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 8974.¹⁸

¹⁵ As culled from the Decision dated February 9, 2018 of the Court of Appeals, *id.* at 40.

¹⁶ *Id.* at 51 and 59-60.

¹⁷ *Id.* at 60.

¹⁸ Entitled, "An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National

The CA ruled as follows:

First, power and transmission lines are deemed *subsumed* under Section 112 of Commonwealth Act (CA) No. 141, as amended by Presidential Decree No. (PD) 635¹⁹ and further amended by PD 1361,²⁰ as regards the legal easement of right-of-way not exceeding 60 meters in width on lands granted by patent by virtue of the principle of *ejusdem generis*. The phrase “other similar works as the Government or any public or quasi-public service or enterprise” in Section 112 clearly covers projects that are intended for public use, including power and transmission lines.²¹

Second, NGCP, by virtue of the franchise granted to it by the government which necessarily includes the exercise of the right of eminent domain, may appropriate a 60-meter wide area for the construction of a tower and the installation of transmission lines on the subject property without paying for it, save for the value of the improvements thereon that may have been damaged as a result, pursuant to Section 112 of CA No. 141.²² However, if after appropriation or deduction of the 60-meter wide reservation in favor of the government, a portion of the subject property is left dangling making it no longer beneficial or safe for use by the property owners, that portion shall be subject to the payment of just compensation which, under Section 6 of Rule 67 of the Rules of Court, is referred to as consequential damages.²³

Third, the RTC's valuation of the expropriated property at ₱1,000.00 per square meter is without sufficient basis. The trial court, among others, erroneously relied on the valuation of ₱1,000.00 per square meter in the Judgment (based on Compromise Agreement) in evidence, which pertained to a land located in Naga and Sibonga, Cebu, but not within the vicinity of the subject property.²⁴

Government Infrastructure Projects and For Other Purposes,” approved on November 7, 2000.

¹⁹ Entitled, “Amending Section One Hundred Twelve of Commonwealth Act Numbered One Hundred Forty-One, as Amended, Otherwise Known as The Public Land Law,” approved on January 7, 1975.

²⁰ Entitled, “Further Amending the Provisions of Section One Hundred Twelve of Commonwealth Act Numbered One Hundred Forty-One, as Amended by Presidential Decree Numbered Six Hundred Thirty-Five,” approved on April 26, 1978.

²¹ *Rollo*, p. 46.

²² *Id.* at 48.

²³ *Id.* at 49-50.

²⁴ *Id.* at 53-57.

And *fourth*, as to the improvements on the property, the RTC merely adopted the valuation recommended by Commissioner Tomasito Z. Academia at ₱600.00 per square meter. This valuation, however, failed to take into consideration the trees actually growing on the affected property. Without the correct names or species, the just valuation of these trees cannot be properly determined.²⁵

The CA thus concluded that the case should be remanded to the RTC for the proper determination of just compensation for the expropriated property and the value of the affected improvements pursuant to the requirements as set forth under RA 8974.²⁶

Thus, the dispositive portion of the assailed Decision reads:

WHEREFORE, the appeal is GRANTED in part, the Decision dated 21 September 2011 of the Regional Trial Court, 7th Judicial Region, Branch 26, Argao, Cebu, in Civil Case No. AV-1437, is SET ASIDE. The case is REMANDED to the said court for assessment of the fair market value of the defendants-appellees' property as of 2007, including the improvements affected by the construction and installation of the plaintiff-appellant's tower and transmission lines, and to render judgment on the just compensation for the property and such improvements with dispatch.

Further, the plaintiff-appellant is DIRECTED to obtain from the defendants-appellees a quit claim over the appropriated 60-meter width portion of the subject property.

No pronouncement as to costs.

SO ORDERED.²⁷

Spouses Buot moved for reconsideration wherein they argued that the 'taking' of the affected portions of their land would effectively result in their outright deprivation thereof, and prayed for the payment of the fair market value of the entirety of their 117,850-square-meter property. For its part, NGCP, in its Comment to the motion, likewise sought the modification of the CA Decision, questioning the remand of the case to the RTC on the 'mere possibility' that there could be an area beyond the 60-meter wide easement which must be expropriated and compensated.²⁸

²⁵ *Id.* at 57.

