

THIRD DIVISION

[G.R. No. 171840, April 04, 2011]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS.
DEPARTMENT OF AGRARIAN REFORM AND METRACO TELE-
HYGIENIC SERVICES CORPORATION, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

This is a petition for review on certiorari under Rule 45 assailing the Decision^[1] dated June 27, 2005 and Resolution^[2] dated March 9, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 80441 which affirmed the Decision^[3] dated June 23, 2003 of the Regional Trial Court (Special Agrarian Court) of Santiago City, Isabela, Branch 21 in CAR Case No. 21-0636.

The facts are as follows:

Private respondent Metraco Tele-Hygienic Services Corporation (METRACO) is the registered owner of three parcels of agricultural land with an aggregate area of 33.5917 hectares located at San Antonio, Ramon, Isabela and covered by Transfer Certificate of Title (TCT) Nos. T-291208, T-291209 and T-291210. The lands are fully irrigated by the National Irrigation Administration (NIA) and planted with rice.

In July and December 2000, METRACO voluntarily offered to sell the aforesaid lands under the provisions of Republic Act (R.A.) No. 6657 or the Comprehensive Agrarian Reform Law (CARL) of 1988. Private respondent's assessment was P300,000.00 per hectare. On February 8, 2001, the landowner's offer was referred to petitioner Land Bank of the Philippines (LBP) for valuation.^[4] On June 6, 2001, petitioner fixed the just compensation for the subject landholdings,^[5] as follows:

<u>TCT No.</u>	<u>Area Acquired</u>	<u>Average Amount Per Hectare</u>	<u>Total</u>
T-291208	15.8036 has.	P146,935.87	P2,322,115.71
T-291209	1.5995 has.	145,294.84	232,399.09
T-291210	<u>14.3923 has.</u>	146,935.87	<u>2,114,745.12</u>
TOTAL -	31.7954 has.		P4,669,259.92

Since private respondent rejected the valuation made by petitioner, the latter deposited the amount of compensation, which the former accepted without prejudice to reevaluation and eventual payment of just compensation due for its property. Private respondent then went to the Department of Agrarian Reform Adjudication Board (DARAB)-Region 02 at San Fermin, Cauayan City, Isabela which held summary proceedings for determination of just compensation (JC No. R-II-539-

Isa 2001). On December 3, 2001, DAR Provincial Adjudicator Pepito P. Planta issued the following Order^[6]:

WHEREFORE, for the reasons above-stated, it is Ordered that the value of the land in issue fixed by respondent LBP be set aside and be fixed at P180,000.00 per hectare or the aggregate sum of P5,580,000.00 deducting thereof the partial payment already received by the petitioner, and directing the respondent LBP to pay the same to the petitioner after submission of all documentary requirements.

SO ORDERED.^[7]

The DAR found untenable petitioner's position that the basis of valuation should be the guidelines issued under DAR Administrative Order (AO) No. 5, series of 1998 and findings of the ocular inspection. It said that to do so would contravene the Supreme Court's declaration in *Land Bank of the Philippines v. Court of Appeals*^[8] that any formula or guidelines promulgated by the bank is a violation of due process of the Constitution^[9].

When the DAR denied its motion for reconsideration, petitioner instituted before the Special Agrarian Court (SAC) CAR Case No. 21-0636 for determination of just compensation. During the trial, the parties presented their witnesses and documentary evidence.

Faustino Onza, property appraiser of LBP, testified that the Municipal Agrarian Reform Office (MARO) scheduled an ocular inspection of the subject lands on January 24, 2001. During the ocular inspection attended by the representative of the landowner, as well as representatives of MARO, farmer beneficiaries and the Barangay Agrarian Reform Committee (BARC), they gathered data on production and suitability of the lands. These include the number of cavans of palay being harvested per hectare, the location of the property and water supply. The lands were situated 7.5 kilometers, more or less, from the *poblacion*, with a NIA water system and planted to *palay* by the farmer beneficiaries. The LBP actually prepared a field investigation report and a land use map for each parcel of land. The production figure obtained was 120 cavans per cropping. The selling price of *palay* (P6.75 per kg.) was based on the records of the Department of Agriculture (DA) office. As to location, the all-weather road (municipal road) traversing the property was also taken into consideration.^[10]

Another witness for LBP, Amante Siazon, Chief of the Claims, Processing and Payment Division of LBP's Agrarian Reform Center, testified that after the landowner's representative, Ceferina Jocson, offered to sell their property, it was placed under the coverage of the CARP (VOS) on December 7, 2000. Upon receipt of the claim for compensation, they prepared the valuation and processing form. In making the initial valuation, they used the formula: Land Valuation (LV) = Capitalized Net Income (CNI) x 90% + Market Value (MV) per Tax Declaration x 10%, which is provided for in DAR AO No. 5. The Annual Gross Production (AGP) is multiplied to the Selling Price (SP) and then further multiplied to .2/.12. The .2 or 20% represents the cost of operation while the .12 refers to the net income of the

properties. AGP is gathered from the field investigation, which is 240 cavans per hectare - which was sourced from the landowners, the farmers tilling the lands, and the industry data provided by the DA. Information from these sources was also validated with those coming from farmers tilling the adjoining properties. The SP is based on the average price within 12 months as provided by the DA prior to the coverage of the properties. In this case, the CNI was determined at P135,000.00 per hectare. As to the MV, this was provided by the Provincial Assessor's Office which indicates the classification of agricultural land such as Riceland irrigated, Riceland un-irrigated, under the schedule of base unit market values for agricultural lands. The subject properties were classified as irrigated Riceland, first class, with corresponding unit market value of P264,000.00 per hectare. Another factor considered in the valuation was location adjustment as indicated in the tax declaration, in which there is a corresponding deduction made regarding the distance of the property to the all-weather road and to the *poblacion*; the guidelines issued by the Provincial Assessor's Office were followed. As shown by the valuation forms, the location adjustments for each parcel were as follows: 93% (TCT Nos. T-291208 and T-291210) because of 3% and 4% deduction made, as the land traverses a municipal road and it is 8 kilometers from the *poblacion*; and 87% (TCT No. T-291209). Said figures were arrived at based on the findings in the field investigation report on the actual distance of the lot to the municipal road. The points to be deducted depending on distance (kilometer) to all-weather road and to the *poblacion* were based on schedule issued by the Provincial Assessor's Office. The Regional Consumers Price Index (RCPI) came from the National Statistics Office (NSO) which updates the peso value of the property. Based on their computation, the value of the lands are: P145,294.84 per hectare for the land covered by TCT No. T-291209, and P146,935.87 per hectare for the land covered by TCT Nos. T-291208 and T-291210.^[11]

On cross-examination, Siazon admitted that other factors such as current value of properties within the vicinity and potential use were not considered, and that it was the LBP appraiser who actually conducted the ocular inspection and data gathering. He likewise admitted that the initial valuation of the subject lands do not represent the fair market value^[12] insofar as the price of the adjoining properties, which is naturally higher. As to the exclusion of the 1.1173 hectares, this pertains to a drainage canal and road based on the subdivision plan.^[13]

Private respondent presented as its witness, Ramon A. Galindez, a member of its board of directors. Galindez testified that they rejected the valuation by LBP because it is too low and the lands are classified first class irrigated riceland assessed at P264,000.00 per hectare, based on the certification dated September 10, 2001 issued by the Municipal Assessor's Office, and as per the tax declarations. He also presented figures of the property's appraised fair market value given by the different banks in Santiago City, showing higher amount of P300,000.00 per hectare. The DARAB likewise set the value of the lands in its decision at P180,000.00 per hectare. With respect to the selling price of *palay*, Galindez said that he himself has been farming for more than ten years and also planted *palay* in his lands situated in other barangays and Santiago City. In the year 2001, the price of *palay* is between P9.00 and P10.00 per kg., as evidenced by receipts dated March 8, 2001 issued by the Republic Cereal Corporation at Santiago City, Isabela showing the prices of dry *palay* he sold at P9.50 and P9.80 per kg. He further recalled that the government support price for *palay* in 2001 was also between P9.00 and P10.00

per kg.^[14]

In its decision,^[15] the SAC recomputed the compensation fixed by LBP by using P9.00 as selling price of *palay* per kg. based on the September 25, 2001 Certification by the National Food Authority (NFA) that the government support price for *palay* is P10.00 per kg. (March-August) and P9.00 per kg. (September-February). Private respondent's witness had testified that he actually sold his *palay* for that price to a private buyer as shown by receipts he presented in court. The SAC also added to the computation the 1.1173 hectares excluded by petitioner ~ a portion consisting of a drainage canal and a road — stating that these are indispensable part of the entire landholding which the farmer/tiller will necessarily use. The SAC thus decreed:

WHEREFORE, in the light of the foregoing considerations judgment is hereby rendered DECLARING that the just compensation of the lands to be paid by the Land Bank of the Philippines to the respondent Metraco Tele-Hygenic Services, Corp. is as follows:

For T.C.T. No. T-291208 - P3,089,416.13

For T.C.T.No. T-291209 - P 297,177.50

For T.C.T. No. T-291210 - P2,907,041.87

SO ORDERED.^[16]

Petitioner moved for reconsideration arguing that the basis of selling price of *palay* used by the court and acquisition of the road and canal were in violation of DAR AO No. 05, series of 1998. The SAC, however, denied the motion.^[17]

On appeal, the CA sustained the SA.Cs computation holding that the NFA certification which stated the government support price for *palay* as P9.00 and P10.00 per kg., as well as the receipts issued by the Republic Cereal Corporation showing that the buying price of *palay* at the time was between P9.50 and P9.80 per kg., are recognized by DAR AO No. 5 under Item II.B.1 thereof. The CA noted that the data from the DA thru the certification issued by the Municipal Agrarian Reform Officer (MARO) of Ramon, Isabela, relied upon by petitioner, is unreliable and inaccurate considering that: (1) it did not have figures for the months of July, August and December 2000, as well as for January and May 2001; and (2) it contained abnormal prices for the months of October and November 2000 as shown by the notation therein that "Selling price below normal due to continuous rain and typhoons experienced during these months." As for the inclusion of the irrigation canal and road portions, the CA ruled that while the landowner should not be compensated for the improvements introduced by the government pursuant to Item II.F of DAR AO No. 5, in this case however, what is being compensated is not the cost or value of such improvements but that of the whole land taken under the CARP law.^[18]

Its motion for reconsideration having been denied, petitioner filed the present petition contending that the appellate court committed serious errors of law —

I. IN AFFIRMING THE TRIAL COURT'S DECISION USING P9.00 AS THE SELLING PRICE OF PALAY PER KILO WHICH RESULTED IN THE TRIAL COURT'S COMPUTATION OF P185,435.00 PER HECTARE FOR TCT NO. T-291208 AND TCT T-291210 AND AT P185[,]794.00 PER HECTARE FOR TCT NO. T-291209;

II. IN AFFIRMING THE TRIAL COURT'S DECISION IN WHICH A COMPUTATION AND SEPARATE COMPENSATION WAS MADE FOR CERTAIN PORTIONS OF THE SUBJECT LANDHOLDINGS NOT SEPARATELY COMPENSABLE UNDER PERTINENT DAR POLICY REGULATIONS IMPLEMENTING SECTION 17, IN RELATION TO SECTION 49, OF THE CARP LAW (R.A. 6657).^[19]

The petition is partly meritorious.

Under Section 1 of Executive Order No. 405, series of 1990, petitioner LBP is charged with the initial responsibility of determining the value of lands placed under land reform and the just compensation to be paid for their taking. Through a notice of voluntary offer to sell (VOS) submitted by the landowner, accompanied by the required documents, the DAR evaluates the application and determines the land's suitability for agriculture. The LBP likewise reviews the application and the supporting documents and determines the valuation of the land. Thereafter, the DAR issues the Notice of Land Valuation to the landowner. In both voluntary and compulsory acquisitions, wherein the landowner rejects the offer, the DAR opens an account in the name of the landowner and conducts a summary administrative proceeding. If the landowner disagrees with the valuation, the matter may be brought to the RTC, acting as a special agrarian court.^[20]

The LBP's valuation of lands covered by CARL is considered only as an initial determination, which is not conclusive, as it is the RTC, sitting as a Special Agrarian Court, that should make the final determination of just compensation, taking into consideration the factors enumerated in Section 17 of R.A. No. 6657 and the applicable DAR regulations.^[21]

Section 17 of R.A. No. 6657 provides:

SEC. 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 assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the nonpayment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

In *Land Bank of the Philippines v. Celada*^[22] we held that the above provision is implemented by DAR AO No. 5, series of 1998,^[23] thus: