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SECOND DIVISION

[GR. No. 194190, January 25, 2017]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH), PETITIONER, VS. SPOUSES FRANCISCO R. LLAMAS, RESPONDENTS.

D E C I S I O N

LEONEN, J.:

This resolves a Petition for Review on Certiorari[1] praying that the assailed October 14, 2010 Decision[2] of the Fifth Division of the Court of Appeals in CA-G.R. SP No. 104178 be reversed and set aside, and that in lieu of it, the Orders dated October 8, 2007[3] and May 19, 2008[4] of Branch 257 of the Regional Trial Court of Paraiiaque City be reinstated.

The Regional Trial Court's October 8, 2007 Order required the Department of Public Works and Highways to pay respondents Francisco and Carmelita Llamas (the Llamas Spouses) P12,000.00 per square meter as compensation for the expropriated 41-square-meter portion of a lot that they owned.[5] The same Order denied the Llamas Spouses' prater that they be similarly compensated for two (2) expropriated road lots.[6] The Regional Trial Court's May 19, 2008 Order denied the Llamas Spouses' Motion for Reconsideration.[7]

In its assailed Decision, the Court of Appeals set aside the Regional Trial Court's October 8, 2007 and May 19, 2008 Orders and required the Department of Public Works and Highways to similarly compensate the Llamas Spouses for the two (2) road lots at P12,000.00 per square meter.[8]

On April 23, 1990, the Department of Public Works and Highways initiated an action for expropriation for the widening of Dr. A. Santos Ave. (also known as Sucat Road) in what was then the Municipality of Parañaque, Metro Manila.[9] This action was brought against 26 defendants, none of whom are respondents in this case.[10]

On November 2, 1993, the Commissioners appointed by the Regional Trial Court in the expropriation case submitted a resolution recommending that just compensation for the expropriated areas be set to P12,000.00 per square meter.[11]

On January 27, 1994, the Llamas Spouses filed before the Regional Trial Court a "Most Urgent and Respectful Motion for Leave to be Allowed Intervention as Defendants-Intervenors-Oppositors."[12] They claimed that they were excluded from the expropriation case despite having properties affected by the road widening project. After a hearing on this Motion, the Regional Trial Court allowed the Llamas

Spouses to file their Answer-in-Intervention.[13]

The Llamas Spouses filed their Answer-in-Intervention on March 21, 1994.[14] In it, they claimed that a total area of 298 square meters was taken from them during the road widening project:

(1) 102 square meters from a parcel of land identified as Lot 4, Block 3, covered by Transfer Certificate of Title (TCT) No. 217167;
(2) 84 square meters from a parcel of land identified as Lot 1, covered by TCT No. 179165; and
(3) 112 square meters from a parcel of land identified as Lot 2, also covered by TCT No. 179165.[15]

On August 2, 1994, the Llamas Spouses filed a "Most Urgent Motion for the Issuance of [a]n Order Directing the Immediate Payment of 40% of Zonal Value of Expropriated Land and Improvements."[16]

On December 9, 1994, the Department of Public Works and Highways filed its Comment/Opposition to the Llamas Spouses' August 2, 1994 Motion.[17] It noted that, from its verification with the project engineer, only 41 square meters in the parcel of land covered by TCT No. 179165 was affected by the road widening project. Thus, it emphasized that the Llamas Spouses were entitled to just compensation only to the extent of those 41 square meters. It added that the Llamas Spouses failed to adduce evidence of any improvements on the affected area. It interposed no objection to the P12,000.00 per square meter as valuation of just compensation.[18]

On May 29, 1996, the Regional Trial Court issued the Order[19] directing the payment of the value of the lots of the defendants in the expropriation case. The lots subject of the Llamas Spouses' intervention were not included in this Order.[20]

After years of not obtaining a favorable ruling, the Llamas Spouses filed a "Motion for Issuance of an Order to Pay and/or Writ of Execution dated May 14, 2002."[21] In this Motion, the Llamas Spouses faulted the Department of Public Works and Highways for what was supposedly its deliberate failure to comply with the Regional Trial Court's previous Orders and even with its own undertaking to facilitate the payment of just compensation to the Llamas Spouses.[22] In response, the Department of Public Works and Highways filed a Comment dated October 25, 2002.[23]

On November 28, 2002, the Department of Public Works and Highways and the Llamas Spouses filed a Joint Manifestation and Motion seeking to suspend the Llamas Spouses' pending Motions.[24] This Joint Motion stated that the Department of Public Works and Highways and the Llamas Spouses had an understanding that the resolution of the latter's claims required the submission of: (1) certified true copies of the TCTs covering the lots; and (2) certified true copies of the tax

declarations, tax clearances, and tax receipts over the lots.[25] It added that the Llamas Spouses had undertaken to submit these documents as soon as possible.[26]

In an August 8, 2005 hearing, the Department of Public Works and Highways manifested that the non-payment of the Llamas Spouses' claims was due to their continued failure to comply with their undertaking.[27] On the same date, the Llamas Spouses filed a Manifestation seeking the payment of their claims.[28]

The Department of Public Works and Highways then filed a Comment/Opposition asserting that, from its inquiries with the City Assessor's Office and the Parañaque City Registry of Deeds, the documents the Llamas Spouses submitted "did not originate from the concerned offices."[29]

On October 8, 2007, the Regional Trial Court issued the Order[30] directing the payment to the Llamas Spouses of just compensation at P12,000.00 per square meter for 41 square meters for the lot covered by TCT No. 217267. It denied payment for areas covered by TCT No. 179165 and noted that these were subdivision road lots, which the Llamas Spouses "no longer owned"[31] and which "belong[ed] to the community for whom they were made."[32] In the Order dated May 19, 2008, the Regional Trial Court denied the Llamas Spouses' Motion for Reconsideration.[33]

The Llamas Spouses then filed before the Court of Appeals a Petition for Certiorari.