²⁶ *Id.* at 58.

²⁷ *Id.* at 59-60.

²⁸ *Id.* at 63.

The CA, however, denied Spouses Buot's motion and NGCP's prayer for modification of the Decision in the assailed Resolution.²⁹

Hence, this petition.

Issues before the Court

The issues presented in this case are: (a) whether the CA gravely erred in ruling that power and transmission lines fall under "similar works" under Section 112 of CA No. 141; and (b) whether the CA gravely erred in remanding the case to the RTC for determination of just compensation, among others.

Arguments of Spouses Buot

Spouses Buot posit that Section 112 of CA No. 141 excludes power or transmission lines, asserting that the provision should be read together with Sections 113 and 114 of the same law which pertain exclusively to water power rights and privileges, as well as right-of-way for specific projects.³⁰ They seek the application of the principle of *expressio unius est exclusio alterius* instead of *ejusdem generis*.³¹ For Spouses Buot, the technical characteristics, peculiar attributes, and features of power or transmission lines are distinctively atypical to the government projects as enumerated under CA No. 141. In addition, with Section 112 being a limitation upon proprietary rights, Spouses Buot emphasize that the provision should be strictly construed so as not to deny the exercise of a right which is not clearly intended to be restricted or withheld.³²

Spouses Buot also contend that the annotation on their title covered only legal easements for highways, right-of-way for railroads, irrigation systems, telegraph and telephone lines, airport runways and terminal buildings, and other government structures needed for full operation of the airport.³³

As to the amount of just compensation, Spouses Buot argue that

²⁹ *Id.* at 64.

³⁰ *Id.* at 14-15.

³¹ *Id.* at 21-23.

³² *Id.* at 13-15.

³³ *Id.* at 15.

there is no abuse of authority in the RTC's valuation of the expropriated property at ₱1,000.00 per square meter. They assert that the Judgment on Compromise Agreement dated May 14, 2008 in the Lamacan and Candaguit properties in Sibonga, Cebu, which pertained to more isolated and outlying properties, is a reliable basis for just compensation, being a certified recorded sale and an established valuation for properties in Sibonga, Cebu taken by Transco in 1993.³⁴

Arguments of NGCP

NGCP asserts that it is not liable to pay just compensation for the area traversed by the transmission lines on the subject property pursuant to Section 112 of CA No. 141, as amended. It disagrees with the CA that there is a need to determine the dangling areas which should be compensable as this was never put in issue before the RTC.³⁵

NGCP also maintains that there is an erroneous land classification in this case as the subject property's tax declaration indicated "agricultural," in addition to the admissions made by Spouses Buot that the property was planted with trees. NGCP further argues that the declared value of the owner should be that as reflected in the tax declaration.³⁶

Moreover, NGCP questions the RTC's adoption of the valuations in two different cases for properties located in the same municipality of Sibonga, Cebu. For NGCP, the Bureau of Internal Revenue (BIR) zonal valuation at ₱1.50 per square meter and the assessed value at ₱2.80 per square meter are more reliable data for the determination of just compensation, which were ignored by the RTC.³⁷

Our Ruling

The petition is *partly* meritorious.

Power and transmission lines are "similar works" under Section 112 of CA No. 141.

³⁴ *Id.* at 26-27.

³⁵ *Id.* at 82-83.

³⁶ *Id.* at 91-93.

³⁷ *Id.* at 96-97.

Under Section 112 of CA No. 141, or The Public Land Act, as amended, lands granted by patent shall be subject to a legal easement of right-of-way not exceeding 60 meters in width, which may be enforced by the government *free of charge*, save for the value of the existing improvements thereon, for its infrastructure projects such as public highways, irrigation ditches, aqueducts, and *other similar works, viz.:*

SEC. 112. Said land shall further be subject to a right-of-way not exceeding sixty (60) meters on width for *public highways, railroads, irrigation ditches, aqueducts, telegraph and telephone lines, airport runways*, including sites necessary for terminal buildings and other government structures needed for full operation of the airport, as well as areas and sites for government buildings for Resident and/or Project Engineers needed in the prosecution of government-infrastructure projects, *and similar works* as the Government or any public or quasi-public service or enterprise, including mining or forest concessionaires, may reasonably require for carrying on their business, *with damages for the improvements only.*

Government officials charged with the prosecution of these projects or their representatives are authorized to take immediate possession of the portion of the property subject to the lien as soon as the need arises and after due notice to the owners. It is however, understood that ownership over said properties shall immediately revert to the title holders should the airport be abandoned or when the infrastructure projects are completed and buildings used by project engineers are abandoned or dismantled, but subject to the same lien for future improvements. (Italics supplied.)


