

SECOND DIVISION

[G.R. No. 165386, July 29, 2013]

NATIONAL POWER CORPORATION, PETITIONER, VS. SPOUSES SALVADOR AND NENITA CRUZ, SPOUSES EDMUNDO AND MERLA BARZAGA, SPOUSES CRISANTO AND JULIETA DELA CRUZ, SPOUSES LORENZO AND ROSALINA PALAGANAS, SPOUSES RICARDO AND LOLITA SAGUID, SPOUSES CARMELITA A-ND RESTITUTO ALCID, HIPOLITA NASALGA, CRISELDA AND 'REDENTOR REYES, ILUMINADA ALIPIO, REYNALDO ALIPIO, CORAZON PELAYO, SPOUSES ROLANDO AND FELICIDAD BOANGUTS, SPOUSES JOSELLTO AND CAROLINE MENDOZA, SPOUSES ERLINDA AND CELSO DE GUZMAN, SPOUSES MIGUEL AND VIRGINIA CASAS, SPOUSES ERLINDA AND CELSO DICCION, MA. RENITA MARIANO, VICTORIA ESPIRITU, SPOUSES VICTOR AND ROSARION SOTELO, RENATO GUIEB, DANIEL STA. MARIA, SPOUSES MELANIO AND SOTERIA TORRES, SPOUSES CIRIACO AND PERLITA BENDIJO, SPOUSES L.ILIA AND DOMINGO TORRES, PACITA TORRES AND GREGORIA.CASTILLO, SPOUSES HILARIO AND AMANDA DONIZA, SPOUSES JEREMIAS AND ISABEL GARCIA, SPOUSES EDUARDO AND MA. MARIN CALDERON, SPOUSES ERNESTO AND PELAGIA LUCAS, CORAZON ACOSTA, TERESITA LACSON AND JULIANA DE GUZMAN, PERLA REYES, SPOUSES ESMELITON AND REMEDIOS ESPIRITU, SPOUSES ROGELIO AND AURORA ABALON, DITAS GARCIA, TERESITA CAPATI, SPOUSES EFREN AND MERCEDES MARTIN, SPOUSES HIPOLITO AND ANTONIA STA. MARIA, DIONISIO AND ATANACIA DOMONDON, JAOQUIN AND MA. THERESA DELA ROSA, SPOUSES ROMULO AND NORMA DUCUSIN, GENOVEVA CRUZ AND A. BAUTISTA, PURITA SUNICO, SPOUSES MINERVA AND ROQUE NUALLA, AND SPOUSES GABINO, JR. AND CRISPINA ALIPIO, RESPONDENTS.

DECISION

BRION, J.:

For the Court's resolution is the petition for review on *certiorari*^[1] filed under Rule 45 of the Rules of Court by the National Power Corporation (*Napocor*). *Napocor* seeks to annul and set aside the decision^[2] dated February 10, 2004 and the resolution^[3] dated September 13, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 62911, which affirmed with modification the order dated March 31, 1998 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 15, in Civil Case No. 111-M-97.

THE FACTS

Civil Case No. 111-M-97 was an expropriation proceeding commenced by Napocor against respondents Spouses Salvador and Nenita Cruz, Spouses Edmundo and Merla Barzaga, Spouses Crisanto and Julieta dela Cruz, Spouses Lorenzo and Rosalina Palaganas, Spouses Ricardo and Lolita Saguid, Spouses Carmelita and Restituto Alcid, Hipolita Nasalga, Criselda and Redentor Reyes, Iluminada Alipio, Reynaldo Alipio, Corazon Pelayo, Spouses Rolando and Felicidad Boanguis, Spouses Joselito and Caroline Mendoza, Spouses Erlinda and Celso de Guzman, Spouses Miguel and Virginia Casas, Spouses Erlinda and Celso Diccion, Ma. Renita Mariano, Victoria Espiritu, Spouses Victor and Rosarion Sotelo, Renato Guieb, Daniel Sta. Maria, Spouses Melanio and Soteria Torres, Spouses Ciriaco and Perlita Bendijo, Spouses Lilia and Domingo Torres, Pacita Torres and Gregoria Castillo, Spouses Hilario and Amanda Doniza, Spouses Jeremias and Isabel Garcia, Spouses Eduardo and Ma. Marin Calderon, Spouses Ernesto and Pelagia Lucas, Corazon Acosta, Teresita Lacson and Juliana de Guzman, Perla Reyes, Spouses Esmeliton and Remedios Espiritu, Spouses Rogelio and Aurora Abalon, Ditas Garcia, Teresita Capati, Spouses Efren and Mercedes Martin, Spouses Hipolito and Antonia Sta. Maria, Dionisio and Atanacia Domondon, Jaoquin and Ma. Theresa dela Rosa, Spouses Romulo and Norma Ducusin, Genoveva Cruz and A. Bautista, Purita Sunico, Spouses Minerva and Roque Nualla, and Spouses Gabino, Jr. and Crispina Alipio, who are the owners of individual lots located in Del Monte Park Subdivision, Dulong Bayan, San Jose Del Monte, Bulacan. The complaint, filed on February 17, 1997, primarily sought the **determination of just compensation** due the respondents after the negotiations for the purchase of the lots failed.

In its **order dated September 17, 1997**, the RTC directed the Bulacan Provincial Appraisal Committee (PAC) "to review and submit an updated appraisal report on the properties to be acquired by [Napocor] in order 'to judicially guide the Court in fixing the amount to be paid by the plaintiff to the defendants.'"^[4] In the meantime, the RTC allowed Napocor to take possession of the lots, after Napocor deposited an amount equivalent to their assessed value pursuant to Section 2, Rule 67 of the Rules of Court.^[5]

On October 22, 1997, the PAC submitted its report^[6] to the RTC which pegged the just compensation at P2,200.00 per square meter. After considering the PAC's report, the RTC issued an **order dated March 31, 1998** fixing the just compensation at P3,000.00 per square meter. Although the RTC found the PAC's recommended amount of P2,200.00 reasonable, it noted that an additional amount of P800.00 was necessary in view of the then prevailing economic crises and the devaluation of the peso.

Napocor appealed the RTC's March 31, 1998 order with the CA. It assailed the appointment of the PAC, claiming that its appointment was contrary to Rule 67 of the Rules of Court. It also alleged that the determination of the amount of just compensation was without basis.

THE CA RULING

The CA affirmed the RTC's March 31, 1998 order, subject to a modification. It upheld the appointment of the PAC and the recommendation to set the just compensation at P2,200.00 per square meter, but removed the additional P800.00 that the RTC

imposed. The CA instead imposed legal interest at 12% per annum on the amount of just compensation, to compensate for the constant fluctuation and inflation of the value of the currency.

Its motion for reconsideration of the CA decision having been denied,^[7] Napocor elevates the case to us through the present petition.

THE PARTIES' ARGUMENTS

Napocor asserts that the appointment of the PAC as commissioners was contrary to Rule 67 of the Rules of Court, specifically, Section 5 thereof which states:

Section 5. *Ascertainment of compensation.* – Upon the rendition of the order of expropriation, the court shall **appoint not more than three (3) competent and disinterested persons as commissioners** to ascertain and report to the court the just compensation for the property sought to be taken. **The order of appointment shall designate the time and place of the first session of the hearing** to be held by the commissioners and specify **the time within which their report shall be submitted to the court.**

Copies of the order shall be served on the parties. Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall be resolved within thirty (30) days after all the commissioners shall have received copies of the objections. [italics supplied; emphases ours]

It contends that Rule 67 requires the trial court to appoint three **persons**, and not a committee like the PAC. The members of the PAC also did not subscribe to an oath which is required under Section 6, Rule 67 of the Rules of Court.^[8]

Napocor also points out that the RTC's March 31, 1998 order did not specify the time and place for the first hearing of the commissioners and the time the commissioners' report should be submitted. No notice of hearing on the commissioners' report was, in fact, given to Napocor, depriving it of its right to present evidence to controvert the findings of the PAC.

Napocor further alleges that the CA erred in disregarding the compromise agreement it entered into with the respondents. The agreement was executed during the pendency of the appeal with the CA and fixed the amount of just compensation at P1,900.00 per square meter. As the agreement was validly entered into by the parties, Napocor claims it is binding on the parties and could not be disregarded by the CA.

The respondents, on the other hand, assert that Napocor's allegations are unmeritorious. They claim that the appointment of the PAC constituted substantial compliance with Section 5, Rule 67 of the Rules of Court, since the PAC was composed of three members (the provincial assessor, the provincial engineer, and the provincial treasurer) who are government officials without interest in the outcome of the litigation, and who are competent to evaluate and assess valuation of the properties. They have been specifically tasked "to guide the Court in fixing the amount to be paid by the plaintiff to the defendants,"^[9] which is the same task

required of the commissioners by Rule 67 of the Rules of Court.

