

## THIRD DIVISION

[ G.R. No. 196412, July 19, 2017 ]

### LAND BANK OF THE PHILIPPINES, PETITIONER, VS. MIGUEL OMENGAN, RESPONDENT.

#### DECISION

##### TIJAM, J.:

Petitioner Land Bank of the Philippines<sup>[1]</sup> (LBP) challenges through this Petition for Review<sup>[2]</sup> under Rule 45 the Decision<sup>[3]</sup> dated January 6, 2011 and Resolution<sup>[4]</sup> dated April 7, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 110387, which affirmed with modification the Decision<sup>[5]</sup> dated January 6, 2009 of the Regional Trial Court (RTC) of Bulanao, Tabuk City, Kalinga, Branch 25, sitting as Special Agrarian Court (RTC-SAC).

In its assailed decision and resolution, the CA upheld the RTC-SAC's valuation of just compensation but reduced the interest thereon from twelve percent (12%) to six percent (6%) *per annum*.

#### The Facts and Antecedent Proceedings

Respondent Miguel Omengan was the registered owner of a parcel of land located at Ileb, Nambaran, Tabuk City, Kalinga with an area of 10.001 hectares and covered by Transfer Certificate of Title (TCT) No. T-10172.<sup>[6]</sup>

On March 20, 2000, respondent received a notice of coverage from the Department of Agrarian Reform (DAR) placing the subject property under the Comprehensive Agrarian Reform Program (CARP).<sup>[7]</sup> Field investigation was then conducted and the property was initially valued by petitioner at Php 219,524.98, computed as follows:

#### For Unirrigated Riceland

Area = 6.001 has.

CNI = P36,020.83/ha.

MV = P22,086.63/ha.

$$\begin{aligned}\text{ULV/ha.} &= (\text{CNI} \times .90) + (\text{MV} \times .10) \\ &= (\text{P36,020.83} \times .90) + (\text{P22,076.63} \times .10) \\ &= \text{P32,418.74} + \text{P2,208.66} \\ &= \text{P34,627.40}\end{aligned}$$

$$\begin{aligned}\text{LV} &= \text{ULV/ha} \times \text{area} \\ &= \text{P34,627.40} \times 6.0001 \text{ has.} \\ &= \text{P207,767.86}\end{aligned}$$

### **For Idle Land**

Area = 4.000 has.

MV = P1,469.64/ha.

ULV/ha. = MV x 2

= P1,469.64 X 2

= P2,969.28

LV = ULV/ha. x area

= P2,939.28 x 4.000 has.

= P11,757.12

**Total: P207,767.86**

**11,757.12**

**P219,524.98<sup>[8]</sup>**

The Claim Folder and Processing Form were prepared and on October 18, 2000, payment for the property was approved and DAR accordingly made an offer to respondent.<sup>[9]</sup>

Respondent rejected the offer. DAR requested petitioner to deposit in the respondent's name the amount of the initial valuation. Thus, on December 12, 2000, petitioner deposited the sum of Php 219,524.98 in cash and agrarian reform bonds.<sup>[10]</sup>

On March 10, 2005, DAR, through its Provincial Agrarian Reform Officer (PARO), requested the Office of Provincial Agrarian Reform Adjudicator (PARAD) for Kalinga for preliminary determination of just compensation.<sup>[11]</sup>

In a Decision<sup>[12]</sup> dated July 14, 2005, the PARAD noted that since the property was taken in 2000, the unit market value (UMV) for the year 2000 which is Php 18,940/ha as certified by the Municipal Assessor of Tabuk, Kalinga should have been applied instead of the 1994 Schedule of Base UMV of Php 15,780/ha used by petitioner.<sup>[13]</sup> The PARAD further noted that the selling price of palay per kilo in 2000 as certified by the National Food Authority (NFA) in the amount of Php 10 should have been used in the computation of the Capitalized Net Income (CNI) and not petitioner's baseless valuation of Php 6.50/k.<sup>[14]</sup> Finally, the PARAD sustained petitioner's valuation of the idle portion of four has, the same not having been contested by respondent.<sup>[15]</sup>

In disposal, the PARAD held:

WHEREFORE, premises considered, the valuation of the subject property by the LBP is hereby MODIFIED. Subject landholding's valuation should be increased to Php326,918.20 plus legal interests.

