

THIRD DIVISION

[G.R. No. 230144, January 22, 2018]

**THE MANILA BANKING CORPORATION, PETITIONER, V. BASES
CONVERSION AND DEVELOPMENT AUTHORITY, RESPONDENT.**

DECISION

VELASCO JR., J.:

The Case

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision^[1] dated October 26, 2016 and the Resolution^[2] dated February 22, 2017 of the Court of Appeals (CA) in CA G.R. CV No. 104234, which reversed and set aside the Order dated August 28, 2014 of Branch 60, Regional Trial Court (RTC) of Angeles City, Pampanga, in Civil Case No. 03-11226.

The Facts

Respondent Bases Conversion and Development Authority ("BCDA") was created as a government corporation on March 13, 1992 by virtue of Republic Act No. 7227 (RA 7227). It is tasked mainly to manage the Clark and Subic military reservations/camps and their extensions and to adopt and implement a comprehensive development plan for their conversion into productive uses, with a view to promoting the economic and social development of the country (Section 4, RA 7227). Among the powers expressly granted to it is the power to exercise the right of eminent domain (Section 5[k]).^[3]

On November 21, 2003, BCDA filed a complaint against herein petitioner The Manila Banking Corporation ("TMBC") and Bangko Sentral ng Pilipinas ("BSP"), seeking to expropriate a parcel of land covered by Transfer Certificate of Title (TCT) No. 308513-R of the Registry of Deeds of Pampanga, registered in the name of TMBC with a total area of Ten Million Two Hundred Forty Thousand square meters (10,240,000 sq.m.) situated in Barangay Dolores, Municipality of Porac, Province of Pampanga ("Subject Property"). The area to be affected by expropriation was estimated to be One Hundred Eighty-Six Thousand Three Hundred Fifty-Five square meters (186,355 sq.m.), more or less.^[4] BCDA also alleged that the subject property was classified as agricultural land and had the zonal value of P30 per square meter at the time of filing of the complaint.^[5]

According to BCDA, the subject property was being expropriated to pave the way for the implementation of the Subic-Clark-Tarlac Expressway (SCTEX) Project of the national government. The SCTEX Project was supposed to provide the shortest, direct and efficient link among vital development areas in Central Luzon, more specifically among three prime economic zones (Subic Bay Special Economic Zone in Zambales, Clark Special Economic Zone in Pampanga and the Hacienda Luisita Industrial Park in Tarlac) and significantly alleviate the worsening traffic condition of

the North Luzon Expressway. BCDA further claimed that "the government will suffer immense and irreparable damage if this project will not proceed as scheduled by reason of the failure to negotiate with supposed owner after diligent efforts to do so."^[6]

BCDA prayed for the issuance of a writ of possession upon payment to the landowner of an amount equivalent to 100% of the value of the subject property based on the current zonal valuation, pursuant to Section 4(a) of RA 7227, and thereafter, an order of expropriation requiring the defendants to answer within the time specified in the summons and authorizing BCDA to take the property sought to be expropriated for public purpose as stated in the complaint.^[7]

Prior to the filing of the complaint on June 21, 1999, it appears that the property was the subject of a *Dacion En Pago Con Pacta de Retro* agreement between TMBC and the Central Bank Board of Liquidators ("CB-BOL"). Pursuant to a revised repayment plan, TMBC delivered several properties in settlement of the balance of its debt to CB-BOL amounting to P2,265,953,378.83. On December 20, 2000, CB-BOL assigned all its rights and interests under the *Dacion* agreement in favor of the BSP. Thus, BSP sought the release of 100% of the value of the property based on the current zonal valuation of the Bureau of Internal Revenue ("BIR"), in accordance with Section 2, Rule 67 of the 1997 Rules of Procedure. TMBC opposed the motion and the issue was submitted for resolution at the trial during the pre-trial conference.^[8]

Records also reveal that a Final Offer to Buy dated October 9, 2003 was sent by BCDA to TMBC, whereby BCDA offered the price of P75 per square meter for the subject property.^[9]

On January 22, 2004, BCDA deposited the amount of Five Million Five Hundred Ninety Thousand and Six Hundred Fifty Pesos (P5,590,650) before the Office of the Clerk of Court of Angeles, Pampanga. This amount was equivalent to the value of the actual affected area of the subject property based on the then current zonal valuation provided by the BIR.^[10]

The trial court issued a writ of possession on March 11, 2004 and the subject property was placed in the possession of BCDA on June 10, 2004.^[11]