They further claim that it was Napocor's inaction itself that denied it the opportunity to present evidence due to its own failure to question the appointment of the commissioners and the commissioners' report within the period provided under the Rules. Likewise, it was Napocor which should be faulted for the CA's refusal to take cognizance of the compromise agreement. Although Napocor manifested that an agreement was entered into by the parties, it consistently failed to submit a copy to the CA for the latter's approval. For over a year, the CA granted Napocor's numerous motions for extension to submit a copy, but Napocor failed to comply. Consequently, the CA should not be faulted for refusing to consider and approve the agreement. At any rate, the respondents claim that the agreement does not bind them, as they were made to sign it without the benefit of counsel during the pendency of the case.

Finally, the respondents allege that the amount of P2,200.00 as just compensation is fully supported not only by the findings in the report, but also by the Appraisal Report, which Napocor obtained from the Land Bank of the Philippines (LBP). The LBP Appraisal Report fixed the market value of the expropriated properties at P2,200.00.^[10]

Incidental Matters

The majority of the respondents who filed the Comment dated February 16, 2005 are represented by Atty. Reynaldo B. Hernandez.^[11] During the pendency of the case, Atty. Hernandez submitted before the Court an *Omnibus Motion*^[12] (1) seeking clarification on the participation of one Atty. Pedro S. Principe of *Principe, Villano, Villacorta, Clemente and Associates* in the present proceeding, and (2) praying for an order from the Court enjoining the RTC from hearing and resolving Atty. Principe's *Motion to Enter Attorney's Charging Lien into the Records of This Case Even Before Final Judgment is Rendered*.

According to Atty. Hernandez, Atty. Principe claims to be the counsel of the same respondents that he (Atty. Hernandez) is representing. However, the respondents themselves have repudiated Atty. Principe's claim. Atty. Hernandez also states that, as borne by the records, the RTC has already denied Atty. Principe's appearance and motion to intervene in the expropriation proceedings. Atty. Principe wanted to intervene, supposedly to protect his 40% share in the expropriated properties, which he (Atty. Principe) claimed constituted part of his legal fees.

In response to Atty. Hernandez's allegations, Atty. Principe denies that he is a "nuisance interloper." Atty. Principe claims that he is the counsel for SANDAMA,^[13] an organization formed by owners of the affected expropriated properties, of which the respondents are members. It was SANDAMA, through its President, Danilo Elfa, which engaged his and his firm's legal services; to date, his authority has not been withdrawn or revoked. Hence, Atty. Principe should be recognized as the counsel of record for the respondents. As counsel for the respondents, Atty. Principe claims that there is nothing improper with his motion to enter into the records his charging lien, adding that the lien will not anyway be enforced until final judgment in this case.

Also, during the pendency of this case, Napocor filed a *Motion to Approve Attached*

Compromise Agreement,^[14] which it entered into with respondent Ditas C. Garcia on July 3, 2006. In light of the compromise agreement, the Court issued a Resolution^[15] dated March 28, 2011 and considered the case closed and terminated insofar as respondent Ditas was concerned.

THE COURT'S RULING

The Court **denies** the petition.

The appointment of the PAC as commissioners

The settled rule in expropriation proceedings is that the determination of just compensation is a judicial function.^[16] To assist the courts in this task, Section 5, Rule 67 of the Rules of Court requires the appointment of "not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken." Although the appointment of commissioners is mandatory, the Rules do not impose any qualifications or restrictions on the appointment, other than that the commissioners should not number more than three and that they should be competent and disinterested parties.

In this case, the Court finds that the appointment of the PAC as commissioners substantially complies with Section 5, Rule 67 of the Rules of Court. It is immaterial that the RTC appointed a *committee* instead of three *persons* to act as commissioners, since the PAC is composed of *three members* – the Provincial Assessor, the Provincial Engineer, and the Provincial Treasurer. Considering their positions, we find each member of the PAC competent to perform the duty required of them, *i.e.*, to appraise the valuation of the affected lots. As correctly found by the CA, they "are government officials entrusted with the updating and time-to-time determination of currently assessed, as well as, market value of properties within their jurisdiction[.]"^[17] The mere fact that they are government officials does not disqualify them as disinterested persons, as the provincial government has no significant interest in the case.

Instead, what we find material is that the PAC was tasked to perform precisely the same duty that the commissioners, under Section 5, Rule 67 of the Rules of Court, are required to discharge. The RTC order dated September 17, 1997 directed the PAC "to review and submit an updated appraisal report on the property to be acquired by the plaintiff NAPOCOR from the defendants to judicially guide the [c]ourt in fixing the amount to be paid [by] the plaintiff to the defendants."^[18] The appointment of the PAC served the same function as an appointment of three persons as commissioners under the Rules.

If Napocor found the appointment of the PAC to be objectionable, it should have filed its objections early on and not belatedly raise them in its appeal with the CA. The second paragraph of Section 5, Rule 67 states that –

Copies of the order [of appointment] shall be served on the parties.
Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall