

SECOND DIVISION

[G.R. No. 224936, September 04, 2019]

**PNOC ALTERNATIVE FUELS CORPORATION, PETITIONER, VS.
NATIONAL GRID CORPORATION OF THE PHILIPPINES,
RESPONDENT.**

DECISION

CAGUIOA, J:

Before the Court is an appeal *via* a Petition for *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court filed by petitioner PNOC Alternative Fuels Corporation (petitioner PAFC), assailing the Order^[2] dated February 11, 2016 (assailed Order of Expropriation) of the Regional Trial Court (RTC) of Mariveles, Bataan, Branch 4 in SCA Case No. 104-ML entitled *National Grid Corporation of the Philippines v. PNOC Alternative Fuels Corporation, et al.*

The Facts and Antecedent Proceedings

The instant case stems from a Complaint^[3] for Expropriation (Complaint) filed by respondent National Grid Corporation of the Philippines (respondent NGCP) on February 9, 2011 against petitioner PAFC, Orica Philippines, Inc. (Orica), Edgardo P. Manieda, Winy P. Manieda, Mercedes P. Manieda, Nemy Manieda Amado, Danilo P. Manieda, the Heirs of Leonardo Serios,^[4] and Cresencia Toribio Soriano, represented by Imelda S. Villareal.

In the Complaint, respondent NGCP claims that it is a private corporation engaged in the business of transmitting electric power from generating plants of power producers to distributors.^[5] Respondent NGCP was granted a "franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, system operations, and other activities that are necessary to support the safe and reliable operation of the transmission system and construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines"^[6] under Republic Act (R.A.) No. 9511.

Respondent NGCP likewise alleged that, in order for it to construct and maintain the Mariveles-Limay 230 kV Transmission Line Project, it sought to expropriate, upon payment of just compensation, a certain area of a parcel of land situated at Barangay Batangas II, Mariveles, Bataan and Barangay Lamao, Limay, Bataan, having a total area of 101,290.42 square meters, more or less (the subject property). The subject property is part of the Petrochemical Industrial Park.^[7]

The Petrochemical Industrial Park was originally part of a parcel of land of the public domain having an approximate area of 621 hectares reserved by the government for the Lamao Horticultural Experiment Station through Executive Order (E.O.) No. 48, series of 1919.^[8]

Subsequently, in 1968, Presidential Proclamation (P.P.) No. 361 was issued, withdrawing 418 out of the 621 hectares of land of the public domain from the coverage of E.O. No. 48, and declaring the same as an industrial reservation to be administered by the National Power Corporation (NPC).^[9]

In 1969, P.P. No. 630 was issued amending P.P. No. 361. P.P. No. 630 enlarged the area covered by P.P. No. 361 and reserved the same for industrial purposes, including the establishment of an industrial estate under the administration of the National Development Company (NDC) or a subsidiary thereof organized for such purposes.^[10]

In 1976, Presidential Decree (P.D.) No. 949 was issued, which transferred the administration, management, and ownership of the parcel of land of the public domain located at Lamao, Limay, Bataan covered by P.P. No. 361, as amended by P.P. No. 630, to the Philippine National Oil Company (PNOC).

According to P.D. No. 949, the PNOC shall manage, operate and develop the parcel of land as a petrochemical industrial zone and will establish, develop and operate or cause the establishment, development and operation thereof of petrochemical and related industries by itself or its subsidiaries or by any other entity or person it may deem competent alone or in joint venture.^[11]

Subsequently, in 1981, P.D. No. 1803 was issued, enlarging the area reserved for the Petrochemical Industrial Zone established under P.D. No. 949.^[12]

In 1993, petitioner PAFC, which originally had the name PNOC Petrochemicals Development Corporation (PPDC), was incorporated as a subsidiary of PNOC for the primary purpose of administering and operating the Petrochemical Industrial Zone. In 2006, the articles of incorporation of PPDC were amended, changing the name of PPDC to PNOC Alternative Fuels Corporation.^[13]

