



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 26, 2014** which reads as follows:*

“G.R. No. 213206 – (NATIONAL POWER CORPORATION, petitioner vs. SPS. RODOLFO ZABALA AND LILIA BAYLON, TOMAS AGUIRRE, GENEROSA DE LEON AND LEONOR CALUB, respondents.)

This is a petition for review under Rule 45 of the Rules of Court seeking to set aside the Decision¹ dated July 26, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 97761, denying the appeal filed by petitioner National Power Corporation (NPC) against respondents, and Resolution dated June 23, 2014, denying petitioner's motion for reconsideration of the aforesaid Decision.

The facts of the case according to petitioner are as follows:²

Petitioner NPC is a government-owned and controlled corporation created and existing by virtue of Republic Act No. 6395, as amended, for the purpose of undertaking the development of hydro-electric generation power and production of electricity from any and all sources. Under its charter, petitioner is authorized to acquire private property and exercise the right of eminent domain.

- over – seven (7) pages

¹ Penned by CA Associate Justice Jane Aurora C. Lantion with Associate Justices Vicente S.E. Veloso and Eduardo B. Peralta, Jr., concurring, rollo pp. 43-51.

² rollo, p. 27.

Respondents are the registered owners of parcels of land covered by TCT No. T-19592 with an area of 60,301 square meters (affected area: 7,069 sq. meters); Tax Declaration No. 7639 with an area of 50,399 square meters (affected area 6,460 sq. meters), and TCT No. T-58035 with an area of 17,133 sq. meters (affected area: 4,830 sq. m.), respectively. Parts of respondents' properties are affected by petitioner's 230 KV Limay-Hermosa Transmission Line Project.

Private negotiations with respondents for the acquisition of the right-of-way easement over the subject parcels of land were made but the same failed.

Thus, on October 27, 1994, petitioner filed a complaint for eminent domain with the trial court for the acquisition of an easement of right-of-way over the properties owned by respondents, together with Spouses Rodolfo Zabala and Lilia Baylon, that would be affected by its 230 KV Limay-Hermosa Transmission Line. The complaint was docketed as Civil Case No. 6321.

On December 29, 1994, respondent Tomas Aguirre filed his Answer to the Complaint, alleging among others, that the expropriation of his property would cause the worst damage and injury to it and the takeover of the same is arbitrary, unreasonable and inequitable, and that the portion sought to be taken commands a higher value being a prime and critical portion of the property.

Spouses Zabala filed a motion to dismiss in lieu of an answer but the same was denied. Thereafter, a set of Commissioners was constituted to determine the just compensation of the affected properties. Upon submission of the Commissioner's Report as well as the Supplemental Report, a Partial Decision dated June 28, 2004 was rendered by the trial court involving Spouses Zabala only, ordering petitioner to pay the Zabalas the amount of Php 150.00 per square meter as just compensation for the 6,820-square meter property taken by petitioner as recommended in the Commissioner's Report and its supplement.

With respect to respondents Generosa de Leon and Leonora Calub, petitioner filed a Motion for Issuance of an Order of Condemnation and Appointment of Commissioners for their failure to file an answer or responsive pleading.

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During the pendency of the case, defendant Tomas Aguirre died and was substituted by his heirs, herein respondents Alberto, Adolfo, Lawrence and Catherine, all surnamed Aguirre, and Ana Maria A. Koruga.

During the pre-trial conference on July 24, 1997, Spouses Zabala and heirs of Tomas Aguirre did not question the authority of petitioner to expropriate their properties upon payment of just compensation. Thus, the trial court confirmed that petitioner has the lawful right to expropriate respondent's properties upon payment of just compensation to be determined as of the date of the taking of the properties or the filing of the complaint whichever is earlier.

The trial court then created a committee tasked to determine the just compensation of the subject properties. The members of the committee were the Provincial Assessor of Bataan, the Municipal Assessor of Balanga, Bataan, and Ernesto Gonzales of Cupang, Balanga, Bataan.

On August 20, 2003, the committee submitted its final report on the just compensation for the Spouses Zabala's property, recommending the amount of Php500.00 per square meter as just compensation of the affected property. The recommended valuation was based on the alleged "increase in the valuation of the properties in the area where the subject property is situated."

On June 28, 2004, the trial court rendered a Partial Decision disregarding the Php500.00 per square meter valuation recommended by the Commissioners. The trial court instead ordered petitioner to pay the Zabalas the amount of Php150.00 per square meter as just compensation for their affected property, the amount determined by the trial court as of the date of the filing of the complaint. With respect to respondents, the trial court thus ruled: "As regards to the properties of the other defendants, the determination of the just compensation is hereby held in abeyance until the submission of the commissioners report".

Thus, a new set of Commissioners was appointed to determine the just compensation of respondents' properties composed of: Engr. Ricardo C. Herrera, Provincial Assessor of Bataan; Marilen Z. Alonzo, City Assessor of Balanga; and Engr. Victor T. Salinas xxx.

Pursuant to their mandate, the new set of commissioners submitted an initial report covering the affected properties on February 3, 2006. xxx

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During the pendency of the case, the National Transmission Corporation (Transco) assumed responsibility for this case by virtue of a Memorandum of Agreement executed by and between Transco and NPC whereby all transmission-related cases handled by NPC shall be transferred to Transco, pursuant to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001."

