



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NATIONAL POWER CORPORATION,
Petitioner,

G.R. No. 173520

Present:

- versus -

CARPIO, Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

SPOUSES RODOLFO ZABALA and
LILIA BAYLON,
Respondents.

Promulgated:

~~JAN 30 2013~~ *del Castillo*

X ----- X

DECISION

DEL CASTILLO, J.:

Legislative enactments, as well as executive issuances, fixing or providing for the method of computing just compensation are tantamount to impermissible encroachment on judicial prerogatives.¹ Thus they are not binding on courts and, at best, are treated as mere guidelines in ascertaining the amount of just compensation.²

This Petition for Review on *Certiorari*³ assails the July 10, 2006 Decision⁴ of the Court of Appeals (CA) in CA-G.R. CV No. 85396 which affirmed the June 28, 2004 Partial Decision⁵ of the Regional Trial Court (RTC), Branch 2, Balanga City in an eminent domain case,⁶ ordering petitioner National Power Corporation (Napocor) to pay respondents spouses Rodolfo Zabala and Lilia Baylon (spouses Zabala) just compensation of ₱150.00 per square meter for the 6,820-square meter portion of the spouses' property which was traversed by transmission lines of Napocor under its 230 KV Limay-Hermosa Permanent Transmission Lines Project.

Meow

¹ *Export Processing Zone Authority v. Dulay*, 233 Phil. 313, 321 (1987).

² *Id.* at 324.

³ *Rollo*, pp. 21-39.

⁴ CA *rollo*, pp. 302-312; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo.

⁵ Record on Appeal, Annex "N"; penned by Judge Manuel M. Tan.

⁶ Docketed as Civil Case No. 6321.

Factual Antecedents

The facts of this case as found by the CA and adopted by Napocor are as follows:

On October 27, 1994, plaintiff-appellant National Power Corporation (“Napocor” x x x) filed a complaint for Eminent Domain against defendants-appellees Sps. R. Zabala & L. Baylon, Tomas Aguirre, Generosa de Leon and Leonor Calub (“Spouses Zabala”, “Aguirre” “de Leon”, and “Calub,” respectively x x x) before the Regional Trial Court, Balanga City, Bataan alleging that: defendants-appellees Spouses Zabala and Baylon, Aguirre, de Leon, and Calub own parcels of land located in Balanga City, Bataan; it urgently needed an easement of right of way over the affected areas for its 230 KV Limay-Hermosa Transmission Line[s]; the said parcels of land have neither been applied nor expropriated for any public use, and were selected in a manner compatible with the greatest public good and the least private injury; it repeatedly negotiated with the defendants-appellees for the acquisition of right of way easement over the said parcels of land but failed to reach an agreement with the latter; it has the right to take or enter upon the possession of the subject properties pursuant to Presidential Decree No. 42, which repealed Section 2, Rule 67 of the Rules of Court upon the filing of the expropriation complaint before the proper court or at anytime thereafter, after due notice to defendants-appellees, and upon deposit with the Philippine National Bank of the amount equal to the assessed value of the subject properties for taxation purposes which is to be held by said bank subject to the orders and final disposition of the court; and it is willing to deposit the provisional value representing the said assessed value of the affected portions of the subject property x x x. It prayed for the issuance of a writ of possession authorizing it to enter and take possession of the subject property, to demolish all the improvements x x x thereon, and to commence with the construction of the transmission line[s] project on the subject properties, and to appoint not more than three (3) commissioners to ascertain and report the just compensation for the said easement of right of way.

x x x x

On January 11, 1995, defendant-appellee Spouses Zabala moved to dismiss the complaint averring that: the Balanga City proper is already crowded and x x x needs additional space to meet the housing requirements of the growing population; the only direction the city proper could expand is the side where their subject property is located; they incurred a considerable [expense in] the preparatory development of the subject property into a subdivision to serve the interest and well being of the growing population of Balanga; the said growing need for housing and said preparatory development would necessarily increase the value of the said property; the just compensation would be [higher] if the proposed transmission line[s] of plaintiff-appellant Napocor is installed or made to pass or traverse [through] their property rather than [through] the parcels of land farther from the existing city proper and away from their property which was tapped to meet the expansion requirements of the Balanga City proper; the transfer of the proposed transmission line[s] from their property to a farther location is more economical and less expensive to plaintiff-appellant Napocor and it would better serve the interest of the people of Balanga because said location is less developed, not needed for the expansion requirements of Balanga

