



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EVERGREEN MANUFACTURING
CORPORATION,
Petitioner,

G.R. No. 218628

- versus -

REPUBLIC OF THE PHILIPPINES,
represented by the DEPARTMENT
OF PUBLIC WORKS AND HIGHWAYS,
Respondent.

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REPUBLIC OF THE PHILIPPINES,
represented by the DEPARTMENT
OF PUBLIC WORKS AND HIGHWAYS
Petitioner,

G.R. No. 218631

Present:

CARPIO, *Acting C.J.*,
Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., *JJ.*

- versus -

EVERGREEN MANUFACTURING
CORPORATION,
Respondent.

Promulgated:

06 SEP 2017

x-----x
M. C. Carpio

DECISION

CARPIO, *Acting C.J.*:

The Case

These are consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court. Evergreen Manufacturing Corporation (Evergreen) is the petitioner in G.R. No. 218628 while the Republic of the Philippines, represented by the Department of Public Works and Highways (Republic-DPWH), is the petitioner in G.R. No. 218631. Both challenge the 26 June

2014 Decision¹ and the 25 May 2015 Resolution² of the Court of Appeals (CA) in CA-G.R. CV No. 98157. The CA affirmed, with modification, the 30 June 2011 Decision³ and the 3 November 2011 Order⁴ of the Regional Trial Court (RTC), Branch 166 of Pasig City in SCA No. 2641 for Expropriation.

The Facts

Evergreen is the registered owner of a parcel of land situated in Barangay Santolan, Pasig City, which covers an area of 1,428.68 square meters and is covered by Transfer Certificate of Title No. PT-114857 (Subject Property). Republic-DPWH seeks to expropriate a portion of the Subject Property covering 173.08 square meters (Subject Premises) which will be used for a public purpose – the construction of Package 3, Marikina Bridge and Access Road, Metro Manila Urban Transport Integration Project.

Based on the zonal, industrial classification and valuation of the Bureau of Internal Revenue (BIR) of the real properties situated in Barangay Santolan, Evangelista Street, in the vicinity of A. Rodriguez boundary where the Subject Property is situated, the properties have an appraised value of ₱6,000.00 per square meter. While Republic-DPWH offered to acquire the Subject Premises by negotiated sale, Evergreen declined this offer. Thus, Republic-DPWH filed a complaint for expropriation on 22 March 2004.

Evergreen, in opposing the complaint for expropriation, alleged that the conditions for filing a complaint for expropriation have not been met, and that there is no necessity for expropriation. It argued that an expropriation of the Subject Premises would impair the rights of leaseholders in gross violation of the constitutional proscription against impairment of the obligation of contracts. It prayed for the dismissal of the complaint for failure to state a cause of action. In the alternative, in the possibility that expropriation is deemed proper, Evergreen prayed that in addition to the payment of just compensation, Republic-DPWH be ordered to (a) cause a re-survey of the remaining areas of the Subject Property and draw a new lot plan and vicinity plan for each area; (b) draw up a new technical description of the remaining areas for approval of the proper government agencies; (c) cause the issuance of new titles for the remaining lot; (d) provide new tax declaration for the new title; and (e) pay incidental expenses relative to the titling of the expropriated areas.

On 19 August 2004, after depositing One Million Thirty Eight Thousand Four Hundred Eighty Pesos (₱1,038,480.00) – which is equivalent

¹ *Rollo* (G.R. No. 218628), pp. 11-25. Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Isaias P. Dicdican and Michael P. Elbinias concurring.

² *Id.* at 27-28.

³ *Id.* at 244-254. Penned by Presiding Judge Rowena De Juan-Quinagoran.

⁴ *Id.* at 255-256.



to 100% of the value of the Subject Premises based on the BIR zonal valuation of ₱6,000.00 per square meter – Republic-DPWH filed a Motion for the issuance of a Writ of Possession. On 6 December 2004, a Writ of Possession was issued by the RTC. On 14 September 2005, Republic-DPWH filed a Motion for Issuance of a New Writ of Possession as the first writ of possession was not implemented. Subsequently, on 2 March 2006, Evergreen filed a Motion to Withdraw the Initial Deposit. This was opposed by Republic-DPWH as it was not yet allowed entry into the Subject Premises. On 21 April 2006, the parties entered into an agreement allowing Republic-DPWH to enter into and/or possess the Subject Premises. On 15 November 2006, the RTC granted the Motion to Withdraw Initial Deposit.

