



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**LAND BANK OF THE PHILIPPINES,**  
 Petitioner,

**G.R. No. 185821**

Present:

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 VILLARAMA, JR., and  
 REYES, JJ.

- versus -

**ATTY. RICARDO D. GONZALEZ,**  
 Respondent.

Promulgated:

**JUN 13 2013**

X-----

**DECISION**

**VILLARAMA, JR., J.:**

This Rule 45 Petition<sup>1</sup> seeks the reversal of the Court of Appeals (CA) July 30, 2008 Decision<sup>2</sup> in CA-G.R. SP No. 00502-MIN which affirmed with modification the February 3, 2005 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Butuan City, Branch 5 sitting as a Special Agrarian Court (SAC). Also assailed is the appellate court's Resolution<sup>4</sup> dated December 12, 2008 denying petitioner's motion for reconsideration.

*The Facts*

Respondent Atty. Ricardo D. Gonzalez is the registered owner of two contiguous parcels of land devoted to coconut production, covered by Transfer Certificate of Title (TCT) No. T-3927<sup>5</sup> with an area of 9,790 square meters and TCT No. T-3928<sup>6</sup> with an area of 20,210 square meters, or a total

<sup>1</sup> *Rollo*, pp. 32-69.

<sup>2</sup> Id. at 73-84. Penned by Associate Justice Mario V. Lopez with Associate Justices Romulo V. Borja and Elihu A. Ybañez concurring.

<sup>3</sup> Id. at 176-185. Penned by Judge Augustus L. Calo.

<sup>4</sup> Id. at 87-91.

<sup>5</sup> Id. at 220.

<sup>6</sup> Id. at 221.

of 3 hectares, located at Barangay Abilan, Buenavista, Agusan del Norte (subject property). The subject property was tenanted by spouses Virgilio and Espera Tagupa, spouses Valeriano and Erlinda Inoc, spouses Isidro and Eden Soria and spouses Rudy and Rosario Peligro (the tenants). It is situated only about 1 ½ kilometers from the national highway and 2-3 kilometers from the local beaches.

Pursuant to the Comprehensive Agrarian Reform Program (CARP), respondent voluntarily offered to sell the subject property to the Department of Agrarian Reform (DAR) for ₱250,000.00 per hectare on December 9, 1996.<sup>7</sup> By way of reply to the Municipal Agrarian Reform Officer's (MARO) letter dated January 24, 1997, respondent, in his Letter<sup>8</sup> dated February 5, 1997, informed the MARO, among others, that the average coconut production of the subject property from 1994 to 1996 is at 75,000 kilograms with a price average of ₱2.00, and that its average annual net income is ₱100,000.00. Representatives of petitioner Land Bank of the Philippines (LBP), the DAR and the Barangay Agrarian Reform Committee (BARC) conducted an ocular inspection of the subject property, and issued a Field Investigation Report<sup>9</sup> on February 5, 1997. Pursuant to DAR Administrative Order (A.O.) No. 6, series of 1992, as amended by DAR A.O. No. 11, series of 1994, the DAR and the LBP valued the subject property at ₱150,795.51 or at ₱50,265.17 per hectare. Respondent rejected the valuation but the LBP deposited ₱60,318.20 of the said sum in cash and ₱90,477.31 thereof in bonds<sup>10</sup> in the name of respondent.<sup>11</sup> Respondent acknowledged the receipt thereof.<sup>12</sup>

The case was then referred to the Regional Agrarian Reform Adjudicator (RARAD) for the Caraga Region XIII for summary administrative hearing. In an Order<sup>13</sup> dated October 27, 1998, the RARAD affirmed the valuation made by the DAR and the LBP since DAR A.O. No. 5, series of 1998<sup>14</sup> was applied in coming up with the valuation.

Disappointed with the low valuation, respondent filed before the SAC a petition for just compensation against the LBP, the DAR and the tenants of the subject property on November 12, 1998.<sup>15</sup>

In his Amended Petition<sup>16</sup> dated January 5, 1999, respondent alleged that, in his desire to make his tenants the owners of the subject property, he voluntarily offered to sell the subject property for ₱250,000.00 per hectare taking into consideration the subject property's productivity, advantageous

---

<sup>7</sup> Records, p. 200.

<sup>8</sup> Id. at 71.

<sup>9</sup> Id. at 172-178.