City proper, the lots that would be traversed command a lower price and less compensation would be paid by plaintiff-appellant Napocor; the traversing of the transmission line[s] [through] their property would [impact negatively on] the housing expansion [in] Balanga, the high tension wires would endanger the life and limb of the inhabitants within the area, and decrease the value of their subject property; the complaint does not show that the installation of the proposed transmission wire[s] on their property is the most direct, practical and least burdensome means to achieve public good; the assessed value of ₱1,636.89 stated in Tax Declaration No. 1646 is insufficient because it has been revised and cancelled by Tax Declaration No. 11052 which shows a higher assessment value for the said property; and plaintiff-appellant Napocor did not exert earnest effort[s] toward the direct purchase of the needed portion of their property before filing a complaint before the lower court.

On March 4, 1996 and March 7, 1996 plaintiff-appellant Napocor and defendants-appellees Spouses Zabala filed their respective Pre-Trial Brief[s].

On December 4, 1997, the Commissioners submitted their Report/Recommendation fixing the just compensation for the use of defendants-appellees Spouses Zabala's property as easement of right of way at ₱150.00 per square meter without considering the consequential damages.

Plaintiff-appellant Napocor prayed in its Comment to the commissioners' report, that the report be recommitted to the commissioners for the modification of the report and the substantiation of the same with reliable and competent documentary evidence based on the value of the property at the time of its taking. [On their part], defendants-appellees Spouses Zabala prayed, in the Comments, for the fixing of the just compensation at ₱250.00 per square meter.

On February 25, 1998, the lower court recommitted the report to the Commissioners for further report on the points raised by the parties.

On August 20, 2003, the Commissioners submitted their Final Report fixing the just compensation at ₱500.00 per square meter.⁷

Since the Commissioners had already submitted their Final Report⁸ on the valuation of the subject property, spouses Zabala moved for the resolution of the case insofar as their property was concerned. Thus, on June 28, 2004, the RTC rendered its Partial Decision,⁹ ruling that Napocor has the lawful authority to take for public purpose and upon payment of just compensation a portion of spouses Zabala's property. The RTC likewise ruled that since the spouses Zabala were deprived of the beneficial use of their property, they are entitled to the actual or basic value of their property. Thus, it fixed the just compensation at ₱150.00 per square meter. The dispositive portion of the RTC's Partial Decision reads:

WHEREFORE, premises considered, the Court having determined that [Napocor] has a lawful right to take the subject properties in the exercise of the

⁷ CA *rollo*, pp. 303-308.

⁸ Record on Appeal, Annex "M."

⁹ Id., Annex "N."

power of eminent domain upon payment of just compensation, the petition is hereby granted.

Accordingly, [Napocor] is hereby ordered to pay defendant Spouses Rodolfo Zabala and Lilia Baylon the amount of Php 150.00 per square meter for the 6,820 square meters taken from the latter's property, as the just compensation fixed and recommended by the commissioners determined as of the date of the taking of the property.

As regards x x x the properties of the other defendants, the determination of x x x just compensation is hereby held in abeyance until the submission of the commissioners' report.

SO ORDERED.¹⁰

Napocor appealed to the CA. It argued that the Commissioners' reports upon which the RTC based the just compensation are not supported by documentary evidence. Necessarily, therefore, the just compensation pegged by the RTC at ₱150.00 per square meter also lacked basis. Napocor likewise imputed error on the part of the RTC in not applying Section 3A of Republic Act (RA) No. 6395¹¹ which limits its liability to easement fee of not more than 10% of the market value of the property traversed by its transmission lines.

On July 10, 2006, the CA rendered the assailed Decision affirming the RTC's Partial Decision.