On May 26, 2008, the Estate of Tomas Aguirre filed a Motion to invalidate the report of the Board of Commissioners' with respect to the portion pertaining to the late Tomas Aguirre as the same allegedly does not reflect the fair and actual valuation of the property and for the Board of Commissioners to reconvene in order to determine the just compensation of the property.

On the same date, petitioner filed a Manifestation alleging, among others, that it already filed its comment on the Commissioners' Report; that the recommendation as to the property of Spouses Zabala is no longer necessary since there is already a judicial determination of the just compensation on appeal at that time; that the parcel of land mentioned under TCT No. 210158, containing an area of 1.4400 hectares and declared under the names of Spouses Pascua, Gilbert R. and Thelma D. Pascua, is neither traversed by petitioner's project nor one of those sought to be expropriated, hence, said portion of the Report is no longer necessary; that the affected property of Leonor Calub consisting of 4,830 square meters and covered by TCT-T-58035 was not included in the Report submitted by the Commissioners; and that the determination of just compensation should be reckoned as to the date of filing of the case for eminent domain on October 27, 1994.

On October 27, 2009, the final Commissioner's Report dated August 17, 2009 was submitted to the trial court.

On September 9, 2011, the trial court rendered its Decision explaining that "since the properties of defendants estate of Tomas Aguirre, Generosa de Leon and Leonor Calub xxx should be given a just compensation of Php150.00 per square meter." The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, the court having declared that plaintiff has a lawful right to take the subject properties in the exercise of the power eminent domain upon payment of just compensation, this petition is hereby granted.

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Accordingly, plaintiff is hereby ordered to pay defendants Estate of Tomas Aguirre, Generosa de Leon and Leonor Calub the amount of Php150.00 per square meter for the 7,069 sq. meters, 6,460.00 sq. meters and 4,830 square meters lots, respectively, taken from the said defendants properties as just compensation, conformably with the decision of the Court of Appeals in the case of National Power Corp. vs. Sps. Rodolfo Zabala and Lilia Baylon, et al., CA-G.R. CV No. 85396 promulgated July 10, 2006.

SO ORDERED.

On September 19, 2012, petitioner appealed the decision with the CA raising the issue that the trial court erred in fixing the amount of Php150.00 per square meter as the fair market value of the subject properties since the same is not supported by documentary evidence.

In a Decision dated July 26, 2013, the CA denied the appeal.

Hence, the present petition.

The respondent, heirs of Tomas P. Aguirre filed their Comment³ dated August 29, 2014, through Atty. Carmelo M. Mendoza. Respondent Aguirre alleges:

1. That instant petition is an appeal of the Decision dated July 26, 2013 of the Court of Appeals in CA GR No. 97761 which affirmed the Decision of Branch 2 of the Regional Trial Court of Balanga, Bataan, dated September 9, 2011, in Civil Case No. 6321 awarding P 150.00 as just compensation to the respondents;
2. Petitioner contends that the amount of just compensation was not based on documentary evidence and was arrived at through mere speculation and hearsay;

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³Rollo, p. 57

3. As petitioner highlighted, the commissioners appointed to determine just compensation for the property of Tomas Aguirre et al., recommended the amount of P 500.00 but the same was disregarded by the Court and instead adopted the previous recommendation of a separate set of commissioners which recommended the value of P 150.00 for the property of Zabala;
4. Noteworthy in the statement of facts of petitioner that both sets of commissioners for the property of Zabala and Aguirre conducted ocular inspection of the properties which were made the basis of their recommendation.
5. Respondent Aguirre is perplexed that despite the Court recommended a much lower amount which is beneficial to the government, petitioners are still contesting the same; xxx.

The sole issue to be addressed is:

Whether or not the Court of Appeals erred in affirming the Trial Court's award of Php 150.00 per square meter as just compensation for the properties of respondents for lack of documentary evidence to support the award.

THE COURT'S RULING

We **DENY** the petition.

The CA committed no error in affirming the trial court's award of P150.00 per square meter as just compensation for respondents' properties. The appellate court's determination of just compensation for the property was not based on mere speculation and hearsay, but on the recommendation of commissioners who indeed went to great lengths to determine compensation which is just for the property. The commissioners made ocular inspection twice on the property, interviewed adjacent property owners and took into consideration other factors such as distance from the highway, subdivisions and nearby town center, the location plan, tax declaration, the condition of properties and their surroundings, and the improvements thereon.

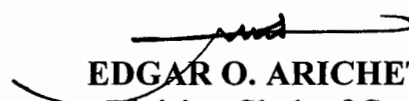
The Office of the Solicitor General's compliance with the Resolution dated August 11, 2014 by submitting a copy of the official receipt issued by the Integrated Bar of the Philippines as proof of payment of the Senior State Solicitor's IBP Membership dues is **NOTED** and **ACCEPTED**.

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The comment of respondent heirs of Tomas B. Aguirre on the petition for review on certiorari is **NOTED WITHOUT ACTION.**

SO ORDERED.” PERLAS-BERNABE, J., on leave;
VILLARAMA, JR., J., acting member per S.O. No. 1885 dated
November 24, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{11/14}
4

The Solicitor General (x)
Makati City

Court of Appeals (x)
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(CA-G.R. CV No. 97761)

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