From the proceedings before the lower courts, it was established that the Torrens title covering the subject property contained the following annotations:

"7. That pursuant to the pertinent provisions of Commonwealth Act No. 141, it provides, Thus,

'IT IS HEREBY CERTIFIED that certain land situated in the MUNICIPALITY OF SIBONGA, PROV. OF CEBU, more particularly bounded and described as follows:

LOT NO. 1415, Cad 315-D

xxx xxx xxx



is registered in accordance with the provisions of Section 122 of the Land Registration Act in the name of HERBERT BUOT, of legal age, Filipino, married to Ophelia Completo *subject to the provisions of the said Land Registration Act and the Public Land Act*, as well as to those of the Mining Laws, if the land is mineral, and *subject, further, to such conditions contained in the original title as may be subsisting, and to the prov. of Section 109, 110, 111, 112, 113, 114, 118, 121, 122 and 124 of Com. Act 141, as amended.*

IT IS FURTHER CERTIFIED that said land was originally registered on the 9th day of DECEMBER, in the year nineteen hundred and Sixty-Nine in Registration Book No. 21, page 156, of the Office of the Register of Deeds of Province of Cebu, as Original Certificate of Title No. 4156, pursuant to a *free patent granted* by the President of the Philippines, on the 18th day of April, in the year nineteen hundred and sixty-nine under Act No. 496.³⁸ (Emphasis omitted; italics and underscoring supplied.)

The importance of the easement of right-of-way in the case is rooted in the nature and classification of the subject property, which was originally a public land prior to the grant of a free patent in favor of Spouses Buot.

In *De Leon v. De Leon-Reyes*³⁹ (*De Leon*), the Court discussed that under The Public Land Act, “there are two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and (2) by administrative legalization, otherwise known as the grant of free patents.”⁴⁰

Specifically, Section 44 of CA No. 141, as amended RA 6940,⁴¹ provides:

SEC. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares who, for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon

³⁸ *Id.* at 35-36.

³⁹ 785 Phil. 832 (2016).

⁴⁰ *Id.* at 845-846, citing Section 11 of Commonwealth Act (CA) No. 141.

⁴¹ Entitled, “An Act Granting a Period Ending on December 31, 2000 for Filing Applications for Free Patent and Judicial Confirmation of Imperfect Title to Alienable and Disposable Lands of the Public Domain under Chapters VII and VIII of the Public Land Act (CA 141, as Amended),” approved on March 28, 1990.

while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.⁴²

In *De Leon*, the Court emphasized that a free patent is a recognition that the land applied for belongs to the government.⁴³ “A patent, by its very definition, is a governmental *grant* of a right, a privilege, or authority.”⁴⁴ Here, the government, through the issuance of a free patent, conveyed a grant of public land to Spouses Buot, subject to the property encumbrances laid out in Sections 112, 113, 114, 118, 121, 122, and 124 of CA No. 141, among others.⁴⁵

Spouses Buot assert that power or transmission lines are expressly excluded from the list of projects specifically enumerated in Section 112 by the principle of *expressio unius est exclusio alterius*, which means “the express mention of one person, thing, or consequence implies the exclusion of all others.”⁴⁶

This contention is without merit.

A simple reading of Section 112 shows that Spouses Buot had conveniently ignored the phraseology of the right-of-way easement under the provision which made use at first, of terms referring to an enumeration of a specific class of works, *i.e.*, “public highways, railroads, irrigation ditches, aqueducts, telegraph and telephone lines,” and thereafter, interconnected it to the phrase, “and similar works as the Government or any public or quasi-public service or enterprise” that is clearly of *extensive* and *general* signification.

