

EN BANC

[G. R. No. 164195, April 05, 2011]

**APO FRUITS CORPORATION AND HIJO PLANTATION, INC.,
PETITIONERS, VS. LAND BANK OF THE PHILIPPINES,
RESPONDENT.**

RESOLUTION

BRION, J.:

We resolve Land Bank of the Philippines' (*LBP's*) **2nd Motion for Reconsideration** of December 14, 2010 that addresses our Resolutions of October 12, 2010 and November 23, 2010. This motion prays as well for the holding of oral arguments. We likewise resolve the Office of the Solicitor General's (*OSG*) Motion for Leave to Intervene and to Admit Motion for Reconsideration-in-Intervention dated February 15, 2011 in behalf of the Republic of the Philippines (*Republic*).

The Motion for Reconsideration

The LBP submits the following arguments in support of its 2nd motion for reconsideration:

- a) the test of "transcendental importance" does not apply to the present case;
- b) the standard of "transcendental importance" cannot justify the negation of the doctrine of immutability of a final judgment and the abrogation of a vested right in favor of the Government that respondent LBP represents;
- c) the Honorable Court ignored the deliberations of the 1986 Constitutional Commission showing that just compensation for expropriated agricultural property must be viewed in the context of social justice; and
- d) granting *arguendo* that the interest payment has factual and legal bases, only six (6%) percent interest per annum may be validly imposed.

We have more than amply addressed argument (d) above in our October 12, 2010 Resolution, and we see no point in further discussing it. Without in any way detracting from the overriding effect of our main and primary ruling that the present 2nd motion for reconsideration is a prohibited motion that the Court can no longer entertain, and if only to emphatically signal an unequivocal *finis* to this case, we examine for the last and final time the LBP's other arguments.

In the course of the Court's deliberations, Mr. Justice Roberto A. Abad questioned the application of Section 3, Rule 15 of the Internal Rules of the Supreme Court to the present 2nd motion for reconsideration. He posited that instead of voting immediately on the present 2nd motion for reconsideration, the Court should instead

first consider the validity of our October 12, 2010 Resolution; he claimed that this Resolution is null and void because the Court violated the above-cited provision of the Internal Rules when it did not first vote on whether the Resolution's underlying motion (itself a 3rd motion for reconsideration) should be entertained before voting on the motion's merits. We shall lay to rest Mr. Justice Abad's observation before dwelling on the merits of the present 2nd motion for reconsideration.

Our Ruling

We find no merit in the LBP's second motion for reconsideration, and reject as well the Mr. Justice Abad's observation on how to approach the consideration of the present motion.

Mr. Justice Abad's Observations/Objections; The Rules on 2nd Motions for Reconsideration.

Mr. Justice Abad's observation apparently stemmed from the peculiar history of the present case.

a. A recap of the history of the case.

This case was originally handled by the Third Division of this Court. In its original Decision of February 6, 2007, the Division affirmed the RTC's decision setting the just compensation to be paid and fixing the interest due on the balance of the compensation due at 12% per annum. In its Resolution of December 19, 2007, the Third Division resolved the parties' motions for reconsideration by deleting the 12% interest due on the balance of the awarded just compensation. The parties' subsequent motions to reconsider this Resolution were denied on April 30, 2008; on May 16, 2008, entry of judgment followed. Despite the entry of judgment, the present petitioners filed a second motion for reconsideration that prayed as well that the case be referred to the Court *en banc*. Finding merit in these motions, the Third Division referred the case to the *En Banc* for its disposition. On December 4, 2009, the Court *en banc* denied the petitioners' second motion for reconsideration. Maintaining their belief in their demand to be granted 12% interest, the petitioners persisted in filing another motion for reconsideration. In the interim, the Court promulgated its Internal Rules that regulated, among others, 2nd motions for reconsideration. On October 12, 2010, the Court *en banc* granted - by a vote of 8 for and 4 against - the petitioner's motion and awarded the 12% interests the petitioners' prayed for, thus affirming the interests the RTC originally awarded. The Court subsequently denied the respondent's motion for reconsideration, giving rise to the present 2nd motion for reconsideration. It was at this point that the OSG moved for leave to intervene.

b. The governing rules on 2nd motions for reconsideration

The basic rule governing 2nd motions for reconsideration is Section 2, Rule 52 (which applies to original actions in the Supreme Court pursuant to Section 2, Rule 56) of the Rules of Court. This Rule expressly provides:

Sec. 2. Second Motion for Reconsideration. No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

The absolute terms of this Rule is tempered by Section 3, Rule 15 of the Internal Rules of the Supreme Court that provides:

Sec. 3. Second Motion for Reconsideration. - The Court **shall not entertain a second motion for reconsideration** and any exception to this rule can only be granted in the higher interest of justice by the Court *en banc* **upon a vote of at least two-thirds of its actual membership**. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. **A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.** [Emphases supplied.]

Separately from these rules is Article VIII, Section 4 (2) of the 1987 Constitution which governs the decision-making by the Court *en banc* of any matter before it, including a motion for the reconsideration of a previous decision. This provision states:

Section 4.

x x x x

(2) All cases involving the constitutionality of a treaty, international or executive agreement, or law, which shall be heard by the Supreme Court *en banc*, and **all other cases which under the Rules of Court are required to be heard *en banc***, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, **shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations** on the issues in the case and voted thereon.

