



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated September 22, 2020 which reads as follows:*

**“G.R. Nos. 212059-60 – NATIONAL POWER CORPORATION v. YUSOPH DIANALAN**

**The Case**

This petition for review on *certiorari* assails the Consolidated Decision<sup>1</sup> dated March 28, 2014 of the Court of Appeals in CA G.R. CV No. 02531-MIN (CA G.R. SP No. 04205-MIN) which held that just compensation should be reckoned from February 21, 2005, the date when the trial court issued its order of execution.

**Antecedents**

On November 18, 1999, respondent Yusoph Dianalan filed a complaint for damages and recovery of possession or payment of just compensation against petitioner National Power Corporation. The case was docketed Civil Case No. 1729-99 and raffled to Regional Trial Court-Branch 9, Marawi City.

In his complaint, respondent essentially alleged:

He was the registered owner of a land located in Tampilong, Rorogagus, Marawi City per Original Certificate Title No. (OCT No.) P-276 and Tax Declaration No. 2721. He acquired the property from

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<sup>1</sup> Penned by Associate Justice Romulo A. Borja, concurred in by Associate Justice Jhosep Y. Lopez and now Supreme Court Associate Justice Henri Jean Paul B. Inting, *rollo*, pp. 86-110.

*mtk*

his father Hadji Amer Dianalan (Hadji) through a Deed of Donation dated April 16, 1997.<sup>2</sup> He also owned one (1) of the adjoining properties per OCT No. PAF-1085.<sup>3</sup>

Sometime in 1978, petitioner constructed an underground tunnel on his properties without his knowledge or consent. The underground tunnel was used by petitioner to divert the flow of Agus river for its Agus I Hydro Electric Project in Bangon, Marawi City. He and his father Hadji discovered the secret tunnel only in 1996 when the latter executed the deed of donation in his favor. Article 437 of the Civil Code provides that as owner of the two (2) properties, he was also the owner of the surface and everything under it. By constructing a tunnel underneath his properties, petitioner deprived him of their beneficial use. In fact, he and his lessees who had constructed their respective houses on subject properties were forced to move out due to tremors caused by the water flowing underneath.<sup>4</sup>

He demanded that petitioner vacate or remove the tunnel but the latter failed to heed. Petitioner's construction was equivalent to unlawful taking and condemnation without just compensation. Petitioner therefore should be held liable for rent or payment of the current market value of his properties, moral damages, exemplary damages, and attorney's fees.<sup>5</sup>

In their Answer, petitioner countered, in the main:

Article 437 of the Civil Code provides that the owner's right over his property is without detriment to servitude and to other limitations imposed by special law or ordinance. The construction of a tunnel to divert the flow of water for generating electricity was legal and sanctioned by Republic Act No. 6395 (RA 6395),<sup>6</sup> therefore, a limitation on respondent's ownership of subject properties.<sup>7</sup>

Further, respondent's cause of action, if any, was already barred by prescription, estoppel, and laches.<sup>8</sup>

Too, it was incredible that the tunnel was only discovered in 1996 because respondent's father Hadji had long been its right-of-way agent since the construction of the Agus I Hydro Electric Project in

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<sup>2</sup> *Id.* at 111 and 143.

<sup>3</sup> *Id.* at 112 and 179.

<sup>4</sup> *Id.* at 112-113.

<sup>5</sup> *Id.* at 113-115.

<sup>6</sup> An Act Revising the Charter of the National Power Corporation.

<sup>7</sup> *Id.* at 120-121.

<sup>8</sup> *Id.* at 121.