During the pre-trial, Evergreen and Republic-DPWH agreed that the issue to be resolved in the expropriation complaint was the amount of just compensation. Three (3) real estate brokers/appraisers were appointed as commissioners to determine the current fair market value of the Subject Premises.

On 15 October 2007, the RTC appointed the members of the Board of Commissioners, namely: Norviendo Ramos, Jr., (later replaced by Atty. Jade Ferrer Wy), the City Assessor or his representative, and the RTC Clerk of Court of Pasig City. Thereafter, the Commissioners submitted separate Appraisal Reports. Bonifacio Maceda, Jr. of the City Assessor's office recommended the payment of ₱15,000.00 per square meter, Atty. Jade Ferrer Wy recommended ₱37,500.00 per square meter and Atty. Pablita Migriño of the Office of the RTC Clerk of Court of Pasig City recommended the amount of ₱30,000.00 per square meter for the Subject Premises.

The Ruling of the RTC

On 30 June 2011, the RTC rendered its Decision⁵ fixing the just compensation for the Subject Premises at Twenty Five Thousand Pesos (₱25,000.00) per square meter. The RTC directed Republic-DPWH to pay Evergreen the amount of Three Million Two Hundred Eighty-Eight Thousand Five Hundred Twenty Pesos (₱3,288,520.00), which was the amount due after deducting the deposit made by Republic-DPWH which had already been withdrawn by Evergreen. The dispositive portion of the Decision states:

WHEREFORE, premises considered, judgment is hereby rendered fixing the amount of just compensation for 173.08 square meters of the subject parcel of land being expropriated at Twenty Five Thousand Pesos (₱25,000.00) per square meter.

Plaintiff is directed to pay the said defendant the net amount of Three Million Two Hundred Eighty Eight Thousand Five Hundred Twenty

⁵ Id. at 244-254.



Pesos (Php3,288,520.00) and subject to payment by defendant of any unpaid real property taxes and other taxes and fees due.

Other claims of defendant [are] denied, for lack of merit.

Cost of litigation is adjudged against the plaintiff.

SO ORDERED.⁶

Both Republic-DPWH and Evergreen filed their respective Motions for Partial Reconsideration. Republic-DPWH argued that the just compensation should be fixed only at Fifteen Thousand Pesos (₱15,000.00) per square meter while Evergreen argued that the RTC erred in fixing the just compensation at merely Twenty Five Thousand Pesos (₱25,000.00). Evergreen further asked for the payment of consequential damages as a result of its lost income with its billboard lessee and decrease in value of the Subject Property and legal interest on the amount of just compensation. In an Order dated 3 November 2011,⁷ the RTC denied the motions. Thus, both parties appealed to the CA.

The Ruling of the CA

In a Decision dated 26 June 2014,⁸ the CA increased the amount of just compensation for the Subject Premises at Thirty Five Thousand Pesos (₱35,000.00) per square meter, or a total of Six Million Fifty Seven Thousand Eight Hundred Pesos (₱6,057,800.00). The CA held:

In their separate Commissioner's Appraisal Report, Atty. Wy and Atty. Pablita Migrifio stated, that: (1) the selling price of the properties in the surrounding area is within the range of ₱35,000.00 and ₱40,000.00 per square meter; and (2) in 2000, the just compensation of a nearby property was ₱26,100.00 per square meter as determined by RTC-Branch 70, Pasig City, and affirmed by the Supreme Court in *Light Rail Transit Authority vs. Clayton Industrial Corporation, et al.* Thus, just compensation of ₱25,000.00 per square meter set by the RTC, is far too low for a property expropriated in 2004.

Consequently, it would be more in accord with justice and equity to increase the just compensation of the subject property to ₱35,000.00 per square meter, agreed to by two of the three commissioners, Atty. Wy and RTC Clerk of Court, Atty. Migrifio, for a total of ₱6,057,800.00 for the 173.08 square meters sought to be expropriated.⁹

The CA, however, denied the claim of consequential damages or interest by Evergreen. The CA found that based on the records of the RTC, the Subject Premises expropriated by the Republic-DPWH did not include

⁶ Id. at 254.

⁷ Id. at 255-256.

⁸ Id. at 11-25.

