



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

NATIONAL POWER  
CORPORATION,

*Petitioner,*

- versus -

LUIS SAMAR and  
MAGDALENA SAMAR,

*Respondents.*

G.R. No. 197329

Present:

CARPIO, *Acting Chief Justice*,\*  
BRION,  
DEL CASTILLO,  
VILLARAMA, JR.,\*\* *and*  
LEONEN, *JJ.*

Promulgated:

SEP 08 2014

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DECISION

DEL CASTILLO, *J.*:

This Petition for Review on *Certiorari*<sup>1</sup> seeks to set aside the June 17, 2011 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 82231 which denied the herein petitioner's appeal and affirmed the February 21, 2003 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Iriga City, Fifth Judicial Region, Branch 34 in Civil Case No. IR-2678.

*Factual Antecedents*

Civil Case No. IR-2243

Sometime in 1990, petitioner National Power Corporation (NPC) filed Civil Case No. IR-2243 with the RTC, seeking to expropriate respondent spouses

\* Per Special Order No. 1770 dated August 28, 2014.

\*\* Per Special Order No. 1767 dated August 27, 2014.

<sup>1</sup> *Rollo*, pp. 7-29.

<sup>2</sup> *Id.* at 46-51; penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Rosmari D. Carandang and Ramon R. Garcia.

<sup>3</sup> *Id.* at 41-44; penned by Presiding Judge Mulry P. Mendez.

Luis and Magdalena Samar's 1,020-square meter lot – covered by Tax Declaration No. 30573 and situated in San Jose (Baras), Nabua, Camarines Sur – which NPC needed for the construction of a transmission line.

In an August 29, 1990 Order,<sup>4</sup> the RTC directed the issuance of a Writ of Condemnation in favor of NPC. Accordingly, NPC entered the subject lot and constructed its transmission line, denominated as Tower No. 83.

However, on July 12, 1994, the trial court issued another Order<sup>5</sup> dismissing Civil Case No. IR-2243 without prejudice for failure to prosecute, as follows:

In the Order dated 14 August 1991, Atty. Raymundo Nagrampa was designated as the representative of his clients in the Committee of Appraisers to appraise the reasonable value of the land together with the Court's and plaintiffs' representatives, namely, the Branch Clerk of Court and Mr. Lorenzo Orense, respectively for the purpose of fixing the amount with which the plaintiff may be compensated for the land in question.

After almost three (3) years since the said order was issued, the Committee has not met nor deliberated on said matter and the parties in this case have not exerted efforts in pursuing their claims despite so long a time.

Hence, this case is hereby dismissed without prejudice for failure to prosecute within a reasonable period of time.

SO ORDERED.<sup>6</sup>

It appears that the above July 12, 1994 Order was not assailed by appeal or otherwise; nor did NPC commence any other expropriation proceeding.

### **Civil Case No. IR-2678**

On December 5, 1994, respondents filed with the same trial court a Complaint,<sup>7</sup> docketed as Civil Case No. IR-2678, for compensation and damages against NPC relative to the subject lot which NPC took over but for which it failed to pay just compensation on account of the dismissal of Civil Case No. IR-2243. The Complaint contained the following prayer:

WHEREFORE, considering the above premises, it is most respectfully prayed for the Honorable Court to:

1. Order the defendant to compensate the plaintiff of [sic] the lot they

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<sup>4</sup> Id. at 37; penned by Presiding Judge Jose S. Peñas, Jr.

<sup>5</sup> Id. at 38.

<sup>6</sup> Id.

<sup>7</sup> Id. at 40-unnumbered.

are now occupying in accordance with the current market value existing in the place;

2. Order the defendant to pay the plaintiff moral and actual damages and unrealized profits in the amount of not less than ₱150,000.00;
3. Order the defendant to pay the exemplary damages of [sic] the amount of ₱10,000.00 and to pay the cost of suit;

Plaintiffs pray for other reliefs which are just and equitable under the premises.<sup>8</sup>

As agreed by the parties during pre-trial, a panel of commissioners – composed of one representative each from the parties, and a third from the court – was constituted for the purpose of determining the value of the subject lot.

After conducting their appraisal, the commissioners submitted their individual reports. Atty. Wenifredo Pornillos, commissioner for the respondents, recommended a valuation within the range of ₱1,000.00 to ₱1,500.00 per square meter. Lorenzo C. Orense, commissioner for NPC, did not set an amount, although he stated that the lot should be valued at the prevailing market prices of agricultural, and not residential, lands within the area. The court representative, Esteban D. Colarina, proposed a ₱1,100.00 per square meter valuation.<sup>9</sup>

### ***Ruling of the Regional Trial Court***

On February 21, 2003, the RTC rendered a Decision<sup>10</sup> pegging the value of the subject lot at ₱1,000.00 per square meter, thus:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant National Power Corporation to pay plaintiffs the total sum of ₱1,020,000.00, representing the value of plaintiffs' land expropriated by the defendant. All other claims in the complaint and in the answer with counterclaim are hereby dismissed.