Issue

Hence, this Petition anchored on the ground that:

THE COURT OF APPEALS ERRED IN AFFIRMING THE PARTIAL DECISION DATED JUNE 28, 2004 AND THE ORDER DATED FEBRUARY 7, 2005 OF THE TRIAL COURT FIXING THE AMOUNT OF ₱150.00 PER SQUARE METER AS THE FAIR MARKET VALUE OF THE SUBJECT PROPERTY SINCE THE SAME IS NOT SUPPORTED BY DOCUMENTARY EVIDENCE.¹²

Napocor contends that under Section 3A of RA No. 6395, it is not required to pay the full market value of the property when the principal purpose for which it is actually devoted will not be impaired by its transmission lines. It is enough for

¹⁰ Id.

¹¹ AN ACT REVISING THE CHARTER OF THE NATIONAL POWER CORPORATION, as amended by Presidential Decree No. 938 (FURTHER AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIXTY-THREE HUNDRED NINETY-FIVE ENTITLED 'AN ACT REVISING THE CHARTER OF THE NATIONAL POWER CORPORATION', AS AMENDED BY PRESIDENTIAL DECREES NOS. 380, 395 AND 758).

¹² *Rollo*, pp. 29-30.

Napocor to pay easement fee which, under the aforementioned law, should not exceed 10% of the market value of the affected property. Napocor argues that when it installed its transmission lines, the property of spouses Zabala was classified as riceland and was in fact devoted to the cultivation of palay. Its transmission lines will not, therefore, affect the primary purpose for which the subject land is devoted as the same only pass through it. The towers to which such lines are connected are not even built on the property of spouses Zabala, who will remain the owner of and continue to enjoy their property. Hence, the RTC and the CA, according to Napocor, both erred in not applying Section 3A of RA No. 6395.

Napocor further argues that even assuming that spouses Zabala are entitled to the full market value of their property, the award of ₱150.00 per square meter as just compensation lacks basis because the recommendation of the Commissioners is not supported by documentary evidence.

Our Ruling

The petition is partially meritorious.

Section 3A of RA No. 6395 cannot restrict the constitutional power of the courts to determine just compensation.

In insisting that the just compensation cannot exceed 10% of the market value of the affected property, Napocor relies heavily on Section 3A of RA No. 6395, the pertinent portions of which read:

Sec. 3A. In acquiring private property or private property rights through expropriation proceedings where the land or portion thereof will be traversed by the transmission lines, only a right-of-way easement thereon shall be acquired when the principal purpose for which such land is actually devoted will not be impaired, and where the land itself or portion thereof will be needed for the projects or works, such land or portion thereof as necessary shall be acquired.

In determining the just compensation of the property or property sought to be acquired through expropriation proceedings, the same shall:

(a) With respect to the acquired land or portion thereof, not to exceed the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower.

(b) With respect to the acquired right-of-way easement over the land or portion thereof, not to exceed ten percent (10%) of the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor whichever is lower.

X X X X

Just compensation has been defined as “the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker’s gain, but the owner’s loss. The word ‘just’ is used to [qualify] the meaning of the word ‘compensation’ and to convey thereby the idea that the [amount] to be [t]endered for the property to be taken shall be real, substantial, full and ample.”¹³ The payment of just compensation for private property taken for public use is guaranteed no less by our Constitution and is included in the Bill of Rights.¹⁴ As such, no legislative enactments or executive issuances can prevent the courts from determining whether the right of the property owners to just compensation has been violated. It is a judicial function that cannot “be usurped by any other branch or official of the government.”¹⁵ Thus, we have consistently ruled that statutes and executive issuances fixing or providing for the method of computing just compensation are not binding on courts and, at best, are treated as mere guidelines in ascertaining the amount thereof.¹⁶ In *National Power Corporation v. Bagui*,¹⁷ where the same petitioner also invoked the provisions of Section 3A of RA No. 6395, we held that:

Moreover, Section 3A-(b) of R.A. No. 6395, as amended, is not binding on the Court. It has been repeatedly emphasized that the determination of just compensation in eminent domain cases is a judicial function and that any valuation for just compensation laid down in the statutes may serve only as a guiding principle or one of the factors in determining just compensation but it may not substitute the court’s own judgment as to what amount should be awarded and how to arrive at such amount.¹⁸

This ruling was reiterated in *Republic v. Lubinao*,¹⁹ *National Power Corporation v. Tuazon*²⁰ and *National Power Corporation v. Saldares*²¹ and continues to be the controlling doctrine. Notably, in all these cases, Napocor likewise argued that it is liable to pay the property owners for the easement of right-of-way only and not the full market value of the land traversed by its transmission lines. But we uniformly held in those cases that since the high-tension electric current passing through the transmission lines will perpetually deprive the property owners of the normal use of their land, it is only just and proper to require Napocor to recompense them for the full market value of their property.

¹³ *Republic v. Rural Bank of Kabacan, Inc.*, G.R. No. 185124, January 25, 2012, 664 SCRA 233, 244; *National Power Corporation v. Manubay Agro-Industrial Development Corporation*, 480 Phil. 470, 479 (2004).

¹⁴ Section 9, Article III of the Constitution provides:

Private property shall not be taken for public use without just compensation.

¹⁵ *National Power Corporation v. Tuazon*, G.R. No. 193023, June 29, 2011, 653 SCRA 84, 95.

¹⁶ *Export Processing Zone Authority v. Dulay*, supra note 1.

¹⁷ G.R. No. 164964, October 17, 2008, 569 SCRA 401.

¹⁸ Id. at 410.

¹⁹ G.R. No. 166553, July 30, 2009, 594 SCRA 363, 378.

²⁰ G.R. No. 193023, June 29, 2011, 653 SCRA 84, 95.

²¹ G.R. No. 189127, April 25, 2012, 671 SCRA 266, 277-278.

The just compensation of ₱150.00 per square meter as fixed by the RTC is not supported by evidence.

It has likewise been our consistent ruling that just compensation cannot be arrived at arbitrarily. Several factors must be considered, such as, but not limited to, acquisition cost, current market value of like properties, tax value of the condemned property, its size, shape, and location. But before these factors can be considered and given weight, the same must be supported by documentary evidence.

In the case before us, it appears that the Commissioners' November 28, 1997 Report/Recommendation²² is not supported by any documentary evidence. There is nothing therein which would show that before arriving at the recommended just compensation of ₱150.00, the Commissioners considered documents relevant and pertinent thereto. Their Report/Recommendation simply states that on November 17, 1997, the Commissioners conducted an ocular inspection; that they interviewed persons in the locality; that the adjacent properties have market value of ₱150.00 per square meter; and, that the property of Nobel Philippine which is farther from the Roman Expressway is being sold for ₱200.00 per square meter. No documentary evidence whatsoever was presented to support their report that indeed the market value of the adjacent properties are ₱150.00 and that of Nobel Philippine is ₱200.00.

Napocor objected to the Report/Recommendation of the Commissioners and pointed out that the same is not supported by documentary evidence.²³ spouses Zabala likewise commented thereon and argued that their property should be valued at ₱250.00 per square meter.²⁴ Accordingly, the RTC recommitted the Report/Recommendation to the Commissioners for further evaluation of the points raised by the parties.²⁵

In April 1998, the Commissioners submitted a Supplemental Report.²⁶ Then on August 20, 2003, the Commissioners submitted their Final Report²⁷ recommending a compensation of ₱500.00 per square meter. But like their earlier reports, the Commissioners' Final Report lacks documentary support. It reads:

1. Further ocular inspection was conducted on the property under consideration of the Honorable Court.

²² Record on Appeal, Annex "I."

²³ Id., Annex "J."

²⁴ Id., Annex "K."

²⁵ See Order dated February 25, 1998, id., Annex "L."

²⁶ See Partial Decision, id., Annex "N."

²⁷ Id., Annex "M."

2. To date the land is properly secured, contained and fenced with concrete hollow blocks.

3. The property is not tenanted and the area covered and affected by the transmission lines has not been tilled and planted x x x.

4. Upon inquiry from the landowners, the Sps. Rodolfo and Lilia Zabala, they intimated that they are proposing to develop the property into a subdivision, as they already fenced and contained the area.

5. At present, another property which is very far from the Roman Expressway was subdivided, known as the St. Elizabeth Country Homes. Lots are being sold there at ₱1,700.00 per square meter.

