

## SECOND DIVISION

[ G.R. No. 173520, January 30, 2013 ]

### NATIONAL POWER CORPORATION, PETITIONER, VS. SPOUSES RODOLFO ZABALA AND LILIA BAYLON, RESPONDENTS.

#### DECISION

##### DEL CASTILLO, J.:

Legislative enactments, as well as executive issuances, fixing or providing for the method of computing just compensation are tantamount to impermissible encroachment on judicial prerogatives.<sup>[1]</sup> Thus they are not binding on courts and, at best, are treated as mere guidelines in ascertaining the amount of just compensation.<sup>[2]</sup>

This Petition for Review on *Certiorari*<sup>[3]</sup> assails the July 10, 2006 Decision<sup>[4]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 85396 which affirmed the June 28, 2004 Partial Decision<sup>[5]</sup> of the Regional Trial Court (RTC), Branch 2, Balanga City in an eminent domain case,<sup>[6]</sup> ordering petitioner National Power Corporation (Napocor) to pay respondents spouses Rodolfo Zabala and Lilia Baylon (spouses Zabala) just compensation of P150.00 per square meter for the 6,820-square meter portion of the spouses' property which was traversed by transmission lines of Napocor under its 230 KV Limay-Hermosa Permanent Transmission Lines Project.

##### ***Factual Antecedents***

The facts of this case as found by the CA and adopted by Napocor are as follows:

On October 27, 1994, plaintiff-appellant National Power Corporation ("Napocor" x x x) filed a complaint for Eminent Domain against defendants-appellees Sps. R. Zabala & L. Baylon, Tomas Aguirre, Generosa de Leon and Leonor Calub ("Spouses Zabala", "Aguirre" "de Leon", and "Calub," respectively x x x) before the Regional Trial Court, Balanga City, Bataan alleging that: defendants-appellees Spouses Zabala and Baylon, Aguirre, de Leon, and Calub own parcels of land located in Balanga City, Bataan; it urgently needed an easement of right of way over the affected areas for its 230 KV Limay-Hermosa Transmission Line[s]; the said parcels of land have neither been applied nor expropriated for any public use, and were selected in a manner compatible with the greatest public good and the least private injury; it repeatedly negotiated with the defendants-appellees for the acquisition of right of way easement over the said parcels of land but failed to reach an agreement with the latter; it has the right to take or enter upon the possession of the subject properties pursuant to Presidential Decree No. 42, which repealed Section 2, Rule 67 of the Rules of Court upon the

filing of the expropriation complaint before the proper court or at anytime thereafter, after due notice to defendants-appellees, and upon deposit with the Philippine National Bank of the amount equal to the assessed value of the subject properties for taxation purposes which is to be held by said bank subject to the orders and final disposition of the court; and it is willing to deposit the provisional value representing the said assessed value of the affected portions of the subject property x x x. It prayed for the issuance of a writ of possession authorizing it to enter and take possession of the subject property, to demolish all the improvements x x x thereon, and to commence with the construction of the transmission line[s] project on the subject properties, and to appoint not more than three (3) commissioners to ascertain and report the just compensation for the said easement of right of way.

x x x x

On January 11, 1995, defendant-appellee Spouses Zabala moved to dismiss the complaint averring that: the Balanga City proper is already crowded and x x x needs additional space to meet the housing requirements of the growing population; the only direction the city proper could expand is the side where their subject property is located; they incurred a considerable [expense in] the preparatory development of the subject property into a subdivision to serve the interest and well being of the growing population of Balanga; the said growing need for housing and said preparatory development would necessarily increase the value of the said property; the just compensation would be [higher] if the proposed transmission line[s] of plaintiff-appellant Napocor is installed or made to pass or traverse [through] their property rather than [through] the parcels of land farther from the existing city proper and away from their property which was tapped to meet the expansion requirements of the Balanga City proper; the transfer of the proposed transmission line[s] from their property to a farther location is more economical and less expensive to plaintiff-appellant Napocor and it would better serve the interest of the people of Balanga because said location is less developed, not needed for the expansion requirements of Balanga City proper, the lots that would be traversed command a lower price and less compensation would be paid by plaintiff-appellant Napocor; the traversing of the transmission line[s] [through] their property would [impact negatively on] the housing expansion [in] Balanga, the high tension wires would endanger the life and limb of the inhabitants within the area, and decrease the value of their subject property; the complaint does not show that the installation of the proposed transmission wire[s] on their property is the most direct, practical and least burdensome means to achieve public good; the assessed value of P1,636.89 stated in Tax Declaration No. 1646 is insufficient because it has been revised and cancelled by Tax Declaration No. 11052 which shows a higher assessment value for the said property; and plaintiff-appellant Napocor did not exert earnest effort[s] toward the direct purchase of the needed portion of their property before filing a complaint before the lower court.

On March 4, 1996 and March 7, 1996 plaintiff-appellant Napocor and defendants-appellees Spouses Zabala filed their respective Pre-Trial

Brief[s].

On December 4, 1997, the Commissioners submitted their Report/Recommendation fixing the just compensation for the use of defendants-appellees Spouses Zabala's property as easement of right of way at P150.00 per square meter without considering the consequential damages.

Plaintiff-appellant Napocor prayed in its Comment to the commissioners' report, that the report be recommitted to the commissioners for the modification of the report and the substantiation of the same with reliable and competent documentary evidence based on the value of the property at the time of its taking. [On their part], defendants-appellees Spouses Zabala prayed, in the Comments, for the fixing of the just compensation at P250.00 per square meter.