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Marawi City. It even received Hadji's Letter dated July 3, 1989 acknowledging that as early as 1979, he already knew of the outlet tunnel construction on the slope portion of his land. Certainly, this admission defeats respondent's cause of action.<sup>9</sup>

By Decision<sup>10</sup> dated February 21, 2005, the trial court ordered petitioner to pay respondent just compensation for the properties, thus:

WHEREFORE, judgment is hereby rendered in favor of plaintiff:

1. Ordering defendant **National Power Corporation (NPC)** to pay unto **plaintiff Engr. Yusoph Dianalan** the sum of **Twenty Seven Million Eight Hundred Eighty Three Thousand (P27,883,000.00) Pesos** as actual or compensatory damages for defendant's use of plaintiff's two (2) parcels of land covering an area of twenty seven thousand eight hundred eighty three (27,883) sq. meters at Tampilong, Rorogagus and Matampay, Marawi City;
2. Ordering defendant NPC to pay the [sic] further sum of **One Hundred Thousand (P100,000.00) Pesos** as Attorney's fee; and
3. Ordering defendant NPC to pay unto plaintiff the [sic] further sum of **Three Million, Three Hundred Forty Five Thousand, Nine Hundred Sixty (P3,345,960.00) Pesos** unto the plaintiff corresponding to 12% legal interest of the sum as awarded by this decision computed from the date of issuance of this decision.

SO ORDERED.<sup>11</sup>

The trial court took judicial notice of another case in 1995 where the City Assessor's Office fixed the value of just compensation at One Thousand Pesos (P1,000.00) per sq.m..<sup>12</sup>

On appeal *via* **CA-G.R. CV No. 00521-MIN** petitioner faulted the trial court's valuation considering that on July 18, 1988, it bought a portion of the same property only at Ten Pesos (P10.00) per sq.m.. Even assuming that One Thousand Pesos (P1,000.00) per sq. m. was the correct valuation, the trial court still erred in ordering it to pay P27,833,000.00 where the total area taken was only 26,662.98 sq.m..<sup>13</sup>

By Decision<sup>14</sup> dated October 22, 2009, the Court of Appeals partly granted the appeal, *viz.*:

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<sup>9</sup> *Id.* at 122.

<sup>10</sup> *Id.* at 132-148.

<sup>11</sup> *Id.* at 147-148.

<sup>12</sup> *Id.* at 147.

<sup>13</sup> *Id.* at 90.

<sup>14</sup> Penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Leoncia R. Dimaguiba, *id.* at 149-172.

**WHEREFORE**, the appeal is **PARTIALLY GRANTED**. The RTC assailed Decision [dated] February 21, 2005 is affirmed [insofar] as appellant NPC is liable to pay for just compensation to appellee Dianalan, with legal interest of 6% of the total amount of just compensation, but only covering an area of 26,662.98 square meters located at Tampilong, Rorogagus and Matampay, Marawi City. The case is however **REMANDED** to the court of origin, for the proper determination of just compensation.

The award of attorney's fee is deleted.

SO ORDERED.<sup>15</sup>

Despite the remand of the case for the purpose of fixing just compensation, respondent moved for a writ of execution, with prayer to implead the Power Sector Assets and Liabilities Management Corporation (PSALM) as defendant.<sup>16</sup>

Under Order dated March 8, 2010, the trial court granted the motion and issued a writ of execution directing petitioner to pay respondent Thirty Four Million Six Hundred Sixty One Thousand and eight Hundred Seventy Four Pesos (P34,661,874.00) with six percent (6%) interest from February 21, 2005 until full payment.<sup>17</sup>

Petitioner assailed the Order through a petition for certiorari before the Court of Appeals under **CA-G.R. SP No. 03520-MIN**. The Court of Appeals initially granted petitioner's payer for temporary restraining order against the implementation of the writ of execution. Under its subsequent Resolution dated August 10, 2010, however, the Court of Appeals considered the petition withdrawn and terminated in view of the parties' agreement to jointly participate in the Civil Case No. 1729-99 for determination of just compensation.<sup>18</sup>

Back to the trial court, a board of five (5) commissioners, thereafter, got designated to recommend the amount of just compensation. After due proceedings, the board recommended Two Thousand Five Hundred Pesos (P2,500.00) per sq.m., sans any mention of the reckoning date on which this valuation was based.<sup>19</sup>

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<sup>15</sup> *Id.* at 171-172.

<sup>16</sup> *Id.* at 94.

<sup>17</sup> *Id.* at 94.

<sup>18</sup> *Id.* at 174-175.

<sup>19</sup> *Id.* at 94.

