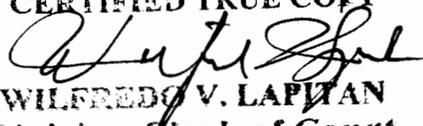




Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 FEB 16 2016

THIRD DIVISION

**NATIONAL
 CORPORATION,**

POWER

G.R. No. 196140

Petitioner,

Present:

- versus -

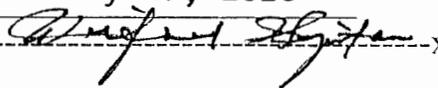
VELASCO, JR., J., *Chairperson*,
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

**ELIZABETH MANALASTAS
 and BEA CASTILLO,**

Promulgated:

Respondents.

January 27, 2016

X----------X

DECISION

PERALTA, J.:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision¹ of the Court of Appeals (CA) promulgated on September 9, 2010, and its Resolution² dated March 14, 2011, denying petitioner's Motion for Partial Reconsideration be reversed and set aside.

Sometime in 1977 to 1978, petitioner, a government-owned and controlled corporation involved in the development of hydro-electric generation of power and production of electricity, and the construction, operation and maintenance of power plants, transmission lines, power stations and substations, among others, constructed a 230 KV transmission line for the Naga-Tiwi line and a 69 KV transmission line for the Naga-

¹ Penned by Associate Justice Mario L. Guariña III, with Associate Justices Apolinario D. Bruselas, Jr. and Rodil V. Zalameda, concurring; *rollo*, pp. 43-52.

² *Id.* at 54



Tinambac line on respondents' parcel of land covered by TCT No. 26263, affecting an area of 26,919 square meters. Petitioner entered said land without the knowledge or consent of respondents, without properly initiating expropriation proceedings, and without any compensation to respondents-landowners. Because of said transmission lines, respondents alleged that they could no longer use their land as part of a subdivision project as originally intended, which ultimately caused financial loss to their family. Thus, in July 2000, respondents (plaintiffs below, who were then joined by their mother, Celedonia, and brother, Mariano; Celedonia and Mariano are no longer impleaded as parties in this petition as the CA Decision has attained finality as to them)³ filed a complaint against petitioner and its officers with the Regional Trial Court of Naga City (*RTC*). Respondents demanded the removal of the power lines and its accessories and payment of damages, or in the alternative, payment of the fair market value of the affected areas totalling 26,000 square meters of respondents' land at ₱800.00 per square meter.

On November 17, 2006, the *RTC* issued a Decision, the dispositive portion of which reads as follows:

WHEREFORE, defendant NAPOCOR is hereby ordered to:

1) Pay plaintiffs the amount of PESOS: NINETY-TWO MILLION EIGHT HUNDRED TWENTY-SEVEN THOUSAND and THREE HUNDRED FIFTY-ONE (₱92,827,351.00), by way of just compensation, broken down as follows:

a) For the plaintiffs Elizabeth Manalastas and Bea Castillo:

₱32,033,610.00 – Value of the land

₱53,816,461.00 – Interest at 6% per annum for 28 years

₱85,850,071.00 – Total

b) For the plaintiffs Celedonia Mariano and Enrico Mariano:

₱1,000,200.00 – Value of the land

₱5,887,080.00 – Interest at 6% per annum for 9 years

₱6,977,280.00 – Total

2) Pay Attorney's fees to plaintiffs in the amount of Pesos: One Hundred Thousand (₱100,000.00).

With cost against plaintiff (sic) NAPOCOR.

SO ORDERED.⁴

³ See Resolution dated January 18, 2012 (*Id.* at 215) and Resolution dated April 11, 2012 (*Id.* at 224).

⁴ *Rollo*, pp. 139-140.

On appeal to the CA, herein petitioner argued that the RTC erred in factoring the devaluation of the peso in the computation of the fair market value of respondents' land. In a Decision dated September 9, 2010, the CA affirmed the RTC judgment with modification, reducing the award to Celedonia and Enrico Mariano (respondents' co-plaintiffs below) to ₱1,678,908.00. The CA ruled that petitioner could no longer assail the valuation that petitioner itself recommended, the same being a judicial admission. Moreover, the CA pointed out that taking an inconsistent position on appeal cannot be allowed. Petitioner's motion for reconsideration was denied in a Resolution dated March 14, 2010.

