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Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 14, 2020**, which reads as follows:

“G.R. No. 245377 (*Estate of Susano J. Rodriguez Rep. by Virgilio R. Valenzuela v. National Transmission Corporation*). – This Petition for Review on *Certiorari*¹ under Rule 45 assails the Decision² dated April 20, 2018 and the Resolution³ dated February 11, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 106015, which modified the decision of the Regional Trial Court (RTC) of Camarines Sur and remanded the case for the determination of just compensation based on the value of the property at the time of taking in 1972 and not at the time of filing of the inverse condemnation proceedings in 2012.

Facts of the Case

The Estate of Susano J. Rodriguez (petitioner) is the owner of two parcels of land (property), particularly described as Lot H-2-D with an area of 100,000 square meters, and Lot H-2-F-2 with an area of 498,886 square meters. The said parcels of land are covered by Transfer Certificates of Title (TCT) Nos. 3670⁴ and 5652⁵, respectively.⁶

Sometime in 1972, the National Power Corporation (NPC) constructed steel towers and high-power voltage transmission lines on the subject property. NPC offered to purchase the subject property or lease them if it will not be able to pay its value within six months.⁷ However, NPC reneged on the agreement by not paying the value of the property nor the monthly rentals. This prompted petitioner to demand from NPC to pay the accrued rentals since 1972 and to vacate the subject property. When the demand went unheeded, petitioner filed an action for ejectment on March 16, 2008. However, the

¹ Rollo, pp. 16-73.

² Penned by Associate Justice Rodil V. Zalameda (now a Member of this Court), with the concurrence of Associate Justices Magdangal M. De Leon and Pedro B. Corales; id. at 78-91.

³ Id. at 138-139

⁴ Id. at 278-279.

⁵ Id. at 280-281.

⁶ Id. at 323.

⁷ Id.

ejectment case was dismissed when it reached this Court because NPC is not the proper party-in-interest but the National Transmission Corporation (TransCo) pursuant to Republic Act No. (R.A.) 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 (EPIRA)" where TransCo assumed management and operation of NPC's transmission lines.⁸

Thereafter, on December 10, 2012, petitioner filed a Complaint for Recovery of Possession⁹ against TransCo but TransCo countered that the non-payment of just compensation does not entitle petitioner to recover the subject property by reason of public policy. Due to this, petitioner moved to convert the case to an inverse condemnation proceeding which was granted by the RTC.¹⁰

Petitioner moved for the issuance of an Order for TransCo to make a provisional deposit based on the zonal value of the property in the amount of ₱1,380.00 per square meter pursuant to Section 4(a) of R.A. 8947, otherwise known as "*An Act To Facilitate The Acquisition Of Right-Of-Way, Site Or Location For National Government Infrastructure Projects And For Other Purposes,*" which requires government agencies to immediately pay the owner of the property the amount equivalent to the sum of 100% of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue.¹¹

In an Order dated August 5, 2013, the RTC ordered TransCo to deposit the amount of ₱99,820,920.00 in favor of petitioner for the 72,334-square meter parcels of land directly affected by the construction of the transmission lines at its zonal value of ₱1,380.00 per square meter as initial payment of just compensation. The said amount was subsequently released to petitioner.¹²

The RTC ordered the constitution of the Board of Commissioners for the determination of final just compensation for the property: (1) Engr. Vilma Martus, Municipal Assessor of Pili, Camarines Sur and petitioner's representative; (2) Engr. Prudencio Ferrer, TransCo's representative; and (3) Atty. Jane I. Peñaflor, the RTC's branch clerk of court and Chairman of the Board of Commissioners.¹³

On February 18, 2015, the Commissioners submitted their reports which can be summarized as follows:

1. Report of Engr. Vilma Martus:

Affected area: 106,306 square meters including the dangling areas, referring to the portions in between the transmission lines.

Classification of the property: residential

Valuation of the property: ₱2,000.00 per square meter based on the

⁸ Id. at 80.

⁹ Id. at 155-158.

¹⁰ Id. at 81.

¹¹ Id.

¹² Id. at 81-82.

¹³ Id. at 325.

- probable sale price of the subject properties at the time of the filing of the complaint in 2012;
2. Report of Engr. Prudencio Ferrer:
Affected area: 72,334 square meters excluding the dangling areas
Classification of the property: residential
Valuation of the property: value at the time of taking
 3. Report of Atty. Jane I. Peñaflor:
Affected area: 106,306 square meters including the dangling areas, referring to the portions in between the transmission lines.
Classification of the property: residential
Valuation of the property: ₱2,000.00 per square meter based on the probable sale price of the subject properties at the time of the filing of the complaint in 2012.¹⁴

On July 13, 2015, the RTC rendered its Decision¹⁵ and concurred with the findings of Engr. Martus and Atty. Peñaflor that the total area affected by the construction of the transmission lines is 106,306 square meters, including the dangling areas. The RTC, likewise, fixed the just compensation in the amount of ₱2,000.00 per square meter based on the fair market value of the property at the time of filing of the case in 2012.¹⁶

TransCo's motion for reconsideration was denied in a Resolution¹⁷ dated October 20, 2015, hence, it filed an appeal to the CA.

In its Decision¹⁸ dated April 20, 2018, the CA remanded the case to the RTC for the determination of just compensation at the time of taking in 1972 and not at the time of filing of the case in 2012.