<sup>10</sup> Id. at 179-184.

<sup>11</sup> *Rollo*, p. 209.

<sup>12</sup> Records, p. 201.

<sup>13</sup> *CA rollo*, p. 88.

<sup>14</sup> Entitled "REVISED RULES AND REGULATIONS GOVERNING THE VALUATION OF LANDS VOLUNTARILY OFFERED OR COMPULSORILY ACQUIRED PURSUANT TO REPUBLIC ACT NO. 6657."

<sup>15</sup> Records, pp. 1-3.

<sup>16</sup> Id. at 16-20.

location, peaceful surroundings and the mode of installment payments. Respondent also alleged that his TCTs were already cancelled in favor of the Government, and that Certificates of Land Ownership Awards (CLOAs) were already generated in favor of the tenants.

With the conformity of the parties, the SAC appointed on March 3, 2000 Engr. Gil A. Guigayoma, Mr. Simeon E. Avila, Jr. and Atty. Fernando R. Fudalan, Jr. as members of the Board of Commissioners (the Board) to determine the amount of just compensation due to respondent.<sup>17</sup> In its Report<sup>18</sup> dated July 28, 2000, the Board recommended that the portion of the subject property devoted to coconut production be valued at ₱100,000.00 excluding the value of the trees planted thereon, valued at ₱400.00 per tree, and that the portion devoted to rice production be valued at ₱150,000.00. Both parties objected to the said report.

### *The SAC's Ruling*

On February 3, 2005, the SAC held that respondent's asking price of ₱250,000.00 per hectare was quite high while LBP's valuation of ₱50,265.17 per hectare was considerably low. Thus, the SAC came up with the following computation:

x x x x

Below is the formula used by LBP in the valuation of lands covered by VOS or CA regardless of the date of offer or coverage:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where:

LV = Land Value  
 CNI = Capitalized Net Income  
 CS = Comparable Sales  
 MV = Market Value per Tax Declaration

More often the CS factor is not available, hence, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

$$CNI = \frac{(AGP \times SP) 70\%}{.12}$$

Where:

AGP = Average Gross Production  
 (latest available 12 months)  
 SP = Selling Price (average of the latest available 12 months [ ])  
 CO = Cost of Operations

<sup>17</sup> Id. at 78.

<sup>18</sup> Id. at 83-85.

$$\text{CNI} = \frac{(3,375 \times 7.96) 70\%}{.12}$$

$$= \frac{(26[,]865) 70\%}{.12}$$

$$= 18[,]805.50$$

$$= 156,712.50$$

$$\text{LV} = (156,712.50 \times 0.9) + (28[,]630 \times 0.1)$$

$$= 141[,]041.25 + 2[,]8]63$$

$$= 143,904.25 (\times 3)$$

$$= \text{P}431,712.75$$

$$=====$$

x x x x<sup>19</sup>

The SAC opined that ₱143,904.25 per hectare was the fair valuation of the subject property. The SAC took judicial notice of the fact that “*the value of the Philippine peso had nose[-]dived ever since – from a low of ₱2.00 to a dollar to ₱55[.00] to a dollar.*”<sup>20</sup> Thus, the SAC disposed of the case in this wise:

**WHEREFORE**, foregoing premises considered, judgment is hereby rendered ordering public respondents to pay to the plaintiff the following:

- 1) ₱143,904.25/hectare or a total of ₱431,712.75 for the 3 hectares land of the plaintiff;
- 2) ₱25,000.00 as Commissioners’ fees;
- 3) Ten percent (10%) of the total amount due as attorney’s fees; and
- 4) Cost of the suit.

SO ORDERED.<sup>21</sup>

Both the DAR and LBP sought reconsideration of the decision but the SAC denied their respective motion in a Resolution<sup>22</sup> dated June 23, 2005. Aggrieved, LBP appealed the decision to the CA.

### *The CA’s Ruling*

On July 30, 2008, the CA affirmed the findings and the ruling of the SAC. Invoking our ruling in *Apo Fruits Corporation v. Court of Appeals*,<sup>23</sup> the CA held that DAR A.O. No. 5, series of 1998 cannot strictly bind the courts which, in the exercise of their judicial discretion, can make their own

<sup>19</sup> Supra note 3, at 184-185.

<sup>20</sup> Id. at 184.

<sup>21</sup> Id. at 185.