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In its opposition, petitioner argued that board's recommended valuation did not consider the assessed value of the properties at the time of taking in 1988 nor at the time of filing (of the complaint) in 1999.<sup>20</sup>

Under Order dated March 24, 2011, the trial court adopted the board's recommendation fixing just compensation at Two Thousand Five Hundred Pesos (P2,500.00) per sq.m. with 6% legal interest.<sup>21</sup>

Petitioner timely moved for reconsideration<sup>22</sup> while respondent sought the issuance of a writ of execution. Respondent claimed that the Order dated March 24, 2011 was already final because it was issued pursuant to the final and executory Decision dated October 22, 2009 in CA-G.R. CV No. 00521-MIN. He, once again, prayed that PSALM be included as a party since it had already taken over petitioner's financial affairs.<sup>23</sup>

Petitioner opposed anew insisting that since it still had a pending motion for reconsideration on the valuation of the properties, there could yet be no final valuation to speak of.<sup>24</sup>

By Order dated April 13, 2011, the trial court issued the writ of execution.<sup>25</sup> The Sheriff accordingly served a demand letter on petitioner to pay a total of Ninety Three Million Four Hundred Three Thousand Six Hundred Thirty Five 96/100 Pesos (P93,403,635.96), representing just compensation, 6% legal interest for 6 years, sheriff's commission fee, and sheriff's fee.<sup>26</sup>

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<sup>20</sup> *Id.* at 186-188.

<sup>21</sup> *Id.* at 191-192.

**WHEREFORE**, foregoing premises considered the court resolved and do hereby ordered that the just compensation due to the Plaintiff-Appellee shall be as follows:

1. Two Thousand Five Hundred (P2,500.00) per square meter or a total amount of Sixty Six Million Six hundred Fifty Seven Thousand Four Hundred Fifty (P66,657,450.00) Pesos representing the value of the plaintiff's land and other consequential damages. Simultaneously upon satisfaction of the Plaintiff-Appellee's claim a Deed of Conveyance of the subject property shall be executed by the latter in favor of the defendant;

2. Plus 6% legal interest of the amount due, to reckon from the rendering of the decision by the court of origin until paid.

**SO ORDERED.**

<sup>22</sup> *Id.* at 193-195.

<sup>23</sup> *Id.* at 196-200.

<sup>24</sup> *Id.* at 202-204.

<sup>25</sup> *Id.* at 205-208.

<sup>26</sup> *Id.* at 209-210.

Meantime, under Order dated April 12, 2011, the trial court denied petitioner's motion for reconsideration.<sup>27</sup>

Petitioner then filed a special civil action for *certiorari* before the Court of Appeals under **CA-G.R. SP No. 04205-MIN**. Petitioner charged the trial court with grave abuse of discretion amounting to lack or excess of jurisdiction for granting with undue haste respondent's motion for execution of the Order dated March 24, 2011 which had not yet attained finality.

On April 25, 2011, petitioner likewise filed its appeal from the trial court's twin Orders dated March 24, 2011 and April 12, 2011. The appeal was docketed as **CA-G.R. CV No. 02531-MIN**. Petitioner maintained that the trial court erred in fixing the amount of just compensation for the properties at Two Thousand Five Hundred Pesos (P2,500.00) per sq.m.. It averred that the construction was done sometime in 1980 as shown by the owner's affidavit of quitclaim annotated at the back of OCT P-276. Thus, the basis for the valuation should be the year 1980 when the property was deemed taken. Here, the Commissioners' Report based their valuation of Two Thousand Five Hundred (P2,500.00) per sq.m. on these documents: Deeds of Sale of certain properties in Matampay, Marawi City circa 2008 and 2009, Certification dated December 23, 2010 from the Register of Deeds, Marawi City, and Certification dated November 25, 2002 from the City Assessor's Office on the assessed value of lands in Matampay, Marawi City. These documents, however, showed the supposed market value of similarly situated lots not "at the time of taking," in 1980,<sup>28</sup> but many years thereafter.

