

THIRD DIVISION

[G.R. No. 206702, June 07, 2017]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
NATIONAL IRRIGATION ADMINISTRATION, PETITIONER, VS.
ROLANDO C. CEBUAN, RUBEN C. CEBUAN, ERIC C. CEBUAN,
SAMUEL C. BARING, BEATRICE A. LOW, LEONORE L. DE LA
SERNA AND HEIRS OF LORENZO UMBAAD, RESPONDENTS.**

DECISION

TIJAM, J.:

Challenged *via* this Petition for Review^[1] under Rule 45 are the Decision^[2] dated July 13, 2012 and Resolution^[3] dated February 6, 2013 of the Court of Appeals^[4] (CA) in CA-G.R. CV No. 02263 which affirmed the ruling of the RTC^[5] adopting the Board of Commissioners' recommendation on the computation of just compensation but deleted the additional award for unrealized income. However, on the observation that herein respondents have not been fully paid for the improvements on their respective properties, the CA remanded the case to the RTC for the final determination of just compensation.

The Antecedent Facts

For its Lower Agusan Development Project – Irrigation Component at Barangays Basag, Ampayon and Kinamlutan, all situated in Butuan City, the National Irrigation Administration (NIA) identified several parcels of land as suitable locations for the construction of irrigation canals. Portions of the parcels of land identified were those located in (1) Barangay Basag owned by respondents Rolando Cebuan (652 sq.m.); Ruben Cebuan (503 sq. m.); Eric Cebuan (1,244 sq. m. and 1,754 sq. m.); and Samuel Baring (776 sq. m. and 836 sq. m.); (2) Barangay Ampayon owned by respondent Beatrice Low (2,412 sq. m. and 1,550 sq. m.); and, (3) Barangay Kinamlutan owned by respondents Leonore Dela Serna (1,440 sq. m.) and the Heirs of Lorenzo Umbaad (590 sq. m.)

NIA initiated expropriation proceedings after the failure of the negotiated sale.^[6] In its Complaint^[7], NIA based the values of the properties on BIR Zonal Valuations as specified in Department Order No. 16-2000^[8] and arrived at an aggregate amount of PhP60,094.50 for the entire 11,737 sq. m. sought to be expropriated. In their Answer^[9], respondents Cebuans, Baring and the heirs of Umbaad expressed their agreement to the expropriation provided that the properties be valued at least PhP300 per square meter. Likewise, respondents Dela Serna and Low agreed to the expropriation but valued at PhP300 per square meter.^[10]

Nevertheless, in the years 2002 and 2003, the Cebuans and Baring executed in

favor of NIA a Permit to Enter^[11] and corresponding payments for damages caused to the rice plants, other various plants and trees thereon were made. Likewise, the heirs of Umbaad received in 2004 payment for damages caused on their property. On the other hand, Beatrice Low and Leonore dela Serna did not receive any payment as they allegedly had no improvements on their respective properties.^[12]

Thereafter, NIA moved for the issuance of a writ of possession and upon deposit of the amount equivalent to 100% of the value of the properties involved based on the current BIR zonal value and submission of the certificate of availability of funds, the RTC granted the same and a Writ of Possession^[13] dated April 21, 2004 was issued.

Only the Cebuans, Baring and the heirs of Umbaad moved for the deferment of the implementation of the Writ of Possession on the ground that they had not been fully paid of the improvements on their properties as they were allegedly deprived of the use of the same since 1999 but had been paid for two croppings only.^[14]

Subsequently, as proposed by NIA, and as agreed upon by the parties, a Board of Commissioners^[15] was created by the RTC to determine the fair market value of the properties sought to be expropriated.

On May 16, 2006, the Commissioners submitted their Report^[16] assigning the fair market value of the properties of the Cebuans, Baring and the heirs of Umbaad at PhP45 per square meter and the property of Leonore dela Serna at PhP120 per square meter, while the consequential damages were assessed at 5% of the fair market value of the remaining portion of the properties and the consequential benefits were assessed at 3% thereof.

NIA filed its Comment^[17] on the Report, arguing that the fair market value as fixed by the Commissioners was grossly excessive. Instead, NIA contended that the value of the properties should only be PhP0.90 per square meter which was the price of the properties when the same were bought by the respondents from the government.^[18]

The Ruling of the RTC

On December 18, 2006, the RTC rendered its Partial Judgment^[19] adopting the Commissioners' Report and disregarding NIA's contention that the price should be at PhP0.90 per square meter for being unrealistic. The RTC further noted that a parcel of land similar to the properties in question was bought by NIA at PhP160 per square meter, which allegation had not been refuted by NIA.

The RTC thus disposed:

WHEREFORE, foregoing premises considered, the National Irrigation Administration (NIA) is directed to pay to[:]

1. For the lands affected:
 - (a) Ruben C. Cebuan = P27,529.25

- (b) Eric C. Cebuan = 158,219.73
(c) Samuel C. Baring = 93,988.80

2. For unrealized income (ricefield) based on a document approved by Gregorio y Pang, Jr., Project Manager, found on page 166, Record.