⁹ Id. at 21. Citations omitted.



and would not encroach on the residential building and billboard owned by Evergreen. Evergreen also failed to present any evidence to prove that its remaining properties would be adversely affected or damaged by the expropriation. As for the issue regarding the interest on the amount of just compensation until final payment, the CA held that Evergreen is not entitled to such interest as Republic-DPWH's payment was deposited in the account of Evergreen months before it was able to take possession of the Subject Premises pursuant to the Writ of Possession issued by the RTC. The dispositive portion of the CA Decision provides:

WHEREFORE, premises considered, both appeals are PARTIALLY GRANTED. The Decision dated June 30, 2011 of the Regional Trial Court, Branch 166, Pasig City, in SCA No. 2641, is AFFIRMED with MODIFICATION that the just compensation for the 173.08 square meters of the property expropriated is ₱35,000.00 per square meter, or a total of ₱6,057,800.00, minus the amount of ₱1,038,480.00 paid over by Republic-DPWH in order to take possession of the expropriated property, and withdrawn by Evergreen sometime on or after November 15, 2006. No costs.

SO ORDERED.¹⁰

In a Resolution dated 25 May 2015,¹¹ the CA denied the Motions for Partial Reconsideration filed by both Evergreen and Republic-DPWH. Hence, Evergreen filed with this Court its petition for review on *certiorari* dated 3 August 2015¹² while Republic-DPWH filed its own petition for review on *certiorari* dated 29 July 2015.¹³

The Issues

In its petition, Evergreen argues that it is entitled to the payment of interest for the Subject Premises expropriated by Republic-DPWH:

THE HONORABLE COURT OF APPEALS, WITH UTMOST DUE RESPECT, GRAVELY ERRED WHEN IT DENIED PETITIONER'S CLAIM FOR PAYMENT OF INTEREST FOR THE PROPERTY EXPROPRIATED BY THE RESPONDENT.¹⁴

On the other hand Republic-DPWH raises the following arguments in its own petition:

THE QUESTIONED DECISION AND RESOLUTION OF THE COURT OF APPEALS ARE NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE, CONSIDERING THAT:

¹⁰ Id. at 24.
¹¹ Id. at 27-28.
¹² Id. at 32-50.
¹³ *Rollo* (G.R. No. 218631), pp. 31-73.
¹⁴ *Rollo* (G.R. No. 218628), p. 39.

I. THE JUST COMPENSATION FIXED BY THE COURT OF APPEALS HAS NO BASIS IN FACT AND IN LAW.

A. THE COMMISSIONERS' REPORTS ARE MANIFESTLY HEARSAY AND BEREFT OF ANY KIND OF EVIDENCE. THEREFORE, IT SHOULD BE DISREGARDED PURSUANT TO THE PRONOUNCEMENTS OF THE HONORABLE COURT IN *NPC VS. YCLA SUGAR DEVELOPMENT CORPORATION* AND *NAPOCOR VS. DIATO-BERNAL*.

B. SECTION 4, RULE 67 OF THE RULES OF COURT MANDATES THAT THE VALUE OF JUST COMPENSATION SHALL BE DETERMINED AS OF THE DATE OF THE TAKING OF THE PROPERTY OR THE FILING OF THE COMPLAINT, WHICHEVER COMES FIRST. HERE, THE AMOUNT OF JUST COMPENSATION FOR THE EXPROPRIATED INDUSTRIAL PROPERTY IS BASED ON THE "CURRENT" SELLING PRICE OF COMMERCIAL PROPERTIES.

C. THERE IS NO *BONA FIDE* VALUATION OF THE EXPROPRIATED PROPERTY. THE COMMISSIONERS' REPORT HINGED COMPLETELY ON THE VALUATION OF THE BOARD OF COMMISSIONERS (BOC) IN THE LRTA CASE.

1. THE JUST COMPENSATION PRONOUNCED IN *LRTA* WAS NOT INTENDED TO BECOME A PRECEDENT, MUCH LESS AN AUTHORITY TO BE APPLIED INVARIABLY IN OTHER EXPROPRIATION CASES. THE JUST COMPENSATION AWARDED THEREIN WAS A RESULT OF THE DELIBERATION OF THE BOC IN THAT CASE PURSUANT TO THE EVIDENCE PRESENTED BY THE PARTIES.¹⁵

The Ruling of the Court

We partly grant the petitions.

AMOUNT OF JUST COMPENSATION

First, we note that only questions of law should be raised in a petition for review on *certiorari* under Rule 45. Factual findings of the lower courts will generally not be disturbed.¹⁶ Thus, the factual issues pertaining to the

¹⁵ *Rollo* (G.R. No. 218631), pp. 51-52.