<sup>22</sup> Records, p. 254.

<sup>23</sup> G.R. No. 164195, December 19, 2007, 541 SCRA 117.

computation pursuant to Section 17<sup>24</sup> of Republic Act (R.A.) No. 6657. The CA found that the SAC actually took into consideration factors enumerated in said Section 17 in the valuation of the subject property, and said that the valuation was supported by evidence on record. On the matter of the imposed commissioners' fees, the CA decreed that LBP, being the defeated party, must bear the same. However, the CA opined that the SAC failed to substantiate and justify the award of attorney's fees. Thus, the CA deleted the same. The *fallo* of the said CA Decision reads:

**WHEREFORE**, the petition for review is **PARTLY GRANTED**. The Decision dated 3 February 2005 of the Regional Trial Court, Branch 5 of Butuan City sitting as a Special Agrarian Court in Civil Case No. 4797 for Just Compensation is hereby **AFFIRMED** with **MODIFICATION** that the award of attorney's fees is **DELETED**.

**SO ORDERED.**<sup>25</sup>

LBP filed a motion for reconsideration, but the CA denied the same in its Resolution<sup>26</sup> dated December 12, 2008.

Hence this petition, raising the following questions:

- 1) CAN THE COURT OF APPEALS DISREGARD THE VALUATION FACTORS UNDER SECTION 17 OF R.A. 6657 AS TRANSLATED INTO A BASIC FORMULA IN DAR ADMINISTRATIVE ORDER NO. 05, SERIES OF 1998, AS AMENDED, IN FIXING THE JUST COMPENSATION OF THE SUBJECT PROPERTY OF THE RESPONDENT?
- 2) IS PETITIONER LBP LIABLE FOR COMMISSIONERS' FEE CONSIDERING THAT IT IS PERFORMING A GOVERNMENTAL FUNCTION? IF SO, HOW MUCH?<sup>27</sup>

LBP avers that the compensation fixed by the SAC in the amount of ₱143,904.25 per hectare violated Section 17 of R.A. No. 6657 as translated into a basic formula in DAR A.O. No. 5, series of 1998; that the SAC's valuation as affirmed by the CA and the LBP's valuation differ as to the proper Average Gross Production (AGP) because the LBP used an AGP of 1,125 kilograms of copra per hectare while the SAC used an exorbitant AGP of 3,375 kilograms of copra per hectare, or three (3) times the figure of LBP's determined AGP which was based on the Field Investigation Report; that the SAC failed to explain how it arrived at a high AGP of 3,375 kilograms of

---

<sup>24</sup> Section 17 of R.A. No. 6657 states:

SEC. 17. *Determination of Just Compensation.* — In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the nonpayment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

<sup>25</sup> Supra note 2, at 83.

<sup>26</sup> Id. at 87-91.

<sup>27</sup> Supra note 1, at 43-44.

copra per hectare; and that the AGP which LBP used can be easily deduced from the Field Investigation Report, duly signed by the representatives of the DAR, the LBP and the BARC. The LBP submits that the SAC overstated the value of the subject property by three times since the SAC merely multiplied the AGP per hectare as jointly determined by the LBP, the DAR and the BARC by 3 hectares. The LBP explains that the AGP of 3,375 kilograms of copra per hectare used by the SAC is highly improbable since per ocular inspection, only 100 trees per hectare were found, and the number of nuts per kilogram was reported to be 4. The LBP further explains that per Philippine Coconut Authority (PCA) Data mentioned in the Field Investigation Report, the number of nuts per tree per year is 45. Thus, considering that the average production per crop cycle per hectare would result only in 281.25 kilograms, for one year, the average gross production per hectare would only be 1,125 kilograms, *i.e.*, 281.25 kilograms multiplied by 4 production periods. The LBP claims that subscribing to respondent's position of 3,375 kilograms of copra per hectare would mean that there are 300 trees per hectare which is not anymore realistic. Hence, the LBP posits that the compensation fixed by the SAC and affirmed by the CA was not computed in accordance with DAR A.O. No. 5, series of 1998. Moreover, LBP opines that it cannot be held liable for commissioners' fees and costs of the suit. Relying on our ruling in *Republic v. Garcia*,<sup>28</sup> the LBP claims that there is no law which requires the Government to pay costs in eminent domain proceedings. Since the commissioners' fees in expropriation cases are taxed as part of the costs and the government is not liable for costs, the LBP, serving as the financial intermediary of the government in the implementation of the CARP is not liable for costs.<sup>29</sup>

On the other hand, respondent contends that the SAC and the CA even erred in computing the just compensation because, as established by the evidence on record, the tenants produced a total of 18,603 kilograms of coconut per year; that said total production should be used as the AGP in this case, and thus, the correct valuation of the subject property should be in the amount of ₱591,559.50; that with respect to the determination of just compensation, courts are not bound by the findings of administrative agencies such as the LBP because the courts are the final authority in this matter; and that, while the valuation made by the courts in the amount of ₱143,904.25 per hectare is below his asking price of ₱250,000.00 per hectare, said amount may be considered as reasonable under the circumstances. Respondent insists that his proposed valuation is supported by actual data as compared to the PCA's data which is based merely on a national average. Respondent likewise submits that the law did not intend to impoverish the landowners. Moreover, respondent claims that 12% interest and attorney's fees may be imposed in this case due to the long delay of payment incurred by LBP. Finally, respondent argues that LBP should

---

<sup>28</sup> No. L-24441, March 10, 1977, 76 SCRA 47, 49.

<sup>29</sup> *Rollo*, pp. 424-450.

shoulder the costs of the suit since it was exercising proprietary and not governmental functions in making the valuation over the subject property.<sup>30</sup>

### ***Our Ruling***

The petition is impressed with merit.

Without doubt, Section 17 of R.A. No. 6657 is the principal basis of the computation for just compensation in this case. The factors enumerated in Section 17 have been translated into a basic formula outlined in DAR A.O. No. 5, series of 1998,<sup>31</sup> Item II of which pertinently provides:

II. The following rules and regulations are hereby promulgated to govern the valuation of lands subject of acquisition whether under voluntary offer to sell (VOS) or compulsory acquisition (CA).

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where:           LV     = Land Value  
                       CNI    = Capitalized Net Income  
                       CS     = Comparable Sales  
                       MV     = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant, and applicable.

A.1    **When the CS factor is not present and CNI and MV are applicable, the formula shall be:**

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

x x x x

A.7    In all of the above, the computed value using the applicable formula shall in no case exceed the LO's offer in case of VOS.

The LO's offer shall be grossed up from the date of the offer up to the date of receipt of CF [Claim Folder] by LBP from DAR for processing.

A.8    For purposes of this Administrative Order, the date of receipt of CF by LBP from DAR shall mean the date when the CF is determined by the LBP-LVLCO to be complete with all the required documents and valuation inputs duly verified and validated, and ready for final computation/processing.

x x x x

<sup>30</sup> Id. at 464-471.

<sup>31</sup> *Land Bank of the Philippines v. Barrido*, G.R. No. 183688, August 18, 2010, 628 SCRA 454, 458.

- B. Capitalized Net Income (CNI) — This shall refer to the difference between the gross sales (AGP x SP) and total cost of operations (CO) capitalized at 12%.

Expressed in equation form:

$$\text{CNI} = \frac{(\text{AGP} \times \text{SP}) - \text{CO}}{0.12}$$

Where: CNI = Capitalized Net Income

**AGP = Annual Gross Production corresponding to the latest available 12-months' gross production immediately preceding the date of [Field Investigation (FI)].**

SP = The average of the latest available 12-months' selling prices prior to the date of receipt of the CF by LBP for processing, such prices to be secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. If possible, SP data shall be gathered for the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

CO = Cost of Operations

Whenever the cost of operations could not be obtained or verified, an assumed net income rate (NIR) of 20% shall be used. **Landholdings planted to coconut which are productive at the time of the FI shall continue to use the assumed NIR of 70%.** DAR and LBP shall continue to conduct joint industry studies to establish the applicable NIR for each crop covered under CARP.

0.12 = Capitalization Rate

- B.1 **Industry data on production, cost of operations and selling price shall be obtained from government/private entities.** Such entities shall include, **but not be limited to,** the **Department of Agriculture (DA),** the Sugar Regulatory Authority (SRA), **the Philippine Coconut Authority (PCA) and other private persons/entities knowledgeable in the concerned industry.**
- B.2 The landowner shall submit a statement of net income derived from the land subject of acquisition. This shall include, among others, total production and cost of operations on a per crop basis, selling price/s (farm gate) and such other data as may be required. **These data shall be validated/verified by the Department of Agrarian Reform and Land Bank of the Philippines field personnel. The actual tenants/farmworkers of the**

**subject property will be the primary source of information for purposes of verification or, if not available, the tenants/farmworkers of adjoining property.**

In case of failure by the landowner to submit the statement within fifteen (15) days from the date of receipt of letter-request as certified by the Municipal Agrarian Reform Office (MARO) or the data stated therein cannot be verified/validated, DAR and LBP may adopt any applicable industry data or, in the absence ther[e]of, conduct an industry study on the specific crop which will be used in determining the production, cost and net income of the subject landholding.

x x x x

- D. In the Computation of Market Value per Tax Declaration (MV), the most recent Tax Declaration (TD) and Schedule of Unit Market Value (SUMV) issued prior to receipt of CF by LBP shall be considered. The Unit Market Value (UMV) shall be grossed up from the date of its effectivity up to the date of receipt of CF by LBP from DAR for processing, in accordance with Item II.A.9.

x x x x (Emphasis supplied.)

While the determination of just compensation is essentially a judicial function vested in the RTC acting as a SAC, the judge cannot abuse his discretion by not taking into full consideration the factors specifically identified by law and implementing rules. SACs are not at liberty to disregard the formula laid down in DAR A.O. No. 5, series of 1998, because unless an administrative order is declared invalid, courts have no option but to apply it. Simply put, courts cannot ignore, without violating the agrarian reform law, the formula provided by the DAR for the determination of just compensation.<sup>32</sup>

There being no available information on Comparable Sales (CS), the applicable formula is  $LV = (CNI \times 0.90) + (MV \times 0.10)$ . To determine the CNI in this case, the LBP gathered the necessary data on annual gross production (AGP), selling price (SP) of copra and net income rate (NIR).

The SAC in this case actually used the formula as provided under DAR A.O. No. 5, series of 1998. However, as propounded by the LBP and as observed by this Court, the main difference lies with the AGP used in the valuation. Save for the AGP and the Market Value (MV) per Tax Declaration, the LBP and SAC's respective data coincide with one another. Thus, we take note of the comparative valuations as outlined by LBP and as found on record, to wit:

---

<sup>32</sup> *Allied Banking Corporation v. Land Bank of the Philippines*, G.R. No. 175422, March 13, 2009, 581 SCRA 301, 311 & 313-314, citing *Land Bank of the Philippines v. Celada*, G.R. No. 164876, January 23, 2006, 479 SCRA 495, 506-507.

LBP	SAC
$\text{CNI} = \frac{(1,125 \times 7.96) 70\%}{.12}$ $= \frac{(8,955) 70\%}{.12}$ $= 52,237.50$	$\text{CNI} = \frac{(3,375 \times 7.96) 70\%}{.12}$ $= \frac{(26[,]865) 70\%}{.12}$ $= 156,712.50$
$\text{LV} = (52,237.50 \times 0.9) + (32,514.15 \times 0.1)$ $= 47,013.75 + 3,251.42$ $= 50,265.17$ $= \text{P}150,795.51$	$\text{LV} = (156,712.50 \times 0.9) + (28[,]630 \times 0.1)$ $= 141[,]041.25 + 2[,]863$ $= 143,904.25 [(x3)]$ $= \text{P}431,712.75^{33}$ <p>(Emphasis supplied.)</p>

DAR A.O. No. 5, series of 1998 clearly provides that the AGP for purposes of computing the CNI, is the annual gross production corresponding to the latest available 12-months' gross production immediately preceding the date of Field Investigation (FI). While the LBP relied on the Field Investigation Report for the 1,125 AGP, the SAC, on the other hand, failed to substantiate where the 3,375 AGP was based. Other than its bare statement regarding the devaluation of the Philippine Peso, the SAC failed to fully expound on how it determined the AGP.