Contrary to Spouses Buot’s assertions, the phraseology in the statute precisely calls for the application of the principle of *ejusdem*

⁴² As amended by Republic Act No. (RA) 6940, or “An Act Granting a Period Ending on December 31, 2000 for Filing Applications for Free Patent and Judicial Confirmation of Imperfect Title to Alienable and Disposable Lands of the Public Domain under Chapters VII and VIII of The Public Land Act (CA 141, As Amended);” approved on March 28, 1990 and published in Malaya and the Daily Globe on March 31, 1990.

⁴³ *De Leon v. De Leon-Reyes*, *supra* note 39 at 847.

⁴⁴ *Id.*, citing Black’s Law Dictionary (8th ed. 2004), p. 3554.

⁴⁵ RA 11231, or the “Agricultural Free Patent Reform Act of 2019” repealed, with retroactive application, the former restrictions put in place by Sections 118, 119 and 121 of CA No. 141 or The Public Land Act, particularly, the prohibition against any encumbrances and alienation, except in favor of the government, within a specified period.

⁴⁶ *Municipality of Aguinaldo v. Municipality of Mayoyao*, G.R. No. 252533 (Notice), September 16, 2020, citing *De La Salle Araneta University v. Bernardo*, 805 Phil. 580, 601 (2017).

generis, which means “of the same kind, class or nature,” in that when general words follow a listing of particular cases, such words are deemed to apply only to cases of the *same kind* as those *expressly* mentioned.⁴⁷ “Thus, when broad expressions are used, such as, ‘and all others,’ or ‘any others’ these are usually to be restricted to persons or things of the same kind or class with those specifically named in the preceding words.”⁴⁸

The purpose of the rule on *ejusdem generis* is to give effect to both the particular and general words, by treating the particular words as indicating the class and the general words as including all that is embraced in said class, although not specifically named by the particular words. This is justified on the ground that if the lawmaking body intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms.⁴⁹ (Citations omitted.)

Consequently, under the principle of *ejusdem generis*, the phrase “and similar works as the Government or any public or quasi-public service or enterprise” applies to works or projects of the kind specifically enumerated under Section 112, which obviously pertain to government infrastructure projects intended for *public use*, with “power lines” or “transmission lines” falling within the general clause.

As such, the CA correctly applied the principle of *ejusdem generis* in bringing life to the phrase “and similar works as the Government or any public or quasi-public service or enterprise.” After all, “[i]t is a rule of legal hermeneutics that where general words follow an enumeration of persons or things, by words of a particular or specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general class as those specifically mentioned.”⁵⁰

The nature of power or transmission lines⁵¹ as a national government infrastructure project intended for public use was aptly

⁴⁷ *National Power Corp. v. Judge Angas*, 284-A Phil. 39, 45 (1992).

⁴⁸ *The City of Manila v. Enote*, 156 Phil. 498, 508 (1974), citing *Ollada v. Court of Tax Appeals*, 99 Phil. 604, 610 (1956).

⁴⁹ *National Power Corp. v. Judge Angas*, *supra* at 45-46.

⁵⁰ *The City of Manila v. Enote*, *supra* at 507.

⁵¹ Under RA 11361, or the Anti-Obstruction of Power Lines Act, power lines under Section 4(p) are defined as “transmission lines, sub-transmission lines, distribution lines, and generation dedicated point to point lines, and other connection assets including the poles and towers used to support the lines, and other related facilities constructed or erected used for the purpose of conveyance of electricity,” while transmission lines pertain to “the portion of the transmission system referring to the lines or wires.”

expounded by the CA in the assailed Decision. As the CA correctly observed, the IRR of RA 8974, too, explicitly includes power generation, transmission, and distribution projects among the national government projects covered by the law.⁵² As it stands, there is no doubt that the installation of transmission lines is important to the continued growth of the country as electricity moves our economy, making it a national concern.⁵³

This interpretation of the provision to include the installation of “power lines” or “transmission lines” within the coverage of Section 112 of The Public Land Act is in congruence with its undeniable public purpose. More importantly, it is reinforced by the very fact that the power of eminent domain is vested by law upon a power line owner with a franchise to operate, manage, or maintain the electric power lines⁵⁴ such as NGCP in this case.

Spouses Buot's property is subject to a legal easement of right-of-way under Section 112 of The Public Land Act.

