

## FIRST DIVISION

[ G.R. No. 188046, July 24, 2013 ]

### LAND BANK OF THE PHILIPPINES, PETITIONER, VS. AMERICAN RUBBER CORPORATION, RESPONDENT.

#### DECISION

##### VILLARAMA, JR., J.:

Before us is a petition for review on certiorari filed by Land Bank of the Philippines (LBP) assailing the August 26, 2008 Decision<sup>[1]</sup> and May 12, 2009 Resolution<sup>[2]</sup> of the Court of Appeals (CA)-Mindanao Station in CA-G.R. SP No. 00990-MIN which affirmed with modification the Orders<sup>[3]</sup> dated June 16, 2005 and March 14, 2006 of the Regional Trial Court (Special Agrarian Court [SAC]) of Pagadian City, Branch 18.

The facts follow:

American Rubber Corporation (respondent) is the registered owner of two parcels of land with a combined area of 940.7276 hectares situated in Barangay Baluno, Isabela City, Basilan. The first parcel with an area of 927.9366 hectares is covered by Transfer Certificate of Title (TCT) No. T-1286, while the second parcel consists of 12.7910 hectares under TCT No. T-1285.<sup>[4]</sup>

Sometime in January 1998, respondent voluntarily offered to sell the two parcels and another property (TCT No. T-4747) together with all improvements for the total price of P105,732,921.00. Subsequently, respondent offered to sell only the properties covered by TCT Nos. T-1285 and T-1286 at the higher amount of P83,346.77 per hectare, for the total price of P1,066,588.60 (12.7970 hectares) and P76,928,492.00 (922.9930 hectares), respectively.<sup>[5]</sup>

The Department of Agrarian Reform (DAR) initially acquired 835.0771 hectares of respondent's landholding, with an average valuation of P64,288.16 per hectare or for a total amount of P53,685,570.62. Subsequently, an additional 37.7013 hectares were also covered, with an average valuation of P62,660.10 per hectare or for a total amount of P1,604,141.34. The total area acquired by DAR was 888.6489 hectares valued by petitioner at **P55,682,832.67**.<sup>[6]</sup>

Since respondent rejected DAR's offer based on petitioner's valuation, the Provincial Agrarian Reform Office (PARO) endorsed the claim folder to the Department of Agrarian Reform Adjudication Board (DARAB) Central Office for summary administrative proceedings.<sup>[7]</sup> DAR also requested petitioner to deposit the amount fixed as compensation for respondent's land. On February 22, 2000, petitioner deposited in cash and agrarian reform bonds the sum of P53,685,570.62.<sup>[8]</sup> Upon orders of the DAR Secretary, respondent's titles were partially cancelled and new transfer certificates of title were issued over the areas taken in the name of the

Republic of the Philippines on August 7, 2000. Thereafter, DAR issued Certificates of Land Ownership Award (CLOAs) in favor of the agrarian reform beneficiaries.<sup>[9]</sup>

Exasperated by DARAB's inaction for more than two years, respondent filed in the Regional Trial Court (SAC) a suit<sup>[10]</sup> for judicial determination of just compensation (Civil Case No. 4401-2K2). Petitioner filed a motion to dismiss<sup>[11]</sup> on the ground of non-exhaustion of administrative remedies, citing the pendency of administrative proceedings and respondent's admission that it had withdrawn and collected the preliminary amount of compensation deposited by petitioner. On January 28, 2003, the SAC denied the motion to dismiss.<sup>[12]</sup> Petitioner's motion for reconsideration was likewise denied.<sup>[13]</sup>

Pursuant to the Rules of Court, the SAC designated three commissioners nominated by the parties: an IBP member (Ret. Judge Cecilio G. Martin) as Chairman, and Engr. Sean C. Collantes from the Development Bank of the Philippines and BIR Revenue Officer Cesar P. Dayagdag as Members.

On July 29, 2004, the Commissioners' Report<sup>[14]</sup> was submitted to the Court, with the following findings and recommendation:

### **INVESTIGATIONS TAKEN**

On March 8, 2004[,] we conducted an ocular inspection. The entire membership of the Court appointed commissioners were all present and both the contending parties also sent their duly authorized representatives.

Our ocular inspection reveal that both parcels of land are pre-dominantly planted to rubber with an approximate density of 290-295 rubber trees per hectare. There are relatively smaller portions thereof which are devoted to the production of rice, cacao, coffee, black pepper, and coconuts. Also found inside the rubber plantation are plant nurseries, office buildings and other infrastructures. The land has an airstrip of about 10 hectares and is likewise traversed and criss-crossed by plantation roads, which were built by plaintiff, American Rubber, containing an area of 27 hectares more or less. The location [of] the rubber plantation is approximately 8 kilometers to the city proper of Isabela, Basilan.

During the course of ocular inspection, some of our members inquired from occupants/workers of the rubber plantation and adjoining owners to get information on the probable selling price of land particularly rubberland. Our inquiry revealed that rubberland commands a selling price of between P120,000 to P150,000 depending on the size of the land and condition of the rubber trees.

x x x x

x x x we conducted inquiries from the different government agency/officials such as the City Assessors Office of Isabela, Department

of Agriculture, Register of Deeds, Department of Agrarian Reform, and the Bureau of Internal Revenue for the purpose of obtaining information on the approximate selling price of rubberland in the Isabela City area. Our investigation reveal that the reasonable selling price of rubber [land] within the City of Isabela ranges from P90,000 to P150,000.

During the March 26, 2004 hearing, defendant LBP submitted a Valuation Summary for plaintiff's property while the plaintiff submitted a copy of the appraisal report prepared by Cuervo Appraisers Inc. x x x

x x x x

### **RECOMMENDATIONS**

x x x x

In VIEW of all the foregoing considerations, this Commission hereby recommends that just compensation of the [plaintiff's] property be fixed at ONE HUNDRED FIFTEEN MILLION THREE HUNDRED SEVENTY TWO THOUSAND TWO HUNDRED SIX PESOS (P115,372,206) x x x.<sup>[15]</sup>

On June 16, 2005, the SAC issued an Order<sup>[16]</sup> adopting the Commissioners' recommendation:

WHEREFORE, judgment is hereby rendered ordering defendant LBP and DAR to jointly and severally pay [plaintiff] the following:

1. Just compensation of [plaintiff's] property amounting to ONE HUNDRED FIFTEEN MILLION THREE HUNDRED SEVENTY TWO THOUSAND TWO HUNDRED SIX PESOS (P115,372,206) which amount is broken down below:

LAND USE	AREA TAKEN	VALUE/HECTARE	TOTAL VALUE
Rubberland	814.6625	P130,342	P106,184,739
Riceland	14.8470	P126,000	P 1,870,722
Coconutland	5.5676	P 98,430	P 548,018
Cacaoland	0.8971	P157,063	P 140,901
Idle/Rawland	13.4160	P 80,000	P 1,073,280
Black Pepper land	0.5918	P218,013	P 129,020
Plant Nursery	1.5574	P200,000	P 311,480
Plantation road	27.5043	P130,342	P 3,584,496
Airstrip	10.1970	P150,000	P 1,529,550
		<b>GRAND TOTAL</b>	<b>P115,372,206</b>

2. Interest based on the 91-day treasury bills rate as provided for under

Section 18 of R.A. 6657 be reckoned from the [date] when [plaintiff's] property was taken and/or transferred to the Republic of the Philippines

3. Commissioners fees to be taxed as part of the costs pursuant to Section 12, Rule 67, of the 1997 RCP, as amended, which shall be claimed in a Bill of Costs to be submitted to the Court for its evaluation and proper action thereto;

4. Reasonable attorney's fees amounting to One Hundred Fifty Thousand Pesos (P150,000.00);

5. Costs of suit.

SO ORDERED.<sup>[17]</sup>

After the SAC denied its motion for reconsideration, petitioner filed a petition for review under Rule 43 with the CA.

On August 26, 2008, the CA rendered the assailed decision, the dispositive portion of which reads:

**WHEREFORE**, premises foregoing, the instant petition is **PARTIALLY GRANTED**. The assailed Orders dated June 16, 2005 and March 14, 2006 of Branch 18 of the Regional Trial Court of Pagadian City is hereby **AFFIRMED** with **MODIFICATION** that the award of interest based on the 91-day treasury bill is deleted.