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

However, on motion for reconsideration (MR), the PARAD in a Resolution<sup>[17]</sup> dated September 12, 2005 reversed the Decision dated July 14, 2005 and instead adopted

petitioner's valuation of Php 264,458.74.

This prompted petitioner to file on August 12, 2005 a petition for judicial determination of just compensation before the RTC-SAC.<sup>[18]</sup>

### **The Ruling of the RTC-SAC**

The RTC-SAC pegged the average harvest per ha of the subject property at 90 cavans considering respondent's testimony that he is harvesting more or less 80 to 100 cavans per ha.<sup>[19]</sup> The RTC-SAC then used the selling price of Php 9.50 perk based on the NFA's certification that the price per k of palay during dry season is Php 10, while the price is Php 9 during wet season.<sup>[20]</sup> Hence, for the six has of unirrigated riceland, the RTC-SAC arrived at the amount of Php 256,500 as CNI. The market value (MV) on the other hand was based on the BIR zonal valuation for unirrigated riceland for the years 1999 to 2000 which was Php 6 per square meter to arrive at an MV of Php 360,000.<sup>[21]</sup>

For the remaining four has of idle land which was planted with fruit-bearing trees, bananas, cassava and camote, the RTC-SAC valued its harvest per ha at Php 10,000. Thus, for the four has of idle land, the CNI is Php 40,000.<sup>[22]</sup> The MV was likewise based on the BIR zonal valuation of cogon land for the years 1999 to 2000 which was Php 1 per sq m or a total of Php 40,000.<sup>[23]</sup>

In computing the amount of just compensation, the RTC-SAC referred to the following formula:

$$\textbf{LV= (CNI X 0.9) + (MV X 0.1)}$$

and computed the land valuation of the six has and the four has as follows:

Applying the formula for the 6 hectares:

$$\begin{aligned} \text{P256,500.00 X 0.9} &= \text{P230,850.00} \\ + \text{P360,000.00 X 0.1} &= \text{P36,000.00} \end{aligned}$$

Therefore, the land valuation is P266,850.00

Applying the formula for the 4 hectares:

$$\begin{aligned} \text{P40,000.00 x 0.9} &= \text{P36,000.00} \\ + \text{P40,000.00 x 0.1} &= \text{P4,000.00} \end{aligned}$$

The land valuation then is P40,000.00.<sup>[24]</sup>

However, on the ground that the subject property is considered as one of Tabuk City's potential growth area for urban expansion, the RTC-SAC granted an additional valuation of Php 40,000 per ha or an additional MV of Php 400,000, for a total just compensation of Php 706,850 for the 10.001 has.

In disposal, the RTC-SAC held:

IN THE LIGHT OF THE FOREGOING PREMISES, the just compensation of the 10.001 hectares of agricultural land situated at Nambaran, Tabuk, Kalinga and embraced under Transfer Certificate of Title No. T-10172 issued in the registered name of Miguel Omengan is P706,850.00 plus legal interest of 12% from the date of compensable taking until full payment is made.

SO ORDERED.<sup>[25]</sup>

Petitioner's MR<sup>[26]</sup> was similarly denied by the RTC-SAC in its Resolution<sup>[27]</sup> dated July 31, 2009. Undaunted, petitioner elevated the case to the CA arguing that the RTC-SAC failed to comply with the mandatory formula prescribed under Section 17 of Republic Act (R.A.) No. 6657<sup>[28]</sup> and DAR Administrative Order (A.O.) No. 5,<sup>[29]</sup> Series of 1998.<sup>[30]</sup> Petitioner also disputed the imposition of 12% interest in the absence of delay.<sup>[31]</sup>

