

FIRST DIVISION

[G.R. No. 173392, August 24, 2007]

PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. REMEDIOS ROSALES-BONDOC, JOSE K. ROSALES, JR., MARIA TERESA ANTOLIN-YUPANGCO, MARIA LOURDES ANTOLIN, ARSENIO ABACAN, PEDRO ALCANTARA, HEIRS OF POPULA LLANA, GODOFREDO ROSALES, LUIS LIRA, ZENAIDA LIRA, CORAZON ILAO, MILAGROS MACATANGAY, LILIA SINGUIMOTO, GERARDO ABACAN, JOSE NOEL AGBING, ET AL., MARCIANA BUENAFE, ESTEBAN ESPINO, BRIGIDO LONTOK, BIENVENIDO MARALIT, AUREA ACOSTA, CONSUELO LACANTARA, BENJAMIN CASTILLO, AUGUSTO CLAVERIA, RUFINO GERON, SEGUNDINA GUALBERTO, SIXTO GUALBERTO, ADORACION CABRAL, HEIRS OF LUCILA ALDOVER, JAIME TAURO, SIMEON MAGTIBAY, CONSTANCIA VILLAMOR BARCELO, MA. CONSOLACION SARMIENTO, PRISCILLA BUENAFE, MA. CLARA BERBA, PACITA BERBA, AMELIA BERBA, RAFAEL BERBA, MARIANO DIOKNO, HEIRS OF BASILIO MACARAIG, FELINO HERNANDEZ, JOSE MARANAN, GREGORIO DAPAT, MANUEL AMUL, DANIEL MAGADIA, LUISA MONTALBO, SIMEON BALITA, MARIA LACSAMANA, MARIA CAEDO, MARIA ESPAÑOL, PEDRO MARASIGAN, ANDREA BALINA, EULALIO BUENAFE, GENEROSA BUENAFE, LILIANA ABACAN (CO-OWNER OF GERARDO ABACAN), ERLINDA ABACAN (CO-OWNER OF GERARDO ABACAN), CONSOLACION ACOSTA, CECILLE OLIVIA CUISIA, DELIA E. VELASCO, ALFREDO P. ESPINO, EFREN ESPINO, ALFREDO BAUTISTA, RAFAEL LLANA, RUSTICA LLANA, PEDRO MAGADIA, ROSE MAGADIA, ARNEL PEREZ, EVARISTA BAUAN, CARLITO CASAS, AZUCENA PEREZ, ESPERANZA DIMAANDAL, JUANA MACALALAD, PABLO MENDOZA, DOROTEO MACATANGAY, FRANCISCO SUMANGA, LIBRADA MACATANGAY VDA. DE ABAS, MARIA MONTALBO, WILSON ONG, AGRIFINA GARCIA, ISABEL ILAO, HEIRS OF MELANIO ACOSTA & PELAGIA ACOSTA, ROSA D. MAGADIA, GUADALUPE DAYANGHIRANG, LAURO ABRAHAM, FELISA MACATANGAY, FRANCISCO ABALOS, PETRA ALANO, HEIRS OF SEVERO ALANO, HEIRS OF SOLEDAD ALANO, HEIRS OF INOCENCIO ALANO, HEIRS OF REMEDIOS ALANO, HEIRS OF ANTONIO ALANO, HEIRS OF FELIPE ALANO, ERLINDA D. BALINA, NEMESIO BALINA, FELIPA ACOSTA, LAMBERTO ACOSTA, EMILIO BERBERABE, SOLE HEIR OF GABRIELA ACOSTA, ESTANISLAW ACOSTA, HEIRS OF CECILIA DIMAANDAL, HEIRS OF FRANCISCO SUMANGA, HEIRS OF SIMEON MAGTIBAY, HEIRS OF CESARIO RIVERA AND ANATACIA ALDOVER, FRANCISCO A. BERBERABE, EMILIO F. BERBERABE, JR., ANITA G. ESCANO, LYDIA G. CAPULONG, ERLINDA BERMER (GERMER), ERLINDA G. GONZALES, ROMULO G. GONZALES, ANUNCIACION GUTIERREZ, SILVERIO ATIENZA, FELIPE