¹⁶ *Spouses Plaza v. Lustiva*, 728 Phil. 359 (2014), citing *Calanasan v. Spouses Dolorito*, 722 Phil. 1 (2013).

value of the property expropriated are questions of fact which are generally beyond the scope of the judicial review of this Court under Rule 45.¹⁷ However, we have consistently recognized several exceptions to this rule, to wit:

The jurisdiction of the Court in cases brought before it from the appellate court is limited to reviewing errors of law, and findings of fact of the Court of Appeals are conclusive upon the Court since it is not the Court's function to analyze and weigh the evidence all over again. Nevertheless, in several cases, the Court enumerated the exceptions to the rule that factual findings of the Court of Appeals are binding on the Court: (1) when the findings are grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.¹⁸

In this case, given that the findings on the amount of just compensation of the RTC and CA differ, we find that a review of the facts is in order.

Just compensation has been defined as the fair and full equivalent of the loss.¹⁹ More specifically, just compensation has been defined in this wise:

Notably, just compensation in expropriation cases is defined "as the full and fair equivalent of the property taken from its owner by the expropriator. The Court repeatedly stressed 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."²⁰

¹⁷ *National Power Corporation v. Spouses Asoque*, G.R. No. 172507, 14 September 2016, citing *Land Bank of the Philippines v. Spouses Costo*, 700 Phil. 290, 300 (2012).

¹⁸ *Development Bank of the Philippines v. Traders Royal Bank*, 642 Phil. 547, 556-557 (2010).

¹⁹ *National Power Corporation v. Court of Appeals*, 479 Phil. 850 (2004), citing *Manila Railroad Co. v. Velasquez*, 32 Phil. 286 (1915).

²⁰ *Republic v. Mupas*, G.R. No. 181892, 19 April 2016, 790 SCRA 217, 277, citing *Apo Fruits Corporation v. Land Bank of the Philippines*, 647 Phil. 251 (2010).



The determination of just compensation in expropriation proceedings is essentially a judicial prerogative.²¹ This determination of just compensation, which remains to be a judicial function performed by the court, is usually aided by the appointed commissioners. In *Spouses Ortega v. City of Cebu*,²² we held:

Likewise, in the recent cases of *National Power Corporation v. dela Cruz* and *Forfom Development Corporation v. Philippine National Railways*, we emphasized the primacy of judicial prerogative in the ascertainment of just compensation as aided by the appointed commissioners, to wit:

Though the ascertainment of just compensation is a judicial prerogative, the appointment of commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. While it is true that the findings of commissioners may be disregarded and the trial court may substitute its own estimate of the value, it may only do so for valid reasons; that is, where the commissioners have applied illegal principles to the evidence submitted to them, where they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive. Thus, "trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all."²³

Both the RTC and the CA relied on the reports of commissioners Atty. Wy and Atty. Migriño to determine the amount of just compensation for the Subject Premises. However, Republic-DPWH argues that the reports of these two commissioners were not supported by any documentary evidence and were based solely on opinions and hearsay. Further, Republic-DPWH argues that the recommendations of Atty. Wy and Atty. Migriño are incorrect as the value given by said commissioners was computed at the time the inspection was undertaken in 2008, and not at the time of taking, which was in 2004. It argues that the basis of just compensation should be the value of the expropriated property at the time of taking because the value of the property had already been greatly enhanced since then.

We find merit in these arguments.

While Atty. Wy and Atty. Migriño relied on several documents to support their finding of just compensation, we find these to be insufficient and misleading. In particular, they relied on the BIR Zonal Valuation for the year 2000, and the 2000 decisions of the trial court in *Light Rail Transit Authority (LRTA) v. Clayton Industrial Corporation and Alfonso Chua* and

²¹ *National Power Corporation v. Spouses Asoque*, supra note 17, citing *National Power Corporation v. Spouses Zabala*, 702 Phil. 491, 499-500 (2013) and *Land Bank of the Philippines v. Celada*, 515 Phil. 467, 477 (2006).

²² 617 Phil. 817 (2009).

²³ Id. at 826. Citations omitted.



LRTA v. Rodolfo L. See, et al.,²⁴ which decision was affirmed by this Court in 2002.²⁵ The reliance on these cases was made by the commissioners because they involved similar properties in the vicinity. In those cases, the amount of just compensation for the expropriated properties was ₱26,100.00 per square meter, in addition to the consequential damages or disturbance fee.