Hence, the present petition where petitioner alleges as follows:

I.

ESTOPPEL IS INOPERATIVE AGAINST THE GOVERNMENT; THE INFLATION FACTOR SHOULD NOT BE INCLUDED IN THE COMPUTATION OF JUST COMPENSATION

II.

THE DETERMINATION OF JUST COMPENSATION IS A JUDICIAL FUNCTION. COURTS ARE THEREFORE NOT BOUND TO UPHOLD A PARTY'S FORMULATION OF JUST COMPENSATION; [and]

III.

THE AWARD OF EIGHTY-FIVE MILLION EIGHT HUNDRED THOUSAND AND SEVENTY-ONE PESOS (Php85,850,071.00) WILL UNJUSTLY ENRICH THE RESPONDENTS.⁵

The Court finds the petition meritorious.

The bone of contention in this case is the inclusion of the inflation rate of the Philippine Peso in determining the just compensation due to respondents. Petitioners maintain that such inclusion of the inflation rate in arriving at the value of just compensation has no legal basis, and it was a palpable mistake on the part of its representatives and counsel below to make a recommendation factoring in said inflation rate in the computation of just compensation. None of the parties contest the finding that the fair market value of the property at the time of taking was Php170.00 per square meter.

It should be noted that in *Secretary of the Department of Public Works and Highways, et al. v. Spouses Heracleo and Ramona Tecson*,⁶ the Court stressed that “just compensation is the value of the property at the time of taking that is controlling for purposes of compensation.” In a motion for

⁵ *Id.* at 21.

⁶ G.R. No. 179334, July 1, 2013, 700 SCRA 243, 268.

reconsideration of the Decision in said case, the landowners argued that it would be unjust if the amount that will be awarded to them today will be based on the value of the property at the time of actual taking. In its Resolution dated April 21, 2015, the Court fully explained that:

x x x the State is not obliged to pay premium to the property owner for appropriating the latter's property; it is only bound to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. More, **the concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.**

Notwithstanding the foregoing, we recognize that the owner's loss is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. **Accordingly, in *Apo*, we held that the rationale for imposing the interest is to compensate the petitioners for the income they would have made had they been properly compensated for their properties at the time of the taking.** Thus:

We recognized in *Republic v. Court of Appeals* the need for prompt payment and the necessity of the payment of interest to compensate for any delay in the payment of compensation for property already taken. We ruled in this case that:

The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be 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 one who receives, and one who desires to sell, i[f] fixed at the time of the actual taking by the government.

Thus, if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, the final compensation must include interest[s] on its just value to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court. In fine, between the taking of the property and the actual payment, legal interest[s] accrue in order to place the owner in a position as good as (but not better than) the position he was in before the taking occurred. [Emphasis supplied]

In other words, **the just compensation due to the landowners amounts to an effective forbearance on the part of the State—a proper subject of interest computed from the time the property was taken until the full amount of just compensation is paid—in order to eradicate the issue of the constant variability of the value of the currency over time.** In the Court's own words:

The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. **This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time** x x x.⁷

The foregoing clearly dictates that valuation of the land for purposes of determining just compensation should not include the inflation rate of the Philippine Peso because the delay in payment of the price of expropriated land is sufficiently recompensed through payment of interest on the market value of the land as of the time of taking from the landowner.

Moreover, the fact that it was petitioner's own counsel below that recommended the inclusion of the inflation rate in the determination of just compensation should not be taken against petitioner. After all, it is ultimately the courts' mandated duty to adjudge whether the parties' submissions are correct. It is the courts, not the litigants, who decide on the proper interpretation or application of the law and, thus, only the courts may determine the rightful compensation in accordance with the law and evidence presented by the parties. It is incongruous for the court below to uphold a proposition merely because it was recommended by a party, despite the same being erroneous. Thus, in *Secretary of Finance v. Oro Maura Shipping Lines*,⁸ the Court emphasized, thus:

x x x Assuming further x x x that the Collector of the Port of Manila similarly erred, we reiterate the legal principle that estoppel generally finds no application against the State when it acts to rectify mistakes, errors, irregularities, or illegal acts, of its officials and agents, irrespective of rank. **This ensures efficient conduct of the affairs of the State without any hindrance on the part of the government from implementing laws and regulations, despite prior mistakes or even illegal acts of its agents shackling government operations and allowing others, some by malice, to profit from official error or misbehavior. The rule holds true even if the rectification prejudices parties who had meanwhile received benefits.**⁹

⁷ *Secretary of the DPWH v. Spouses Tecson*, Resolution dated April 21, 2015. (Emphasis and underscoring supplied)

⁸ 610 Phil. 419 (2009).

⁹ *Secretary of Finance v. Oro Maura Shipping Lines*, *supra*, at 437-438. (Underscoring supplied)

Such important principle was reiterated in the more recent *Republic v. Bacas*,¹⁰ where the Court stated that even “[g]ranting that the persons representing the government were negligent, the doctrine of estoppel cannot be taken against the Republic.”¹¹ Again, in *National Power Corporation v. Samar*,¹² the Court admonished the trial court to disregard even the panel of commissioners' recommended valuation of the land if such valuation is not the relevant value at the time the NPC took possession of the property.¹³ The cases cited by the lower court to justify its ruling that petitioner is bound by the recommendation made by its counsel before the trial court, are all inapplicable to the present case as said cases do not involve agencies or instrumentalities of the State.

Lastly, in addition to the award for interests, Article 2229 of the Civil Code provides that “[e]xemplary or corrective damages are imposed by way of example or correction for the public good” and Article 2208 of the same code states that attorney's fees may be awarded by the court in cases where such would be just and equitable. As held in the Resolution dated April 21, 2015 in *Secretary of the Department of Public Works and Highways, et al. v. Spouses Heracleo and Ramona Tecson*,¹⁴ **additional compensation in the form of exemplary damages and attorney's fees should likewise be awarded as a consequence of the government agency's illegal occupation of the owner's property for a very long time, resulting in pecuniary loss to the owner.** Indeed, government agencies should be admonished and made to realize that its negligence and inaction in failing to commence the proper expropriation proceedings before taking private property, as provided for by law, cannot be countenanced by the Court.

To recapitulate, the formula for determination of just compensation to landowners does not include the factor for inflation rate, as inflation is properly accounted for through payment of interest on the amount due to the landowner, and through the award of exemplary damages and attorney's fees in cases where there was irregularity in the taking of property.

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. CV No. 89366 is **MODIFIED**, such that petitioner is adjudged liable to **PAY JUST COMPENSATION** to respondents at the rate of Php170.00 per square meter, subject to interest at the rate of twelve percent (12%) per annum from the time of taking in 1978 up to June 30, 2013 and, thereafter, six percent (6%) per annum from July 1, 2013 until full satisfaction, pursuant to *Bangko Sentral ng Pilipinas – Monetary Board Circular No. 799, Series of 2013* and applicable

¹⁰ G.R. No. 182913, November 20, 2013, 710 SCRA 411.

¹¹ *Republic v. Bacas, supra*, at 433.

¹² G.R. No. 197329, September 8, 2014, 734 SCRA 399.

¹³ *National Power Corporation v. Samar, supra*, at 408-409.

¹⁴ *Supra* note 7.

jurisprudence. Petitioner is, likewise, **ORDERED** to **PAY** respondents exemplary damages in the amount of Php500,000.00 and attorney's fees in the amount of Php200,000.00.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
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.



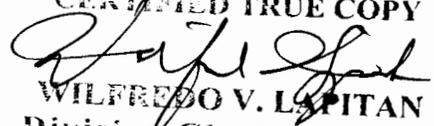
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
FEB 16 2016