Subsequently, in 2011, respondent NGCP filed its Complaint seeking to expropriate the subject property from petitioner PAFC. According to respondent NGCP, it sought to exercise its right of eminent domain over the subject property because negotiations conducted between petitioner PAFC and respondent NGCP on the establishment of transmission lines on the subject property were unsuccessful. Respondent NGCP invoked its general authority to exercise the right of eminent domain under Section 4 of R.A. No. 9511, which reads:

Section 4. *Right of Eminent Domain.* - Subject to the limitations and procedures prescribed by law, the Grantee is authorized to exercise the right of eminent domain insofar as it may be reasonably necessary for the construction, expansion, and efficient maintenance and operation of the transmission system and grid and the efficient operation and maintenance of the subtransmission systems which have not yet been disposed by TRANSCO. The Grantee may acquire such private property as

is actually necessary for the realization of the purposes for which this franchise is granted: *Provided*, That the applicable law on eminent domain shall be observed, particularly, the prerequisites of taking of possession and the determination and payment of just compensation.

Orica filed its Answer^[14] on April 25, 2011, alleging that it is a lessee of a portion of the Petrochemical Industrial Park, where it put up a manufacturing plant that produces commercial blasting explosives and initiating systems products. In its Answer, Orica raised several special affirmative defenses to oppose respondent NGCP's Complaint. For its part, petitioner PAFC filed its Answer^[15] on May 3, 2011, alleging, in sum, that several statutes and issuances limit respondent NGCP's right to expropriate and that "the land sought to be appropriated is already devoted to a public purpose, specifically to petrochemical and petrochemical related industries which is considered as essential to the national interest"^[16] and that "[i]t is only the Congress of the Philippines which has the power to exercise the right of eminent domain over the subject property as it is already devoted for a public purpose."^[17] Respondent NGCP filed its Reply^[18] on May 12, 2011, defending its authority to exercise the right of eminent domain over the subject property.

During the pendency of the expropriation case, in 2013, R.A. No. 10516 was passed by Congress. The said law expanded the use of the Petrochemical Industrial Park to include businesses engaged in energy and energy-allied activities or energy-related infrastructure projects, or of such other business activities that will promote its best economic use.

On June 6, 2013, the Department of Energy (DOE) issued Department Circular No. DC2013-06-0011 or the Implementing Rules and Regulations (IRR) of R.A. No. 10516. The said IRR stated that the PNOC, pursuant to its duty to manage, operate and develop the subject parcel of land as an industrial zone, had organized petitioner PAFC and assigned ownership of the property to petitioner PAFC *via* Deed of Assignment dated August 11, 1994. Further, petitioner PAFC, as owner of the property, was mandated to manage, operate and develop the property in accordance with R.A. No. 10516 and its IRR.

Subsequently, the RTC issued the assailed Order of Expropriation and ruled that respondent NGCP has a lawful right to expropriate the subject property upon payment of just compensation. The dispositive portion of the assailed Order of Expropriation reads:

WHEREFORE, the affirmative defense of defendants PNOC-AFC and Orica Philippines, Inc. are hereby denied for lack of merit. Parties are hereby directed to submit the names of the three (3) Commissioners to be appointed by the Court. Set this case for the reception of evidence to establish defendants' valid claim of ownership to be entitled for the payment of just compensation.

SO ORDERED.^[19]

In issuing the assailed Order of Expropriation, the RTC held that "[n]owhere in the annals of legislation and jurisprudence is it stated that a property already devoted to public use or purpose is invulnerable to expropriation. Neither has it once been held

by the Constitution (*sic*) any law or particular jurisprudence that a property already expropriated, (*sic*) may no longer be subject to another expropriation. Justice Isagani Cruz, one of the foremost constitutionalists in the country holds that property already devoted to public use is still be (*sic*) subject to expropriation provided that it is done directly by the national legislature or under a specific grant of authority to the delegate."^[20]

In relation to the foregoing, the RTC stressed that under R. A. No. 9511, respondent NGCP "has a legislative franchise to engage in the business of conveying or transmitting electricity throughout the country. Under this law, [respondent NGCP] was given the authority to exercise the power of eminent domain. Hence, and pursuant to Sec[.] 4[,] Rule 67 of the Revised Rules of Court, the Court believes that [respondent NGCP] has a lawful right to take the property sought to be expropriated for the public use or purpose described in the complaint, upon payment of just compensation."^[21]

Petitioner PAFC filed its Motion for Reconsideration^[22] of the RTC's assailed Order of Expropriation, which was denied by the RTC in its Order^[23] dated April 18, 2016.

Hence, the instant appeal before the Court under Rule 45 of the Rules of Court. Petitioner PAFC prays that the Court set aside the RTC's Orders dated February 11, 2016 and April 18, 2016 and "hold that [respondent] NGCP's expropriation of [petitioner] PAFC's property is improper and without legal basis."^[24]

Respondent NGCP filed its Comment^[25] dated January 26, 2017, alleging, in sum, that the issues raised in the Petition are not considered legal questions because their determination requires the findings of facts, that petitioner PAFC's direct recourse before the Court is improper, and that land already devoted to public use can still be expropriated for another public purpose.

In response, petitioner PAFC filed its Reply^[26] dated July 14, 2017, reiterating its argument that R.A. No. 9511 clearly limits respondent NGCP's right of eminent domain to private property.

Issue

Stripped to its core, the instant Petition presents two main issues for the Court's disposition: (1) whether petitioner PAFC was correct in filing its Rule 45 Petition directly before the Court, and (2) whether the RTC was correct in issuing the assailed Order of Expropriation, which held that respondent NGCP is empowered to expropriate the subject property under R.A. No. 9511.

The Court's Ruling

In deciding the merits of the instant Petition, the Court resolves the aforementioned issues *ad seriatim*.

I. The Appeal Of An Order Of Expropriation

According to Section 4, Rule 67 of the Rules of Court, if the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, 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 taking of the property or the filing of the complaint, whichever came first.

In the assailed Order of Expropriation, the RTC denied the objections and defenses raised by petitioner PAFC and Orica for lack of merit. The RTC held that respondent NGCP "has a lawful right to take the property sought to be expropriated for the public use or purpose described in the complaint, upon payment of just compensation."^[27] The RTC also ordered the parties to submit the names of three Commissioners to be appointed by the RTC, and set the case for reception of evidence with respect to payment of just compensation.

Section 4 of Rule 67 further states that a final order sustaining the right to expropriate the property, such as the assailed Order of Expropriation, may be appealed by any party aggrieved thereby. Such appeal, however, shall not prevent the court from determining the just compensation to be paid. It is clear from the foregoing that the proper remedy of a defendant in an expropriation case who wishes to contest an order of expropriation is **not to file a *certiorari* petition** and allege that the RTC committed grave abuse of discretion in issuing the order of expropriation. **The remedy is to file an appeal of the order of expropriation.**

Hence, under the aforementioned provision of the Rules of Court, petitioner PAFC had the right to appeal the assailed Order of Expropriation. The Court holds that the instant appeal, although mistakenly worded by petitioner PAFC as a "Petition for *Certiorari*", is for all intents and purposes a petition for review on *certiorari* under Rule 45. It must be noted that petitioner PAFC repeatedly invoked Rule 45 in filing the instant appeal, alleging that the instant appeal is "pursuant to Rule 45 of the Rules of Court raising a pure question of law to set aside or nullify the [assailed Order of Expropriation]".^[28]

It can be surmised from the instant Petition that petitioner PAFC resorted to filing its appeal directly before the Court instead of the Court of Appeals (CA) because it believed that the instant Petition only involved pure questions of law. Under Rule 41 of the Rules of Court, in all cases where only questions of law are raised or involved, the appeal shall be filed directly before the Court, not *via* a notice of appeal or record on appeal, but through a petition for review on *certiorari* in accordance with Rule 45.

The critical question, therefore, is whether the instant Petition raises pure questions of law, which warrants the direct filing of the appeal before the Court.

Contrary to the view of respondent NGCP, the Court holds that the instant Petition may be decided by dealing purely with questions of law.

The Court has previously held that "a question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts."^[29] The Court further