Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BASES CONVERSION DEVELOPMENT AUTHORITY, Petitioner,	**G.R. No. 194247**
	Present:
	CARPIO, *J.*, Chairperson,
	BRION,
	DEL CASTILLO,
- versus -	PEREZ, and
	PERLAS-BERNABE, *JJ.*
ROSA REYES, CENANDO, REYES and CARLOS REYES, Respondents.	Promulgated:
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D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the May 7, 2010[2] and October 15, 2010[3] Resolutions of the Court of Appeals (CA) in CA-G.R. CV No. 92181, dismissing petitioner Bases Conversion Development Authority's appeal from the November 27, 2007 Order[4] issued by the Regional Trial Court of Dinalupihan, Bataan, Branch 5 (RTC) in Civil Case Nos. DH-1136-07, DH-1137-07 and DH-1138-07 for lack of jurisdiction, as only questions of law were raised on the aforesaid appeal.

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1 *Rollo*, pp. 22-61.
2 Id. at 10-13. Penned by Associate Justice Noel G. Tijam, with Associate Justices Mariflor P. Punzalan-Castillo and Danton Q. Bueser, concurring.
3 Id. at 15-16.
4 Id. at 162-170. Penned by Executive Judge Jose Ener S. Fernando.

The Facts

On February 13, 2007, petitioner filed a complaint[5] before the RTC, docketed as Civil Case No. DH-1136-07, seeking to expropriate 308 square meters of a parcel of land located in Barangay San Ramon, Dinalupihan, Bataan, registered in the name of respondent Rosa Reyes (Rosa) under Transfer Certificate of Title (TCT) No. CLOA-10265, in view of the construction of the Subic-Clark-Tarlac Expressway (SCTEx). It claimed that the said property is an irrigated riceland with a zonal value of ₱20.00 per square meter, based on the relevant zonal valuation of the Bureau of Internal Revenue (BIR). Consequently, pursuant to Section 4(a)[6] of Republic Act No. 8974[7] (RA 8974), petitioner deposited the amount of ₱6,120.00,[8] representing 100% of the zonal value of the same.

Similar complaints for expropriation, docketed as Civil Case Nos. DH-1137-07 and DH-1138-07, were also filed over the 156 and 384 square meter portions of certain parcels of land owned by respondents Cenando Reyes[9] (Cenando) and Carlos Reyes[10] (Carlos), respectively, for which petitioner deposited the sums of ₱3,120.00[11] and ₱7,680.00[12] also in accordance with Section 4(a) of RA 8974.

In their separate Answers,[13] respondents uniformly alleged that while they had no objection to petitioner's right to expropriate, they claimed that the amount of just compensation which petitioner offered was ridiculously low considering that the subject properties were already re-classified into residential lots as early as October 6, 2003 and as such, their zonal value ranged from ₱3,000.00 to ₱6,000.00 per square meter, as determined by the BIR. Nevertheless, to expedite the proceedings, respondents expressed that they were amenable to be paid the rate of ₱3,000.00 per square meter, at the lowest, translating to ₱924,000.00 for Rosa,[14] ₱468,000.00 for Cenando[15] and ₱1,152,000.00 for Carlos.[16]

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5 Id. at 70-77.

6 SEC. 4. *Guidelines for Expropriation Proceedings.* - Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof; x x x x

7 "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES."

8 *Rollo*, p. 81.

9 Id. at 91-97.

10 Id. at 113-119.

11 Id. at 101.

12 Id. at 118.

13 Id. at 82-84; 102-104; and 121-124.

14 Id. at 84.

15 Id. at 103.

16 Id. at 124.

The three (3) cases were subsequently consolidated as per the RTC's Order dated May 23, 2007[17] and a writ of possession was granted in petitioner's favor on December 12, 2007.[18]

Meanwhile, on April 27, 2007, respondents filed a Motion for Summary Judgment[19] (motion for summary judgment), contending that there were no genuine issues left for resolution, except for the amount of damages to be paid as just compensation.

In opposition,[20] petitioner argued that Rule 35 of the Rules of Court on summary judgment applies only to ordinary civil actions for recovery of money claims and not to expropriation cases. Moreover, it claimed that the mandatory constitution of a panel of commissioners for the purpose of ascertaining the amount of just compensation due under Section 5, Rule 67 of the Rules of Court precludes a summary judgment.

In turn, respondents filed a Reply,[21] asserting that Rule 35 of the Rules of Court applies to both ordinary and special civil actions.

The RTC Ruling

On November 27, 2007, the RTC issued an Order,[22] granting the motion for summary judgment and thereby ordered petitioner to pay respondents just compensation at the rate of ₱3,000.00 per square meter, for a total of ₱924,000.00 for Rosa, ₱1,152,000.00 for Carlos and ₱468,000.00 for Cenando.

