

SECOND DIVISION

[G.R. No. 189125, August 28, 2013]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS.
BIENVENIDO CASTRO, RESPONDENT.**

D E C I S I O N

PEREZ, J.:

Before us is a Petition for Review on *Certiorari* assailing the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 01417-MIN which affirmed the Consolidated Decision^[2] of the Regional Trial Court (RTC), Branch 27, Tandag, Surigao del Sur, sitting as a Special Agrarian Court (SAC) in Civil Case No. 1516.

First, the facts.

Respondent Bienvenido Castro (Castro) is the owner of an unregistered property identified as Lot No. 2636, Cad. 537-D, with an area of 9.3390 hectares located at *Barangay* Mahayag, San Miguel, Surigao Del Sur, under Tax Declaration No. B-16-12-237.

On 20 June 1994, Castro voluntarily offered to sell the property to the Department of Agrarian Reform (DAR) under Republic Act (RA) No. 6657 or the Comprehensive Agrarian Reform Law. Castro's offered price is P60,000.00 per hectare or a total of P560,340.00 for the entire 9.3390 hectare lot.

The DAR, petitioner Land Bank of the Philippines (LBP), and the *Barangay* Agrarian Reform Council conducted an ocular inspection, classifying the lot as riceland and suitable for agriculture. Thereafter, the DAR, through the LBP, assessed the property at P15,441.25 per hectare or a total price of P144,205.90. Castro rejected it. Consequently, the DAR Adjudication Board (DARAB), in DARAB Case No. LVC-XIII-232, conducted a summary administrative proceeding to fix just compensation for the subject property. At the preliminary conference, Castro alleged that LBP's valuation did not constitute fair and just compensation.

On 9 March 2000, the DARAB issued an Order directing LBP to conduct another inspection and to reassess Castro's property. LBP complied, but still reached the same valuation at P144,205.90.

Two years later, in 2002, Castro insisted on a higher valuation through a petition to fix just compensation before the RTC, Branch 27, Tandag, Surigao del Sur, sitting as a SAC, docketed as Civil Case No. 1516. In his petition, Castro alleged the following:

5. x x x DAR and LBP valued the land only at an aggregate amount of One hundred forty four thousand two hundred five pesos and 90/100 (P144,205.90), for the entire **9.3390 has.**, or, an equivalent of

P15,441.25 per hectare, per Claim Folder Profile and Valuation Summary x x x.

6. The valuation made by [DAR and LBP] was unconscionably low and totally unacceptable to [Castro] considering that the said valuation of **P15,441.25** per hectare or **P1.54** per sq. m. was not even enough for the cost of the improvements introduced by [Castro].

7. Proof that the price of the land is of much higher value even based on the standards of DAR and LBP is that during the offer the market value of the land per Assessor's Finding was P54,910.00, per TDN B-16-12-237, marked as Annex – "A"; and upon acquisition of the land and tax declaration over which was transferred to the Republic of the Philippines, the Fair Market Value raised to P245,615.00, per TDN 99-16-012-00567, marked as Annex – "C."^[3]

In refutation, LBP answered that it had valued the property following the valuation guidelines issued by the DAR which are based on the productivity of the land at the time of the first ocular inspection. LBP asserted that it correctly appraised Castro's property in accordance with RA No. 6657 and applicable DAR Administrative Orders. LBP's main defense was that the case should be dismissed since the DARAB Decision on the amount of just compensation for the subject property was not timely elevated to the SAC within the 15-day reglementary period. Thus, the DARAB Decision had attained finality and constituted a bar to the filing of the case.

Nevertheless, the SAC set the case for pre-trial. Since LBP and Castro had declared in their respective pre-trial briefs that they were willing to enter into a settlement, with LBP specifically stating that it "may take a second look at its valuation [of the subject property] subject first to the resolution^[4] of x x x whether the case was filed beyond the fifteen-day period from [Castro's] receipt of the [DARAB's] decision/order,"^[5] the SAC gave the parties time to consider the possibility of amicably settling the case.

On 11 November 2003, the SAC issued an Order^[6] noting the parties' agreement to conduct another ocular inspection of the subject property for possible revaluation thereof. Pre-trial of the case was reset to 9 December 2003.

Thereafter, on 9 December 2003,^[7] the SAC ordered another re-setting of pre-trial because the parties had yet to repair, conduct an ocular inspection and revalue the subject property. The delay was due to the frequent unavailability of LBP's representative. Consequently, pre-trial of the case was reset anew to 18 February 2004.

On 13 August 2004, the Commissioners submitted the following report, in pertinent part:

In [the] matter [of] Case No. x x x 1516[,] the designated [C]hairman of [the B]oard of Commissioner[,] the Municipal Assessor set a meeting with [Castro] and their representative on July 21, 2004.

They have agreed to conduct ocular inspection and re-appraisal on July

23, 2004 at 8:00 a.m., but due to unavoidable circumstances, they agreed to re-schedule on July 27, 2004 8:00 a.m., x x x.

x x x x

[C]ase No. 1516, Lot No. 2636 Cad 537-D, owned by Bienvenido Castro is partially develop (*sic*) planted to rice and some area have palay harvested (*sic*), the other portion still remain idle not planted, the area planted to rice is 6.42 hectares, more or less, and the area not cultivated remain idle 3.9190 hectares, more or less, brush land.

x x x x

Hence, the area is suitable for production of palay (*sic*) the commission have agreed that the price of adjacent lot of Jacinto Esteban value by Land Bank of the Philippines is recommended at P43,377.00/hectare to the value the parcel of land under case no. 1514 Lot No. 2493 Cad 537-D owned by Esperanza Esteban, unirrigated Riceland case no. 1516 Lot No. 2636 Cad 537-D owned by Bienvenido Castro, unirrigated Riceland (*sic*).

x x x x

Hoping that this commission report shall be given due consideration, x x x.^[8]

On 30 November 2004, the SAC received the report.^[9]

Forthwith, the SAC issued an Omnibus Order dated 6 December 2004:

Record shows that the Board of Commissioners, with the Municipal Assessor of San Miguel, Surigao del Sur, Mr. Godofredo Bago-od as Chairman and with Jerry R. Villason representing DAR and Land Bank of the Philippines and Saturnina R. Gaila representing [Castro and the other landowners], submitted a Consolidated Report. Upon oral motion in open Court[,], [LBP's] counsel, Atty. Felix Mesa, is allowed a period of fifteen days from today within which to comment on the report. Failing thereto, the Court will consider the Report submitted for resolution. The parties will be notified of further proceedings in [these] Cases later.^[10]

As of 7 June 2005, the SAC had issued another series of omnibus orders: approving the Consolidated Report, deeming LBP to have waived its opportunity to Comment thereon, and considering the case submitted for resolution.^[11]

Relying heavily on the Commissioners' and Supplemental Reports, the SAC rendered a Consolidated Decision^[12] fixing the just compensation of Castro's property at P43,327.16 per hectare or a total of P404,632.35 for the entire 9.3390 hectares. The SAC ratiocinated, thus:

x x x In contrast, Lot No. 2636, subject of Civil Case No. 1516, was also found to be cultivated and suitable for rice production, although not irrigated. Using the adjacent Lot No. 2641 of Jacinto Esteban and adjacent Lot No. 2667 of Julieta Masibay, which were respectively valued

by x x x LBP at P43,327.16 per hectare and P18,427.50 per hectare as references, and finding that Lot Nos. 2493 and 2636 were of the same condition as Lot No. 2641 of Jacinto Esteban, while Lot No. 2665 was of the same condition as Lot No. 2667 of Julieta Masibay, the Commissioners made the above recommendations as to valuations. To repeat, Lot Nos. 2493 and 2636 were recommended to be valued at P43,327.16 per hectare, while Lot No. 2665 was recommended to be valued at P18,427.50 per hectare.

The Court notes that the Tax Declarations in the name of [Castro and the other landowners] had been cancelled and new tax declarations in the name of the Republic of the Philippines issued[,] with x x x LBP as Administrators of the Lots. x x x, and Lot No. 2636, covered by Tax Declaration No. 00567 since the year 2001, had a market value, determined as of that year, of P223,509.00. It is a matter of judicial notice that the market value of lands increases every year, that is why, periodically, normally every after (*sic*) three (3) years, the Municipal Assessor makes new assessments of real properties and revises and cancels existing tax declarations and issues revised tax declarations. Accordingly, the Court holds that the respective valuations recommended by the Court Commissioners for subject Lots are fair, reasonable and just under the circumstances.

WHEREFORE, judgment is hereby rendered in favor of [Castro and the landowners and against DAR and LBP], determining and fixing the just compensations for [Castro's and the other landowners'] properties, as follows:

x x x x

For Lot No. 2636, subject of Civil Case No. 1516, at P43,327.16 per hectare or a total of P404,632.35 for the entire 9.3390 hectares.

x x x LBP is ordered to pay [Castro and the other landowners], within fifteen (15) days from finality of this Decision, the aforesaid amounts, the mode of payments of which shall be in accordance with the provisions of Section 18, Chapter VI of R.A. 6657.^[13]

Aggrieved, LBP filed a motion for reconsideration of the SAC's decision, asserting that Castro had already accepted LBP's valuation of the subject property at P144,205.90 as shown in three documents Castro had signed: two Reply to Notice of Land Valuation and Acquisition dated 18 September 1997 and 13 March 2001, respectively; and the Deed of Confirmation of Transfer Executed by the Landowner dated 5 March 2001. LBP likewise assailed the Commissioners' Report, contending that at the time LBP initially inspected the subject property in 1994, only two hectares were unirrigated riceland while the remaining 7.3390 hectares were forest land, in contrast to the Commissioners' findings based on the Ocular Inspection conducted a decade thereafter in 2004.

The SAC was unmoved by LBP's plea for reconsideration and did not reconsider its decision, to wit:

There is no merit in the instant Motion for Reconsideration. On the claim that [Castro] allegedly agreed to the initial valuation of subject property by [LBP and DAR] as, in fact, in "Landowner's Reply to Notice of Land Valuation and Acquisition, dated September 18, 1997 and March 13, 2001" he "categorically and repeatedly accept(ed) the value being offered by the government to his property in the amount of ONE HUNDRED FORTY FOUR THOUSAND TWO HUNDRED FIVE and 90/100 (P144,205.90)," [Castro] correctly pointed out that said defense or objection was not alleged in the Answer. Neither was it alleged as a ground of the Motion to Dismiss. [LBP] participated in the proceedings without raising said defense or objection, and invoked it for the first in the instant Motion for Reconsideration. The rule is that "(d)efenses and objection not pleaded in the motion to dismiss or in the answer are deemed waived" x x x. The above defense or objection is not one of the recognized exceptions to the rule enumerated in the said Section.

[LBP] should not fault the Court for considering the Commissioners' Report in fixing the just compensation of subject property. Firstly, [LBP] did not object to the appointment of Court Commissioners as, in fact, it was represented, together with x x x DAR, by Commissioner [J]erry Villason. Secondly, [LBP] did not object to the Commissioners' unanimous Report on the valuation of the subject property. Thirdly, the Commissioners' Report was found by the Court to have considered the factors/criteria provided in Section 17, Chapter VI of R.A. No. 6657, the "Comprehensive Agrarian Reform Law of 1988."

WHEREFORE, for lack of merit the instant Motion for Reconsideration is denied.^[14]

On appeal, the Court of Appeals completely agreed with the SAC that LBP was already estopped from raising the defense that Castro has accepted the assessed amount of P144,205.90 for the subject property. The appellate court surmised that:

x x x [P]erhaps LBP was aware of the existence of the contract of sale, but in its desire to obtain a lesser price for the acquisition of the land, LBP gambled and decided not to raise the defense that Castro already sold the property to the Government but instead, allowed the trial court to proceed with the determination of the just compensation hoping the court will fix a lesser price for the land. After failing to achieve a favorable verdict, LBP casually invoked the existence of the Deed of Confirmation of Transfer and belatedly moved to dismiss the case in its motion for reconsideration. Clearly, LBP is already estopped from invoking a stale defense.^[15]

On LBP's argument that the SAC gravely erred in fixing just compensation contrary to the factors set forth in Section 17 of RA No. 6657 as translated into a basic formula in DAR Administrative Order No. 5, Series of 1998, the appellate court again did not side with LBP, ruling that the "x x x formula set in DAR Administrative Order No. 5, Series of 1998 is not a strictly-calibrated standard which obliges the Court to apply in disregard of its judicial discretion x x x; [it] does not and cannot strictly bind the courts which may proceed to make [its] own computation based on the extended list in Section 17 of Republic Act No. 6657."^[16]