SO ORDERED.<sup>11</sup>

### ***Ruling of the Court of Appeals***

NPC filed an appeal with the CA claiming that pursuant to Section 4, Rule

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<sup>8</sup> Id.

<sup>9</sup> Id. at 13-14, 48.

<sup>10</sup> Id. at 41-44.

<sup>11</sup> Id. at 44.

67 of the 1964 Rules of Court,<sup>12</sup> just compensation for the lot should have been computed based on its value at the time of the taking or the filing of the expropriation case (Civil Case No. IR-2243) in 1990, and prayed that the case be remanded to the lower court for further reception of evidence based on said Section 4, Rule 67 of the 1964 Rules of Court.

On June 17, 2011, the CA rendered the assailed Decision containing the following decretal portion:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision [dated] 21 February 2003 rendered by the Regional Trial Court of Iriga City, Fifth Judicial Region, Branch 34 in Civil Case No. IR-2678 is hereby AFFIRMED.

SO ORDERED.<sup>13</sup>

The CA held that in the resolution of Civil Case No. IR-2678, the principles and rules of procedure in eminent domain cases – under Rule 67 of the 1964 Rules of Court – cannot apply; thus, the rule that just compensation shall be computed from the time of the taking or filing of the expropriation case is inapplicable, since the case is not one for expropriation. Instead, Civil Case No. IR-2678 should be treated as a simple case for the recovery of damages. Finally, the CA held that the trial court properly exercised its judicial function of ascertaining the fair market value of the property as just compensation.

NPC thus instituted the instant Petition.

### Issues

The Petition raises the following issues:

#### I

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE COURT A *QUO*'S DECISION DATED FEBRUARY 21, 2003 IN CIVIL CASE NO. IR-2678 WHICH FIXED THE AMOUNT OF JUST COMPENSATION FOR THE EXPROPRIATED PROPERTY OF RESPONDENTS AT ₱1,000.00 PER SQUARE METER IN

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<sup>12</sup> Rule 67 of the Rules of Court (1964), on Eminent Domain.

Sec. 4. Order of condemnation.— When such a motion is overruled or when any party fails to defend as required by this rule, the court may enter an order of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint. After the entry of such an order no objection to the exercise of the right of condemnation shall be filed or heard and the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court fixes.

<sup>13</sup> *Rollo*, p. 51.

CONTRAVENTION OF SECTION 4, RULE 67 OF THE REVISED RULES OF COURT WHICH PROVIDES THAT THE JUST COMPENSATION FOR THE EXPROPRIATED PROPERTY MUST BE DETERMINED EITHER AS OF THE DATE OF THE TAKING OF THE PROPERTY OR THE FILING OF THE COMPLAINT, WHICHEVER COMES FIRST.

## II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT REMANDING THE CASE TO THE COURT A *QUO* FOR THE PURPOSE OF DETERMINING THE AMOUNT OF JUST COMPENSATION FOR THE EXPROPRIATED PROPERTY IN ACCORDANCE WITH SECTION 4, RULE 67 OF THE REVISED RULES OF COURT.<sup>14</sup>

### *Petitioner's Arguments*

In its Petition and Reply,<sup>15</sup> NPC insists that Section 4, Rule 67 of the 1964 Rules of Court should apply to Civil Case No. IR-2678; therefore, just compensation should be based not on 1995 market values, but on those prevailing on the date of taking or the filing of the expropriation case in 1990; that the dismissal without prejudice of the expropriation case did not necessarily nullify the proceedings in said case – specifically, the August 29, 1990 Order of expropriation/writ of condemnation, which became final and executory for failure of any of the parties to appeal the same – which proceedings for expropriation may continue through the present Civil Case No. IR-2678 for compensation and damages filed by respondents; and that the cited *National Power Corporation v. Court of Appeals*<sup>16</sup> case does not apply since the factual milieu is different, and it does not appear that the lot was damaged by NPC's entry therein.

NPC thus prays that the assailed CA disposition be set aside and that the case be remanded to the trial court for further proceedings to determine the proper amount of just compensation in accordance with Section 4, Rule 67 of the 1964 Rules of Court.

### *Respondents' Arguments*

Praying that the Petition be denied for lack of merit, the respondents in their Comment<sup>17</sup> plainly echo the assailed CA Decision, adding that the trial court's basis for arriving at the proper amount of just compensation was correct as the market value of adjacent properties were taken into account. Respondents add that by agreeing to have the valuation determined by a panel of commissioners, NPC is bound by whatever findings such panel makes, and it may not raise the issue that valuation should be computed from the time of taking or filing of the

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<sup>14</sup> Id. at 15-16.

<sup>15</sup> Id. at 81-88.

<sup>16</sup> 479 Phil. 850 (2004).

<sup>17</sup> *Rollo*, pp. 58-68.

expropriation case in 1990.

### **Our Ruling**

The Court grants the Petition.

NPC insists that Section 4, Rule 67 of the 1964 Rules of Court should have been observed in fixing the amount of just compensation for the subject lot; that the value of the lot at the time of NPC's taking thereof or filing of Civil Case No. IR-2243 in 1990 should have been the basis for computing just compensation and not the prevailing market value at the time of the filing or pendency of Civil Case No. IR-2678 in 1995. NPC thus prays that Civil Case No. IR-2678 be remanded to the trial court for determination of just compensation applying Section 4, Rule 67 of the 1964 Rules of Court.

We agree with NPC's contention.

In *Republic v. Court of Appeals*,<sup>18</sup> we held that:

Just compensation is based on the price or value of the property at the time it was taken from the owner and appropriated by the government. However, if the government takes possession before the institution of expropriation proceedings, the value should be fixed as of the time of the taking of said possession, not of the filing of the complaint. The value at the time of the filing of the complaint should be the basis for the determination of the value when the taking of the property involved coincides with or is subsequent to the commencement of the proceedings.

The procedure for determining just compensation is set forth in Rule 67 of the 1997 Rules of Civil Procedure. Section 5 of Rule 67 partly states that '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.' However, we held in *Republic v. Court of Appeals* that Rule 67 presupposes a prior filing of complaint for eminent domain with the appropriate court by the expropriator. If no such complaint is filed, the expropriator is considered to have violated procedural requirements, and hence, waived the usual procedure prescribed in Rule 67, including the appointment of commissioners to ascertain just compensation. In *National Power Corporation v. Court of Appeals*, we clarified that when there is no action for expropriation and the case involves only a complaint for damages or just compensation, the provisions of the Rules of Court on ascertainment of just compensation (*i.e.*, provisions of Rule 67) are no longer applicable, and a trial before commissioners is dispensable x x x.

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<sup>18</sup> 596 Phil. 57, 70-71 (2009). Citations omitted.

Records show that sometime in 1990, NPC filed an expropriation case docketed as Civil Case No. IR-2243. However, in an Order dated July 12, 1994, the expropriation case was dismissed by the RTC for failure of NPC to prosecute. Subsequently, on December 5, 1994, respondents filed Civil Case No. IR-2678 which is a complaint for compensation and recovery of damages. Considering the dismissal of the expropriation case for failure of the NPC to prosecute, it is as if no expropriation suit was filed. Hence, pursuant to the above-quoted ruling, NPC is deemed “to have violated procedural requirements, and hence, waived the usual procedure prescribed in Rule 67, including the appointment of commissioners to ascertain just compensation.” Nevertheless, just compensation for the property must be based on its value at the time of the taking of said property, not at the time of the filing of the complaint. Consequently, the RTC should have fixed the value of the property at the time NPC took possession of the same in 1990, and not at the time of the filing of the complaint for compensation and damages in 1994 or its fair market value in 1995.

In this case, the RTC formed a panel of commissioners in determining the just compensation of the property. Although this is not required considering our pronouncement in *Republic v. Court of Appeals*,<sup>19</sup> nonetheless, its constitution is not improper.<sup>20</sup> “The appointment was done mainly to aid the trial court in determining just compensation, and it was not opposed by the parties. Besides, the trial court is not bound by the commissioner’s recommended valuation of the subject property. The court has the discretion on whether to adopt the commissioners’ valuation or to substitute its own estimate of the value as gathered from the records.”<sup>21</sup>

In this case, records show that respondents’ representative recommended a valuation of ₱1,000.00 to ₱1,500.00 per square meter; while the court’s representative recommended a value of ₱1,100.00 per square meter. Notably, NPC’s representative did not give any value; he merely opined that the subject property should be classified as agricultural and not residential land and valued at the prevailing market values. Significantly, the values recommended by the commissioners were those values prevailing in 1994 and 1995, or during the time the complaint for compensation and damages was filed. Considering that these are not the relevant values at the time NPC took possession of the property in 1990, it was incumbent upon the RTC to have disregarded the same. Unfortunately, it adopted these values. On this score alone, we find a need to remand this case to the RTC for further proceedings.

Moreover, we note that the RTC simply adopted the above values without citing its basis therefor. The pertinent portions of the trial court’s Decision read:

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<sup>19</sup> Id.

<sup>20</sup> Id. at 72.

<sup>21</sup> Id.