SERRANO AND SPOUSE, J.L. GANDIONCO REALTY, GREGORIO BALIWAG, LOURDES MERCADO, AUGUSTO MERCADO, HEIRS OF FIDENCIO MERCADO, HEIRS OF CONCEPCION MERCADO, SATURNINO PEREZ, ET AL., DOMINGO L. TAN, DANIEL MAGADIA, CELIA PASION DIMAANDAL, ET AL., LUISA VILLANUEVA, SIMEON BALINA, JOEL BERBERABE, THOMAS BERBERABE, HEIRS OF NESTOR ALCANTARA, ENRICO ALCANTARA, LEONARDO ALCANTARA, ROMULO BALINA, JUANA DIMAANDAL, CATALINA D. BALINA, HEIRS OF FORTUNATA BALINA, SPS. ZOILO ALDOVER AND CATALINA MONTALBO, HEIRS OF PEDRO MONTALBO & MAURICIA BALINA, ADORACION MAGTIBAY, HEIRS OF VICENTE GUTIERREZ, EDILBERTO DIMAANDAL & LILIA GABIA, HEIRS OF EVARISTO MONTALBO & FELISA MONTALBO, HEIRS OF LEOCADIO ALANO & LEONILA ALANO, TOMASA BALINA, LUMIN ANTOLIN (REP. BY LEANDRO GALVEZ), VICENTE DE RIVERA, RENE DE RIVERA, FRANCISCO MERCADO, SERAFIN MONTALBO, FORTUNATA BAUNA, SALUD MACARAIG, FLORENDO MACATANGAY, PASTOR REALTY CORP., LUZ BALMES, PERPETUA ATIENZA, FORTUNATA ATIENZA, ISABELO ATIENZA, BROTHERS OF FORTUNATA BALINA, ROSALINDA C. ROSALES, AND PATRICIO SUMANGA, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on *Certiorari* assailing the Resolution^[1] dated July 3, 2006 of the Court of Appeals (Tenth Division) in the following consolidated cases: CA-G.R. CV No. 77668, *Philippine Ports Authority v. Remedios Rosales-Bondoc, et al.*; CA-G.R. SP No. 87844, *Philippine Ports Authority v. Hon. Paterno V. Tac-an, et al.*; and CA-G.R. SP No. 90796, *Philippine Ports Authority v. Hon. Paterno V. Tac-an*.

The undisputed facts as shown by the records are:

On October 14, 1999, the Philippine Ports Authority (PPA), petitioner, filed with the Regional Trial Court, Branch 84,^[2] Batangas City a complaint for expropriation of 185 lots against 231 defendants, docketed as Civil Case No. 5447. Petitioner alleged in its complaint that there is a necessity to expropriate the lots (consisting of 1,298,340 square meters) for the development of Phase II of the Batangas Port Zone pursuant to Executive Order No. 385^[3] dated December 19, 1989 and Executive Order No. 431^[4] dated October 19, 1990, both issued by then President Corazon C. Aquino. Petitioner also alleged that the Land Acquisition Committee for Phase II of the Batangas Port Development Project recommended that the market value of the lots be fixed at P336.83 per square meter. Petitioner prayed that an order be immediately issued placing it in possession of the properties upon its deposit with the authorized government depository of an amount equivalent to their assessed value for purposes of taxation; and that eventually, an order be also issued fixing **the just compensation**, deducting therefrom the initial deposit made.

Acting on the first prayer, the trial court issued a writ of possession in favor of

petitioner PPA upon its payment of P400.00 per square meter. Since September 11, 2001, petitioner has been in possession of respondents' lots.