First, we note that while the amount of just compensation in this case is not an authority to be applied blindly and invariably in other expropriation cases, this Court has allowed reference to similar cases of expropriation to help determine the amount of just compensation.²⁶ However, the cases relied on by the commissioners were decided in the year 2000, while the taking of the Subject Premises in this case happened in 2004 when Republic-DPWH filed a case for expropriation against Evergreen. Moreover, the BIR Zonal Valuations considered by the commissioners were also for the year 2000. Evidently, these reflect the value of the Subject Property in 2000. Just compensation must be the value of the property at the time of taking.²⁷ If there were other documentary evidence to show the value of the property at a point nearer to the time of the taking, in this case the year 2004, then consideration of year 2000 documents would not be fatal. However, if the only documents to support the finding of just compensation are from a year which is not the year when the taking of the expropriated property took place, then this would be plainly inaccurate.

Next, while documentary evidence is indeed important to support the finding of the value of the expropriated property, the commissioners are given leeway to consider other factors to determine just compensation for the property to be expropriated. In *National Power Corporation v. Spouses Asoque*,²⁸ we upheld the finding of the RTC therein and quoted:

x x x. **Likewise, this Court takes cognizance of the fact that the commissioner may avail or consider certain factors in determining the fair market value of the property apart from the proffered documentary evidences.** Thus, the factors taken into account by the commissioner in arriving at the recommended fair market value of the property at ₱800.00 per square meter, aside from the evidence available, were valid criteria or gauge in the determination of the just compensation of the subject property. (Boldfacing and underscoring supplied)

This determination, however, should still reflect the value of the property as of the date of taking. In this case, the commissioners found that the properties in the area, as of the time of the ocular inspection in 2008, had a demand selling price ranging from ₱35,000.00 to ₱40,000.00 per square

²⁴ *Rollo*, (G.R. No. 218631), p. 102.

²⁵ See Resolution in G.R. No. 150220, 23 January 2002.

²⁶ See *National Power Corporation v. Spouses Asoque*, supra note 17.

²⁷ *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, 713 Phil. 55 (2013).

²⁸ Supra note 17.

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meter.²⁹ A reading of their individual reports shows that they considered the location of the Subject Premises, as well as its size and prospective uses, the neighborhood, and the nearby establishments. This was well within their prerogative to do so, as we have held that all the facts as to the condition of the property and its surroundings, as well as its improvements and capabilities, must thus be considered in determining just compensation.³⁰ However, these must be the conditions existing at the time the taking was made by the government. While the size and location of the property would not have changed from the time of taking until the time when the ocular inspection was conducted, the establishments and neighborhood surrounding the property may have undergone changes after the property was taken by the government. The improvements introduced after the time of taking should not unduly benefit the property owner by unnecessarily increasing the value of the property.

Unfortunately, in this case, all of the conditions they took into account in determining just compensation did not reflect the value of the Subject Premises at the time of taking. Documentary or otherwise, the commissioners failed to rely on such evidence that would prove the value of the Subject Premises at the time of the taking, which should be the basis for the determination of just compensation. There was nothing to show the value of the property in 2004, which was the year the taking of the Subject Premises took place. The BIR Zonal Valuation and the court decisions were reflective of the value of the property in 2000, four years before the taking of the Subject Premises by the government. On the other hand, the ocular inspection was conducted in 2008, four years after the time of taking. Clear factual evidence must be presented for the correct determination of just compensation.

However, we cannot agree with the insistence of Republic-DPWH that the just compensation for the Subject Premises is only Fifteen Thousand Pesos (₱15,000.00). As correctly found by the CA, this is merely the zonal valuation of the commercial lots and therefore cannot be made as the sole basis for the fair market value of the land. Zonal valuation, although one of the indices of the fair market value of real estate, cannot by itself be the sole basis of just compensation in expropriation cases.³¹

Another argument of Republic-DPWH is that the commissioners erred in using the land valuation and listing of commercial properties when the Subject Premises were classified as industrial.

Again, we disagree. It has been settled that the value and character of the land at the time it was taken by the government are the criteria for

²⁹ *Rollo* (G.R. No. 218631), p. 105.

³⁰ *National Power Corporation v. Spouses Asoque*, supra note 17, citing *National Power Corporation v. Suarez*, 589 Phil. 219, 225 (2008).

³¹ *Republic v. Asia Pacific Integrated Steel Corporation*, 729 Phil. 402 (2014).



determining just compensation.³² All three commissioners found that the property was located in an area that was classified as commercial.³³ It also found that the property was best used as commercial.³⁴ We find no reason to disturb the findings of the commissioners who conducted an ocular inspection, and the lower courts which affirmed the findings of the commissioners.

