

## FIRST DIVISION

[ G.R. No. 170740, May 25, 2007 ]

**JULITA P. TAN, PETITIONER, VS. THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE PUBLIC ESTATES AUTHORITY, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is the Petition for Review on *Certiorari* assailing the Decision<sup>[1]</sup> of the Court of Appeals (Thirteenth Division, Special Division of Five) dated July 6, 2005 in CA-G.R. SP No. 84667.

The undisputed facts of the case are:

Julita P. Tan, petitioner herein, is the registered owner of a parcel of land consisting of 7,161 square meters located at the southern bank of the Zapote River in Sitio Wawa, Pulang Lupa, Las Piñas City. Her ownership is evidenced by Transfer Certificate of Title (TCT) No. 78188 of the Registry of Deeds, same city. She acquired this property from the San Antonio Development Corporation (SADC) as shown by a document denominated "Irrevocable and Exclusive Special Power of Attorney" dated April 6, 2001, whereby she assumed SADC's "obligation of paying all imposable taxes due said land." In consideration of such assumption and "for value" she "stepped into the shoes" of SADC "free to exercise such rights and prerogatives as owner of the subject property, including the right to collect and demand payment for the sale and/or use of the subject land or any portion thereof, by and from any person or entity."

The Public Estates Authority (PEA) is a government-owned and controlled corporation, organized and existing pursuant to Presidential Decree (P.D.) No. 1084 representing in this case the Republic of the Philippines, herein respondent. Among the properties PEA manages is the **Manila-Cavite Coastal Road** (Coastal Road), also known as the R-1 Expressway.

Prior to the transfer of the property to petitioner by SADC, or on March 29, 1985, PEA wrote SADC requesting permission to enter the latter's property, then covered by TCT No. 439101, for the purpose of constructing thereon the southern abutment of the Zapote Bridge at the Coastal Road. PEA also proposed to SADC to start their negotiation for its acquisition of the latter's property.

On April 11, 1985, SADC replied authorizing PEA to enter the property, subject to the condition that the latter should pay a monthly rental of P10,000.00. PEA then directed its contractor, the Philippine National Construction Corporation, to enter the property and begin the necessary engineering works on the Coastal Road.

In a letter dated May 28, 1985, PEA requested SADC either to donate or sell the property to the government.

On October 22, 1985, SADC replied by offering to sell the property to PEA. SADC's asking price was P1,288,980.00 plus P400,000.00 as compensation for the house and other improvements thereon that were destroyed during the construction of the Coastal Road.

On January 7, 1987, PEA informed SADC it has no plan to buy the whole lot, but only the 1,131 square meter portion above sea level. PEA then asked SADC to submit proofs of ownership and costs of the improvements which were demolished.

Negotiations then ensued between the parties. However, for the past twenty (20) years, they failed to reach an agreement.

On October 2, 2000, SADC asked PEA to pay compensation equivalent to the current zonal value plus interest of ten percent (10%) per annum and a monthly rental of P10,000.00, also with the same interest. These sums, according to SADC, could be considered just compensation for the government's use of the property since 1985 until September 2000 and thereafter.

The following month, PEA inquired from the Bureau of Internal Revenue (BIR) District 53, Alabang, Muntinlupa City the zonal value of the SADC property. It submitted to the BIR the appraisal reports prepared by two (2) independent licensed appraisers.

**On April 6, 2001, petitioner Julita Tan acquired the property from SADC.**

On July 12, 2001, the BIR sent a letter to PEA stating that the zonal value of the property is P2,900.00 per square meter, with the caveat that the said assessment is subject to review and approval by higher tax authorities.

On October 9, 2001, the BIR informed PEA that the **current zonal value** of the property is P20,000.00 per square meter.

In the meantime, the construction of the Coastal Road was completed. PEA entered into a Joint Venture Agreement with the Toll Regulatory Board and the UEM-MARA Philippine Corporation for the toll operation of the Coastal Road, as shown by the Certificate of the Secretary of the Toll Regulatory Board dated May 13, 2003.<sup>[2]</sup>

PEA has been collecting toll fees from the road users in the average amount of P1,039,404.85 per day, as shown by a document denominated "Traffic Count of the Year 2002."<sup>[3]</sup> Despite its collection of huge toll fees, PEA continuously refuses to pay petitioner any compensation.

On October 22, 2001, petitioner, in her desperation, wrote PEA expressing her willingness to be compensated through a land swapping arrangement. She proposed that PEA's Fisherman's Wharf be given to her in exchange for her property.

On August 6, 2002, the PEA Board approved the exchange of a portion of

petitioner's lot consisting of 4,719 square meters for PEA's Lot 12 with an area of 2,360 square meters. The parties entered into a Memorandum of Agreement wherein PEA agreed to execute a Deed of Exchange by way of compensation for petitioner's property affected by the Coastal Road.

However, on June 18, 2003, PEA withdrew from the land swapping agreement.

Instead, on September 22, 2003, it filed with the Regional Trial Court (RTC), Branch 202, Las Piñas City a complaint for expropriation, docketed as Civil Case No. 03-0220. PEA alleged therein, among others, that its liability for just compensation is based on the zonal value of the land at the time of the taking in 1985. Thus, it is liable for only P852,993.51 for the 4,719 square meter portion. In her answer, petitioner claimed that PEA should pay for the whole area consisting of 7,161 square meters at P20,000.00 per square meter, the zonal value set by the BIR pursuant to Republic Act No. 8974.<sup>[4]</sup> She then prayed that she be paid P143,200,000.00 plus interest of twelve percent (12%) per annum, aside from the P10,000.00 monthly rental with 12% interest per annum for the occupancy and use of the property since April 1985 up to the present.

On October 20, 2003, petitioner filed with the RTC a motion to order PEA to immediately pay her just compensation based on the zonal valuation of the BIR. This was opposed by PEA.

On December 16, 2003, the trial court issued the following Order<sup>[5]</sup>:

WHEREFORE, finding merit to the "Motion To Order the Plaintiff to Immediately Pay Defendant Her Expropriated Property," dated October 20, 2003, the same is hereby GRANTED. Accordingly, plaintiff, through PEA, is hereby ordered to immediately pay defendant the sum of P94,380,000.00 (ninety-four million, three hundred eighty thousand pesos) representing the just compensation for the 4,719 square meters of defendant's property covered by TCT No. 78188 of the Registry of Deeds of Las Piñas based on P20,000.00 per square meter zonal valuation of the Bureau of Internal Revenue.

SO ORDERED.

PEA timely filed a motion for reconsideration but it was denied by the trial court in its Order<sup>[6]</sup> dated April 14, 2004.

PEA then elevated the matter to the Court of Appeals by way of a petition for *certiorari*, prohibition, and mandamus.

On July 6, 2005, the Court of Appeals rendered its Decision, the dispositive portion of which reads:

WHEREFORE, the instant petition for certiorari and prohibition is hereby GRANTED while that of mandamus is hereby DENIED (*sic*). Accordingly, the assailed Orders, dated December 16, 2003 and April 14, 2004, are hereby REVERSED and SET ASIDE. Public respondent is hereby ordered to DESIST from enforcing the assailed Orders.

SO ORDERED.