

SECOND DIVISION

[G.R. No. 203039, September 11, 2013]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH),
PETITIONER, VS. BANK OF THE PHILIPPINE ISLANDS (BPI),
RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the Decision^[2] dated 14 September 2011 and Resolution^[3] dated 06 August 2012 of the Court of Appeals in CA-G.R. CV No. 79843, affirming the Order^[4] dated 03 February 2003 of the Regional Trial Court of Las Piñas City in Civil Case No. LP 98-0031.

The Antecedent Facts

On 12 February 1998, the Department of Public Works and Highways (DPWH) filed with the Regional Trial Court, National Capital Region, Las Piñas City, Branch 275 (trial court), a case for expropriation against portions of the properties of Bank of the Philippine Islands (BPI) and of Bayani Villanueva (Villanueva) situated in Pamplona, Las Piñas City. DPWH needed 281 square meters of BPI's lot covered by Transfer Certificate of Title (TCT) No. T-59156 and 177 square meters from Villanueva's lot covered by TCT No. T-64556 for the construction of the Zapote-Alabang Fly-Over.^[5]

Neither BPI nor Villanueva objected to the propriety of the expropriation;^[6] hence, the trial court constituted a Board of Commissioners to determine the just compensation.^[7] In their Report dated 29 September 1998,^[8] the Board of Commissioners recommended the amount of P40,000.00 per square meter as the fair market value. On 25 November 1998, the trial court in its Decision set the fair market value at P40,000.00 per square meter:^[9]

The property of BPI, which was affected, consists of 281 square meters and that of Defendant Villanueva consists of 177 square meters. Hence the amount to be awarded to the defendants shall be computed as follows:

BPI – 281 sq. meters x P40,000.00 =
P11,240,000.00; and
Villanueva – 177 sq. meters x P40,000.00 =
P7,080,000.00

Considering that the plaintiff has deposited the amount of P632,250.00 with respect to the property of BPI, the latter should receive the amount of P10,607,750.00.

With respect to Defendant Villanueva, the plaintiff deposited the provisional amount of P2,655,000.00, hence, the remaining amount to be paid is P4,425,000.00.

WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering the plaintiff Republic of the Philippines as represented by the Department of Public Works and Highways to pay defendant Bank of the Philippine Islands the amount of TEN MILLION SIX HUNDRED SEVEN THOUSAND AND SEVEN HUNDRED FIFTY PESOS (P10,607,750.00) and Defendant Bayani Villanueva the amount of FOUR MILLION FOUR HUNDRED TWENTY FIVE THOUSAND (P4,425,000.00), as just compensation for their properties which were expropriated.^[10]

On 15 December 1998, the acting branch clerk of court issued a Certification^[11] stating that:

x x x the Decision in this case dated November 25, 1998 has become FINAL, EXECUTORY and UNAPPEALABLE as of December 11, 1998 considering that the Office of the Solicitor General failed to file any Notice of Appeal or Motion for Reconsideration despite receipt of a copy thereof on November 26, 1998.

This certification is being issued upon the request of Atty. Jansen Rodriguez for whatever legal purpose it may serve.

Meanwhile, BPI filed on 16 December 1998 a Motion for Partial New Trial^[12] to determine the just compensation of its building, which was not included in the Decision dated 25 November 1998 that fixed the just compensation for the parcels of land. In the motion, BPI claimed that its motion was timely filed since it received a copy of the Decision on 01 December 1998.^[13] The trial court granted partial new trial in an Order dated 06 January 1999.

Due to the failure of counsel for petitioner, despite notice, to appear during the scheduled hearing for the determination of the just compensation of the building, the trial court allowed BPI to present its evidence ex-parte.^[14] On 01 September 1999, the trial court admitted the exhibits presented by BPI.^[15] On the same day, the trial court also appointed as commissioner the Officer-In-Charge of the trial court, Leticia B. Agbayani (Agbayani), and ordered her to conduct an ocular inspection of the building.^[16] Agbayani reported the following findings:

- a) That the undersigned found out that a new building was constructed and a picture of said building is hereto attached and made as an integral part hereof as Annex "A" and;
- b) That the building was moved back when it was constructed to conform with the requirement of the Building Code; and
- c) Improvements were introduced around the building.^[17]

In its Decision dated 10 September 1999,^[18] the trial court held that just compensation for the building was due and ordered petitioner to pay BPI the amount of P2,633,000.00. The dispositive portion of the Decision reads:

WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered ordering the plaintiff Republic of the Philippines represented by the Department of Public Works and Highways to pay defendant Bank of the Philippine Island (sic) the amount of TWO MILLION SIX HUNDRED THIRTY THREE [THOUSAND] PESOS (PHP2,633,000.00).^[19]

Petitioner moved for the reconsideration^[20] of the 10 September 1999 Decision on the ground that the proceeding fixing the just compensation of the building is null and void for not complying with the mandatory procedure set forth in Sections 5 to 8 of Rule 67 of the Rules of Court.^[21]

After due hearing, the trial court granted on 14 February 2000 petitioner's motion for reconsideration and ordered that the Decision dated 10 September 1999 be set aside and vacated.^[22] From this order, BPI filed a motion for reconsideration,^[23] on the ground that there was substantial compliance with the Rules. The trial court denied BPI's motion for reconsideration.^[24]

On 19 September 2000, the trial court appointed Atty. Edgar Allan C. Morante, the branch clerk of court, as the chairman of the Board of Commissioners, and gave petitioner and BPI ten days to submit their respective nominees and their oaths of office.^[25] On 28 September 2000, BPI nominated Roland Savellano (Savellano), and submitted his oath of office.^[26]

Instead of submitting its nominee, petitioner filed on 13 October 2000 a Manifestation and Motion^[27] objecting to the propriety of paying just compensation for BPI's building and praying that BPI's claim for additional just compensation be denied. Petitioner claimed that the building was never taken by the government.^[28] In support, petitioner attached a letter dated 12 September 2000 from the DPWH, addressed to the Solicitor General. The letter states, in part:

x x x the original plan affecting the subject property was not implemented. The width of the sidewalk at the premises under consideration was actually reduced from 2.50 m to 2.35 m x x x to avoid the costly structure of that bank.^[29]

In its opposition,^[30] BPI claimed that it was not aware that the original plan was not implemented. It received no correspondence from the DPWH on the matter, except for the letter dated 12 August 1997 from DPWH addressed to BPI, stating in part that:

We regret to inform you that adjustment of the RROW limit of our project along this section is not possible as it will affect the effective width of the sidewalk designated at 2.50 m. wide.^[31]
(Emphasis in the original)

BPI also argued that even "if a 3-meter setback is observed, only 75% of the old building could be utilized x x x [and] cutting the support system of the building x x x

would affect the building's structural integrity.”^[32]

On 07 May 2001, the trial court denied^[33] petitioner's motion dated 09 October 2000, and ruled that the demolition of the old building of BPI can be construed as a consequential damage suffered by BPI as a result of the expropriation. Petitioner was thus ordered to submit its nominee to the Board of Commissioners.

Petitioner nominated Romulo C. Gervacio (Gervacio), the Officer-In-Charge of the City Assessor's Office in Las Piñas City. The Board thus constituted, the trial court ordered the Commissioners to submit their recommendation.

Commissioner for BPI Savellano recommended the amount of P2,633,000.00, which was based on the appraisal conducted by an independent professional business and property consultant.^[34] On the other hand, Commissioner for petitioner Gervacio recommended the amount of P1,905,600.00, which was the market value indicated on the tax declaration of said building. The Commissioner's Report^[35] presented both the recommendations of Savellano and Gervacio for the trial court's consideration.

The Trial Court's Ruling

The trial court issued the Order^[36] dated 03 February 2003, adopting the recommendation of Gervacio of P1,905,600.00, thus:

The Court approves the Recommendation dated October 22, 2001 of ONE MILLION NINE HUNDRED FIVE THOUSAND SIX HUNDRED PESOS (P1,905,600.00) by Commissioner ROMULO C. GERVACIO as the just compensation of the building of the Bank of the Philippine Islands (BPI) Zapote affected by the construction of the Zapote-Alabang Fly-over, it appearing that such amount is the existing market value of the property pursuant to the Declaration by BPI as the market value of the building affected by the project as contained in Tax Declaration D-006-02044.

Let the same amount be paid by the Republic of the Philippines through the Department of Public Works and Highways as the just compensation for the property.^[37]

Petitioner filed an appeal with the Court of Appeals docketed as CA-G.R. CV No. 79843.^[38]

The Court of Appeals' Ruling

On 14 September 2011, the Court of Appeals dismissed the appeal and affirmed the order of the trial court. The relevant portions of the decision state:

We cannot sustain plaintiff-appellant's proposition that the decision dated November 25, 1998 has already attained finality there being no appeal filed within the reglementary period as provided in Secion 3, Rule 41 of the 1997 Rules of Civil Procedure.

Pursuant to Section 1, Rule 37 of the Rules of Civil Procedure, the period

within which an aggrieved party may move the trial court to set aside the judgment or final order and file a motion for new trial is within the period to file an appeal, which is fifteen (15) days from receipt of the judgment or final order. It is explicit from the stated provision that the fifteen day period to file a motion for new trial will start to run from receipt of judgment or final order. A judgment, final order or resolution shall be served upon a party either personally or through registered mail. Moreover, Section 13 of Rule 13 of the Rules of Civil Procedure specifically provides for the proof of service of judgments, final orders or resolution x x x.

x x x x

Guided by the foregoing provisions of law, the crucial fact in which the finality of the decision dated November 25, 1998 with respect to defendant-appellee, depends in the determination of the date of its receipt of the copy of the said decision in order to ascertain whether its motion for partial new trial was filed within the 15-day period allowed by law.

In this case, records bear that a copy of the decision dated November 25, 1998, ordering the payment of just compensation for the expropriated land was received in behalf of defendant Bayani Villanueva on the same day of its promulgation. A copy of the said decision was also served upon plaintiff-appellant through the OSG on November 26, 1998. However, there is no showing, that defendant-appellee through its counsel received a copy of the trial court's decision on a definite date. No official return nor affidavit of the party serving the decision was attached to the records of the case. Neither was the presence of a registry receipt issued by the mailing office nor a registry return card containing the date of receipt of the decision be found among its records. Since there was no showing as to the exact date of receipt of defendant-appellee of the said decision, the running of the period of 15 days within which to file a motion for new trial did not begin to run. Therefore, the filing of defendant-appellee of a motion for partial new trial on December 16, 1998 was never delayed but timely filed thus preventing the decision dated November 25, 1998 from attaining finality as against them. Moreover, We find the admission of defendant-appellee in its brief filed on June 2, 2005, that it received a copy of the trial court's decision on December 1, 1998, sufficient to comply with the requirement of a written admission of a party served with a judgment as provided in Sec. 13 of Rule 13, of the Rules of Civil Procedure. **It should also be noted that the certification issued by Edgar Allan C. Morante, the acting clerk of court, as to the finality of judgment as of December 11, 1998 will not stand against defendant-appellee because the 15-day period to file an appeal will only start to commence upon the receipt of the decision which is on December 1, 1998.** Counting the 15-day period from the first of December, the period within which to file an appeal will expire on December 16, 1998. Thus, the trial court did not err in granting the motion for partial new trial of the defendant-appellee as the same was amply filed with the reglementary period prescribed by law.