**SO ORDERED.**<sup>[18]</sup>

The CA also denied petitioner's motion for reconsideration.

Hence, this petition asserting that –

1. THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN **AFFIRMING WITH MODIFICATION** THE ORDERS DATED JUNE 16, 2005 AND MARCH 14, 2006 OF THE SPECIAL AGRARIAN COURT (SAC), THE COMPENSATION FIXED BY THE SAC NOT BEING IN ACCORDANCE WITH THE LEGALLY PRESCRIBED VALUATION FACTORS UNDER SECTION 17 OF R.A. 6657 AS TRANSLATED INTO A BASIC FORMULA IN DAR ADMINISTRATIVE ORDER NO. 05, SERIES OF 1998 AND JOINT DAR-LBP MEMORANDUM CIRCULAR NO. 7, SERIES OF 1999, AND AS RULED BY THE SUPREME COURT IN THE CASES OF *SPS. BANAL*, G.R. NO. 143276 (JULY 20, 2004); *CELADA*, G.R. NO. 164876 (JANUARY 23, 2006); AND *LUZ LIM*, G.R. NO. 171941 (AUGUST 2, 2007).

2. THE HONORABLE COURT OF APPEALS [ERRED] IN HOLDING PETITIONER LBP LIABLE FOR COMMISSIONERS' FEE AS THE LATTER IS

PERFORMING GOVERNMENTAL FUNCTION AND, THEREFORE, NOT LIABLE FOR COST.<sup>[19]</sup>

Petitioner assails the CA in affirming the SAC valuation which merely adopted the Commissioners' Report which, in turn, is based solely on the recommended valuation by respondent's private appraiser, Cuervo Appraisers, Inc. using a different criteria. It cites our ruling in *Land Bank of the Philippines v. Kumassie Plantation Company, Inc.*<sup>[20]</sup> where this Court noted that no basis had been shown in the appraisal report for concluding that the market data approach and income approach, the same criteria used by Cuervo Appraisers, Inc. in this case, "conformed to statutory and regulatory requirements."<sup>[21]</sup> Accordingly, we sustained in said case the valuation made by LBP, which was patterned after the applicable administrative order issued by the DAR.

Petitioner further points out that the SAC's valuation violated AO 5 guidelines stating that "the computed value using the applicable formula *shall in no case exceed the [Landowner's] offer in case of VOs.*"<sup>[22]</sup> In this case, respondent's revised offer was only P83,346.77 per hectare but the SAC arrived at an average value of P129,742.38 per hectare which is 55.66% more than the landowner's offer.

Respondent, on the other hand, distinguished the factual setting of this case from that of *Land Bank v. Kumassie Plantation Company, Inc.*<sup>[23]</sup> It points out that in *Kumassie*, the SAC merely cited the location of the land and nature of the trees planted, and relied heavily on the appraisal report of the private appraiser which pegged the value of the land on its potential benefits of land ownership. But here, respondent claims that the SAC through its appointed commissioners, "appeared to have dwelt on the Market Data Approach, Income Approach and Residual Value Approach, in determining just compensation of respondent's property, the data gathered under the said approaches to valuation basically encompassed/embraced most, if not all, of the factors enumerated in Section 17, R.A. 6657 in relation to the relevant DAR Administrative Orders."<sup>[24]</sup> It cannot be said, therefore, that the SAC herein had no basis in fixing the just compensation of respondent's property after having taken into consideration the factors enumerated in Section 17 of R.A. No. 6657.

Respondent further invokes our ruling in *Apo Fruits Corporation v. Court of Appeals*,<sup>[25]</sup> where this Court upheld the valuation made by the RTC which did not merely rely on the report of Commissioners nor on the Cuervo appraiser's report but also took into account the nature of the property as irrigated land, location along the highway, market value, assessor's value and the volume and value of its produce, such valuation was considered to be in accordance with R.A. No. 6657.

Section 17 of the law enumerates the factors to be considered by the RTC in determining just compensation to be paid to the landowner:

*Section 17. Determination of Just Compensation.* – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government