In ruling for respondents, the RTC observed that the subject properties were already re-classified from agricultural to residential in 2004, or long before the corresponding expropriation complaints were filed in February 2007. In this regard, it held that the amount of just compensation should be pegged anywhere between the range of ₱3,000.00 to ₱6,000.00 per square meter, pursuant to the relevant zonal valuation of the BIR as published in the December 9, 2002 issue of the Official Gazette.[23] Thus, considering that respondents had already signified their willingness to accept the rate of ₱3,000.00 per square meter as just compensation, it ruled that there was nothing left for it to do but to terminate the proceedings through summary judgment. In view of the foregoing, the RTC brushed aside petitioner's insistence for the constitution of a panel of commissioners under Section 5,

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17 Id. at 133.
18 Id. at 171-172.
19 Id. at 141-150.
20 Id. at 153-155.
21 Id. at 158-161.
22 Id. at 162-170.
23 Id. at 553. See Official Gazette, Volume 98, No. 49, page 1220 (December 9, 2002).

Rule 67 of the Rules of Court, dismissing the same as a futile exercise which would only delay the proceedings.[24]

Dissatisfied, petitioner filed a motion for reconsideration[25] based on the following grounds: (*a*) respondents failed to prove that the properties sought to be expropriated were properly re-classified; (*b*) the RTC erred in fixing the value thereof at the rate of ₱3,000.00 per square meter given that they are not located along a national highway or road but are inner lots which should be classified as "all other streets" and hence, accorded a lower zonal valuation; (*c*) the non-appointment of the panel of commissioners was fatal; and (*d*) the issues surrounding the overlap of Rosa's and Cenando's properties with that of the Philippine National Bank[26] must first be resolved so as not to prejudice the rights of the parties. In line with these factual issues, petitioner maintained that a full-blown trial should have been conducted by the RTC.

Petitioner's motion for reconsideration was, however, denied in an Order[27] dated May 12, 2008, prompting it to file a notice of appeal.[28]

For their part, respondents filed a Motion to Dismiss Appeal,[29] averring that an appeal from a summary judgment raises only questions of law; hence, the proper recourse to assail its propriety should be a petition for review on *certiorari* under Rule 45 of the Rules of Court and not an ordinary appeal under Rule 41 as adopted by petitioner.

In response, petitioner filed a Comment,[30] asserting that its appeal raised both questions of fact and law and thus, was properly lodged before the CA.

The CA Ruling

On May 7, 2010, the CA rendered a Resolution,[31] dismissing petitioner's appeal for being the wrong mode to assail the RTC's summary judgment.

It found that the errors raised in petitioner's appeal essentially pertained to the propriety of the RTC's grant of respondents' motion for

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24 Id. at 168-169.
25 Id. at 173-179.
26 Id. at 180.
27 Id. at 218.
28 Id. at 219-220.
29 Id. at 409-412.
30 Id. at 474-484.
31 Id. at 10-13.

summary judgment and thus, involved only questions of law of which the CA had no jurisdiction. Hence, considering its dismissal of petitioner's appeal, it held that the assailed RTC Orders fixing the amount of just compensation had already become final and executory.

Petitioner moved for reconsideration which was, however, denied in a Resolution dated October 15, 2010,[32] prompting it to file the instant petition.

Issue Before The Court

The sole issue in this case is whether or not the CA erred in dismissing petitioner's appeal.

The Court's Ruling

The petition is meritorious.

A. Propriety of the CA's dismissal of petitioner's appeal.

Under Section 2, Rule 41[33] of the Rules of Court, there are two (2) modes of appealing a judgment or final order of the RTC in the exercise of its original jurisdiction:

> (*a*) If the issues raised involve questions of fact or mixed questions of fact and law, the proper recourse is an ordinary appeal to the CA in accordance with Rule 41 in relation to Rule 44 of the Rules of Court; and
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> (*b*) If the issues raised involve only questions of law, the appeal shall be to the Court by petition for review on *certiorari* in accordance with Rule 45 of the Rules of Court.

Corollary thereto, should a party raise only questions of law through an ordinary appeal taken under Rule 41, Section 2, Rule 50 of the Rules of

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[32] Id. at 15-16.

[33] SEC. 2. *Modes of appeal*. –
(a) *Ordinary appeal*. – The **appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal** with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. x x x x
(c) *Appeal by certiorari*. – In all cases where **only questions of law are raised or involved**, the **appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45**. (Emphasis supplied)

Court provides that the said appeal shall be dismissed.[34]

Jurisprudence dictates that there is a "question of law" when the doubt or difference arises as to what the law is on a certain set of facts or circumstances; on the other hand, there is a "question of fact" when the issue raised on appeal pertains to the truth or falsity of the alleged facts. The test for determining whether the supposed error was one of "law" or "fact" is not the appellation given by the parties raising the same; rather, it is whether the reviewing court can resolve the issues raised without evaluating the evidence, in which case, it is a question of law; otherwise, it is one of fact.[35] In other words, where there is no dispute as to the facts, the question of whether or not the conclusions drawn from these facts are correct is a question of law.[36] However, if the question posed requires a re-evaluation of the credibility of witnesses, or the existence or relevance of surrounding circumstances and their relationship to each other, the issue is factual.[37]

Applying these principles, the Court finds that the CA did not err in dismissing petitioner's appeal.

Records show that petitioner raised four (4) issues[38] in its appeal before the CA:

> ***First***, whether or not summary judgment was properly rendered by the RTC;
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> ***Second***, whether or not there is any evidence on record to support the conclusion that the subject lots had already been re-classified from agricultural to residential; and if in the affirmative, whether or not the same may be considered as "interior lots" which would necessarily affect its zonal valuation;
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> ***Third***, whether or not the appointment of commissioners is indispensable in an expropriation case; and
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> ***Fourth***, whether or not the properties of Cenando and Rosa Reyes overlap that of the Philippine National Bank.

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34 SEC. 2. *Dismissal of improper appeal to the Court of Appeals*. – **An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court**. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.
An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright. (Emphasis supplied)

35 *Land Bank of the Philippines v. Ramos*, G.R. No. 181664, November 14, 2012, 685 SCRA 540, 547-548.

36 *Heirs of Nicolas S. Cabigas v. Limbaco*, G.R. No. 175291, July 27, 2011, 654 SCRA 643, 655.

37 *Cucueco v. CA*, 484 Phil. 254, 264-265.

38 *Rollo*, pp. 438-439.

At the outset, it bears to note that the second and fourth issues were not raised by petitioner in its opposition to respondents' motion for summary judgment[39] but only in its motion for reconsideration from the RTC's Order dated November 27, 2007.[40] It has been consistently held that appellate courts are precluded from entertaining matters neither alleged nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal.[41] Thus, while these issues may be classified as questions of fact since their resolution would require an evaluation of the evidence on record, the CA was precluded from considering the same. Consequently, only the first and third issues were left for its determination.

Unlike the second and fourth issues, the first and third issues can be properly classified as questions of law since their resolution would not involve an examination of the evidence but only an application of the law on a particular set of facts.

To elucidate, the **first issue** regarding the **propriety of the RTC's summary judgment** involves only a question of law since one need not evaluate the evidence on record to assess if the unresolved issues in this case, *i.e.*, the classification of the properties expropriated, its location and valuation, constitute genuine issues.[42] This is in line with the rule that a summary judgment is not warranted when there are genuine issues which call for a full blown trial.[43] Similarly, the **third issue** concerning the **propriety of the appointment of a panel of commissioners** only requires an application of Section 5, Rule 67 of the Rules of Court,[44] without the need of examining the evidence on record. Thus, given that the issues to be resolved on appeal only

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39 Id. at 168-169. The RTC observed:

> Plaintiff BCDA, in their Opposition to the Motion for Summary Judgment, **limits its objection** on the grounds that summary judgment applies only to ordinary actions for the recovery of money claims, and that Section 5, Rule 67 of the Revised Rules of Court precludes summary judgment as said provision mandatorily calls for the constitution of not more than three (3) commissioners. **Unlike in Civil Cases Nos. DH-863-03, DH-874-03 AND DH-137-07, plaintiff raises no objection that the subject properties were already re-classified as residential when the complaint[s] in the above-captioned cases were filed**. (Emphasis supplied)

40 Id. at 174-177.

41 *Maxicare PCIB Cigna Healthcare (now Maxicare Healthcare Corporation) v. Contreras*, G.R. No. 194352, January 30, 2013.

42 "The term 'genuine issue' has been defined as an issue of fact which calls for the presentation of evidence as distinguished from an issue which is sham, fictitious, contrived, set up in bad faith and patently unsubstantial so as not to constitute a genuine issue for trial. The court can determine this on the basis of the pleadings, admissions, documents, affidavits and/or counter-affidavits submitted by the parties to the court. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial." [*Excelsa Industries, Inc. v. CA*, 317 Phil. 664, 671 (1995).]

43 See *Nocom v. Camerino*, G.R. No. 182984, February 10, 2009, 578 SCRA 390, 410. See also Section 3, Rule 35 of the Rules of Court.