**CA-G.R. SP No. 04205-MIN** and **CA-G.R. CV No. 02531-MIN** were ordered consolidated by the Court of Appeals.<sup>29</sup>

In its assailed Consolidated Decision<sup>30</sup> dated March 28, 2014, the Court of Appeals held: 1) the grant of the motion for execution of the March 24, 2011 Order was premature, and 2) the reckoning point for valuation of the properties should be February 21, 2005, the date when the trial court rendered its decision in Civil Case No. 1729-99.

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<sup>27</sup> *Id.* at 211.

<sup>28</sup> *Id.* at 101.

<sup>29</sup> *Id.* at 96-97.

<sup>30</sup> *Id.* at 86-109.

WHEREFORE, the Court REMANDS the case subject of the appeal in CA G.R. CV No. 02531-MIN to the court of origin, to determine the just compensation based on the value of the subject properties as of the year 2005, plus 6% legal rate of interest of the total amount of just compensation. The Orders subject of the petition for *certiorari* in CA G.R. SP No. 04205-MIN are SET ASIDE.

SO ORDERED.

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The Court of Appeals said that petitioner's insistence on the 1980 valuation of the properties was iniquitous. It noted that petitioner had been using respondent's properties since 1980 without having instituted an expropriation proceeding. Petitioner cannot be allowed to take advantage of the low value of the properties at the time of taking despite the exponential increase of their value over time. Justice and fairness dictate that the appropriate reckoning point for valuation was when the trial court issued its order of expropriation on February 21, 2005.<sup>31</sup>

Since the trial court's determination of just compensation was based on circa 2002 and 2010 documents, there was a need to remand the case once more to determine just compensation as of 2005.<sup>32</sup>

### **The Present Petition**

Petitioner now asks the Court to exercise its discretionary appellate jurisdiction to reverse the assailed dispositions of the Court of Appeals. It argues, in the main:

Section 4, Rule 67 of the Rules of Court provides that the value of just compensation shall "be determined as of the date of the taking of property or the filing of the complaint, whichever comes first." Thus, if the government takes possession before the expropriation proceedings, the value should be fixed as of the time of taking, not as of the filing of the complaint.<sup>33</sup> Contrary to the Court of Appeals' ruling, therefore, the valuation of the property must be reckoned from the time of taking in 1980.

For his part, respondent ripostes: Section 4, Rule 67 of the Rules of Court on the determination of just compensation is not applicable here because there was no expropriation proceeding to speak of. The action he filed was for recovery of possession and damages or for payment of just compensation. At any rate, the Court of Appeals correctly ruled that the determination of just compensation should be based on the value of the properties as of 2005.<sup>34</sup>

In its Reply dated June 22, 2015, petitioner maintains that the rule on the determination of just compensation applies where a

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<sup>31</sup> *Id.* at 108-109.

<sup>32</sup> *Id.* at 109.

<sup>33</sup> *Id.* at 66.

<sup>34</sup> *Id.* at 225-233.

*with*

property is taken despite the absence of expropriation proceedings. In such a case, the action to recover just compensation is in the nature of inverse condemnation.<sup>35</sup>

### Core Issues

- 1) Is respondent entitled to just compensation?
- 2) Did the Court of Appeals commit reversible error when it held that the valuation for just compensation should be reckoned from 2005 when the trial court rendered judgment in respondent's favor?

### Ruling

**The construction of the tunnel constituted taking of respondent's properties**

*National Transmission Commission v. Oroville Development Corporation* citing *Republic v. Vda. De Castellvi*<sup>36</sup> held that there is taking when the following requisites concur: *First*, the expropriator must enter a private property; *Second*, the entrance into private property must be for more than a momentary period; *Third*, the entry into the property should be under warrant or color of legal authority; *Fourth*, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected; and *Fifth*, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property.<sup>37</sup>

These elements are all present here. Petitioner took possession of respondent's properties without the benefit of expropriation proceedings when it constructed a tunnel to divert the flow of water from the Agus River for its Hydroelectric Project. The construction of the tunnel is sanctioned by RA 6395 and serves as an indefinite encumbrance on respondent's properties, resulting in the curtailment of respondent's beneficial enjoyment thereof.

