

FIRST DIVISION

[G.R. No. 220367, November 20, 2017]

NATIONAL POWER CORPORATION, PETITIONER, V. APOLONIO V. MARASIGAN, FRANCISCO V. MARASIGAN, LILIA V. MARASIGAN, BENITO V. MARASIGAN, JR., AND ALICIA V. MARASIGAN, RESPONDENTS.

D E C I S I O N

TIJAM, J.:

This Petition for Review^[1] on *Certiorari* under Rule 45 challenges the Decision^[2] dated September 1, 2015 of the Court of Appeals (CA) in CA G.R. CV No. 97640, which affirmed the Decision^[3] dated December 20, 2010 of the Regional Trial Court (RTC) of Pili, Camarines Sur, in the expropriation case commenced by petitioner National Power Corporation (NPC) against respondents as registered owners of the subject properties.

The Antecedents

For purposes of constructing and maintaining its steel transmission lines and wooden electric poles for its Naga-Tiwi 230 KV (Single Bundle), Naga-Tiwi 230 KV (Double Bundle) and 69 KV Naga-Daraga Transmission Lines, NPC filed, on January 23, 2006, an expropriation complaint^[4] against respondents as registered owners of the following four parcels of land located in Barangays Sagurong, San Agustin and San Jose, Pili, Camarines Sur:

Lot No.	OCT No.	Tax Dec. No.	Total Area	Area Affected
516-B	626 ^[5]	97-014-227 ^[6]	8,712 sq.m.	2,908 sq.m.
4237	627 ^[7]	97-014-394 ^[8]	861,163 sq.m.	33,196 sq.m.
2870	628 ^[9]	97-014-391 ^[10]	13,462 sq.m.	5,940 sq.m.
517-B	629 ^[11]	97-014-228 ^[12]	13,765 sq.m.	7,129 sq.m.
			Total Area:	49,173 sq.m.

The total area over which NPC sought an easement of right of way covers 49,173 square meters of the subject properties.^[13] Based on the tax declarations allegedly classifying the properties as agricultural and based on the corresponding Bureau of Internal Revenue's (BIR) zoning valuation therefor, NPC offered to pay Php 299,550.50.^[14]

While interposing no objection to the expropriation, respondents nevertheless opposed the classification of the properties as agricultural on the ground that the same were classified as industrial, commercial and residential since the year 1993 as shown by (1) Sangguniang Bayan Resolution No. 17; (2) Municipal Ordinance No. 7 dated February 1, 1993; (3) annotations on the memorandum of encumbrances of

the titles; (4) DARCO Conversion Order No. 050301016014-(300)-00, Series of 2000 issued by the Department of Agrarian Reform; and (5) Certification issued by the Municipal Assessor of Pili, Camarines Sur.^[15] Respondents thus claimed PhP 47,064,400 for the affected 49,173 square meters. By way of counterclaim, respondents sought payment of consequential damages for the areas left in between each transmission line, like the spaces underneath the infrastructure, commonly known as "dangling" portions in the total area of 41,869 square meters.^[16]

After the pre-trial, the RTC issued an Order of Expropriation and further fixed the provisional value of the properties at PhP 47,064,400, which amount was eventually deposited by NPC with Landbank of the Philippines.^[17] Accordingly, in an Omnibus Order dated May 23, 2006, the RTC issued a writ of possession in favor of NPC and ordered the LBP to release to respondents the amount deposited.^[18] Meanwhile, an appraisal committee was formed by the RTC for purposes of determining just compensation,^[19] which thereafter submitted a Consolidated Report dated August 10, 2006.^[20] A reversed trial thereafter ensued.

Respondents presented the Chairman^[21] of the appraisal committee who testified that the appraisal committee recommended^[22] the total valuation of PhP 49,064,400 based on the assessor's data and the BIR zonal valuations as indicated on the 1997 tax declarations.^[23] Also presented was the succeeding Chairman^[24] of the appraisal committee who testified that the properties suffered consequential damages which the appraisal committee recommended to be computed at 50% of the BIR zonal value per square meter or for a total amount of PhP 22,227,800.^[25] On ocular inspection, the appraisal committee found that the existence of the transmission lines hampered the properties' potential use such that while the areas before and after the transmission lines could still be used, the areas in between could no longer be utilized. The appraisal committee also noted that the transmission lines produced considerable noise making the area unsuitable for residential purposes.^[26]

NPC, on the other hand, presented its right-of-way officers whose testimonies sought to establish that the lots being claimed by respondents as "dangling" areas were classified as agricultural under the tax declarations and that NPC negotiated with respondents for purposes of installing the transmission lines in 1996^[27] and that NPC took the subject properties in between the years 1996 to 1998.^[28] The right-of-way officer further testified that the "dangling" areas could still be used for agricultural purposes but nevertheless agreed that the presence of the transmission lines may endanger the people and animals therein if in case they fell.^[29] On cross-examination, the right of way officer admitted that the properties were classified as agro industrial as stated in the 1998 tax declarations. He admitted that the classification of the properties as agricultural which was used as basis for computing its value was erroneous.^[30]

The RTC rendered its Decision dated December 20, 2010 affirming the recommendation of the appraisal committee for the payment of just compensation and fixed the amount of PhP 47,064,400 for the 49,173 square meters based on the BIR zonal valuation of the properties classified as residential, commercial and industrial as of the time of the filing of the complaint on January 23, 2006. The RTC rejected NPC's claim that it took possession of the property in 1972 and 1974 when

respondents allegedly. allowed NPC to construct the transmission lines for lack of proof. In addition, the RTC held that had the properties been taken on said years, such taking was without color of legal authority. The RTC likewise adopted the recommendation of the appraisal committee for the payment of PhP 22,227,800 as consequential damages for the 41,867 square meters portion of the properties which were rendered useless or no longer fit for its intended use due to the construction of the transmission lines.^[31]

In disposal, the RTC held:

Wherefore, judgment is hereby rendered:

1. Approving and adopting the Commissioner's Report dated August 9, 2006 and November 24, 2008;
2. The payment of the provisional value (on May 19, 2006 when plaintiff made the deposit) of P47,064,400.00 as just compensation for the 49,173 square meters area directly affected by the transmission lines is the payment for the just compensation with 12% interest *per annum* (*Marina Z. Reyes, et al. vs. National Housing Authority*, G.R. No. 147511, January 20, 2003), from the date of filing of this case until paid;
3. Condemning plaintiff to pay defendants the amount of P22,227,800.00 as consequential damages with interest at 12% per annum from January 23, 2006 until fully paid;
4. To pay P20,000.00 attorney's fees.

SO ORDERED.^[32]

NPC's motion for reconsideration was denied by the RTC in its Order dated May 2, 2011.^[33] However, the RTC modified the imposition of interest as follows:

Wherefore, judgment is hereby rendered:

1. Approving and adopting the Commissioner's Report dated August 9, 2006 and November 24, 2008;
2. The payment of the provisional value (on May 19, 2006 when plaintiff made the deposit) of P47,064,400.00 as just compensation for the 49,173 square meters area directly affected by the transmission lines is the payment for the just compensation with interest at 6% per annum from the date of filing of the case until full payment less the interest collected by the defendants from the bank deposit;
3. Condemning plaintiff to pay defendants the amount of P22,227,800.00 as consequential damages with interest at 6% per annum from January 23, 2006 and at 12% per annum from the date of finality of this decision until fully paid;
5. To pay P20,000.00 attorney's fees.

SO ORDERED.^[34]

Consequently, NPC interposed its appeal before the CA raising as issues the alleged erroneous award of just compensation and consequential damages. Specifically, NPC argued that the award was based on the premise that it sought to acquire ownership over the properties when it merely seeks to acquire a right-of-way thus necessitating the payment of a mere easement fee equivalent to 10% of the market value of the properties. Further, it argued that the award is contrary to the zonal valuation of the property classified as agricultural and erroneously reckoned as of the time of the filing of the complaint instead as of the time of taking.

On the other hand, respondents moved for the execution of the award pending appeal which the RTC granted.^[35] A writ of execution and a notice of garnishment were thereafter issued.^[36]

On September 1, 2015, the CA rendered its Decision denying NPC's appeal. Contrary to NPC's claim, the CA held that the just compensation to be paid for an easement of a right-of-way over lands that would be traversed by high-powered transmission lines should be the full value of the subject property.^[37]

The CA likewise found no merit in NPC's argument that the fair market value of the properties should have been based on the BIR zonal valuation at the time of its supposed taking of the property in the 1970s and on the basis of its classification as agricultural land as stated in the tax declarations. The CA reasoned that NPC failed to allege the issue of taking. in its complaint nor was such raised during pre-trial or proven during trial. The CA also held that to base the fair market value of the property during the alleged actual taking in the 1970s is to compound the injustice caused to respondents as the expropriation complaint was filed more than 30 years after NPC allegedly took respondents' properties.^[38] As regards to the proper classification of the properties, the CA noted that these were already reclassified as residential, commercial and industrial by the municipality of Pili, Camarines Sur even prior to the filing of the expropriation complaint.^[39]

Finally, the CA found no reason to disturb the RTC's award of consequential damages as testimony to that effect was presented by respondents while NPC, on the other hand, failed to prove the alleged consequential benefits.

The CA thus disposed:

WHEREFORE, the foregoing considered, the appeal is hereby **DENIED** and the decision of the trial court [dated] December 20,2010, as modified by its Order dated May 2, 2011, is **AFFIRMED in toto**.

SO ORDERED.^[40]

Upon denial of its motion for reconsideration, NPC filed the present petition.

The Issues

Reiterating its arguments before the lower courts, NPC interposes the following issues for resolution: (1.) should the value of the property be reckoned at the time of the taking in the 1970s; (2.) should the amount of just compensation be based on the properties' BIR zonal valuation corresponding to its classification as agricultural in the tax declarations; and (3.) is the award of consequential damages for the "dangling" area proper.^[41]

Essentially, NPC contests the amount of just compensation and the award of consequential damages.

The Ruling

We deny the petition.

Reckoning point of the market value of the properties

The circumstances surrounding the "taking" of property in the context of the State's exercise of the power of eminent domain has been jurisprudentially listed in the seminal case of *Republic v. Vda. De Castellvi*,^[42] thus:

First, the expropriator must enter a private property. x x x

Second, the entrance into private property must be for more than a momentary period. x x x

x x x x

Fourth, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected. x x x

Fifth, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property. x x x^[43]

That there was taking of the subject properties for purposes of expropriation is beyond contest. What plagues the court and the parties is the date when such taking is to be reckoned because this will, in turn, be determinative of the value of the subject properties from which the amount of just compensation will be based.

Sec. 4,^[44] Rule 67 lays down the basic rule that the value of the just compensation is to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

The case of *National Transmission Corporation v. Oroville Development Corporation*,^[45] settles that just compensation should be reckoned from the date of actual taking when such preceded the filing of the complaint for expropriation. In *Oroville*, the Court explains that the State is only obliged to make good the loss sustained by the landowner and considering the circumstances availing at the time the property was taken. Deviation from this general rule was permitted in the cases of *National Power Corporation v. Heirs of Macabangkit Sangkay*^[46] and *National Power Corporation v. Spouses Saldares*^[47] due to special circumstances^[48] therein obtaining which necessitated a valuation of just compensation at the time the landowners initiated inverse condemnation proceedings notwithstanding that taking of the properties occurred first.

The peculiarity of the instant case is that NPC insists that it took the subject properties in the 1970s despite having initiated the expropriation complaint only on January 23, 2006. Following the general rule, NPC thus reasons that the value of the properties should be reckoned in the 1970s. However, NPC's expropriation complaint and the very testimonial evidence it offered strongly militate against such proposition.