

## SECOND DIVISION

[ G.R. No. 221624, July 04, 2018 ]

**NATIONAL TRANSMISSION CORPORATION, PETITIONER, VS. MA. MAGDALENA LOURDES LACSON-DE LEON, MA. ELIZABETH JOSEPHINE L. DE LEON, RAMON LUIS EUGENIO L. DE LEON, MA. TERESA CECILIA L. DE LEON, MA. BARBARA KATHLEEN L. DE LEON, MARY GRACE HELENE L. DE LEON, JOSE MARIA LEANDRO L. DE LEON, MA. MARGARETHE ROSE OLSON, AND HILDEGARDE MARIE OLSON, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review on certiorari assails the Decision dated 12 November 2014<sup>[1]</sup> and Resolution dated 18 November 2015<sup>[2]</sup> in CA-G.R. CV No. 02423, raising the sole issue of just compensation in a special civil action for expropriation. The Court of Appeals affirmed with modification the Decision dated 15 October 2007<sup>[3]</sup> of the Regional Trial Court of Bacolod City, Branch 49 (trial court) and ordered National Power Corporation (NAPOCOR), the original plaintiff, to pay the following: (a) just compensation in the amount of Twenty-Eight Million Four Hundred Twenty-Eight Thousand Two Hundred Seven Pesos and Fifty Centavos (PhP28,428,207.50), at 12% per annum from 2 February 2004 until full payment is made; and (b) consequential damages in the amount of Twenty-Two Million Four Hundred Sixty-Three Thousand One Hundred Three Pesos (PhP22,463,103.00).

#### The Antecedent Facts

On 28 February 2002, NAPOCOR filed with the trial court a complaint against Maria Teresa Lacson De Leon for the expropriation of a parcel of land measuring 39,347 square meters located in Barangay Vista Alegre, Bacolod City. NAPOCOR wanted to acquire an easement of right-of-way over the property for the construction and maintenance of the Bacolod-Cadiz 138 KV SC/ST Transmission Line for the Negros IV-Panay IV Project. The property subject of expropriation forms part of a much bigger lot denominated as Lot No. 1074-B, covered by Transfer Certificate of Title No. T-428 and with a total area of 874,450 square meters.

Invoking failure to state a cause of action, Maria Teresa Lacson De Leon filed on 20 March 2002 a Motion to Dismiss, alleging that the registered owner of Lot No. 1074-B is not her, but her nine children (respondents). On 3 July 2002, the trial court issued an Order, directing NAPOCOR to amend its complaint by impleading the real parties-in-interest. On 17 July 2002, NAPOCOR filed a motion to admit, with the

amended complaint attached. However, summons was successfully served upon Jose Ma. Leandro L. De Leon only as the whereabouts of the other respondents were unknown. On 16 August 2002, Jose Ma. Leandro L. De Leon filed an Answer. Meanwhile, the trial court caused the service of summons by publication to the remaining respondents. Upon motion by NAPOCOR, the trial court ordered on 15 October 2002 that Maria Teresa Lacson De Leon be dropped from being a party to the case.

On 4 December 2002, the eight respondents whose whereabouts were initially unknown, filed an Answer and Manifestation, alleging that they were adopting the responsive pleading filed by Jose Ma. Leandro L. De Leon. In their Answer, respondents argued that the Amended Complaint failed to establish public use for which expropriation was being sought. Further, respondents claimed that the expropriation was confiscatory because the property was valued as agricultural notwithstanding its classification as residential by both national and local governments. On 5 December 2002, the parties submitted a Joint Manifestation, alleging their agreement to terminate the pre-trial conference and to adopt the issues raised in Civil Case No. 01-11482,<sup>[4]</sup> a similar case but involving an adjacent property. The parties also manifested that the same issues shall be submitted to the commissioners who were already appointed in Civil Case No. 01-11482.

On 12 December 2003, the trial court, upon motion by NAPOCOR, issued an Order directing the issuance of a Writ of Possession in favor of NAPOCOR upon proof that an amount equivalent to 100% of the value of the property based on the current zonal valuation by the Bureau of Internal Revenue (BIR) was deposited with the Land Bank of the Philippines in the name of respondents. On 2 February 2004, the delivery of possession of the property was made by the trial court sheriff.

The board of commissioners filed a Manifestation dated 7 October 2004<sup>[5]</sup> in both the case concerning respondents' property and Civil Case No. 01-11482. Attached was a Narrative Report<sup>[6]</sup> containing their findings based on their ocular inspection and research personally made on the two properties subject of expropriation, as well as comparable properties within the five-kilometer vicinity.<sup>[7]</sup> Citing Section 7(a) of the Implementing Rules and Regulations of Republic Act No. 8974,<sup>[8]</sup> the commissioners gave more credence to the Certification dated 27 July 1995 issued by the City Planning and Development Office classifying respondents' property as residential over the tax declarations classifying it as agricultural.<sup>[9]</sup> Further, the commissioners did not consider the zonal valuation by the BIR and recommended instead PhP722.50 per square meter as the fair market value of the property based on the average raw land value of the following three subdivisions: (a) Montinola Subdivision, whose highest and best use is **residential**, and with a raw land value of PhP600.00 per square meter; (b) Victorina Heights Subdivision, whose highest and best use is **residential and commercial**, and with a raw land value of PhP890.00 per square meter; and (c) Green Acres Subdivision, whose highest and best use is **residential and commercial**, and with a raw land value of PhP677.50 per square meter.<sup>[10]</sup> On the consequential benefits and damages, the commissioners found that there was "very little or none at all of consequential benefits but rather more o[f] consequential damages to the owners"<sup>[11]</sup> due to the construction of high-tension transmission lines shunning prospective buyers for perceived radiation and electrocution risks.<sup>[12]</sup> The commissioners estimated that

**about one-third of the total area was prejudiced,** but left the determination of the actual consequential damages to a licensed geodetic engineer.<sup>[13]</sup>

### **The Decision of the Trial Court**

Adopting the findings of the board of commissioners, the trial court ordered NAPOCOR to pay respondents just compensation, consequential damages and attorney's fees. The dispositive portion of the Decision dated 15 October 2007 reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of defendants, namely x x x Ma. Magdalena Lourdes L. De Leon, Ma. Elizabeth Josephine L. De Leon, Ramon Luis Eugenio L. De Leon, Ma. Teresa Cecilia L. De Leon, Ma. Barbara Kathleen L. De Leon, Mary Grace Helen[e] L. De Leon, Jose Maria Leandro L. De Leon, Ma. Margarethe Rose Olson and Hildegard Marie Olson and against plaintiff National Power Corporation (NAPOCOR), as follows:

1. Ordering plaintiff to pay defendants afore-named the sum of Twenty Eight Million Four Hundred Twenty Eight Thousand Two Hundred Seven Pesos and 50/100 (P28,428,207.50) representing the just compensation for the latter's property consisting of thirty nine thousand three hundred forty seven (39,347) square meters which is a portion of Lot No. 1074-B covered by Transfer Certificate of Title No. T-438;
2. Ordering plaintiff to pay defendants the sum of Twenty Two Million Four Hundred Sixty Three Thousand One Hundred Three [Pesos] (P22,463,103.00) representing ten percent (10%) of the price difference or reduction of value of the fair market value of three hundred ten thousand nine hundred eight (310,908) square meters of the western portion of their property which is adversely affected by the presence of the plaintiff's posts and high tension transmission lines; [and]
3. Ordering the plaintiff to pay the defendants the sum of One Hundred Thousand Pesos (P100,000.00) as attorney's fees.

SO ORDERED.<sup>[14]</sup>

On 26 November 2007, NAPOCOR filed a Notice of Appeal, and subsequently, a Record on Appeal, both of which were duly approved by the trial court. NAPOCOR raised just compensation as the sole issue before the Court of Appeals.

### **The Decision of the Court of Appeals**

The Court of Appeals affirmed with modification the Decision dated 15 October 2007 of the trial court by deleting the award of attorney's fees and imposing an interest at the rate of 12% per annum on the award of just compensation from 2 February

2004 until full payment. The dispositive portion of the Decision dated 12 November 2014 reads:

WHEREFORE, the instant appeal is hereby DENIED.

Accordingly, the *Decision dated 15 October 2007* rendered by Branch 49, Regional Trial Court of Bacolod City in Civil Case No. 02-11651 is AFFIRMED subject to the following MODIFICATIONS:

(1) the award of attorney's fees is ORDERED deleted.

(2) NAPOCOR is ORDERED to pay defendants-appellees interest at the rate of twelve (12) percent per *annum*, on the amount of Twenty Eight Million Four Hundred Twenty Eight Thousand Two Hundred Seven Pesos and Fifty Centavos (P28,428,207.50) representing the just compensation of the subject property, from 02 February 2004 until full payment is made.

SO ORDERED.<sup>[15]</sup>

NAPOCOR filed a Motion for Reconsideration. NAPOCOR, along with National Transmission Corporation (petitioner), then filed a Joint Motion for Substitution of Parties and of Counsel. In its Resolution dated 18 November 2015, the Court of Appeals denied the Motion for Reconsideration, and granted the Joint Motion of NAPOCOR and petitioner:

WHEREFORE, the *Motion for Reconsideration* filed by appellants is hereby DENIED and the *Joint Motion for the Substitution of Parties and of Counsel* filed by NAPOCOR and TRANSCO is GRANTED.

x x x x

SO ORDERED.<sup>[16]</sup>

### **The Issues**

The issues raised by the parties can be summed up as follows:

- (1) Whether the determination of just compensation has factual basis;
- (2) Whether the amount of consequential damages is justified; and
- (3) Whether the imposition of interest at the rate of 12% per

annum on the just compensation is proper.

### **The Ruling of this Court**

The petition is partly meritorious.

Preliminarily, and as a matter of procedure, only questions of law can be raised in a petition for review on certiorari under Rule 45.<sup>[17]</sup> Factual findings of the lower courts will generally *not* be disturbed.<sup>[18]</sup> An exception is when there is a misapprehension of facts or when the inference drawn from the facts is manifestly mistaken,<sup>[19]</sup> as in the present case. At the same time, while remanding the case for the reception of evidence would enable the trial court to clearly determine the amount of just compensation and consequential damages, doing so would only prejudice both the government and respondents. On the part of the government, the amount of interest would continue to accrue; on the part of respondents, the payment of just compensation would unnecessarily be delayed.<sup>[20]</sup> Thus, the Court finds that a finding of just compensation and consequential damages based on available records would be most beneficial to both parties.

***Just compensation must be based on the selling price of similar lands in the vicinity at the time of taking.***

Petitioner assails the amount of PhP722.50 per square meter as just compensation for three reasons. *First*, just compensation must be determined at the time of taking, which in turn, is reckoned at the time of filing of the complaint, having occurred earlier than the time of possession by the government. *Second*, the property to be expropriated is agricultural based on the tax declarations and actual use, notwithstanding its classification as residential by the local government. *Third*, the amount of PhP722.50 per square meter is not supported by evidence.

The Court agrees in part with petitioner.

Section 4, Rule 67 of the Rules of Court reckons the determination of just compensation on either the date of taking or date of filing of the complaint, whichever is earlier, thus:

SECTION 4. *Order of Expropriation.* — If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, 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.** (Emphasis supplied)