According to the CA, Section 4, Rule 67 of the Rules of Civil Procedure provides that just compensation should be determined as of the date of taking of the property or the institution of the expropriation complaint whichever comes first. This rule should be applied to ensure uniformity in the ascertainment of just compensation.¹⁹ The CA, likewise, discussed that the ruling of the Court in the case of *Secretary of the Department of Public Works and Highways v. Sps. Tecson (Tecson)*,²⁰ which held that the basis of the determination of just compensation is the time of taking, remains to be the general rule, while the cases of *National Power Corporation v. Heirs of Sangkay (Sangkay)*²¹ and *National Power Corporation v. Saludaes (Saludaes)*,²² which determined just compensation at the time of filing of the case, are mere exceptions.

¹⁴ Id. at 82-83.

¹⁵ Penned by Pairing Judge Vivencio Gregorio G. Atutubo III; id at 323-335.

¹⁶ Id. at 333-334.

¹⁷ Id. at 351-353.

¹⁸ Supra note 2.

¹⁹ *Rollo*, p. 85.

²⁰ 713 Phil. 55 (2013).

²¹ 671 Phil. 569 (2011).

²² 686 Phil. 967 (2012).

Petitioner moved for reconsideration,²³ which was denied in a Resolution dated February 11, 2019.

In its petition for review on *certiorari*, petitioner insists that the RTC correctly ruled that just compensation should be determined at the time of the filing of the case in 2012.²⁴ Petitioner claims that the cases of *Sangkay* and *Saludaes* are applicable here and not the case of *Tecson*.

In its Comment²⁵ on the other hand, TransCo asserts that only the 72,246-square meter portion of the subject property should be compensated excluding the dangling areas because the latter are unaffected and unnecessary for the transmission project.²⁶ Further, TransCo maintains that the CA correctly held that the basis of just compensation is the fair market value of the subject property at the time of taking in 1972.²⁷

Ruling of the Court

After a perusal of the records of the case, this Court resolves to deny the petition for review on *certiorari* for failure of petitioner to show that the CA committed a reversible error in remanding the case to the RTC for determination of just compensation based on the fair market value of the subject property at the time of taking in 1972.

First, the Court agrees with the CA that TransCo is liable to pay just compensation for the 106,306-square meter portion of the subject property including the dangling areas, referring to the area in between the transmission lines. The Court has already ruled that there is taking when the owner is actually deprived or dispossessed of his property or when there is a practical destruction or a material impairment of the value of his property or when he is deprived of the ordinary use thereof.²⁸ Here, although the transmission lines do not actually occupy the dangling areas, nevertheless, since the high-tension current running through the transmission lines effectively renders the dangling areas useless for petitioner and deprives it of the beneficial use thereof, then the dangling areas should also be compensable.

Regarding the basis for just compensation, the Court ruled in *Tecson* that in a long line of cases, such as in the cases of *Forfom Development Corporation v. Philippine National Railways*,²⁹ *Eusebio v. Luis*,³⁰ *Manila*

²³ *Rollo*, p. 85.

²⁴ *Id.* at 72.

²⁵ *Id.* at 389-418.

²⁶ *Id.* at 405.

²⁷ *Id.* at 411-412.

²⁸ *Republic v. Heirs of Borbon*, 750 Phil. 37, 54 (2015), citing *Ansaldo v. Tantuico, Jr.*, 266 Phil: 319 (1990).

²⁹ 594 Phil. 10 (2008).

³⁰ 618 Phil. 586 (2009).

International Airport Authority v. Rodriguez,³¹ and *Republic v. Sarabia*,³² the Court uniformly ruled that the fair market value of the property at the time of taking is controlling for purposes of determining just compensation. *Tecson* further explained that the factual antecedents of the above-mentioned cases are the same, wherein the government took control and possession of the 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.

The ruling in *Tecson* was reiterated in the 2017 *En Banc* case of *National Transmission Corporation v. Oroville Development Corporation (Oroville)*,³³ involving the construction of transmission lines like in this case. In *Oroville*, the Court explained that the rulings in *Sangkay* and *Saludares*, which determined just compensation at the time of the filing of the inverse condemnation proceedings, are mere exceptions. In *Sangkay*, just compensation was determined based on the fair market value of the property at the time of filing of the inverse condemnation proceedings because the NPC in that case entered the property of the landowner to construct underground tunnels without their knowledge and consent. The landowner filed the inverse condemnation proceedings only upon discovery of the construction. In *Saludares*, the landowner filed a complaint for payment of just compensation against NPC, but the latter countered that it had already paid the same pursuant to an earlier ruling of this Court in another case. It turned out that the earlier case invoked by the NPC involves a different property.

Oroville explained that the rulings in *Sangkay* and *Saludares* are more in consonance with the rules of equity rather than with the Rules of Court, which specifically provide that the determination of just compensation shall be at the time of taking or filing of the complaint for expropriation, whichever is earlier.

This case has the same factual antecedents as that of *Tecson* and *Oroville*. There are no exceptional circumstances in this case that would trigger the application of the Court's ruling in *Sangkay* and *Saludares*.

All told, the CA correctly remanded the case for determination of just compensation based on the fair market value of the subject property at the time of taking.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated April 20, 2018 and the Resolution dated February 11, 2019 of the Court of Appeals in CA-G.R. CV No. 106015 are **AFFIRMED**.

³¹ 518 Phil. 750 (2006).

³² 505 Phil. 253 (2005).

³³ 815 Phil. 91 (2017).

SO ORDERED.” (Peralta, *CJ.*, designated as additional Member; Leonen, *J.*, on official leave; Gesmundo, *J.*, designated as Acting Chairperson of the Third Division; Zalameda, *J.*, no part.)

By authority of the Court:

~~Mis-DCBatt~~
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Division Clerk of Court
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2020/10/14

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