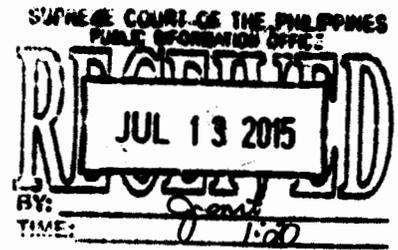




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 01 July 2015 which reads as follows:

"G.R. No. 124795 – Forfom Development Corporation v. Philippine National Railways.

For resolution before the Court is the Motion to Show Cause¹ filed by petitioner Forfom Development Corporation (*Forfom*), dated March 29, 2011, praying that the President and the General Manager of respondent Philippine National Railways (*PNR*) be ordered to show cause why they should not be cited in contempt of court (a) for failing to divulge to the Court that PNR has condemned and abandoned the railway system from San Pedro to San Jose, and that the land is no longer used as a railway path; (b) for failing to promptly act on the judgment of the Court to initiate a petition for expropriation; and (c) for renting out the property to private individuals which is not an activity within the purview of public use and not among the authorized corporate powers of PNR.

The Antecedents

In 1972, the Presidential Commuter Service Project, also known as the Carmona Project of then President Marcos, was approved by his cabinet. Per Resolution No. 751 of the PNR Board of Directors, dated November 2, 1972, the PNR General Manager was authorized to implement the project. During its construction, several properties owned by private individuals/corporations were traversed as right-of-way. One of the properties was the 100,128 square-meter property owned by Forfom. The said property was originally registered in the name of Dr. Felix Limcaoco (*Dr. Limcaoco*), the predecessor-in-interest of Forfom.

On August 24, 1990, Forfom filed a complaint for Recovery of Possession of Real Property and/or Damages before the Regional Trial Court, Branch 24, Biñan, Laguna, (*RTC-Biñan*) alleging, among others, that in 1972, PNR forcibly occupied 100,128 square meters of its property in the area and installed railway facilities thereon; that PNR rented out portions of the property to squatters, along the railroad; and that despite its repeated verbal and written demands, PNR failed to return the property or pay just compensation.

¹ *Rollo*, pp. 764-768.

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Forfom, thus, prayed that PNR be ordered to vacate the property and to cause the eviction of the squatters in the area; that it be restored to its peaceful occupation and enjoyment of the property; and that it be paid damages.

PNR, on the other hand, explained that the Carmona Project, a railroad extension line from San Pedro, Laguna to San Jose, Carmona, Cavite was to serve the squatters' resettlement area in said localities. It claimed that it negotiated with the respective owners of the affected properties and that they were paid just compensation. Dr. Limcaoco, however, was not paid because he failed to present the corresponding titles over his properties. It further claimed that in a meeting with the representatives of Dr. Limcaoco, the price agreed upon was ₱1.25 per square meter, the same amount paid to the adjoining owners. PNR prayed that the complaint be dismissed, and that Forfom be compelled to accept the amount of ₱1.25 per square meter as price for the properties.

In its Decision,² dated October 29, 1992, the RTC-Biñan found that the properties of Forfom were taken by PNR without due process of law and without just compensation. Although the power of eminent domain was not exercised in accordance with law, and PNR occupied Forfom's properties without previous condemnation proceedings and payment of just compensation, it ruled that, by its acquiescence, Forfom was estopped from recovering the properties subject of this case. As to Forfom's right to compensation and damages, however, it wrote that the same could not be denied. It declared that ₱10.00 per square meter was the fair and equitable market value of the said real properties at the time they were taken over by PNR.

Not contented, both parties appealed to the Court of Appeals (CA). On April 24, 1996, the CA disposed of the case as follows:

WHEREFORE, the decision appealed from is hereby AFFIRMED insofar as (1) it denies plaintiff's claim for recovery of possession and (2) it awards just compensation at the rate of ₱10.00 per square meter which defendant must pay to plaintiff, but with legal rate of interest thereon hereby specifically fixed at six (6) percent per annum starting from January of 1973 until full payment

² Id. at 72-79.