To recapitulate, we find that the commissioners and lower courts correctly identified the Subject Premises as commercial, based on the value and character of the land at the time of the taking. We also find that there was sufficient evidence – documentary and those obtained through ocular inspection – to support a finding of just compensation. However, we find that the lower courts and the commissioners failed to consider the time of taking when they arrived at their respective findings on the amount of just compensation.

While remanding the case to receive evidence in order to determine the amount of just compensation at the time of taking would enable the court to clearly determine the amount of just compensation due to Evergreen, we find that it would be prejudicial to both the government and Evergreen to do so. Remanding the case would unnecessarily delay the payment of just compensation due to Evergreen, and it would also increase the amount of interest that would accrue against Republic-DPWH. Thus, we find that a finding of just compensation based on available records would be most beneficial to both parties concerned.

In 2000, this Court found that the just compensation for similar properties situated in the vicinity was ₱26,100.00. In 2008, the commissioners found the selling price of the properties in the surrounding area to be from ₱35,000.00 to ₱40,000.00 per square meter. The time of taking was in 2004, or right in the middle of 2000 and 2008. Thus, we may consider the mean of the prices of the properties for the years 2000 and 2008 to arrive at the amount of just compensation in 2004. Taking the higher value of the range of price in 2008 and the amount of just compensation as affirmed by this Court in 2000, we find that the amount of just compensation in 2004 is ₱33,050.00 per square meter or a total of ₱5,720,294.00.

INTEREST ON THE PAYMENT OF JUST COMPENSATION

Evergreen argues that it is entitled to legal interest on the balance of the just compensation, computed from the time of the filing of the complaint until the judgment attains finality.

We find merit in Evergreen's arguments.

³² *National Power Corporation v. Spouses Chiong*, 452 Phil. 649, 664 (2003).

³³ *Rollo* (G.R. No. 218628) pp. 181-189.

³⁴ *Id.*

Section 9, Article III of the 1987 Constitution provides that “no private property shall be taken for public use without just compensation.” Just compensation in expropriation cases has been held to contemplate just and timely payment, and prompt payment is the payment in full of the just compensation as finally determined by the courts.³⁵ Thus, just compensation envisions a payment in full of the expropriated property. Absent full payment, interest on the balance would necessarily be due on the unpaid amount. In *Republic v. Mupas*,³⁶ we held that interest on the unpaid compensation becomes due if there is no full compensation for the expropriated property, in accordance with the concept of just compensation. We held:

The reason is that just compensation would not be “just” if the State does not pay the property owner interest on the just compensation from the date of the taking of the property. Without prompt payment, the property owner suffers the immediate deprivation of both his land and its fruits or income. The owner’s loss, of course, is not only his property but also its income-generating potential.

Ideally, just compensation should be immediately made available to the property owner so that he may derive income from this compensation, in the same manner that he would have derived income from his expropriated property.

However, if full compensation is not paid for the property taken, then the State must pay for the shortfall in the earning potential immediately lost due to the taking, and the absence of replacement property from which income can be derived. **Interest on the unpaid compensation becomes due as compliance with the constitutional mandate on eminent domain and as a basic measure of fairness.**

Thus, **interest in eminent domain cases “runs as a matter of law and follows as a matter of course from the right of the landowner to be placed in as good a position as money can accomplish, as of the date of taking.”**³⁷(Emphasis supplied)

In the present case, we find that there is still unpaid compensation due to Evergreen. Republic-DPWH complied with Republic Act No. (RA) 8974,³⁸ the applicable law for expropriation in this case. Section 4 of RA 8974 provides in part:

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

³⁵ *Land Bank of the Philippines v. Hababug, Sr.*, G.R. No. 172352, 8 June 2016, 792 SCRA 399, citing *Land Bank of the Philippines v. Santos*, G.R. No. 213863, 27 January 2016, 782 SCRA 441. 769 Phil. 21 (2015).

³⁶ *Id.* at 194-195. Citations omitted.

³⁷ *Id.* at 194-195. Citations omitted.

³⁸ AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES.

(a) Upon the filing of the complaint, and after due notice to the defendant, **the implementing agency shall immediately pay the owner of the property** the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

x x x x

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a writ of possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. **When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.** (Emphasis supplied)

Republic-DPWH had complied with the requirements of Section 4, paragraph (a) of RA 8974 when it deposited the equivalent of 100% of the value of the Subject Premises based on the BIR zonal valuation of the property for the account of Evergreen. This deposit was made before Republic-DPWH was able to take possession of the Subject Premises through the issuance of the writ of possession. Verily, under the law, the initial payment is a prerequisite for the issuance of the writ of possession. However, this payment alone and by itself does not constitute just compensation. We note that this is only the first of the two payments the government must make. Section 4 of RA 8974 specifically provides that "when the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court." Thus, under RA 8974, there must be a completion of two payments before just compensation is deemed to have been made.