On February 25, 1998, the lower court recommitted the report to the Commissioners for further report on the points raised by the parties.

On August 20, 2003, the Commissioners submitted their Final Report fixing the just compensation at P500.00 per square meter.<sup>[7]</sup>

Since the Commissioners had already submitted their Final Report<sup>[8]</sup> on the valuation of the subject property, spouses Zabala moved for the resolution of the case insofar as their property was concerned. Thus, on June 28, 2004, the RTC rendered its Partial Decision,<sup>[9]</sup> ruling that Napocor has the lawful authority to take for public purpose and upon payment of just compensation a portion of spouses Zabala's property. The RTC likewise ruled that since the spouses Zabala were deprived of the beneficial use of their property, they are entitled to the actual or basic value of their property. Thus, it fixed the just compensation at P150.00 per square meter. The dispositive portion of the RTC's Partial Decision reads:

WHEREFORE, premises considered, the Court having determined that [Napocor] has a lawful right to take the subject properties in the exercise of the power of eminent domain upon payment of just compensation, the petition is hereby granted.

Accordingly, [Napocor] is hereby ordered to pay defendant Spouses Rodolfo Zabala and Lilia Baylon the amount of Php 150.00 per square meter for the 6,820 square meters taken from the latter's property, as the just compensation fixed and recommended by the commissioners determined as of the date of the taking of the property.

As regards x x x the properties of the other defendants, the determination of x x x just compensation is hereby held in abeyance until the submission of the commissioners' report.

SO ORDERED.<sup>[10]</sup>

Napocor appealed to the CA. It argued that the Commissioners' reports upon which the RTC based the just compensation are not supported by documentary evidence. Necessarily, therefore, the just compensation pegged by the RTC at P150.00 per square meter also lacked basis. Napocor likewise imputed error on the part of the RTC in not applying Section 3A of Republic Act (RA) No. 6395<sup>[11]</sup> which limits its liability to easement fee of not more than 10% of the market value of the property traversed by its transmission lines.

On July 10, 2006, the CA rendered the assailed Decision affirming the RTC's Partial Decision.

### **Issue**

Hence, this Petition anchored on the ground that:

THE COURT OF APPEALS ERRED IN AFFIRMING THE PARTIAL DECISION DATED JUNE 28, 2004 AND THE ORDER DATED FEBRUARY 7, 2005 OF THE TRIAL COURT FIXING THE AMOUNT OF P150.00 PER SQUARE METER AS THE FAIR MARKET VALUE OF THE SUBJECT PROPERTY SINCE THE SAME IS NOT SUPPORTED BY DOCUMENTARY EVIDENCE.<sup>[12]</sup>

Napocor contends that under Section 3A of RA No. 6395, it is not required to pay the full market value of the property when the principal purpose for which it is actually devoted will not be impaired by its transmission lines. It is enough for Napocor to pay easement fee which, under the aforementioned law, should not exceed 10% of the market value of the affected property. Napocor argues that when it installed its transmission lines, the property of spouses Zabala was classified as riceland and was in fact devoted to the cultivation of palay. Its transmission lines will not, therefore, affect the primary purpose for which the subject land is devoted as the same only pass through it. The towers to which such lines are connected are not even built on the property of spouses Zabala, who will remain the owner of and continue to enjoy their property. Hence, the RTC and the CA, according to Napocor, both erred in not applying Section 3A of RA No. 6395.

Napocor further argues that even assuming that spouses Zabala are entitled to the full market value of their property, the award of P150.00 per square meter as just compensation lacks basis because the recommendation of the Commissioners is not supported by documentary evidence.

### **Our Ruling**

The petition is partially meritorious.

*Section 3A of RA No. 6395 cannot restrict the constitutional power of the courts to determine just compensation.*

In insisting that the just compensation cannot exceed 10% of the market value of the affected property, Napocor relies heavily on Section 3A of RA No. 6395, the

pertinent portions of which read:

Sec. 3A. In acquiring private property or private property rights through expropriation proceedings where the land or portion thereof will be traversed by the transmission lines, only a right-of-way easement thereon shall be acquired when the principal purpose for which such land is actually devoted will not be impaired, and where the land itself or portion thereof will be needed for the projects or works, such land or portion thereof as necessary shall be acquired.

In determining the just compensation of the property or property sought to be acquired through expropriation proceedings, the same shall:

(a) With respect to the acquired land or portion thereof, not to exceed the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower.

(b) With respect to the acquired right-of-way easement over the land or portion thereof, not to exceed ten percent (10%) of the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor whichever is lower.

x x x x

Just compensation has been defined 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 [t]endered for the property to be taken shall be real, substantial, full and ample."<sup>[13]</sup> The payment of just compensation for private property taken for public use is guaranteed no less by our Constitution and is included in the Bill of Rights.<sup>[14]</sup> As such, no legislative enactments or executive issuances can prevent the courts from determining whether the right of the property owners to just compensation has been violated. It is a judicial function that cannot "be usurped by any other branch or official of the government."<sup>[15]</sup> Thus, we have consistently ruled that statutes and executive issuances fixing or providing for the method of computing just compensation are not binding on courts and, at best, are treated as mere guidelines in ascertaining the amount thereof.<sup>[16]</sup> In *National Power Corporation v. Bagui*,<sup>[17]</sup> where the same petitioner also invoked the provisions of Section 3A of RA No. 6395, we held that:

Moreover, Section 3A-(b) of R.A. No. 6395, as amended, is not binding on the Court. It has been repeatedly emphasized that the determination of just compensation in eminent domain cases is a judicial function and that any valuation for just compensation laid down in the statutes may serve