BCDA filed a Motion to Admit Supplemental Complaint, manifesting the reduction of the area to be taken from the original 186,355 sq.m. to One Hundred Sixty-Six Thousand Three Hundred Fifty-Five square meters (166,355 sq.m.) due to the realignment of the expressway. On April 11, 2007, BCDA further amended its complaint by adding an area of Six Thousand Seven Hundred Forty-Four square meters (6,744 sq.m.), making the total affected area of the subject property as One Hundred Seventy-Three Thousand Fifty-Nine square meters (173,059 sq.m.).^[12]

In its Answer, TMBC contended that the offered price of P30 per square meter is way below the fair market value of the subject property. It pointed out that the subject property's value lies in the fact that it is the only remaining compact area of its size and nature within the Province of Pampanga the proposed project would cut the property into two by the construction of fences on both sides thereby rendering inaccessible one side to the other and its value would substantially depreciate. Just

compensation should, thus, include expected depreciation of the remaining areas.
[13]

In its Order dated April 29, 2005, the RTC declared that BCDA has clearly established its lawful right to take the property sought to be expropriated for public use or purpose described in the complaint upon the payment of just compensation. After termination of pre-trial, the parties were ordered to submit their nominations for the commissioners who will assist the trial court in arriving at the just compensation for the subject property.^[14]

Meanwhile, TMBC filed a motion to release payment which was opposed by BSP. Subsequently, they agreed for the release of the entire amount (initial payment of BCDA) to TMBC to be deposited by the latter in an escrow account with BSP, without prejudice to the eventual determination of the just compensation, and who between BSP and TMBC is entitled to the expropriation proceeds. On June 19, 2008, the RTC denied TMBC's motion for release of payment for being premature as there is still a need to determine who between TMBC and BSP is entitled to the proceeds of the property. However, pursuant to the RTC's Order dated March 12, 2009, TMBC's motion for reconsideration was granted and the amount of Five Million Three Hundred Sixty-Six Thousand and Ten Pesos (Php5,366,010.00) was released in favor of TMBC and was thereafter deposited in an escrow account with BSP pursuant to their compromise agreement.^[15]

On August 14, 2009, the RTC conducted an ocular inspection of the subject property in the presence of counsels for TMBC and BCDA, and the nominee-appraiser of BCDA, Mr. Alberto Murillo, Jr. ("Mr. Murillo"), then City Assessor of Angeles City, Pampanga. On September 24, 2009, TMBC filed a motion to set a second ocular inspection stating that the joint nominee of TMBC and BSP, Engr. Jose L. Ocampo ("Engr. Ocampo"), was unable to attend the ocular inspection. Said motion was granted by the trial court and a second ocular inspection was conducted on December 3, 2009, this time attended by counsels for BCDA and Manila Bank, and Engr. Ocampo.^[16]

Mr. Murillo submitted to the court his report on August 19, 2009. TMBC moved to set aside the said report on grounds that it was filed even before he took his oath of office and that he failed to notify TMBC and BSP, nor were there hearings conducted for reception of evidence to aid him in reaching a fair, unbiased and comprehensive report on the fair market value of the property. In its comment, BCDA manifested that another report will just be submitted, adding that there is no necessity for Mr. Murillo to conduct any hearing since what was submitted is his individual report and TMBC's commissioner should submit his own recommendation and the matter of just compensation will be left to the discretion of the court. TMBC insisted that an order directing Mr. Murillo to re-submit his Commissioner's Report would be greatly prejudicial as he had already shown bias in this case, failed to apply any basic standards of his office, and never accorded the parties an equal opportunity to be heard.^[17]

Meanwhile, Engr. Ocampo requested to withdraw as commissioner on account of his deteriorating health. He was replaced by Engr. Roger F. Tolosa, Jr. ("Engr. Tolosa"), who was nominated by both TMBC and BSP. In its Order dated June 30, 2011, the RTC resolved to: (1) set aside Mr. Murillo's report dated August 18, 2009; (2) appoint Engr. Tolosa as Commissioner vice Engr. Ocampo; (3) appoint the Municipal

Assessor of Porac, Pampanga as Commissioner in this case; (4) direct Engr. Tolosa and the Municipal Assessor to take their oath of office; and (5) direct the three Commissioners, parties and their counsels to conduct an ocular inspection on August 9, 2011 and submit their respective reports within 30 days. Municipal Assessor Myrna V. Lumanlan declined her appointment and instead recommended Engr. Glen I. Lansangan ("Engr. Lansangan"), Municipal Planning and Development Officer of Porac, Pampanga.^[18]