Therefore, while Republic-DPWH had made the deposit of the amount as prescribed in the first paragraph of Section 4 of RA 8974, it still has not made the constitutionally required payment of just compensation because the amount deposited is much less than that adjudged by the court. The law requires two payments to constitute payment of just compensation. Again, in *Republic v. Mupas*,³⁹ we have explicitly stated that the initial

³⁹ Supra note 36.

payment does not excuse the government from paying the difference of the amount adjudged and the interest thereon:

The Government's initial payment of just compensation does not excuse it from avoiding payment of interest on the difference between the adjudged amount of just compensation and the initial payment.

The initial payment scheme as a prerequisite for the issuance of the writ of possession under RA 8974 only provides the Government flexibility to immediately take the property for public purpose or public use pending the court's final determination of just compensation. Section 4(a) of RA 8974 only addresses the Government's need to immediately enter the privately owned property in order to avoid delay in the implementation of national infrastructure projects.

Otherwise, Section 4 of RA 8974 would be repugnant to Section 9, Article 3 of the 1987 Constitution which mandates that private property shall not be taken for public use without just compensation. To reiterate, the Constitution commands the Government to pay the property owner no less than the full and fair equivalent of the property from the date of taking.⁴⁰

Republic-DPWH avers that interest will only accrue if there is delay in the payment of just compensation, and that in this case, there is no such unjustified delay because it has deposited the amount required by law before taking possession of the Subject Premises.

We do not agree.

Again, just compensation should be made at the time of taking, and the amount of payment should be the fair and equivalent value of the property. In this case, Republic-DPWH was able to take possession of the Subject Premises even before making a full and fair payment of just compensation because RA 8974 allowed for the possession of the property merely upon the initial payment which forms part of the just compensation. Thus, it is clear that the government has not yet made the full and fair payment of just compensation to Evergreen.

As explained by this Court in *Apo Fruits Corporation v. Land Bank of the Philippines*,⁴¹ the rationale for imposing interest on just compensation is to compensate the property owners for the income that they would have made if they had been properly compensated – meaning if they had been paid the full amount of just compensation – at the time of taking when they were deprived of their property. The Court held:

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:

⁴⁰ Supra note 36, at 196-197.

⁴¹ 647 Phil. 251 (2010).



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.**

Aside from this ruling, Republic notably overturned the Court’s previous ruling in *National Power Corporation v. Angas* which held that just compensation due for expropriated properties is not a loan or forbearance of money but indemnity for damages for the delay in payment; since the interest involved is in the nature of damages rather than earnings from loans, then Art. 2209 of the Civil Code, which fixes legal interest at 6%, shall apply.

In Republic, the Court recognized that **the just compensation due to the landowners for their expropriated property amounted to an effective forbearance on the part of the State.** Applying the Eastern Shipping Lines ruling, the Court fixed the applicable interest rate at 12% per annum, computed from the time the property was taken until the full amount of just compensation was paid, in order to eliminate the issue of the constant fluctuation and inflation of the value of the currency over time.⁴² (Emphasis in the original)

The delay in the payment of just compensation is a forbearance of money. As such, this is necessarily entitled to earn interest.⁴³ The difference in the amount between the final amount as adjudged by the court and the initial payment made by the government – which is part and parcel of the just compensation due to the property owner – should earn legal interest as a forbearance of money. In *Republic v. Mupas*,⁴⁴ we stated clearly:

Contrary to the Government’s opinion, the interest award is not anchored either on the law of contracts or damages; it is based on the owner’s constitutional right to just compensation. **The difference in the amount between the final payment and the initial payment — in the interim or before the judgment on just compensation becomes final and executory — is not unliquidated damages which do not earn interest until the amount of damages is established with reasonable certainty. The difference between final and initial payments forms**

⁴² Id. at 273-275.

⁴³ *Republic v. Court of Appeals*, 433 Phil. 106 (2002).

⁴⁴ Supra note 36, at 197. Citations omitted.

part of the just compensation that the property owner is entitled from the date of taking of the property.