In *Oroville*, the Court held that the underground tunnels impose limitations on respondents' use of the property for an indefinite period and deprive them of its ordinary use. Consequently, the Court sustained respondents' entitlement to just compensation.

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<sup>35</sup> *Id.* at 246.

<sup>36</sup> 157 Phil. 329 (1974).

<sup>37</sup> 815 Phil. 91, 104 (2017).

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So must it be.

**Just compensation reckoned from  
the date of actual taking**

Just compensation is the fair value of the property as between one who receives, and one who desires to sell, fixed at the time of the actual taking by the government. This rule holds true when the property is taken before the filing of an expropriation suit, and even if it is the property owner who brings the action for compensation.<sup>38</sup>

Section 4, Rule 67 of the Rules of Court ordains:

**Section 4.** Order of expropriation. - If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, **upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.** x x x

In *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, the Court cited several cases where the government took control and possession of properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages, thus:

In *Forfom Development Corporation [Forfom] v. Philippine National Railways [PNR]*, PNR entered the property of Forfom in January 1973 for public use, that is, for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR.

In *Eusebio v. Luis*, respondent's parcel of land was taken in 1980 by the City of Pasig and used as a municipal road now known as A. Sandoval Avenue in Pasig City without the appropriate expropriation proceedings. In 1994, respondent demanded payment of the value of the property, but they could not agree on its valuation prompting respondent to file a complaint for reconveyance and/or damages against the city government and the mayor.

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<sup>38</sup> *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, 713 Phil. 55, 7172 (2013).

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In *Manila International Airport Authority v. Rodriguez*, in the early 1970s, petitioner implemented expansion programs for its runway necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent demanded the payment of the value of the property, but the demand remained unheeded prompting him to institute a case for accion reivindicatoria with damages against petitioner.

In *Republic v. Sarabia*, sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal and the headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners where ATO intervened claiming that the storeowners were its lessees.

In these cited cases, the Court had uniformly ruled that the **value of the property at the time of taking is controlling for purposes of fixing just compensation.**<sup>39</sup>

*Republic v. Lara* further enunciated:

The value of the property should be fixed as of the date when it was taken and not the date of the filing of the proceedings." For where property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury.

Indeed, the State is only obliged to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. 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.<sup>40</sup>

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<sup>39</sup> *Secretary of the Department of Public Works and Highways v. Spouses Tecson, id.* at 72.

<sup>40</sup> *Republic v. Court of Appeals*, 494 Phil. 494, 510 (2005).

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But where the physical taking was done without the knowledge or consent of the owner, a different rule applies. In *National Power Corporation v. Heirs of Macabangkit Sangkay*, the Court held that just compensation should be reckoned from the time the property owners initiated inverse condemnation proceedings since the taking of the properties which took place earlier was done without their knowledge or consent, thus:

Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by NPC's entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPC's entry denied elementary due process of law to the owners since then until the owners commenced the inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profiting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted. (Underscoring supplied).

*Macabangkit Sangkay* is an exception to the general rule that just compensation must be reckoned from the time of taking or filing of complaint whichever comes first. *Macabangkit Sangkay* came to fore due to the peculiar circumstances of the case particularly how NPC did not even inform the property owners of the construction of the underground tunnels. It may even be said that there, NPC employed stealth instead of complying with the legal process of expropriation.

These peculiar circumstances are absent here. Respondent's claim of lack of knowledge of or consent to the underground construction is distinctly belied by the records. **One**, OCT No. P-276 bears as one of its annotations the Affidavit of Quitclaim dated November 23, 1979 executed by landowner Hadji himself absolving petitioner from any liability in connection with subject properties; and **Two**, Hadji had sold a portion of subject properties to petitioner on July 18, 1988 at Ten Pesos (P10.00) per sq.m.. The same was also annotated on OCT No. P-276.

Thus, absent any compelling reason to deviate from the general rule laid down in *Spouses Tecson and related cases*, valuation for just compensation here must be reckoned from the time of actual taking in

1979 when the construction of the tunnel was deemed to have commenced, as evidenced by the landowner's affidavit of quitclaim annotated on OCT No. P-276.

