

## EN BANC

[ G.R. No. 190004, August 08, 2017 ]

### LAND BANK OF THE PHILIPPINES, PETITIONER, VS. EUGENIO DALAUTA, RESPONDENT.

#### DECISION

##### MENDOZA, J.:

This petition for review on *certiorari* under Rule 45 seeks to review, reverse and set aside the September 18, 2009 Decision<sup>[1]</sup> of the Court of Appeals-Cagayan de Oro (CA) in CA-G.R. SP No. 01222-MIN, modifying the May 30, 2006 Decision<sup>[2]</sup> of the Regional Trial Court, Branch 5, Butuan City (RTC), sitting as Special Agrarian Court (SAC), in Civil Case No. 4972 - an action for determination of just compensation.

#### The Facts

Respondent Eugenio Dalauta (*Dalauta*) was the registered owner of an agricultural land in Florida, Butuan City, with an area of 25.2160 hectares and covered by Transfer Certificate of Title (TCT) No. T-1624. The land was placed by the Department of Agrarian Reform (DAR) under compulsory acquisition of the Comprehensive Agrarian Reform Program (CARP) as reflected in the Notice of Coverage,<sup>[3]</sup> dated January 17, 1994, which Dalauta received on February 7, 1994. Petitioner Land Bank of the Philippines (LBP) offered P192,782.59 as compensation for the land, but Dalauta rejected such valuation for being too low.<sup>[4]</sup>

The case was referred to the DAR Adjudication Board (DARAB) through the Provincial Agrarian Reform Adjudicator (PARAD) of Butuan City. A summary administrative proceeding was conducted to determine the appropriate just compensation for the subject property. In its Resolution,<sup>[5]</sup> dated December 4, 1995, the PARAD affirmed the valuation made by LBP in the amount of P192,782.59.

On February 28, 2000, Dalauta filed a petition for determination of just compensation with the RTC, sitting as SAC. He alleged that LBP's valuation of the land was inconsistent with the rules and regulations prescribed in DAR Administrative Order (A.O.) No. 06, series of 1992, for determining the just compensation of lands covered by CARP's compulsory acquisition scheme.

During the trial, the SAC constituted the Board of Commissioners (*Commissioners*) tasked to inspect the land and to make a report thereon. The Report of the Commissioners,<sup>[6]</sup> dated July 10, 2002, recommended that the value of the land be pegged at 100,000.00 per hectare. With both Dalauta and the DAR objecting to the recommended valuation, the SAC allowed the parties to adduce evidence to support their respective claims.

### *Dalauta's Computation*

Dalauta argued that the valuation of his land should be determined using the formula in DAR A.O. No. 6, series of 1992, which was  $Land\ Value\ (LV) = Capitalized\ Net\ Income\ (CNI) \times 0.9 + Market\ Value\ (MV)\ per\ tax\ declaration \times 0.1$ , as he had a net income of 350,000.00 in 1993 from the sale of the trees that were grown on the said land. Norberto C. Fonacier (*Fonacier*), the purchaser of the trees, testified that he and Dalauta executed their Agreement<sup>[7]</sup> before Atty. Estanislao G Ebarle, Jr., which showed that he undertook to bear all expenses in harvesting the trees and to give Dalauta the amount of P350,000.00 as net purchase payment, for which he issued a check. He said that it was his first and only transaction with Dalauta. Fonacier also claimed that a portion of Dalauta's land was planted with com and other trees such as ipil-ipil, lingalong, and other wild trees.

During his cross-examination, Dalauta clarified that about 2,500 trees per hectare were planted on about twenty-one (21) hectares of his land, while the remaining four (4) hectares were reserved by his brother for planting com. He also claimed to have replanted the land with gemelina trees, as advised by his lawyer, after Fonacier harvested the trees in January 1994. Such plants were the improvements found by the Commissioners during their inspection. Dalauta added that he had no tenants on the land. He prayed that the compensation for his land be pegged at P2,639,566.90.

### *LBP's Computation*

LBP argued that the valuation of Dalauta's land should be determined using the formula  $LV = MV \times 2$ , which yielded a total value of P192,782.59 for the 25.2160 hectares of Dalauta's land.

LBP claimed that during the ocular inspection/investigation, only 36 coconut trees existed on the subject land; that three (3) hectares of it were planted with com; and the rest was idle with few second-growth trees. To support its claim, LBP presented, as witnesses, Ruben P. Penaso (*Penaso*), LBP Property Appraiser of CDO Branch, whose basic function was to value the land covered by CARP based on the valuation guidelines provided by DAR; and Alex G. Carido (*Carido*), LBP Agrarian Operation Specialist of CDO Branch, whose function was to compute the value of land offered by a landowner to the DAR, using the latter's guidelines.

Based on Penaso's testimony, 3.0734 hectares of the subject land were planted with com for family consumption while the 22.1426 hectares were idle, although there were second-growth trees thereon. He reported that the trees had no value and could be considered as weeds. Likewise, Penaso indicated "none" under the column of Infrastructures in the report, although there was a small house made of wood and cut logs in the center of the com land. He posited that an infrastructure should be made of concrete and hollow blocks. Penaso stated that the sources of their data were the guide, the BARC representative, and the farmers from the neighboring lots. On cross-examination, he admitted that there were coconut trees scattered throughout the land; that he did not ask the guide about the first-growth trees or inquire from the landowner about the land's income; and that he used the land's market value as reflected in its 1984 tax declaration.<sup>[8]</sup>

Per testimony of Carido, the valuation of Dalauta's land was computed in September 1994 pursuant to the Memorandum Request to Value the Land<sup>[9]</sup> addressed to the LBP president. He alleged that the entries in the Claims Valuation and Processing Forms were the findings of their credit investigator. Carido explained that they used the formula  $LV = MV \times 2$  in determining the value of Dalauta's land because the land had no income. The land's com production during the ocular inspection in 1994 was only for family consumption. Hence, pursuant to DAR A.O. No. 6, series of 1992, the total value of Dalauta's land should be computed as  $LV = MV \times 2$ , where MV was the Market Value per Tax Declaration based on the Tax Declaration issued in 1994.<sup>[10]</sup> Carido explained that:

Xxx using the formula  $MV \times 2$ , this is now the computation. Land Value =Market Value (6,730.07) x 2 13,460.14 this is the price of the land per hectare, x the area of corn land which is 3.0734, we gave the total Land Value for corn P41,368.39. For Idle Land, the Market Value which is computed in the second page of this paper is P3,419.07 by using the formula  $MV \times 2 = P3,419.07 \times 2$ , we come up with the Land Value per hectare = 6,838.14 multiplied by the area of the idle land which is 22.1426 hectares. The total Land Value for idle is P151,414.20. Adding the total Land Value for corn and idle, we get the grand total of P192,782.59, representing the value of the 25.2160 hectares.<sup>[11]</sup>

On cross and re-cross-examinations, Carido admitted that there were different ways of computing the land value under DAR A.O. No. 6. He claimed that no CNI and/or Comparable Sales (CS) were given to him because the land production was only for family consumption, hence, CNI would not apply. Further, he explained that the net income and/or production of the land within twelve (12) months prior to the ocular inspection was considered in determining the land value.<sup>[12]</sup>

### *The Ruling of the SAC*

On May 30, 2006, the SAC rendered its decision as follows:

WHEREFORE, AND IN VIEW OF ALL OF THE FOREGOING, DAR and LBP are directed to pay to:

- 1.) Land Owner Mr. Eugenio Dalauta the following:
  - a. Two Million Six Hundred Thirty Nine Thousand Five Hundred Fifty Seven (P2,639,557.00) Pesos, Philippine Currency, as value of the Land;
  - b. One Hundred Thousand (P100,000.00) Pesos, Philippine Currency for the farmhouse;
  - c. One Hundred Fifty Thousand (P150,000.00) Pesos, Philippine Currency, as reasonable attorney's fees;
  - d. Fifty Thousand (P50,000.00) Pesos, Philippine Currency as litigation expenses;
- 2.) The Members of the Board of Commissioners:

- a. Ten Thousand (P10,000.00) Pesos, Philippine Currency for the Chairman of the Board;
- b. Seven Thousand Five Hundred (P7,500.00) Pesos, Philippine Currency for each of the two (2) members of the Board;

SO ORDERED.<sup>[13]</sup>

The SAC explained its decision in this wise:

Going over the records of this case, taking into consideration the Commissioners Report which is replete with pictures of the improvements introduced which pictures are admitted into evidence not as illustrated testimony of a human witness but as probative evidence in itself of what it shows (Basic Evidence, Bautista, 2004 Edition), this Court is of the considered view that the Report (Commissioners) must be given weight.

While LBP's witness Ruben P. Penaso may have gone to the area, but he did not, at least, list down the improvements. The members of the Board of Commissioners on the other hand, went into the area, surveyed its metes and bounds and listed the improvements they found including the farmhouse made of wood with galvanized iron roofing (Annex "C", Commissioner's Report, p. 132, Record)

All told, the basic formula for the valuation of lands covered by Voluntary Offer to Sell and Compulsory Acquisition is:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where: LV = Land Value  
 CNI = Capitalized Net Income  
 CS = Comparable Sales  
 MV = Market Value per Tax Declaration

The above formula is used if all the three (3) factors are present, relevant and applicable. In any case, the resulting figure in the equation is always multiplied to the number of area or hectarage of land valued for just compensation.

Whenever one of the factors in the general formula is not available, the computation of land value will be any of the three (3) computations or formulae:

$$LV (CNI \times 0.9) + (MV \times 0.1)$$

(If the comparable sales factor is missing)

$$LV (CS \times 0.9) + (MV \times 0.1)$$

(If the capitalize net income is unavailable)

$$LV = MV \times 2 \text{ (If only the market value factor is available)}$$

(Agrarian Law and Jurisprudence as compiled by DAR and UNDP pp. 94-95)

Since the Capitalized Net Income in this case is available, the formula to be used is:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

Whence:

$$\begin{aligned} LV &= (P350,000.00/.12 \times 0.9) + (P145,570 \times 0.1) \\ &= (P2,916,666.67 \times 0.9) + (P145,557.00) \text{ [sic]} \\ &= P2,625,000.00 + P14,557.00 \\ &= P2,639,557.00 \text{ plus } P100,000.00 \text{ for the} \\ &\text{Farmhouse.} \text{[14]} \end{aligned}$$

Unsatisfied, LBP filed a motion for reconsideration, but it was denied by the SAC on July 18, 2006.

Hence, LBP filed a petition for review under Rule 42 of the Rules of Court before the CA, arguing: 1] that the SAC erred in taking cognizance of the case when the DARAB decision sustaining the LBP valuation had long attained finality; 2] that the SAC erred in taking judicial notice of the Commissioners' Report without conducting a hearing; and 3] that the SAC violated Republic Act (R.A.) No. 6657<sup>[15]</sup> and DAR A.O. No. 6, series of 1992, in fixing the just compensation.

#### *The CA Ruling*

In its September 18, 2009 Decision, the CA ruled that the SAC correctly took cognizance of the case, citing *LBP v. Wycoco*<sup>[16]</sup> and *LBP v. Suntay*.<sup>[17]</sup> It reiterated that the SAC had original and exclusive jurisdiction over all petitions for the determination of just compensation. The appellate court stated that the original and exclusive jurisdiction of the SAC would be undermined if the DAR would vest in administrative officials the original jurisdiction in compensation cases and make the SAC an appellate court for the review of administrative decisions.<sup>[18]</sup>

With regard to just compensation, the CA sustained the valuation by the SAC for being well within R.A. No. 6657, its implementing rules and regulations, and in accordance with settled jurisprudence. The factors laid down under Section 17 of R.A. No. 6657, which were translated into a basic formula in DAR A.O. No. 6, series of 1992, were used in determining the value of Dalauta's property. It stated that the courts were not at liberty to disregard the formula which was devised to implement Section 17 of R.A. No. 6657. The CA, however, disagreed with the SAC's valuation of the farmhouse, which was made of wood and galvanized iron, for it was inexistent during the taking of the subject land.<sup>[19]</sup>

The appellate court also disallowed the awards of attorney's fees and litigation expenses for failure of the SAC to state its factual and legal basis. As to the award of commissioner's fees, the CA sustained it with modification to conform with Section 15, Rule 141<sup>[20]</sup> of the Rules of Court. Considering that the Commissioners worked for a total of fifteen (15) days, the CA ruled that they were only entitled to a fee of P.3,000.00 each or a total of P9,000.00.<sup>[21]</sup> The dispositive portion reads:

**WHEREFORE**, in view of all the foregoing, the instant petition is PARTIALLY