Thus, when the taking of the property precedes the filing of the complaint for expropriation, the Court orders the condemnor to pay the full amount of just compensation from the date of taking whose interest shall likewise commence on the same date. The Court does not rule that the interest on just compensation shall commence [on] the date when the amount of just compensation becomes certain, e.g., from the promulgation of the Court's decision or the finality of the eminent domain case. (Emphasis supplied)

With respect to the amount of interest on the difference between the initial payment and final amount of just compensation as adjudged by the court, we have upheld in *Eastern Shipping Lines, Inc. v. Court of Appeals*,⁴⁵ and in subsequent cases thereafter,⁴⁶ the imposition of 12% interest rate from the time of taking when the property owner was deprived of the property, until 1 July 2013, when the legal interest on loans and forbearance of money was reduced from 12% to 6% per annum by BSP Circular No. 799. Accordingly, from 1 July 2013 onwards, the legal interest on the difference between the final amount and initial payment is 6% per annum.

In the present case, Republic-DPWH filed the expropriation complaint on 22 March 2004. As this preceded the actual taking of the property, the just compensation shall be appraised as of this date. No interest shall accrue as the government did not take possession of the Subject Premises. Republic-DPWH was able to take possession of the property on 21 April 2006 upon the agreement of the parties. Thus, a legal interest of 12% per annum on the difference between the final amount adjudged by the Court and the initial payment made shall accrue from 21 April 2006 until 30 June 2013. From 1 July 2013 until the finality of the Decision of the Court, the difference between the initial payment and the final amount adjudged by the Court shall earn interest at the rate of 6% per annum. Thereafter, the total amount of just compensation shall earn legal interest of 6% per annum from the finality of this Decision until full payment thereof.

WHEREFORE, premises considered, the Court resolves as follows:

1. The petition in G.R. No. 218631 is **PARTIALLY GRANTED**. The assailed decisions of the Court of Appeals and Regional Trial Court are **AFFIRMED** with **MODIFICATION** that the just compensation for the 173.08 square meters of the expropriated property is ₱33,050.00 per square meter, or a total of ₱5,720,294.00.

⁴⁵ 304 Phil. 236 (1994).

⁴⁶ Cited in *Republic v. Mupas*, supra note 36. See *Reyes v. National Housing Authority*, 443 Phil. 603 (2003), *Land Bank of the Philippines v. Wycoco*, 464 Phil. 83 (2004), *Republic v. Court of Appeals*, 494 Phil. 494 (2005), *Land Bank of the Philippines v. Imperial*, 544 Phil. 378 (2007), *Philippine Ports Authority v. Rosales-Bondoc*, 557 Phil. 737 (2007), and *Spouses Curata v. Philippine Ports Authority*, 608 Phil. 9 (2009).

2. The petition in G.R. No. 218628 is **PARTIALLY GRANTED**.

(a) The claim for legal interest on the difference between the final amount of just compensation of ₱5,720,294.00 and the initial deposit made by the Republic of the Philippines, represented by the Department of Public Works and Highways, in the amount of ₱1,038,480.00 shall earn legal interest of 12% per annum from the date of taking or 21 April 2006 until 30 June 2013.

(b) The difference between the total amount of just compensation and the initial deposit shall earn legal interest of 6% per annum from 1 July 2013 until the finality of the Decision.

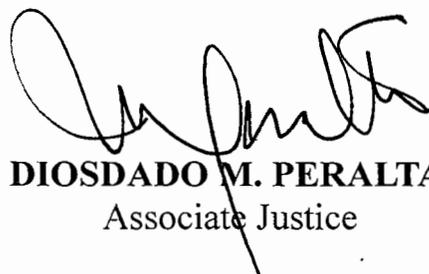
(c) The total amount of just compensation shall earn legal interest of 6% per annum from the finality of this Decision until full payment thereof.

SO ORDERED.



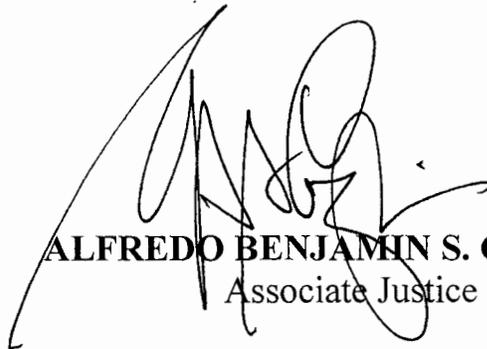
ANTONIO T. CARPIO
Acting Chief Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice

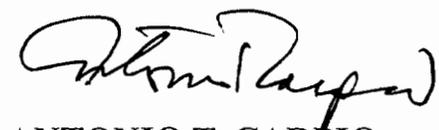

ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ANTONIO T. CARPIO
Acting Chief Justice