44 SEC. 5. *Ascertainment of compensation*. - Upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify the time within which their report shall be submitted to the court.

Copies of the order shall be served on the parties. Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall be resolved within thirty (30) days after all the commissioners shall have received copies of the objections.

involve questions of law, no reversible error was committed by the CA in dismissing petitioner's appeal. The proper recourse should have been to file a petition for review on *certiorari* under Rule 45 of the Rules of Court.

B. Relaxation of procedural rules.

While the RTC's November 27, 2007 Order should – as a matter of course – already be regarded as final and executory due to petitioner's erroneous appeal, the Court, nonetheless, deems it proper to relax the rules of procedure and remand the case to the RTC in order to re-evaluate, on trial, the proper amount of just compensation. Two (2) reasons impel this course of action:

First, petitioner's appeal – at least as to the first issue – would have been granted due to its merit were it not for the foregoing procedural lapse.

As earlier discussed, genuine issues remain to be threshed out in this case which thereby negate the propriety of a summary judgment. In this respect, the RTC improperly issued the November 27, 2007 Order which granted respondents' motion for summary judgment.

Second, expropriation cases involve the expenditure of public funds and thus, are matters of public interest. In this light, trial courts are required to be more circumspect in their evaluation of the just compensation to be awarded to the owner of the expropriated property,[45] as in this case.

Records, however, show that the adjudged amount of just compensation was not arrived at judiciously since the RTC based the same solely on respondents' intimation that they were willing to settle for the rate of ₱3,000.00 per square meter.[46] It is settled that the final conclusions on the proper amount of just compensation can only be made after due ascertainment of the requirements set forth under RA 8974 and not merely based on the declarations of the parties.[47]

Further, it is observed that the RTC simply glossed over the issue regarding the proper classification of the subject properties as either residential or agricultural lands when the said matter should have been circumspectly resolved considering that land classification accounts for a significant discrepancy in the valuation of the property. Based on the evidence on record, the residential lots in Barangay San Ramon, Dinalupihan, Bataan have a zonal valuation ranging from ₱2,000.00 (for all other streets) to ₱6,000.00 per square meter (for those situated within the

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45 *Republic v. Rural Bank of Kabacan, Inc.*, G.R. No. 185124, January 25, 2012, 664 SCRA 233, 250.
46 *Rollo*, p. 347.
47 *Republic v. Gingoyon*, G.R. No. 166429, December 19, 2005, 478 SCRA 474, 528.

vicinity of the national highway and San Juan to Payumo Streets).[48] On the other hand, petitioner claims that agricultural lands command a zonal valuation of only ₱20.00.[49] Moreover, a property's zonal valuation cannot, by and of itself, be considered as the sole basis for "just compensation"; hence, the RTC was duty bound to look at other indices of fair market value.[50] Unfortunately, records show that it did not.

In fine, given the special and compelling reasons as above-discussed, the Court finds it appropriate to relax the rules of procedure in the interest of substantial justice. In *Twin Towers Condominium Corp. v. CA*,[51] the Court held that the merits of the case may be regarded as a special or compelling reason to relax procedural rules. Likewise, in *Apo Fruits Corporation v. Land Bank of the Philippines*,[52] special and compelling reasons constitute recognized exceptions to the rule on immutability of judgment, *viz*:

> As a rule, a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it. In the past, however, **we have recognized exceptions to this rule by reversing judgments and recalling their entries in the interest of substantial justice and where special and compelling reasons for such actions**. (Emphasis supplied)

Accordingly, the case is hereby remanded to the RTC for further proceedings in order to determine the proper amount of just compensation due to respondents.

WHEREFORE, the petition is **GRANTED**. The May 7, 2010 and October 15, 2010 Resolutions of the Court of Appeals in CA-G.R. CV No. 92181 and the November 27, 2007 and May 12, 2008 Orders of the Regional Trial Court of Dinalupihan, Bataan, Branch 5 are hereby **SET ASIDE**. Let the records of this case be **REMANDED** to the trial court for further proceedings to determine the proper amount of just compensation.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

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48 *Rollo*, p. 553.

49 Id. at 72.

50 *Republic v. Tan Song Bok*, G.R. No. 191448, November 16, 2011, 660 SCRA 330, 348, citing *Leca Realty Corp. v. Republic*, G.R. Nos. 155605 and 160179, September 27, 2006, 503 SCRA 563, 566 and 579.

51 G.R. No. 123552, February 27, 2003, 398 SCRA 203, 212. (Citations omitted)

52 G.R. No. 164195, October 12, 2010, 632 SCRA 727, 760, citing *Equitable Banking Corp. v. Sadac*, G.R. No. 164772, June 8, 2006, 490 SCRA 380, 416-417.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
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, Second Division

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