Based on these considerations, it is clear that there is a legal easement of right-of-way in favor of the State over the subject property.

⁵² Section 2 of the Implementing Rules and Regulations (IRR) of RA 8974 provides:

SECTION 2. Definition of Terms. — x x x

x x x x

- d. *National government projects* — based on Section 2 of the Act, refer to all national government infrastructure, engineering works and service contracts, including all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities undertaken by an Implementing Agency, such as but not limited to site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding. These projects shall include, but not limited to, highways, including expressways, roads, bridges, interchanges, tunnels, and related facilities; railways and mass transit facilities; port infrastructure, like piers, wharves, quays, storage, handling, and ferry services; airports and air navigation; steam and power generation, transmission and distribution; telecommunications; information technology infrastructure; irrigation, flood control and drainage; water and debris retention structures and dams; water supply, sewerage, and waste management facilities; schools and health infrastructure; land reclamation, dredging and development; industrial and tourism estates; government schoolbuildings, hospitals, and other buildings and housing projects; markets and slaughterhouses; and other similar or related infrastructure works and services of the national government, which are intended for public use or purpose.

⁵³ See *National Power Corp. v. Ong Co.*, 598 Phil. 58, 67 (2009).

⁵⁴ Section 13 of RA 11361.

The Torrens title of Spouses Buot contained the express reservation that the land in question is covered by the provisions of CA No. 141 or The Public Land Act. Thus, in accordance with Section 112, the property is subject to a right-of-way not exceeding 60 meters in width, which NCGP may appropriate for its Naga-Suba 138KV T/L Upgrading Project free of charge, with the *exception* of the value of the improvements existing thereon that may be affected.

Here, the width appropriated for NGCP's tower and overhead transmission lines measures only 30 meters in width, with a total area of 7,382 square meters,⁵⁵ which is well within the 60-meter wide threshold under Section 112. Consequently, NGCP may indeed utilize the 7,382-square-meter portion of the subject property, *plus* the remaining 30-meter wide reservation or any part thereof, without any cost save for damages in relation to the affected existing improvements thereon. In other words, only the portion of the subject property that is *not* within the 60-meter wide easement shall be subject to just compensation.

Pursuant to the Court's pronouncement in *Republic of the Philippines v. Andaya*⁵⁶ (*Andaya*), a property owner is entitled to *consequential damages* if in enforcing the legal easement under Section 112 of The Public Land Act on his/her property, the remaining area would be rendered *unusable* and *uninhabitable*, *viz.*:

x x x "Taking," in the exercise of the power of eminent domain, occurs not only when the government actually deprives or dispossesses the property owner of his property or of its ordinary use, but also *when there is a practical destruction or material impairment of the value of his property*. Using this standard, there was undoubtedly a taking of the remaining area of Andaya's property. True, no burden was imposed thereon and Andaya still retained title and possession of the property. But, as correctly observed by the Board and affirmed by the courts *a quo*, the nature and the effect of the floodwalls would deprive Andaya of the normal use of the remaining areas. It would prevent ingress and egress to the property and turn it into a catch basin for the floodwaters coming from the Agusan River.

For this reason, in our view, Andaya is entitled to payment of just compensation, which must be neither more nor less than the monetary equivalent of the land. One of the basic principles enshrined in our Constitution is that no person shall be deprived of his private property without due process of law; and in expropriation cases, an

⁵⁵ *Rollo*, p. 50.

⁵⁶ 552 Phil. 40 (2007).

essential element of due process is that there must be just compensation whenever private property is taken for public use. Noteworthy, Section 9, Article III of our Constitution mandates that private property shall not be taken for public use without just compensation.⁵⁷

The Court reiterated the *Andaya* doctrine in the case of *Bartolata v. Rep. of the Phils.*,⁵⁸ wherein it listed the two elements that must concur before a property owner can become entitled to just compensation for the remaining property under Section 112 of The Public Land Act: “(1) that the remainder is not subject to the statutory lien of right-of-way; and (2) that the enforcement of the right-of-way results in the practical destruction or material impairment of the value of the remaining property, or in the property owner being dispossessed or otherwise deprived of the normal use of the said remainder.”⁵⁹

The Court is mindful of the fact that the construction of power or transmission lines would inevitably impose limitations on the land, which would, in turn, indefinitely deprive the property owners of its normal use.⁶⁰ The presence of transmission lines, too, would undoubtedly restrict the property owner’s use of the property,⁶¹ and it may even endanger lives and limbs because of the high-tension electric current conveyed through the lines.

