

## SECOND DIVISION

[ G.R. No. 168533, February 04, 2008 ]

**LAND BANK OF THE PHILIPPINES, Petitioner, vs. HEIRS OF ANGEL T. DOMINGO, namely MA. ALA F. DOMINGO and MARGARITA IRENE F. DOMINGO, Respondents.**

### DECISION

**CARPIO, J.:**

#### The Case

The Land Bank of the Philippines (LBP) filed this Petition for Review<sup>[1]</sup> to reverse the Court of Appeals' Decision<sup>[2]</sup> dated 30 March 2005 in CA-G.R. SP No. 85510 as well as the Resolution dated 9 June 2005 denying the Motion for Reconsideration. In the assailed decision, the Court of Appeals affirmed the Decision<sup>[3]</sup> dated 12 April 2004 of the Regional Trial Court, Branch 33 (trial court) in Guimba, Nueva Ecija. The trial court, acting as a Special Agrarian Court, directed LBP and the Department of Agrarian Reform (DAR) to pay P15,223,050.91 as just compensation for 262.2346 hectares of land covered by Presidential Decree No. 27<sup>[4]</sup> (PD 27) as implemented in Executive Order No. 228<sup>[5]</sup> (EO 228).

#### The Facts

Angel T. Domingo (Domingo)<sup>[6]</sup> is the registered owner of a parcel of land with a total area of 300.4023 hectares covered by Transfer Certificate of Title (TCT) Nos. NT-97436, NT-97437, NT-97438, NT-97439, and NT-97440, situated in Guimba, Nueva Ecija.<sup>[7]</sup> This parcel of land was tilled by tenant farmers. Pursuant to PD 27 issued on 21 October 1972 and EO 228 dated 17 July 1987, the actual tenant tillers are deemed full owners of the land they till.<sup>[8]</sup> Of the 300.4023 hectares, 262.2346 hectares of land (subject land) were taken by the government under its agrarian reform program and awarded to the beneficiaries, who are tenant farmers (farmer-beneficiaries).

The subject land is situated about three kilometers from the town proper and accessible by a feeder road. Based on the findings of the Officer-In-Charge, Branch Clerk of Court, Mr. Arsenio S. Esguerra, Jr., who conducted an ocular inspection in compliance with the trial court's order, the subject land is irrigated with the use of water pumps installed by the farmer-beneficiaries.<sup>[9]</sup> As per certification dated 27 February 1981 by the DAR Team Office of Guimba, Nueva Ecija, the average gross production (AGP) is 91.42 cavans of palay per hectare<sup>[10]</sup> and the land is capable of 2 ½ harvests in two years.<sup>[11]</sup> However, as reflected in the records of this case, the AGP of 91.42 cavans is for TCT No. 97155 which is not among the titles covered in this subject land. On the contrary, LBP alleged that the subject land was producing

at most only 41.42 cavans of palay per hectare as of 1972.<sup>[12]</sup>

Several emancipation patents were issued and annotated on the TCTs, to wit:<sup>[13]</sup>

<b>TCT NO.</b>	<b>Number of Emancipation Patents Issued</b>	<b>Year</b>
NT-97436	25	1990
NT-97436	1	2000
NT-97437	21	1988
NT-97437	21	1989
NT-97437	40	1992
NT-97437	22	1994
NT-97437	1	2000
NT-97438	67	1989
NT-97438	60	1993
NT-97438	10	1994
NT-97439	39	1990
NT-97440	42	1990

Using the guidelines for just compensation embodied in PD 27 and implemented in EO 228, the DAR fixed the value of the subject land consisting of 262.2346 hectares at P2,086,735.09.<sup>[14]</sup> The formula used to compute the land value was:

$$\begin{aligned}
 \text{LAND VALUE} &= \text{Average Gross Production (AGP)} \\
 &\quad \times 2.5 \\
 &\quad \times \text{Government Support Price (GSP)} \\
 &= 91.42 \times 2.5 \times 35 \\
 &= \text{P } 7,999.25
 \end{aligned}$$

The GSP for one cavan of 50 kilos palay in 21 October 1972 was P35.<sup>[15]</sup>

Based on DAR Administrative Order No. 13 (DAR AO 13),<sup>[16]</sup> series of 1994, a 6% increment in the amount of P627,456.28 was added to the original valuation.<sup>[17]</sup>

In the Claims Processing Form dated 29 April 2002 and submitted by the LBP, the distribution of payment was as follows:

	<b>Cash</b>	<b>Bonds</b>	<b>Total</b>
Net Land Value as amended	<b>208,735.09</b>	<b>1,878,000.00</b>	<b>2,086,735.09</b>
Less: Payments	<b>184,999.71</b>	<b>1,661,000.00</b>	<b>1,845,999.71</b>
Net Amount due Landowner	<b>23,735.38</b>	<b>217,000.00</b>	<b>240,735.38</b>
Increment			<b>627,456.28</b>

Total Value  
of Claim

**P 868,191.66**

Despite receipt of P1,845,999.71 as partial payment from LBP, Domingo rejected the final payment of P868,191.66. Thus, LBP deposited this amount in cash and bonds and proceeded to distribute the subject land to various farmer-beneficiaries.

On 31 July 2002, Domingo filed a Petition for Determination and Payment of Just Compensation in the trial court of Guimba, Nueva Ecija.