6. The property of the Sps. Zabala is only some meters away [from] the [R]oman [E]xpressway compared to the St. Elizabeth [C]ountry [H]omes which is very far from the [highway].

7. Moreover, the other subdivisions, Maria Lourdes and Vicarville which are within the vicinity sell their lots now ranging from ₱1,800.00 per square meter to ₱2,500.00.

8. As already stated, the property of the Sps. Zabala is within the built-up area classified as residential, commercial and industrial.

9. In its earlier reports in 1998, the commission recommended a just compensation of ₱150.00 per square meter.

10. But considering the considerable lapse of time and increase in the valuation of the properties within the area, the [commissioners are] impelled to increase the recommended valuation to ₱500.00 per square meter.

WHEREFORE, it is recommended to the Honorable Court that the owners of the property affected and traversed by the transmission lines of the NPC be compensated at ₱500.00 per square meter.²⁸

In *Republic v. Santos*,²⁹ we ruled that a commissioners' land valuation which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court, viz:

The statement in the 1970 report of the commissioners that according to the owners of adjoining lots the prices per square meter ranged from ₱150 to ₱200 and that subdivision lots in the vicinity were being sold at ₱85 to ₱120 a square meter was not based on any documentary evidence. It is manifestly hearsay. Moreover, those prices refer to 1970 or more than a year after the expropriation was effected.³⁰

²⁸ Id.

²⁹ 225 Phil. 29 (1986).

³⁰ Id. at 34.

The same ruling was arrived at in *National Power Corporation v. Diato-Bernal*,³¹ where we overturned the ruling of the trial court and the CA adopting the findings of the commissioners *sans* supporting documentary evidence therefor. Thus:

It is evident that the above conclusions are highly speculative and devoid of any actual and reliable basis. First, the market values of the subject property's neighboring lots were mere estimates and unsupported by any corroborative documents, such as sworn declarations of realtors in the area concerned, tax declarations or zonal valuation from the Bureau of Internal Revenue for the contiguous residential dwellings and commercial establishments. The report also failed to elaborate on how and by how much the community centers and convenience facilities enhanced the value of respondent's property. Finally, the market sales data and price listings alluded to in the report were not even appended thereto.³²

Under Section 8,³³ Rule 67 of the Rules of Court, the trial court may accept or reject, whether in whole or in part, the commissioners' report which is merely advisory and recommendatory in character. It may also recommit the report or set aside the same and appoint new commissioners. In the case before us, however, in spite of the insufficient and flawed reports of the Commissioners and Napocor's objections thereto, the RTC eventually adopted the same. It shrugged off Napocor's protestations and limited itself to the reports submitted by the Commissioners. It neither considered nor required the submission of additional evidence to support the recommended ₱150.00 per square meter just compensation. Ergo, insofar as just compensation is concerned, we cannot sustain the RTC's Partial Decision for want of documentary support.

Lastly, it should be borne in mind that just compensation should be computed based on the fair value of the subject property at the time of its taking or the filing of the complaint, whichever came first.³⁴ Since in this case the filing of the eminent domain case came ahead of the taking, just compensation should be based on the fair market value of spouses Zabala's property at the time of the filing of Napocor's Complaint on October 27, 1994 or thereabouts.

WHEREFORE, the instant Petition is **PARTIALLY GRANTED**. This case is **REMANDED** to the Regional Trial Court, Branch 2, Balanga City for the proper determination of just compensation.

³¹ G.R. No. 180979, December 15, 2010, 638 SCRA 660.

³² Id. at 668.

³³ SEC. 8. *Action upon commissioners' report*. – Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may recommit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall to secure the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.

³⁴ RULES OF COURT, Rule 67, Section 4.

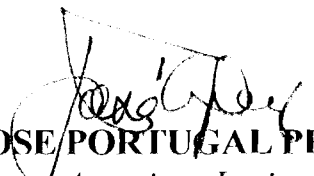
SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

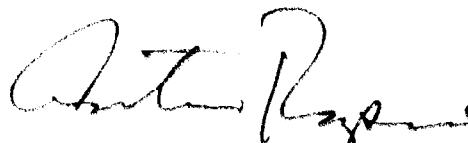

ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