When the Field Investigation was conducted by the DAR, the LBP and the BARC, DAR A.O. No. 6, series of 1992, as amended by DAR A.O. No. 11, series of 1994 was in full force and effect. Item II, particularly B.1 and B. 2 of said DAR A.O.s can be essentially found in DAR A.O. No. 5, series of 1998. Thus:

- B.1 **Industry data on production, cost of operations and selling price shall be obtained from government/private entities.** Such entities shall include, **but not be limited to**, the **Department of Agriculture (DA)**, the Sugar Regulatory Authority (SRA), **the Philippine Coconut Authority (PCA)** and other private persons/entities knowledgeable in the concerned industry.
- B.2 The landowner shall submit a statement of net income derived from the land subject of acquisition. This shall include, among others, total production and cost of operations on a per crop basis, selling price/s (farm gate) and such other data as may be required. **These data shall be validated/verified by the Department of Agrarian Reform and Land Bank of the Philippines field personnel.** The **actual tenants/farmworkers** of the subject property will be the **primary source of information** for purposes of verification or, if not available, the tenants/farmworkers of adjoining property.

In case of failure by the landowner to submit the statement within fifteen (15) days from the date of receipt of letter-request as certified by the Municipal Agrarian Reform Office (MARO) **or**

<sup>33</sup> *Rollo*, p. 430. LBP came up with an AGP of 1,125 while the SAC came up with an AGP of 3,375. Moreover, LBP accorded the subject property a higher Market Value per Tax Declaration in the amount of P32,514.15 as compared to that of the SAC in the amount of P28,630.00.

**the data stated therein cannot be verified/validated, DAR and LBP may adopt any applicable industry data or, in the absence thereof, conduct an industry study on the specific crop which will be used in determining the production, cost and net income of the subject landholding.**

x x x x (Emphasis supplied.)

In this case, respondent's February 5, 1997 letter to the MARO stated:

The average coco production from 1994 to 1996 is 75,000 kilos with a price average of P2.00. Our average annual net income is P100,000.<sup>34</sup>

As mentioned, other than the above statement, no other data or supporting document was submitted by respondent to the MARO. During trial before the SAC, respondent presented as witnesses his tenants who identified some photographs taken of the coconut trees planted on the landholding, as well as photocopies of certain handwritten lists signed only by them but which are supposedly the "delivery receipts" to the coco buyer, J.R. Marketing. These were offered to prove the tenants' receipt of share in the harvest and to further show "that the subject land is productive and planted to high yielding coco trees which are in their most productive age."<sup>35</sup> While he was testifying in court, respondent was asked why is he asking for P250,000.00 when his yearly production is only 2,000 kilos. He replied that such price is what he thought to be a fair return considering the mode of payment by the government. He also explained that he was unable to provide the required data for the field investigation and instead submitted receipts or "pesadas" signed by his tenants, which were prepared/reconstructed by his secretary shortly after the case was filed in court.<sup>36</sup>

Failing to secure such record of net income and actual production of the subject landholding from the landowner and tenants, the MARO team proceeded with the field investigation conducted jointly by DAR, petitioner LBP and BARC. The Field Investigation Report readily discloses that only 300 coconut trees were found in the subject property. Pertinent data were anchored from the PCA data, particularly data for the Municipality of Buenavista, Agusan del Norte where the subject property is located,<sup>37</sup> and from the data provided by the Bureau of Agricultural Statistics of the Department of Agriculture, specifically for the Province of Agusan del Norte.<sup>38</sup> According to the PCA, the number of nuts per tree per year in the locality is 45. This PCA data finds support in the Tax Declaration<sup>39</sup> on record which classified the subject property as a third class coconut land. As

---

<sup>34</sup> Supra note 8.

<sup>35</sup> Id. at 63.

<sup>36</sup> TSN, December 22, 1999, pp. 13, 18-19.

<sup>37</sup> Records, p. 186.

<sup>38</sup> Id. at 188-195.

<sup>39</sup> Id. at 196.

such, the same produces less than 33 nuts annually per tree according to the Provincial Assessor of Agusan del Norte.<sup>40</sup>

In the light of the foregoing, we sustain LBP's position that, considering the number of months per crop cycle of three, which is equivalent to four production periods per year, the average production per crop cycle per hectare would result only in 281.25 kilograms of copra. Thus, for one year, the AGP per hectare would only be 1,125 kilograms, or 281.25 kilograms multiplied by four production periods. Thus, we find the valuation of LBP of the subject property at ₱150,795.51 or at ₱50,265.17 per hectare just and proper under the circumstances. Clearly, the valuation of the subject property was based on reliable data gathered by the DAR and the LBP pursuant to the provisions of DAR A.O. No. 5, series of 1998, and contained in the Field Investigation Report.<sup>41</sup>

We emphasize anew that while the SAC actually used the formula provided in DAR AO No. 5, series of 1998, no reliable and verified production data was cited as basis of AGP. Instead, the SAC simply declared that it "took judicial notice of the fact that the value of the Philippine peso had nose dived ever since - from a low of P2.00 to a dollar to P55 to a dollar today." However, the devaluation of the Philippine currency is not among those factors enumerated in Section 17 of R.A. No. 6657, which the trial court is required to consider in determining the amount of just compensation.

- (1) the acquisition cost of the land;
- (2) the current value of the properties;
- (3) its nature, actual use, and income;
- (4) the sworn valuation by the owner;
- (5) the tax declarations;
- (6) the assessment made by government assessors;
- (7) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property; and
- (8) the non-payment of taxes or loans secured from any government financing institution on the said land, if any.

In sum, we find LBP's valuation sufficiently substantiated and in accordance with Section 17 of R.A. No. 6657 and DAR A.O. No. 5, series of 1998.<sup>42</sup>

We also cannot subscribe to respondent's postulation that interest should be imposed in this case.

It is established that in expropriation cases, interest is due the landowner if there was delay in payment. The imposition of interest is in the

---

<sup>40</sup> Id. at 197.

<sup>41</sup> See *Land Bank of the Philippines v. Colarina*, G.R. No. 176410, September 1, 2010, 629 SCRA 614, 640.

<sup>42</sup> *Land Bank of the Philippines v. Department of Agrarian Reform*, G.R. No. 171840, April 4, 2011, 647 SCRA 152, 169.

nature of damages for the delay in payment, which in effect makes the obligation on the part of the government one of forbearance. It follows that the interest in the form of damages cannot be applied where there was prompt and valid payment of just compensation.<sup>43</sup> Records show that LBP fully paid respondent in the amount of ₱150,795.51 with dispatch, and he himself acknowledged the receipt thereof. Moreover, in *Land Bank of the Philippines v. Kumassie Plantation Company, Incorporated*,<sup>44</sup> we held that the mere fact that LBP appealed the decisions of the SAC and the CA does not mean that LBP deliberately delayed the payment of just compensation to the landowner. Having only exercised its right to appeal, LBP cannot be penalized by making it pay for interest.

While we affirm the CA in deleting the award of attorney's fees, we find that the CA committed a reversible error in not likewise deleting the imposition of costs of the suit against LBP. We hereby remind the SAC and the CA of our ruling in *Land Bank of the Philippines v. Rivera*,<sup>45</sup> where we clearly held:

x x x the role of LBP in the CARP is more than just the ministerial duty of keeping and disbursing the Agrarian Reform Funds. As the Court had previously declared, the LBP is primarily responsible for the valuation and determination of compensation for all private lands. It has the discretion to approve or reject the land valuation and just compensation for a private agricultural land placed under the CARP. In case the LBP disagrees with the valuation of land and determination of just compensation by a party, the DAR, or even the courts, the LBP not only has the right, but the duty, to challenge the same, by appeal to the Court of Appeals or to this Court, if appropriate.

It is clear from the above discussions that **since LBP is performing a governmental function in agrarian reform proceeding, it is exempt from the payment of costs of suit** as provided under Rule 142, Section 1 of the Rules of Court.<sup>46</sup> (Emphasis supplied.)

Finally, on the issue on commissioners' fees. We held in *Lee v. Land Bank of the Philippines*<sup>47</sup> that while the provisions of the Rules of Court apply to SAC proceedings, it is clear that, unlike in expropriation proceedings under the Rules of Court, the appointment of a commissioner or commissioners is discretionary on the part of the court or upon the instance of one of the parties. Section 58 of R.A. No. 6657 provides:

SEC. 58. *Appointment of Commissioners.* — The Special Agrarian Courts, upon their own initiative or at the instance of any of the parties, may appoint one or more commissioners to examine, investigate and

---

<sup>43</sup> *Land Bank of the Philippines v. Wycoco*, 464 Phil. 83, 100 (2004), citing *Reyes v. National Housing Authority*, 443 Phil. 603, 616 (2003) and *Republic v. Court of Appeals*, G.R. No. 146587, July 2, 2002, 383 SCRA 611, 623. Please also see *Land Bank of the Philippines v. Escandor*, G.R. No. 171685, October 11, 2010, 632 SCRA 504, 516.