The final group of Commissioners consisted of Mr. Murillo, Engr. Tolosa, and Engr. Lansangan. On October 6, 2011, they took their respective oaths of office.^[19]

On October 6, 2011, the scheduled ocular inspection proceeded with the attendance of the counsel/representative from BCDA, TMBC, BSP, and the three Commissioners. As directed, the parties submitted their respective documentary evidence to the Commissioners.^[20]

The Commissioners did not come up with a group report, but made individual reports after their ocular inspection and they received the documents submitted by the parties.^[21]

Engr. Tolosa submitted his Report dated November 2, 2011 where he concluded that:

Based on our investigation and analysis of all relevant facts and as supported by the accompanying narrative report, it is our opinion that the **Market Value** (for Just Compensation) of the land appraised as of October 6, 2011 is Php388 per square meter and is represented in the amount of **SIXTY-SEVEN MILLION, ONE HUNDRED FORTY-SIX THOUSAND EIGHT HUNDRED NINETY-TWO (Php67,146,892) PESOS** subject to the attached limiting conditions.^[22]

For his part, Engr. Lansangan made this recommendation in his Report:

Inspection and Valuation

We have personally inspected the property on October 6, 2011 and arriving at a reasonable valuation, I have researched price information from reputable sources and also giving consideration to the:

- a. Highest and best use at the property; and
- b. Zoning and current land usage in the locality

In view of the foregoing, it is of the opinion of the Commissioner that the Fair Market Value of the affected property is **Three Hundred Fifty Pesos (Php 350.00)** per square meter.^[23]

On the other hand, the Report of Mr. Murillo dated October 24, 2011 stated that—

Still I maintained my appraisal at Thirty Pesos per square meter (P30.00/sq.m.) based at the time of taking. It is my honest opinion that the Thirty Pesos per square meter (P30.00/sq.m.) be paid as just compensation to the owner. It is reasonable and fair enough to both parties concerned considering that **they are only agricultural lands which have a lower value than industrial or commercial lots.**

Besides it is the general public who will benefit from the use of the SCTEX and not the government.

It is therefore recommended that the appraised value of Thirty Pesos per square meter (P30.00/sq.m.) be approved as basis for the payment of just compensation of the above mentioned property owner.^[24]

During the hearings, the three Commissioners testified and the parties presented their respective evidence. After the formal offer of evidence and submission of the parties' respective memorandum, the case was submitted for decision.

Ruling of the Regional Trial Court

In a Decision^[25] dated September 4, 2012, the RTC ordered respondent BCDA to pay petitioner TMBC the amount of P250 per square meter as just compensation for the property taken. The dispositive portion of the RTC Decision reads:

WHEREFORE, the Court hereby renders judgment ordering the plaintiff to pay the defendants, the amount of Two Hundred Fifty Pesos Per Square Meter (Php. 250.00/ per sq. m.), or a total of Thirty Seven Million Eight Hundred Ninety Eight Thousand and Seven Hundred Forty Pesos (Php 37,898,740.00) representing the principal balance on the just compensation due on the taking of a total affected area of One Hundred Seventy Three Thousand Fifty Nine Square Meters (173,059 sq. m.) that is covered by TCT 671482- R and TCT 671484- R; both derived from the mother title- TCT 308513- R in the name of Manila Banking Corporation; plus twelve [percent] (12%) interest per annum, from November 21, 2003 until fully paid.

SO ORDERED.^[26]

Respondent BCDA filed a Motion for Reconsideration^[27] dated November 21, 2012. However, petitioner pointed out that BCDA failed to put a notice of hearing in its motion. In an attempt to remedy this procedural infirmity, BCDA file a Manifestation and Motion on January 3, 2013, praying that the motion be heard. This was opposed by TMBC in a Comment/Opposition dated January 17, 2013.^[28]

Nevertheless, the RTC issued an Order dated July 26, 2013, reopening the case and requiring the parties to submit judicial affidavits to hear the case anew. TMBC moved for the reconsideration of the July 26, 2013 Order and for the declaration that the trial court's September 4, 2012 Decision be declared final and executory.^[29]

Without acting on TMBC's motion for reconsideration, the RTC granted BCDA's motion for reconsideration in an Order^[30] dated August 28, 2014 fixing the just compensation at P190 per sq.m. The dispositive portion of the August 28, 2014 Order reads:

WHEREFORE, PREMISES CONSIDERED, the motion for reconsideration is given due course, the decision dated September 4, 2012 is hereby reconsidered[.] Judgment is hereby rendered fixing the just compensation of the subject lot at P190.00 per square meter or a total of thirty two million eight hundred eighty one thousand and two hundred