### **The Ruling of the CA**

The CA adopted the RTC-SAC's award of just compensation.<sup>[32]</sup> The CA held that the formula prescribed in DAR A.O. No. 6<sup>[33]</sup> is mandatory and found that the RTC-SAC utilized "each and every"<sup>[34]</sup> factor prescribed in said formula in arriving at the just compensation. Nevertheless, the CA modified the interest rate from twelve percent (12%) to six percent (6%) *per annum* in accordance with DAR A.O. No. 13, Series of 1994.<sup>[35]</sup>

Accordingly, the CA disposed:

**WHEREFORE**, based on the foregoing, the Petition for Review is **GRANTED**. The Decision, dated January 6, 2009, and Resolution dated July 31, 2009, issued by the Regional Trial Court of Bulanao, Tabuk City, Kalinga, Branch 25 in Agrarian Case No. 13 is **AFFIRMED with modification** reducing the interest rate from 12% to 6%.

**SO ORDERED.**<sup>[36]</sup>

Petitioner's MR<sup>[37]</sup> was similarly rebuked by the CA, in its Resolution<sup>[38]</sup> dated April 7, 2011. Hence, resort to the instant petition.

### **The Issues**

Petitioner imputes error on the part of the CA when it affirmed the valuation made by the RTC-SAC despite the latter's alleged failure to strictly adhere to the mandatory formula prescribed under DAR A.O. No. 5-98. Petitioner advances the view that just compensation in the implementation of agrarian reform is absolutely different from ordinary expropriation proceedings.<sup>[39]</sup>

Petitioner further questions the CA's imposition of six percent (6%) interest as DAR A.O. No. 13-94 applies only to lands covered by Presidential Decree (P.D.) No. 27 and Executive Order (E.O.) No. 228 and not under R.A. No. 6657. In any event, petitioner argues that no interest can be imposed as there was no delay in the

payment of just compensation.

Hence, for resolution are: (1) whether the formula for determining just compensation prescribed under DAR A.O. No. 5-98 was complied with; and (2) whether the CA correctly imposed a six percent (6%) interest on the amount of just compensation pursuant to DAR A.O. No. 13-94.

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

**There is merit in the petition.**

**Determination of Just Compensation is Essentially a Judicial Function to be Exercised within the Purview of R.A. 6657 and DAR A.O. No. 5-98; Deviation from the Prescribed Formula is Allowed Provided the Reason for such Deviation is Clearly Explained**

Petitioner anchors its position that the RTC-SAC should have strictly complied with DAR A.O. No. 5-98 on the premise that just compensation in agrarian reform cases is different from ordinary expropriation proceedings.

On the contrary, We find no reason to treat differently the determination of just compensation for expropriation proceedings undertaken for purposes of agrarian reform. This must be so considering that the taking of property under R.A. No. 6657 has been consistently characterized as the State's exercise of the power of eminent domain.

Found in the various provisions of the fundamental law<sup>[40]</sup> is the uniform treatment of the payment of just compensation as a limitation to the State's exercise of eminent domain. The concept of just compensation likewise bears the consistent and settled meaning as the full and fair equivalent of the property taken from its owner by the expropriator, the measure is not the taker's gain, but the owner's loss. The word "just" is used to qualify the meaning of the word "compensation" and to convey thereby the idea that the amount to be tendered for the property to be taken shall be real, substantial, full and ample.<sup>[41]</sup>

There is therefore no cause to treat differently the manner and the method by which just compensation is determined only because it is to be paid in implementation of the agrarian reform law.

It is likewise jurisprudentially-settled that the valuation of property or determination of just compensation in eminent domain proceedings is essentially a judicial function which is vested with the courts and not with administrative agencies.<sup>[42]</sup> By law,<sup>[43]</sup> the RTC-SAC enjoys original and exclusive jurisdiction in determining just compensation for lands acquired for purposes of agrarian reform.

Nevertheless, in the exercise of its judicial function to determine just compensation, the RTC-SAC takes into consideration the factors enumerated under Section 17 of R.A. No. 6657. DAR, on the other hand, is empowered under R.A. No. 6657 to promulgate rules for its implementation. Hence, pursuant to its rule-making power, DAR issued A.O. No. 5-98 which translated the factors listed under R.A. No. 6657 into a basic and alternative formulae.<sup>[44]</sup>