<sup>44</sup> G.R. Nos. 177404 and 178097, June 25, 2009, 591 SCRA 1, 23.

<sup>45</sup> G.R. No. 182431, November 17, 2010, 635 SCRA 285.

<sup>46</sup> *Id.* at 299.

<sup>47</sup> G.R. No. 170422, March 7, 2008, 548 SCRA 52, 62-63.

ascertain facts relevant to the dispute, including the valuation of properties, and to file a written report thereof with the court.

Here, both parties did not object to the appointment of commissioners. Our ruling in *Apo Fruits*<sup>48</sup> is instructive:

The relevant law is found in Rule 67, Section 12 of the Rules of Court:

“SEC. 12. *Costs, by whom paid.* — The fees of the commissioners shall be taxed as a part of the costs of the proceedings. All costs, except those of rival claimants litigating their claims, shall be paid by the plaintiff, unless an appeal is taken by the owner of the property and the judgment is affirmed, in which event the costs of the appeal shall be paid by the owner.”

Rule 141, Section 16 of the Rules of Court, provides that:

“SEC. 16. *Fees of commissioners in eminent domain proceedings.* — The commissioners appointed to appraise land sought to be condemned for public uses in accordance with these rules shall each receive a compensation to be fixed by the court of NOT LESS THAN THREE HUNDRED (₱300.00) PESOS per day for the time actually and necessarily employed in the performance of their duties and in making their report to the court, which fees shall be taxed as a part of the costs of the proceedings.”

From the afore-quoted provision, the award made by the RTC is way beyond that allowed under Rule 141, Section 16; thus, the award is excessive and without justification. Records show that the commissioners were constituted on 26 May 2000 and they submitted their appraisal report on 21 May 2001, when the old schedule of legal fees was in effect. The amendment in Rule 141 introduced by A.M. No. 04-2-04-SC, which took effect on 16 August 2004, increased the commissioner’s fees from ₱100.00 to ₱300.00 per day. Assuming they devoted all the 360 days from the time they were constituted until the time they submitted the appraisal report in the performance of their duties, and applying the old rate for commissioner’s fees, they would only receive ₱38,000.00. Moreover, even if the new rate is applied, each commissioner would receive only ₱108,000.00. The rule above-quoted is very clear on the amount of commissioner’s fees. The award made by the RTC in the amount of 2½% of the total amount of just compensation, *i.e.*, 2½% of ₱1,383,179,000.00, which translates to ₱34,579,475.00, is certainly unjustified and excessive. x x x<sup>49</sup>

Accordingly, remand of the case for the determination of the proper amount of commissioners’ fees is in order, pursuant to the aforecited provision of the Rules of Court and jurisprudence. The SAC shall particularly determine the number of days which the Board actually devoted to the performance of its duties. Since the Board in this case was constituted

---

<sup>48</sup> Supra note 23.

<sup>49</sup> Id. at 143-144.

on March 3, 2000, and it rendered its Report on July 28, 2000, or prior to the increase in the rate of commissioner's fees, the old rate of ₱100.00 per day shall be applied.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated July 30, 2008 and Resolution dated December 12, 2008 of the Court of Appeals in CA-G.R. SP No. 00502-MIN are hereby **REVERSED** and **SET ASIDE**. The Court **DECLARES** the valuation made by Land Bank of the Philippines in the total amount of ₱150,795.51 as just compensation for the properties of respondent Atty. Ricardo D. Gonzalez covered by Transfer Certificates of Title Nos. T-3927 and T-3928.

The Regional Trial Court of Butuan City, Branch 5, is hereby **DIRECTED** to determine the commissioners' fee in Civil Case No. 4797 strictly in accordance with Section 12, Rule 67 and Section 16, Rule 141 of the Rules of Court.

No pronouncement as to costs.

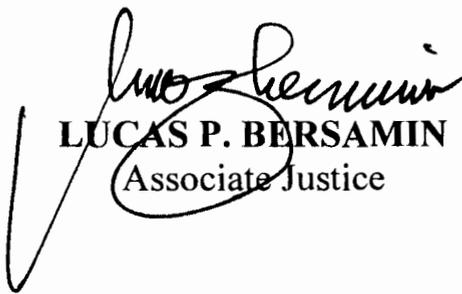
**SO ORDERED.**

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**

Chief Justice