To illustrate further, it should be emphasized that the property would also be subject to the provisions of RA 11361, or the *Anti-Obstruction of Power Lines Act*. In particular, Section 6 of the law prohibits any person, whether natural or juridical, public or private, to:

- (a) Plant or cause to be planted tall growing plants, including plants of whatever kind, variety, or height within the power line corridor;
- (b) Construct or erect any hazardous improvements within the power line corridor;
- (c) Conduct or perform any hazardous activities within the power line corridor;
- (d) Prevent or refuse duly authorized agents of the owner or operator of power lines, entry to the property in the performance of acts enumerated Under Section 7: *Provided,*

⁵⁷ *Id.* at 46. Citations omitted.

⁵⁸ 810 Phil. 978 (2017).

⁵⁹ *Id.* at 995-996.

⁶⁰ See *National Power Corp. v. Ong Co.*, *supra* note 53 at 69.

⁶¹ *Id.* at 70.

- That such entry is in accordance with the provisions of Section 8; and
- (e) Perform other analogous acts or activities, which will impair the conveyance of electricity and cause damage to power lines.

Taking these factors into serious consideration, there is no question that Spouses Buot are entitled to consequential damages for the areas before and in between the transmission lines that lie *outside* the 60-meter wide easement, if any, which would be rendered unusable or uninhabitable because of the traversing transmission lines.

Under National Power Board Resolution No. 94-313, “dangling” areas “refer to those remaining small portions of the land not traversed by the transmission line project but which are nevertheless rendered useless in view of the presence of the transmission lines.”⁶² Therefore, a determination of the total dangling area is material in this case in order to resolve the matter of consequential damages given that the 7,382-square-meter portion subject of the easement of right-of-way is but a part and parcel of Spouses Buot’s 117,850-square-meter property.

In summary, per the *Andaya* doctrine, NGCP is under no legal obligation to pay just compensation for utilizing the 7,382-square-meter portion of the subject property, which, as earlier discussed, is well within the 60-meter wide threshold provided under Section 112 of The Public Land Act. Nevertheless, Spouses Buot may be awarded consequential damages for the dangling areas affected by NGCP’s transmission lines, if any, that do not fall inside the coverage of the *unutilized* area of the 60-meter wide legal easement on the subject property. As the Court clarified in *Andaya*, such area, though unutilized, is still covered by Section 112, which limits the property owner’s compensation to the value of the affected improvements thereon, and not the value of the land *per se*.⁶³

Thus, the Court deems it proper to *remand* the case to the RTC for a thorough determination of:

- (1) The actual area of the 60-meter wide easement of right-of-way on the subject property, which includes *both* the utilized and unutilized portion thereof;

⁶² *National Power Corp. v. Marasigan*, 820 Phil. 1107, 1129 (2017).

⁶³ See *Republic of the Philippines v. Andaya*, *supra* note 56.

- (2) The dangling areas before and in between NGCP's transmission lines, which are *not* within the 60-meter wide threshold under Section 112, if any, for which consequential damages may be awarded; and
- (3) The value of the improvements on the 7,382-square-meter portion of the property corresponding to the total area of the 30-meter wide easement actually utilized by NGCP, if there are any.

As regards the proper valuation of the improvements on the affected property, the Court agrees with the CA that the amount of ₱567,500.00 awarded by the RTC to Spouses Buot is not only *provisional*, but, more importantly, it lacked sufficient basis. This is easily gleaned from the fact that the amount was determined by the RTC in its Order dated February 12, 2008, which fixed the *provisional value* of the property and the improvements thereon for the purpose of the issuance of a writ of possession in Transco's favor.⁶⁴ Hence, this, too, must be reevaluated by the RTC for the award of the correct amount of damages in compliance with Section 112 of The Public Land Act.

The Court shall now discuss the matter of just compensation at ₱1,000.00 per square meter for the 196-square-meter portion of the subject property acquired by NGCP.

Just compensation was properly pegged at ₱1,000.00 per square meter.