Pursuant to the said Order of May 3, 1995, the Court formed a Commission chaired by Mr. Esteban D. Colarina, an employee in Branch 34 of this Court; Atty. Wenifredo Pornillos representing the plaintiffs; and Mr. Lorenzo C. Orense representing the defendant NAPOCOR. These gentlemen took the required oath and functioned as a committee, submitting however their respective individual Commissioner's Report. x x x

On July 11, 1995, Atty. Pornillos recommended that the land be valued at ₱1,000.00 to ₱1,500.00 per square meter (page 58). On July 13, 1995, Mr. Esteban D. Colarina submitted his report recommending ₱1,100.00 as the fair market value of the property per square meter. Attached to said report was the affidavit of Mr. Nicasio V. Diño, then the Assistant City Assessor of Iriga City pegging the value of the said land at ₱1,500.00 to ₱1,800.00 per square meter. On August 3, 1995, Mr. Lorenzo Orense of the NAPOCOR submitted his Commissioner's Report wherein he recommended that the valuation of the land be based on its agricultural value, without however naming a price.

On the basis of past proceedings, the parties were allowed to file their respective memoranda. Only the defendant NAPOCOR filed a memorandum wherein it undertook to pay plaintiffs the value of their land, although praying that the Court consider the land as agricultural. NAPOCOR admits that plaintiffs' property, per Tax Declaration No. 30573 has been classified as residential, but assails said classification with arguments which are mere speculations.

In the light of all the postures taken by both parties which, in effect, results in a failure to agree on how the land should be valued, this Court shall fall back on the Order of May 3, 1995 wherein the report of the Court's representative shall be taken as a factor in determining x x x the value of the land, including other matters germane thereto and others that may be of judicial notice.

In view of the above consideration, this Court hereby fixes the fair market value of the land in question at ₱1,000.00 per square meter.

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant National Power Corporation to pay the plaintiffs the total sum of ₱1,020,000.00, representing the value of plaintiffs' land expropriated by the defendant. All other claims in the complaint and in the answer with counterclaim are hereby dismissed.

SO ORDERED.<sup>22</sup>

Indeed, the trial court merely recited the values fixed by each commissioner. Although it stated in general terms that it considered other factors germane thereto and of judicial notice, it failed to specify what these factors were. It did not even clarify whether it considered the values recommended by the two commissioners. In *Republic v. Court of Appeals*,<sup>23</sup> we remanded the case to the trial court and directed it to reconvene the panel of commissioners after it was shown that its valuation of just compensation has no basis, viz:

<sup>22</sup> Records, pp. 136-137.

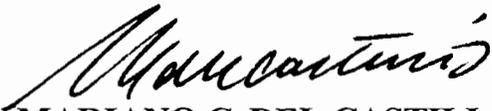
<sup>23</sup> Supra note 18.

However, we agree with the appellate court that the trial court's decision is not clear as to its basis for ascertaining just compensation. The trial court mentioned in its decision the valuations in the reports of the City Appraisal Committee and of the commissioners appointed pursuant to Rule 67. But whether the trial court considered these valuations in arriving at the just compensation, or x x x made its own independent valuation based on the records, [is] obscure in the decision. The trial court simply gave the total amount of just compensation due to the property owner without laying down its basis. Thus, there is no way to determine whether the adjudged just compensation is based on competent evidence. For this reason alone, a remand of the case to the trial court for proper determination of just compensation is in order. In *National Power Corporation v. Bongbong*, we held that although the determination of just compensation lies within the trial court's discretion, it should not be done arbitrarily or capriciously. The decision of the trial court must be based on established rules, correct legal principles, and competent evidence. The court is proscribed from basing its judgment on speculations and surmises.<sup>24</sup>

Finally, we hold that based on prevailing jurisprudence, respondents are entitled to "legal interest on the price of the land from the time of the taking up to the time of full payment"<sup>25</sup> by the NPC.

**WHEREFORE**, the Petition is **GRANTED**. The June 17, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 82231 is **REVERSED** and **SET ASIDE**. This case is **REMANDED** to the Regional Trial Court of Iriga City, Fifth Judicial Region, Branch 34 which is directed to re-convene the commissioners or appoint new commissioners to determine, in accordance with this Decision, the just compensation of the subject property.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

<sup>24</sup> Id. at 72-73. Citation omitted.

<sup>25</sup> *National Power Corporation v. Court of Appeals*, supra note 16 at 868-869.



**ARTURO D. BRION**

*Associate Justice*



**MARTIN S. VILLARAMA, JR.**

*Associate Justice*

*I concur subject to computation of interest rate as explained in my separate opinion in Lea v. LBP, GR 170 245*

**MARVIC MARIO VICTOR F. LEONEN**

*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the 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.



**ANTONIO T. CARPIO**

*Associate Justice*

*Acting Chief Justice*