### **Amount of Just Compensation**

The Board of Commissioners recommended Two Thousand Five Hundred Pesos (P2,500.00) as just compensation. The Board considered the following documents: 1) Deeds of Sale between the period of 2008 and 2009, 2) Certificate from the Office of the City Assessor, Marawi City dated November 25, 2002, and 3) Certificate from the Register of Deeds dated December 23, 2010. None of these documents, however, show the value of the property at the time of taking in 1979, albeit it is settled that just compensation is to be ascertained as of the time of taking, which usually coincides with the commencement of the expropriation proceedings.<sup>41</sup>

To be sure, while the board of commissioners is given leeway to consider certain factors in determining the fair market value of the property apart from the proffered documentary evidences, this determination, however, must still reflect the value of the property at the time of the taking.<sup>42</sup>

In *Evergreen Manufacturing Corporation v. Republic*, the Court rejected the amount fixed as just compensation because all the conditions taken into account in determining the same did not reflect the value of subject properties at the time of taking. In that case, there was nothing to show the value of the property in 2004, the year the taking of the subject properties 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. Thus, there was no clear factual evidence for the correct determination of just compensation,<sup>43</sup> as in this case.

In that case though the Court ruled that while remanding the case to receive evidence would enable the court to clearly determine the amount of just compensation at the time of taking, a remand of the case would be prejudicial to both parties as it would further delay an

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<sup>41</sup> *National Power Corporation v. Diato-Bernal*, 653 Phil. 345, 354 (2010).

<sup>42</sup> *Evergreen Manufacturing Corporation v. Republic of the Philippines*, 817 Phil. 1048, 1061 (2017).

<sup>43</sup> *Id.* at 1062.

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over two (2) decade old protracted litigation now. Thus, the Court held that making its own finding of just compensation based on available records would be most beneficial to both parties concerned.<sup>44</sup>

Unfortunately, the Court cannot do the same here. For in contrast with *Evergreen*, there is no evidence here from which the Court can determine the amount of just compensation. The only records available pertain to transactions which took place about two (2) decades ago from the date of actual taking.

In *National Power Corporation v. Diato-Bernal*, the Court remanded the case to the trial court because the recommended just compensation was gauged based on documents more than two (2) years after the complaint for expropriation was filed. Finding the commissioners' report unacceptable, the Court decreed that a commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.<sup>45</sup>

In *Land Bank of the Philippines v. Livioco*, the Court likewise ruled that since the parties failed to adduce evidence of the property's value at the time of taking, the Court, not being a trier of facts, was constrained to remand the case to the trial court for the reception of evidence and determination of just compensation.<sup>46</sup>

Another. *National Power Corporation v. Samar* held that although the determination of just compensation lies within the trial court's discretion, it should not be done arbitrarily or capriciously. The trial court's decision must be based on established rules and competent evidence. The court is proscribed from basing its judgment on speculations and surmises. In the absence of such competent evidence, the case therein for expropriation was remanded to the trial court to determine the just compensation of subject property.<sup>47</sup>

We, therefore, resolve to remand the case to the trial court for the purpose of fixing the amount of just compensation for subject properties.

**ACCORDINGLY**, the petition is **GRANTED**. The Decision dated March 28, 2014 in CA G.R. CV No. 02531-MIN & CA G.R. SP

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<sup>44</sup> *Id.* at 1063-1064.

<sup>45</sup> *Supra* note 40, at 354-355.


<sup>46</sup> 645 Phil. 337, 364-366 (2010).

<sup>47</sup> 742 Phil. 450, 462 (2014).

No. 04205-MIN is **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the trial court for further proceedings to determine the correct amount of just compensation.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *12/19*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CV No. 02531-MIN &  
CA-G.R. SP No. 04205-MIN)

JIMENEA & PARTNERS  
Counsel for Respondent  
Unit 719, Vinia Residences Condominium  
Corporation, EDSA, Brgy. Philam  
1100 Quezon City

The Hon. Presiding Judge  
Regional Trial Court, Branch 9  
9700 Marawi City  
(Civil Case No. 1729-99)

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