In his Petition, Domingo prayed that the just compensation for the subject land be determined in accordance with the formula in Section 17 of Republic Act No. 6657<sup>[18]</sup> (RA 6657) which would amount to P39,335,190.00 computed at P150,000 per hectare.<sup>[19]</sup>

In its Answer, LBP maintained that Domingo's unirrigated land is covered by PD 27 and EO 228 being primarily devoted to rice and tenanted as of 21 October 1972. LBP stated that the valuation formula found in PD 27 and EO 228 is the applicable formula for computing just compensation.<sup>[20]</sup>

On 12 April 2004, the trial court, after hearing the case, ruled that the subject land's date of taking is not 21 October 1972 when PD 27 took effect. Instead, the issuance dates of the emancipation patents should determine the date of taking because these are when the ownership of a determinate portion of the subject land was transferred to the farmer-beneficiaries. The trial court further stated that LBP's contention to compute just compensation based on the formula prescribed in PD 27 and EO 228 cannot be sustained. These laws are only suppletory to RA 6657 which is the latest law on agrarian reform. The trial court deemed it necessary to apply suppletorily the formula in PD 27 and EO 228. The trial court computed just compensation as follows:

<b>TCT No.</b>	<b>Year of Issuance</b>	<b>No. of Hectares</b>	<b>Land Value (AGP x 2.5 x GSP<sup>[21]</sup>)</b>	<b>Sub Total</b>
NT-97436	1990	18.6291	91.42 <sup>[22]</sup> x 2.5 x 300	1,277,304.24
NT-97436	2000	1.4168	91.42 x 2.5 x 500	161,904.82
NT-97437	1988	2.5631	91.42 x 2.5 x 175	102,514.38
NT-97437	1989	0.8074	91.42 x 2.5 x 175	32,292.97
NT-	1992	43.5805	91.42 x	2,288,096.98 <sup>[23]</sup>

97437			2.5 x 300	
NT-97437	1993	7.7330	91.42 x 2.5 x 300	530,213.14
NT-97437	1994	4.0186	91.42 x 2.5 x 300	275,535.30
NT-97437	2000	1.8482	91.42 x 2.5 x 450	190,082.74
NT-97438	1989	3.5594	91.42 x 2.5 x 175	142,362.65
NT-97438	1989	49.6899	91.42 x 2.5 x 250	2,839,156.66
NT-97438	1993	2.2853	91.42 x 2.5 x 300	156,691.59
NT-97438	1994	1.4511	91.42 x 2.5 x 300	99,494.67
NT-97439	1990	59.6399	91.42 x 2.5 x 250	3,407,674.78
NT-97439	1990	2.5119	91.42 x 2.5 x 250	143,523.68
NT-97440	1990	62.5019	91.42 x 2.5 x 250	3,571,202.31
			<b>Total</b>	15,223,050.91 <sup>[24]</sup>

The trial court issued a decision which disposed of the present case as follows:

Wherefore, judgment is hereby rendered in favor of the plaintiff as follows:

1. Fixing the just compensation for plaintiff's 262.2346 hectare land covered by P.D. 27 at P15,223,050.91 inclusive of the increment provided for under DAR AO No. 13 computed from the time of taking up to the date of this decision.
2. Directing defendants DAR and LBP to pay the plaintiff the above-mentioned amount of money as the amount of just compensation for his land.

SO ORDERED. <sup>[25]</sup>

Dissatisfied with the decision, LBP filed a Motion for Reconsideration stating that the trial court erred in adopting an AGP of 91.42 cavans as certified by the DAR's team leader in lieu of 41.67 cavans as established by the Barangay Committee on Land Production (BCLP). LBP asserted that the trial court erred in using the issuance dates of the emancipation patents as the date of taking instead of complying with the legal provision in PD 27 that the emancipation of all tenant farmers was on 21 October 1972.

On 8 July 2004, the trial court issued an Order denying the motion for lack of merit. LBP filed a Petition for Review before the Court of Appeals pursuant to Section 60 of RA 6657.

LBP argued that the trial court gravely erred in applying RA 6657 to determine just compensation for the subject land acquired under PD 27 and EO 228 on the assumption that the former should prevail being the latest law on agrarian reform. LBP further claimed that the trial court erred in relying on the certification, dated 27 February 1981 and issued by the DAR's Agrarian Reform Team at Guimba, Nueva Ecija, adopting an AGP of 91.42 cavans and disregarding 41.67 cavans as found by the BCLP.

Domingo contended that the trial court was correct in using the AGP of 91.42 cavans and the GSP prevailing as of the years 1988 to 2000, pursuant to settled jurisprudence that just compensation should be reckoned as of the date of taking of the expropriated property.

On 30 March 2005, the Court of Appeals affirmed the trial court's decision and dismissed the petition for lack of merit. LBP filed a Motion for Reconsideration which the Court of Appeals denied.

Hence, the instant petition.

### **The Ruling of the Court of Appeals**

The Court of Appeals affirmed the trial court's decision. It reasoned that RA 6657 covers all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229.<sup>[26]</sup> Phase one of RA 6657 includes the acquisition and distribution of rice and corn lands under PD 27. The provisions in RA 6657 show that PD 27 lands are among the properties which DAR shall acquire and distribute to the landless.<sup>[27]</sup> RA 6657 also states that the provisions of PD 27 and EO 228 shall have suppletory effect.

The Court of Appeals pointed out that 21 October 1972 cannot be considered as the "date of taking" for the purpose of determining just compensation. It ruled that it was only when the emancipation patents were issued to the farmer-beneficiaries that Domingo recognized their ownership of the property. Hence, the issuance dates of the emancipation patents should be considered as the date of taking.

The Court of Appeals also ruled that the AGP determined by the BCLP cannot prevail over the AGP of 91.42 cavans of palay per hectare as testified by Domingo and his witness Patricio Mendoza, whose testimonies have been confirmed by competent officials: DAR Team Leader, Warehouse Supervisor of National Food Authority, Senior