In its assailed October 14, 2010 Decision,[34] the Court of Appeals reversed and set aside the assailed Orders of the Regional Trial Court and ordered the Department of Public Works and Highways to pay the Llamas Spouses P12,000.00 per square meter as just compensation for a total of 237 square meters across three (3) lots, inclusive of the portions excluded by the Regional Trial Court.[35] The Court of Appeals added that the amount due to the Llamas Spouses was subject to 12% interest per annum from the time of the taking.[36]

The Court of Appeals reasoned that the disputed area (covered by TCT No. 179165) did not lose its private character, the easement of right of way over it notwithstanding.[37] Further, it anchored its ruling on interest liability on Rule 67, Section 10 of the 1997 Rules of Civil Procedure.[38]

For resolution is the issue of whether just compensation must be paid to respondents Francisco and Carmelita Llamas for the subdivision road lots covered by TCT No. 179165.

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The Department of Public Works and Highways insists that the road lots are not compensable since they have "already been withdrawn from the commerce of man."[39] It relies chiefly on this Court's 1991 Decision in *White Plains Association, Inc. v. Legaspi,*[40] which pertained to "the widening of the Katipunan Road in the White Plains Subdivision in Quezon City."[41] More specifically, it capitalizes on the

following statement in the 1991 *White Plains* Decision that shows a compulsion for subdivision owners to set aside open spaces for public use, such as roads, and for which they need not be compensated by government:

> Subdivision owners are mandated to set aside such open spaces before their proposed subdivision plans may be approved by the government authorities, and that such open spaces shall be devoted exclusively for the use of the general public and the subdivision owner need not be compensated for the same. A subdivision owner must comply with such requirement before the subdivision plan is approved and the authority to sell is issued.[42]

Under this compulsion, the dispositive portion of the 1991 *White Plains* Decision proceeds to state:

> **WHEREFORE,** the petition is GRANTED. The questioned orders of respondent judge dated July 10, 1990 and September 26, 1990 are hereby reversed and set aside. *Respondent QCDFC is hereby directed to execute a deed of donation of the remaining undeveloped portion of Road Lot 1 consisting of about 18 meters wide in favor of the Quezon City government, otherwise, the Register of Deeds of Quezon City is hereby directed to cancel the registration of said Road Lot 1 in the name of respondent QCDFC under TCT No. 112637 and to issue a new title covering said property in the name of the Quezon City government.* Costs against respondent QCDFC.
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> **SO ORDERED.**[43] (Emphasis supplied)

The Department of Public Works and Highways is in grave error.

Petitioner's reliance on the 1991 *White Plains* Decision is misplaced. The same 1991 Decision was not the end of litigation relating to the widening of Katipunan Road. The owner and developer of White Plains Subdivision, Quezon City Development and Financing Corporation (QCDFC), went on to file motions for reconsideration. The second of these motions was granted in this Court's July 27, 1994 Resolution.[44] This Resolution expressly discarded the compulsion underscored by the Department of Public Works and Highways, and the dispositive portion of the 1991 *White Plains* Decision was modified accordingly. As this Court recounted in its 1998 Decision in *White Plains Homeowners Association, Inc. v. Court of Appeals:*[45]

> [T]he dictum in G.R. No. 95522, White Plains Association, Inc. *vs.* Legaspi[,] that the developer can be compelled to execute a deed of donation of the undeveloped strip of Road Lot 1 and, in the event QCDFC refuses to donate the land, that the Register of Deeds of Quezon City may be ordered to cancel its old title and issue a new one in the name of

the city was questioned by the respondent QCDFC as contrary to law. We agree with QCDFC that ***the final judgment in G.R. No. 95522 is not what appears in the published on February 7, 1991 decision in White Plains Association, Inc. vs. Legaspi.*** [Rather, it] is the following resolution issued three (3) years later, on July 27, 1991 [sic], which states, *inter alia:*

> ". . . (T)he Court is constrained to grant the Instant Motion for Reconsideration but only insofar as the motion seeks to delete from the dispositive portion of the decision of 07 February 1991 the order of this Court requiring the execution of the deed of donation in question and directing the Register of Deeds of Quezon City, in the event that such deed is not executed, to cancel the title of QCDFC and to issue a new one in the name of the Quezon City government. It may well be that the public respondents would not be aversed [sic] to such modification of the Court's decision since they shall in effect have everything to gain and nothing to lose.
>
> WHEREFORE the second motion for reconsideration is hereby partly granted by MODIFYING the dispositive portion of this Court's decision of 07 February 1991 and to now read as follows:
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> > 'WHEREFORE the petition is GRANTED. The questioned orders of respondent judge dated July 10, 1990 and September 25 1990 are hereby reversed and set aside. Costs against respondent QCDFC.
> >
> > SO ORDERED."'[46] (Emphasis supplied)

The 1998 *White Plains* Decision unequivocally repudiated the 1991 *White Plains* Decision's allusion to a compulsion on subdivision developers to cede subdivision road lots to government, so much that it characterized such compulsion as an "illegal taking."[47] It did away with any preference for government's capacity to compel cession and, instead, emphasized the primacy of subdivision owners' and developers' freedom in retaining or disposing of spaces developed as roads. In making its characterization of an "illegal taking," this Court quoted with approval the statement of the Court of Appeals:

> Only after a subdivision owner has developed a road may it be donated to the local government, if it so desires. On the other hand, a subdivision owner may even opt to retain ownership of private subdivision roads, as in fact is the usual practice of exclusive residential subdivisions for example those in Makati City.[48]