

SECOND DIVISION

[G.R. NO. 160656, June 15, 2007]

REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS), PETITIONER, VS. ISMAEL ANDAYA, RESPONDENT.

DECISION

QUISUMBING, J.:

This is a petition for review of the Decision^[1] dated October 30, 2003 of the Court of Appeals in CA-G.R. CV No. 65066 affirming with modification the Decision^[2] of the Regional Trial Court of Butuan City, Branch 33 in Civil Case No. 4378, for enforcement of easement of right-of-way (or eminent domain).

Respondent Ismael Andaya is the registered owner of two parcels of land in Bading, Butuan City. His ownership is evidenced by Transfer Certificates of Title Nos. RT-10225 and RT-10646. These properties are subject to a 60-meter wide perpetual easement for public highways, irrigation ditches, aqueducts, and other similar works of the government or public enterprise, at no cost to the government, except only the value of the improvements existing thereon that may be affected.

Petitioner Republic of the Philippines (Republic) negotiated with Andaya to enforce the 60-meter easement of right-of-way. The easement was for concrete levees and floodwalls for Phase 1, Stage 1 of the Lower Agusan Development Project. The parties, however, failed to reach an agreement.

On December 13, 1995, the Republic instituted an action before the Regional Trial Court of Butuan City to enforce the easement of right-of-way or eminent domain. The trial court issued a writ of possession on April 26, 1996.^[3] It also constituted a Board of Commissioners (Board) to determine the just compensation. Eventually, the trial court issued an Order of Expropriation upon payment of just compensation.^[4] Later, the Board reported that there was a discrepancy in the description of the property sought to be expropriated. The Republic thus amended its complaint, reducing the 60-meter easement to 10 meters, or an equivalent of 701 square meters.

On December 10, 1998, the Board reported that the project would affect a total of 10,380 square meters of Andaya's properties, 4,443 square meters of which will be for the 60-meter easement. The Board also reported that the easement would diminish the value of the remaining 5,937 square meters. As a result, it recommended the payment of consequential damages amounting to P2,820,430 for the remaining area.^[5]

Andaya objected to the report because although the Republic reduced the easement

to 10 meters or an equivalent of 701 square meters, the Board still granted it 4,443 square meters. He contended that the consequential damages should be based on the remaining area of 9,679 square meters. Thus, the just compensation should be P11,373,405. The Republic did not file any comment, opposition, nor objection.

After considering the Board's report, the trial court decreed on April 29, 1999, as follows:

WHEREFORE, in the light of the foregoing, the Court decides as follows:

- a) That the plaintiff is legally entitled to its inherent right of expropriation to, viz.: 1) the lot now known as lot 3291-B-1-A, portion of lot 3291-B-1, (LRC) Psd-255693, covered by TCT No. RT-10225, with an area of 288 sq. m.; and 2) the lot now known as lot 3293-F-5-B-1, portion of lot 3293-F-5-B (LRC) Psd-230236, covered by TCT No. RT-10646, with an area of 413 sq. m., both of the Butuan City Registry of Deeds, it being shown that it is for public use and purpose --- free of charge by reason of the statutory lien of easement of right-of-way imposed on defendant's titles;
- b) That however, the plaintiff is obligated to pay defendant the sum of TWO MILLION EIGHT HUNDRED TWENTY THOUSAND FOUR HUNDRED THIRTY (P2,820,430.00) PESOS as fair and reasonable severance damages;
- c) To pay members of the Board of Commissioners, thus: for the chairman --- TWENTY THOUSAND (P20,000.00) PESOS and the two (2) members at FIFTEEN THOUSAND (P15,000.00) PESOS each;
- d) To pay defendant's counsel FIFTY THOUSAND (P50,000.00) PESOS as Attorney's fees; and finally,
- e) That the Registry of Deeds of Butuan City is also directed to effect the issuance of Transfer Certificate of Titles for the aforementioned two (2) lots in the name of the Republic of the Philippines, following the technical description as appearing in pages 6, 7, and 8 of the Commissioner's Report.

NO COSTS.

IT IS SO ORDERED.^[6]

Both parties appealed to the Court of Appeals. The Republic contested the awards of severance damages and attorney's fees while Andaya demanded just compensation for his entire property minus the easement. Andaya alleged that the easement would prevent ingress and egress to his property and turn it into a catch basin for the floodwaters coming from the Agusan River. As a result, his entire property would be rendered unusable and uninhabitable. He thus demanded P11,373,405 as just compensation based on the total compensable area of 9,679 square meters.

The Court of Appeals modified the trial court's decision by imposing a 6% interest on the consequential damages from the date of the writ of possession or the actual taking, and by deleting the attorney's fees.