Thus, while the Constitution grants the Supreme Court the power to promulgate rules concerning the practice and procedure in all courts^[1] (and allows the Court to regulate the consideration of 2nd motions for reconsideration, including the vote that the Court shall require), these procedural rules must be consistent with the standards set by the Constitution itself. Among these constitutional standards is the above quoted Section 4 which applies to "*all other cases which under the Rules of Court are required to be heard en banc*," and **does not make any distinction as to the type of cases or rulings it applies to**, *i.e.*, whether these cases are originally filed with the Supreme Court, or cases on appeal, or rulings *on the merits* of motions before the Court. Thus, rulings on the merits by

the Court *en banc* on 2nd motions for reconsideration, if allowed by the Court to be entertained under its Internal Rules, must be decided with the concurrence of a majority of the Members who actually took part in the deliberations.

When the Court ruled on October 12, 2010 on the petitioners' motion for reconsideration by a vote of 12 Members (8 for the grant of the motion and 4 against), the Court ruled on the merits of the petitioners' motion. This ruling complied in all respects with the Constitution requirement for the votes that should support a ruling of the Court.

Admittedly, the Court did not make any *express* prior ruling accepting or disallowing the petitioners' motion as required by Section 3, Rule 15 of the Internal Rules. The Court, however, did not thereby contravene its own rule on 2nd motions for reconsideration; *since 12 Members of the Court opted to entertain the motion by voting for and against it, the Court simply did not register an express vote, but instead demonstrated its compliance with the rule through the participation by no less than 12 of its 15 Members.* Viewed in this light, the Court cannot even be claimed to have suspended the effectiveness of its rule on 2nd motions for reconsideration; it simply complied with this rule *in a form other than by express and separate voting.*

Based on these considerations, arrived at after a lengthy deliberation, the Court thus rejected Mr. Justice Abad's observations, and proceeded to vote on the question of whether to entertain the respondents' present 2nd motion for reconsideration.

The vote was 9 to 2, with 9 Members voting not to entertain the LBP's 2nd motion for reconsideration. By this vote, the ruling sought to be reconsidered for the second time was unequivocally upheld; its finality - already declared by the Court in its Resolution of November 23, 2010 - was reiterated. To quote the dispositive portion of the reiterated November 23, 2010 Resolution:

On these considerations, we hereby DENY the Motion for Reconsideration with FINALITY. No further pleadings shall be entertained. Let entry of judgment be made in due course.

Thus, this Court mandated a clear, unequivocal, final and emphatic *finis* to the present case.

***Landowner's right to just compensation:
a matter of public interest***

In assailing our October 12, 2010 resolution, the LBP emphasizes the need to respect the doctrine of immutability of final judgments. The LBP maintains that we should not have granted the petitioners' motion for reconsideration in our October 12, 2010 Resolution because the ruling deleting the 12% interest had already attained finality when an Entry of Judgment was issued. The LBP argues, too, that the present case does not involve a matter of transcendental importance, as it does not involve life or liberty. The LBP further contends that the Court mistakenly used the concept of transcendental importance to recall a final ruling; this standard should only apply to questions on the legal standing of parties.

In his dissenting opinion, Mr. Justice Roberto Abad agrees with the LBP's assertion, positing that this case does not fall under any of the exceptions to the immutability doctrine since it only involves money and does not involve a matter of overriding public interest.

We reject the basic premise of the LBP's and Mr. Justice Abad's arguments for being flawed. The present case goes beyond the private interests involved; it involves a matter of public interest - the proper application of a basic constitutionally-guaranteed right, namely, the right of a landowner to receive just compensation when the government exercises the power of eminent domain in its agrarian reform program.

Section 9, Article III of the 1987 Constitution expresses the constitutional rule on eminent domain - "*Private property shall not be taken for public use without just compensation.*" While confirming the State's inherent power and right to take private property for public use, this provision at the same time lays down the limitation in the exercise of this power. When it takes property pursuant to its inherent right and power, the State has the corresponding obligation to pay the owner just compensation for the property taken. For compensation to be considered "just," it must not only be the full and fair equivalent of the property taken,^[2] it must also be paid to the landowner without delay.^[3]

To fully and properly appreciate the significance of this case, we have to consider it in its proper context. Contrary to the LBP's and Mr. Justice Abad's assertions, the outcome of this case is not confined to the fate of the two petitioners alone. This case involves the government's agrarian reform program whose success largely depends on the willingness of the participants, both the farmers-beneficiaries and the landowners, to cooperate with the government. Inevitably, if the government falters or is seen to be faltering through lack of good faith in implementing the needed reforms, including any hesitation in paying the landowners just compensation, this reform program and its objectives would suffer major setbacks. That the government's agrarian reform program and its success are matters of public interest, to our mind, cannot be disputed as the program seeks to remedy long existing and widespread social justice and economic problems.

In a last ditch attempt to muddle the issues, the LBP focuses on our use of the phrase "transcendental importance," and asserts that we erred in applying this doctrine, applicable only to legal standing questions, to negate the doctrine of immutability of judgment. This is a very myopic reading of our ruling as the context clearly shows that the phrase "transcendental importance" was used only to emphasize the **overriding public interest** involved in this case. Thus, we said:

That the issues posed by this case are of transcendental importance is not hard to discern from these discussions. A constitutional limitation, guaranteed under no less than the all-important Bill of Rights, is at stake in this case: how can compensation in an eminent domain case be "just" when the payment for the compensation for property already taken has been unreasonably delayed? To claim, as the assailed Resolution does, that only private interest is involved in this case is to forget that an expropriation involves the government as a necessary actor. It forgets, too, that under eminent domain, the constitutional limits or standards