The only legal issue as to just compensation presented by Spouses Buot is whether the CA erred in ruling that the RTC's determination of just compensation was not in accordance with Section 5 of RA 8974.

Just compensation is defined in this wise:

Constitutionally, "just compensation" is the sum equivalent to the market value of the property, broadly described as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition, or the fair value of the property as between the one who receives and the one who desires to sell, it being fixed at the time of the actual taking by the government. Just

⁶⁴ *Rollo*, p. 37.

compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It has been repeatedly stressed by this Court that the true measure is not the taker's gain but the owner's loss. The word "just" is used to modify the meaning of the word "compensation" to convey the idea that the equivalent to be given for the property to be taken shall be real, substantial, full and ample.⁶⁵

Section 5 of RA 8974 provides for the standards that *may* be considered by the courts in determining just compensation for national government infrastructure projects, *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) This 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.

The Court, in *Republic v. Cebuan*,⁶⁶ notably described the enumeration in Section 5 of RA 8974 to be *non-exclusive, permissive, and discretionary* in character.⁶⁷ Simply put, the courts are *not* strictly bound to mechanically follow each of these standards as they are merely

⁶⁵ *Apo Fruits Corp. v. Land Bank of the Phils.*, 647 Phil. 251, 271 (2010), citing *Land Bank of the Philippines v. Orilla*, 578 Phil. 663, 676 (2008).

⁶⁶ 810 Phil. 767 (2017).

⁶⁷ *Id.* at 780. Citations omitted.

recommendatory in nature.⁶⁸ The determination of just compensation in expropriation cases, after all, is a judicial function by constitutional mandate. As such, any legislative enactment or executive issuance that aims to fix or provide a strict method of computing just compensation would be tantamount to an impermissible encroachment on judicial prerogatives.⁶⁹

To recall, the CA remanded the case to the RTC for the determination of the proper amount of just compensation, among others, opining that the trial court's ₱1,000.00 per square meter valuation of the expropriated property was unsupported by evidence.

The Court disagrees.

Contrary to NGCP's assertion, the RTC considered some of the factors enumerated in Section 5 of RA 8974 in arriving at the just compensation to be paid to Spouses Buot. In particular, these factors are: (a) the value declared by Spouses Buot as the property owners; (b) the value of similar properties in the vicinity likewise expropriated by NGCP for power or transmission lines; (c) the classification and use for which the property is suited; (d) the property's location and current value; and (e) the Commissioners' Report.⁷⁰

In fact, the RTC took into account not only NGCP's proposed valuation at the measly amounts of ₱2.80 per square meter as the assessed value, ₱1.50 per square meter as the zonal value, and ₱300.00-₱500.00 per square meter as relative sales data of adjacent lots,⁷¹ but also the Commissioners' assessment of the subject property fixing its minimum valuation at ₱600.00 per square meter.⁷² The RTC, however, gave more weight to the valuation at ₱1,000.00 per square meter of similarly situated properties that were also expropriated by NGCP for the purpose of constructing transmission lines in the same municipality.⁷³

Under these circumstances, the Court finds no cogent reason to annul and set aside the RTC's valuation of the expropriated property. Upon review, it does *not* appear that the RTC acted capriciously or

⁶⁸ *Id.*

⁶⁹ *Id.* at 779.

⁷⁰ *Rollo*, p. 90.

⁷¹ *Id.* at 96-97.

⁷² *Id.* at 38.

⁷³ *Id.* at 95.

arbitrarily in fixing the amount of just compensation for the 196-square-meter portion of the subject property at ₱1,000.00 per square meter.

NGCP also assails the RTC's valuation of the subject property for being contrary to its alleged classification as agricultural land as appearing in its tax declaration. Moreover, it advances a computation of just compensation based on the meager zonal and assessed values as shown in the property's tax declaration.

These contentions, however, are devoid of merit.

In ascertaining the amount of just compensation, the courts enjoy sufficient judicial discretion to determine the classification of lands as this is one of the relevant standards for the assessment of the value of properties subject of expropriation proceedings. Still, it must be stressed that the court's exercise of discretion in such cases is limited only for the purpose of the proceedings, and is *not* meant to substitute the local government's power to reclassify and convert lands through local ordinance.⁷⁴

Here, the Court notes the Commissioners' observation that the highest and best use for the subject property is residential and, at the very least, industrial.⁷⁵ Thus, despite the subject property's zonal classification as agricultural land in its tax declaration, what is essential is the use to which the property is suited. The condition of the property and its surroundings, as well as its improvements and capabilities, must be considered in determining just compensation.⁷⁶

Moreover, it is settled that the courts are *not* limited to a certain numerical threshold relative to the BIR zonal valuation of an expropriated property in the determination of just compensation. "Zonal valuation is simply one of the indices of the fair market value of real estate."⁷⁷ By itself, this index cannot be used as the *sole* basis to

⁷⁴ *National Power Corp. v. Marasigan*, *supra* note 62 at 1127, citing *Republic of the Philippines represented by the Department of Public Works and Highways v. Far East Enterprises, Inc.*, 613 Phil. 436 (2009).

⁷⁵ *Rollo*, p. 38.

⁷⁶ *National Power Corporation v. Sps. Asoque*, 795 Phil. 19, 50 (2016), citing *National Power Corporation v. Suarez*, 589 Phil. 219, 225 (2008) and *National Power Corporation v. Mamabay Agro-Industrial Development Corporation*, 480 Phil. 470, 480 (2004).

⁷⁷ *Leca Realty Corp. v. Rep. of the Phils.*, 534 Phil. 693, 696 (2006).

ascertain just compensation in expropriation cases because the standard is not the taker's gain, but the owner's loss.⁷⁸

The insistence of NGCP, therefore, to base the value of the subject property solely on its BIR zonal valuation at ₱1.50 per square meter or ₱2.80 per square meter as assessed value is *misplaced* considering that these are only two of the several factors which the court may consider to facilitate the determination of just compensation. To reiterate, “[t]he zonal value alone of the properties in the area whether of recent or vintage years does not equate to just compensation.”⁷⁹ Otherwise, the determination of just compensation would cease to be judicial in nature, which would, in turn, totally negate the exercise of judicial discretion.⁸⁰

Ultimately, in expropriation cases, the courts are guided by certain standards for valuation such as those mentioned in Section 5 of RA 8974. Thus, the Court is bound to uphold the RTC's determination of just compensation, even if it is higher than the BIR zonal value or assessed value of the expropriated property, for as long as the amount fixed by the trial court is *justified* as the full and fair equivalent of the property, as in this case.

Simply put, the RTC's valuation of the expropriated property, which the trial court only determined *after* an evaluation of various factors, is more in accord with the principle that the amount to be tendered as payment for the property to be taken for public use shall be real, substantial, full, and ample, as guaranteed no less by the Constitution itself and is included in the Bill of Rights.⁸¹

WHEREFORE, the instant petition is **PARTLY GRANTED**. The Decision dated February 9, 2018 and the Resolution dated June 18, 2018 of the Court of Appeals in CA-G.R. CEB CV. No. 05483 are **AFFIRMED** with **MODIFICATION** in that the case is **REMANDED** to the Regional Trial Court for further proceedings, but only insofar as the determination of consequential damages and damages in relation to the value of improvements on the property affected by the legal easement of right-of-way are concerned.

⁷⁸ *Id.*

⁷⁹ *Republic v. Spouses Dalucio*, G.R. No. 227960, July 24, 2019.

⁸⁰ *Id.*

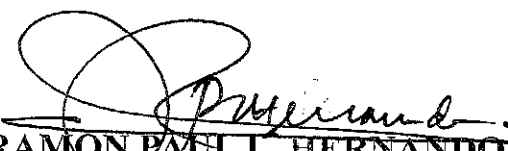
⁸¹ *National Power Corporation v. Sps. Zabala*, 702 Phil. 491, 499-500 (2013), citing *Rep. of the Phils. v. Rural Bank of Kabacan, Inc.*, 680 Phil. 247, 256 (2012) and *National Power Corporation v. Manubay Agro-Industrial Development Corporation*, 480 Phil. 470, 479 (2004).

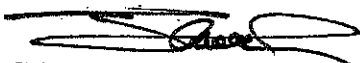
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

(On official leave)
ESTELA M. PERLAS-BERNABE
Senior Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
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.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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