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is made. However, the appealed decision is MODIFIED in the sense that plaintiff's claim for damages is DENIED for lack of merit.

No pronouncement as to costs.

SO ORDERED.³

Still unsatisfied with the decision, Forfom filed petition for review, while PNR accepted the decision of the CA and no longer appealed.

On December 10, 2008, the Court promulgated its decision,⁴ the dispositive portion of which reads:

WHEREFORE, the instant petition is **PARTIALLY DENIED** insofar as it denies Forfom Development Corporation's prayer for recovery of possession (in whole or in part) of the subject land, unearned income, and rentals. The petition is **PARTIALLY GRANTED** in that attorney's fees and litigation expenses in the amounts of ₱100,000.00 and ₱50,000.00, respectively, are awarded. The Philippine National Railways is **DIRECTED** to forthwith institute the appropriate expropriation action over the land in question, so that just compensation due to its owner may be determined in accordance with the Rules of Court, with interest at the legal rate of six (6%) percent per annum from the time of taking until full payment is made. As to the claim for the alleged damaged crops, evidence of the same, if any, may be presented before the expropriation court. No costs.

SO ORDERED.⁵

On February 17, 2009, Forfom moved for reconsideration but the Court denied the motion with finality in its April 13, 2009 Resolution.⁶

On May 18, 2009, entry of judgment was ordered.⁷

The subject Motion for Contempt

On August 4, 2009, Forfom filed its Motion to Order PNR to Show Cause for Refusing to Comply with the Supreme Court Decision

³ Id. at 69.

⁴ Id. at 575-598.

⁵ Id. at 596.

⁶ Id. at 656.

⁷ Id. at 684.

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promulgated on December 10, 2008. In the September 23, 2009 Resolution,⁸ the Court ordered PNR to comment on the said motion.

In the December 2, 2009 Resolution,⁹ the Court noted PNR's comment which explained that the delay was due to the turnover of the case from the former handling lawyer to the legal department of PNR, who was then preparing the case for expropriation. At the same time, the Court required PNR to comply with the decision and to inform the Court of its compliance within 30 days.

In the February 8, 2010 Resolution,¹⁰ the Court noted Forfom's reply to the comment and resolved to await PNR's report of its compliance with the decision. On February 12, 2010, PNR filed its Manifestation with Motion to Defer Compliance

For its continued failure to comply, Forfom filed its Motion to Cite in Contempt on April 21, 2010, and its Urgent Motion to Declare as Abandoned the Option of PNR to File a Petition for Expropriation on September 2, 2010.

Finally, on February 23, 2011, PNR filed its Compliance, informing the Court that a complaint for expropriation had been filed on November 26, 2010, docketed as Civil Case No. SPL-1542-10, before the RTC, Branch 93 of San Pedro, Laguna (*RTC-Br. 93*); and that summons to Forfom was returned unserved due to incompleteness of address. In the March 14, 2011 Resolution,¹¹ the Court noted PNR's compliance.

On April 13, 2011, Forfom filed the subject Motion to Show Cause, dated March 29, 2011.

The Court's Ruling

The Court finds merit in Forfom's motion.

⁸ Id. at 693.

⁹ Id. at 697.

¹⁰ Id. at 701.

¹¹ Id. at 762.

In its December 10, 2008 Decision,¹² the Court ruled that Forfom was estopped from questioning PNR's power to expropriate the subject land, to wit:

It can be gathered from the records that Forfom accepted the fact of the taking of its land when it negotiated with PNR for just compensation, knowing fully well that there was no expropriation case filed at all. Forfom's inaction for almost eighteen (18) years to question the absence of expropriation proceedings and its discussions with PNR as to how much petitioner shall be paid for its land preclude it from questioning the PNR's power to expropriate or the public purpose for which the power was exercised. In other words, it has waived its right and is estopped from assailing the takeover of its land on the ground that there was no case for expropriation that was commenced by PNR.

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

x x x whether the railroad company has the capacity to acquire the land in dispute by virtue of its delegated power of eminent domain, and, if so, whether the company occupied the land with the express or implied consent or acquiescence of the owner. If these questions of fact be decided in the affirmative, it is uniformly held that an action of ejectment or trespass or injunction will not lie against the railroad company, but only an action for damages, that is, recovery of the value of the land taken, and the consequential damages, if any. **The primary reason for thus denying to the owner the remedies usually afforded to him against usurpers is the irremedial injury which would result to the railroad company and to the public in general. It will readily be seen that the interruption of the transportation service at any point on the right of way impedes the entire service of the company and causes loss and inconvenience to all passengers and shippers using the line. Under these circumstances, public policy, if not public necessity, demands that the owner of the land be denied the ordinarily remedies of ejectment and injunction.** The fact that the railroad company has the capacity to eventually acquire the land by expropriation proceedings undoubtedly assists in coming to the conclusion that the property owner has no right to the remedies of ejectment or injunction. **There is also something akin to equitable estoppel in the conduct of one who stands idly by and watches the construction of the railroad without protest. x x x. But the real strength of the rule lies in the fact that it is against public policy to permit a property owner, under such circumstances, to interfere with the service rendered to the public by the railroad company. x x x.** (I)f a landowner, knowing that a railroad company has entered upon his land and is engaged in constructing its road without having complied with a statute requiring either payment by agreement or proceedings to condemn, remains inactive and permits it to go on and expend large sums in the work, he is estopped from maintaining either

¹² Id. at 575-598.

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trespass or ejection for the entry, and will be regarded as having acquiesced therein, and will be restricted to a suit for damages.

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

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

x x x x

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

x x x x

We conclude that x x x the complaint in this action praying for possession and for damages for the alleged unlawful detention of the land in question, should be dismissed x x x but that such dismissal x x x should be without prejudice to the right of the plaintiff to institute the appropriate proceedings to recover the value of the lands actually taken, or to compel the railroad corporation to take the necessary steps to secure the condemnation of the land and to pay the amount of the compensation and damages assessed in the condemnation proceedings.

In *Ansaldo v. Tantuico, Jr.*, a case involving the takeover by the Government of two private lots to be used for the widening of a road without the benefit of an action for expropriation or agreement with its owners, we held that the owners therein, having been silent for more than two decades, were deemed to have consented to such taking -- although they knew that there had been no expropriation case commenced -- and therefore had no reason to impugn the existence of the power to expropriate or the public purpose for which that power had been exercised. In said case, we directed the expropriator to forthwith institute the appropriate expropriation action over the land, so that just compensation due the owners may be determined in accordance with the Rules of Court.

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From the afore-cited cases, it is clear that recovery of possession of the property by the landowner can no longer be allowed on the grounds of estoppel and, more importantly, of public policy which imposes upon the public utility the obligation to continue its services to the public. The non-filing of the case for expropriation will not necessarily lead to the return of the property to the landowner. What is left to the landowner is the right of compensation.¹³

(Emphases Supplied)

It is clear from the above discussion that the Court held that Forfom's inaction for almost eighteen years to question the absence of expropriation proceedings, and its prior negotiations with PNR as regards just compensation, preclude it from questioning the authority of PNR to expropriate the subject property. Taking the public purpose aspect of the expropriation to be a given, only the issue of just compensation was left to be determined by the trial court.

It must, however, be pointed out that this ruling was hinged on the fact that the subject property had actually been taken for a public purpose and was currently being utilized in the operation of a railway system. The jurisprudence cited by the Court, in fact, recognized that the primary reason for denying the owner the return of his property was the irremedial injury that would be caused to the railroad company and the public in general due to the interruption in transportation services, as the real strength of the rule of estoppel against the owner was that it would be against public policy to permit a property owner to interfere with the service rendered to the public by the railroad company.¹⁴

In the motion before the Court for resolution, Forfom argues that PNR should be cited in contempt of court for its failure to divulge that PNR has condemned and abandoned the railway system from San Pedro to San Jose and to inform the Court that the land is no longer used as a railway path. In other words, Forfom alleges that PNR failed to inform the Court that the subject property is no longer being used for a public purpose because it has already removed its rails from the subject property, it has no plan or intention to revive an abandoned system and it has left the land to its lessees from whom it continues to collect rent. Thus, Forfom asserts that PNR misled the Court to believe that the property was capable of, or actually, being used for a public purpose of a railway transport system. Also, PNR failed to promptly initiate a valid petition for expropriation which required it

¹³ *Forfom Development Corporation v. Philippine National Railways*, 594 Phil. 10, 28-30 (2008).

¹⁴ *Id.* at 28-29, citing *Manila Railroad Co. v. Paredes*, 32 Phil. 534, 537-538 (1915).

to deposit a portion of the value of the property in court as required by the Rules.

In its Comment,¹⁵ dated October 19, 2012, PNR alleges that it has no intention of abandoning the San Pedro Carmona Line, though it admits that, in April 2010, it decided to remove the rail tracks from the line as a result of the cessation of its long distance operations due to their being severely damaged by typhoons and due to the dwindling number of operational commuter trains. It explains that during the period of non-operation, it relocated and stored the existing tracks in the San Pedro Station yard to protect them from damage and theft. Later, the tracks were used to rehabilitate the Biñan-Calamba Line which has been reopened on June 15, 2010.

In its Reply,¹⁶ dated December 2, 2012, Forfom claims that PNR has not reinstalled or reconstructed the railroad on the subject property due to lack of passengers and funds and has long abandoned the railway for over 10 years. It points out that the San Pedro-San Jose line is separate, distinct and different from the Calamba to Bicol Line which has been damaged by the typhoon. Forfom insists that PNR leased the subject property to third parties who constructed houses and business establishments, therefore, using the property for profit, and not for public use.

As to the public use requirement relative to the leasing out of portions of the subject property to private individuals, PNR argues that the said issue had long been settled by the Court in its December 10, 2008 Decision.

The Court notes that although PNR alleges that it has not abandoned the San Pedro-Carmona Line and has no intention of doing so, it has not made any manifestation that steps are being taken or any concrete plans being laid down to actually revive the San Pedro-Carmona Line. In fact, PNR admits that the rail tracks have been removed and relocated and used to rehabilitate another line. The Court further notes that in its Manifestation¹⁷ filed on February 12, 2010, PNR manifested that it was contemplating returning the subject property to Forfom instead of expropriating it, which casts further doubt on PNR's intention to use the subject property for the operation of a railway line.

Anent the leasing of the subject property to third parties, the Court wrote:

¹⁵ *Rollo*, pp. 791-800.

¹⁶ *Id.* at 808-815.

¹⁷ *Id.* at 702-704.

In the instant case, Mrs. Ramos of the PNR explains that the leasing of PNR's right of way is an incidental power and is in response to the government's social housing project. She said that to prevent the proliferation of squatting along the right of way, special contracts were entered into with selected parties under strict conditions to vacate the property leased upon notice. To the court, such purpose is indeed public, for it addresses the shortage in housing, which is a matter of concern for the state, as it directly affects public health, safety, environment and the general welfare.¹⁸

The Court gave credence to PNR's explanation that the leasing of its right of way was an incidental power to prevent the proliferation of squatting along the right of way and in response to the government's social housing project, which constituted a public purpose. Assuming, however, that PNR would no longer be using the subject property as a railway which was its primary public purpose, it would no longer have any incidental power to lease the subject property for housing purposes, as there would no longer be any need to protect against squatting on a property no longer being used as a right of way.

The Court reiterates that the primary reason behind the rule on estoppel against the owner is public necessity, to prevent loss and inconvenience to passengers and shippers using the line. Therefore, if the property is no longer being used as a railway, no irreparable injury will be caused to PNR and the public in general if Forfom regained possession of its property. In such case, Forfom would no longer be precluded from challenging the expropriation proceedings. Preventing Forfom from challenging the expropriation case and allowing PNR to expropriate the property without a public purpose would be highly unjust and violative of the Constitution requiring that property be "taken for public use."¹⁹

The determination, however, of whether the subject property is currently being used for a public purpose or whether PNR has any genuine intention to use such as a railway in the future, is a matter of evidence and a question of fact which must be tried and determined before the trial court in the expropriation proceedings.

Although the December 10, 2008 Decision has become final and executory, the Court may still modify its decision as an exception to the rule on immutability of judgments. Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect.

¹⁸ *Forfom Development Corporation v. Philippine National Railways*, supra note 13, at 32.

¹⁹ Section 9, Article III, 1987 Constitution.

Exceptions to this doctrine are as follows: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) **whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.**²⁰ It is well-settled that when after judgment has been rendered and it has become final, then facts and circumstances transpire which render its execution impossible or unjust, the interested party may ask the court to modify or alter the judgment to harmonize the same with justice and the facts. The exception to the doctrine of immutability of judgment has been applied in order to serve substantial justice.²¹

When the Court rendered its December 10, 2008 Decision, it was assumed that the subject property was being used in the operation of a railway system. Consequently, the Court ordered the filing of an expropriation case, but only for the purpose of determining just compensation. The entry of judgment was made on May 18, 2009. In April 2010, PNR removed the rail tracks from the entire San Pedro-Carmona Line, which traversed the property of Forfom. In June 2010, PNR relocated these same rail tracks to the Biñan-Calamba Line. It was only on November 26, 2010 that PNR filed the expropriation case, after the San Pedro-Carmona Line had already become non-operational.

From the foregoing, it is clear that facts have transpired after the finality of judgment which may render the execution of the decision unjust. It would be inequitable and contrary to law to allow PNR to expropriate a property which is no longer being used for a public purpose. In order to serve substantial justice, the Court shall modify the judgment and direct the trial court in the expropriation proceedings to rule not only on the issue of just compensation, but also on the issue of public purpose.

As regards the contempt charge, the Court finds the President and the General Manager of PNR liable for indirect contempt. PNR failed to promptly comply with the order of the Court to institute an action for expropriation, as evinced by the lapse of over 18 months between the entry of judgment on May 18, 2009 and the belated filing of the complaint for expropriation on November 26, 2010. Furthermore, as already explained, PNR's removal of the rail tracks from the subject property and its failure to inform the Court of such action may possibly render the execution of the December 10, 2008 Decision unjust.

²⁰ *Gadrinab v. Salamanca*, G.R. No. 194560, June 11, 2014.

²¹ *Dy v. Hon. Bibat-Palamos*, G.R. No. 196200, September 11, 2013, 705 SCRA 613, 626; *Mendoza v. Realty Development Corporation*, G.R. No. 194653, February 8, 2012, 665 SCRA 628, 635 and *APO Fruits Corporation v. Court of Appeals*, 622 Phil. 215, 230-231 (2009).

PNR's actions constitute improper conduct which clearly tends to impede the administration of justice, constituting indirect contempt of court under Section 3(d) of Rule 71 of the Rules of Court. Under Section 7 of the same Rule, if the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding ₱30,000.00 or imprisonment not exceeding 6 months, or both.

WHEREFORE, the President and the General Manager of PNR are hereby found **GUILTY** of **INDIRECT CONTEMPT**. The **FINE** of ₱30,000.00 is imposed on each of them, payable in full within five (5) days from receipt of this resolution.

The December 10, 2008 Decision in G.R. No. 124795 is hereby **MODIFIED**, in that the Presiding Judge of Branch 93 of the Regional Trial Court of San Pedro, Laguna, is **DIRECTED** to resolve the public purpose aspect of the expropriation case docketed as Civil Case No. SPL-1542-10. (*Brion, J., on leave, Bersamin, J., designated Acting Member, per Special Order No. 2079, dated June 29, 2015*)

SO ORDERED."

Very truly yours,


MA. LOURDES O. PERFECTO
Division Clerk of Court *jle*
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- PAGE 12 -

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(Civil Case No. 13-3395)

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