(a) Ruben 5,940 square meters

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- 503 square meters taken by NIA

5,437 square = 51 cavans
meters

= 2,550 kilos x 7.50

= P19,125.00 - 16% (Harvester's
and Thresher's Share)

= P16,065 x 3 croppings (2003-
2006)

= P48,195.00

(b) Eric - 29,877 square meters

- 2,978 square meters (NIA)

26,899 = 229.5 cavans

square
meters

= 11,475 kilos x 7.50

= P86,062.50 - 16% (Harvester's
and Thresher's Share)

= P72,292.5 x 3 croppings (2003-
2006)

= P216,877.50

(c) Samuel 25,444 square meters

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- 1,612 square meters (NIA)

23,832 square = 204 cavans
meters

= 10,200 kilos x 7.50

= P76,500.00 - 16% (Harvester's
and Thresher's Share)

= P64,260 x 3 croppings (2003-
2006)

= P192,780.00

The amounts paid to them should be deducted from the above.

The foregoing excludes the incremental interest computed per annum in accordance with existing jurisprudence which is 6% to be counted from May 2003 when NIA was given the Permit To Enter by the Cebuans and Samuel C. Baring up to the time when the amounts adjudged will be fully paid.

Rolando Cebuan is excluded in this partial judgment as he submitted a

Manifestation, No. 3 of which states[:]

"3. Moreover, the Plaintiff, National Irrigation Administration, has already prepared and processed all documents to effect payment thereof. Thus, defendant Rolando C. Cebuan hereby waives any action or suit, criminal, civil or any other kind, against the National Irrigation Administration x x x." (Record, pp. 198-199)

The lands of Leonore [dela] Serna and that of the Heirs of Lorenzo Umbaad though included in the Commissioners' Report cannot yet be acted upon as the Court has no way of knowing its classification, i.e., idle land or cultivated and devoted to what kind of crop/plants.

Beatrice Low's land cannot as well be acted upon for lack of basis as it was not included in the Commissioners' Report, hence, the Board of Commissioners' [sic] is directed to do what is incumbent upon them [to] finish their job.

SO ORDERED.^[20]

Upon Motion for Clarificatory Judgment^[21] filed by the heirs of Umbaad, the RTC rendered its Clarificatory and Final Judgment^[22] additionally directing the NIA to pay Leonore dela Cerna, the heirs of Umbaad and Beatrice Low just compensation and unrealized income as follows:

The National Irrigation Administration (NIA) is directed to pay:

I.) For lands affected: Just Compensation (JC=FMV+CD-CB; where FMV means Fair Market Value, CD means Consequential Damages, and CB means Consequential Benefits.)

a.) LEONORE DELA CERNA

Area: 17,301 sq.m. (uncultivated)
- 1,440 area taken by NIA at Php 120.00/sq. meter
sq.m. - (per Commissioners' Report, Records, p. 214)

15,861 sq. m. – total remaining area

JC = Php172,800 + Php95,166 – Php57,996
JC = Php209,970 (Records, p. 219)

b.) HEIRS OF LORENZO UMBAAD

Area: 37,665 sq. m.

- 590 sq.area taken by NIA at Php 45.00/sq.m.
m. – (Commissioners' Report, p[.] 214)

37,075 sq. m. – or 3.7075 has. – total remaining area

JC = Php26,550 + Php50,051.25 – Php33,367.75

JC = Php43,234.25 (Records, p. 219)

c.) **BEATRICE LOW** (The Fair Market Value is computed at Php120.00/sq.m. based on Commissioners' computation of Leonore dela Cerna's property considering that both properties are similarly situated, being both located at Ampayon, Butuan City; Records, 214)

Area: Lot13,939 sq. m.

12-

- 2,412 sq. area taken by NIA at Php 120.00/sq.m.
m. –

11,527 sq. m. – total remaining area

Lot 17,302 sq. m.

17-

- 1,550 sq. area taken by NIA at Php 120.00/sq. m.
m.

15,752 sq. m. – remaining area

Total area taken: 3,962 sq. m.

Total remaining area: 27,279 sq. m. or 2.7279 has.

JC = Php475,440 + Php163,674 – Php98,204

JC = Php540,910

II.) For unrealized income

a.) Heirs of Lorenzo Umbaad

Lot area: 37,665 sq.m.

Area taken: 590 sq.m.

Remaining Area: 37,075 sq.m. or 3.7075 has.

Approximate Income 85 cavans/ha. at 50 kilos per cavan at Php
per hectare: 7.50 per kilo (based on a document
approved by Gregorio Y. Pang, NIA's
Project Manager; Records, p. 166)

Unrealized Income = 3.7075 has. x 85 cavans/ha
= 315.1375 cavans x 50 kls./cavan
= 15,756.875 kls. x Php7.50/kilo
= Php118,176.56 x 6 years (2003-2009 at
1 cropping/year)
= Php709,059.38 – 16% or