The trial court then grouped the defendants (now respondents) into three (3) sets to facilitate their reference, thus:

- a. The first group is represented by Atty. Reynaldo Dimayacyac;
- b. The second group is represented by Attys. Cesar Cruz and Gregorio Ortega; and
- c. The third group is represented by Atty. Emmanuel Agustin.

The groups filed their respective answers. Majority of the respondents prayed that the just compensation should be fixed at P8,000.00 per square meter.

On March 31, 2000, the trial court issued an Order appointing the following as Commissioners to ascertain the just compensation to be paid to respondents by petitioner: (1) Provincial Engineer Antonio Magtibay, chairman; (2) Provincial Assessor Lauro Andaya, member; and (3) Provincial Treasurer Jaime Cantos, member.

Subsequently, the Commissioners conducted hearings to determine the just compensation.

On May 29, 2000, the Commissioners submitted to the trial court a Partial Report recommending the amount of P4,800.00 per square meter as just compensation or expropriation price, "subject to further review, valuation, discretion and sound judgment of this Honorable Court."

Thereupon, petitioner filed its Comment on the Partial Report maintaining that the just compensation should be lower than P4,800.00 per square meter because the lands are agricultural in nature and that they are not being used for commercial or industrial purposes.

On July 10, 2000, the trial court ordered petitioner to pay the respondents represented by Atty. Reynaldo Dimayacyac the amount of P5,500.00 per square meter as just compensation.

After the other respondents have presented their evidence as to the just compensation of their properties, the Commissioners submitted a Second Partial Report reiterating their previous recommendation of just compensation.

On August 15, 2000, the trial court conducted a hearing. However, despite notice, petitioner did not appear. Only respondents presented their evidence.

On the same day, August 15, 2000, the trial court issued an Order fixing the fair market value or just compensation at P5,500.00 per square meter of respondents' lots and the lots of those similarly situated and of those who did not file their answers. The Order reads:

For resolution is the Second Report on Appraisal of the Fair Market Valuation dated August 2, 2000 submitted by Commissioners Arturo V.

Magtibay, (Chairman), Jessie E. Cantos and Lauro C. Andaya. Said report reiterated its recommendation in that Partial Report dated May 30, 2000, that the expropriation price shall be P4,800.00 per square meter.

The Court, acting on the Partial Report, issued an Order dated July 10, 2000, modifying said recommendation and pegged the price at P5,500.00 per square meter, as to the properties of the defendants named therein.

Mentioned in the second report is the findings and recommendation of Amicus Curiae, Cuervo Appraisers, Inc., thru Manager/Appraiser Salvador D. Oscianas. He rendered an opinion that the fair market value per square meter ranges from P5,500.00 to a maximum of P6,000.00 (Report as Exhibit "97", supplemented by his testimony in Court on July 18, 2000). He mentioned three (3) prior landsales/transactions within the zone, to wit:

1. Deed of Absolute Sale between Demetrio Marasigan in favor of Phil. Ports Authority (PPA for brevity) dated December 11, 1996, price per square meter was P5,000.00.
2. Judgment by compromise agreement dated September 23, 1997 (Exhibit "100-2") between Andrea Palacios and the City Government of Batangas, wherein the expropriation price per square meter for the road right of way (By-pass road) was agreed upon at P5,200.00.
3. Purchase by First Gas at Sta. Rita (fronting Batangas Bay) for P10,000.00 per square meter (industrial zone) a little further than Sta. Clara into the seashore in 1997.

Mr. Oscianas stated that the lands in the area in question are for commercial/light industrial purposes. These are developed areas as per his ocular inspection. It is accessible by National highways (Calicanto) from Batangas City Hall and the Bauan/Diversion Road as well as Municipal Road (the bypass road), and by the sea (Port of Batangas). It has water, lighting, communications and garbage facilities. Batangas City and province enjoy continuous boom of industrial and commercial developments. It has not experienced recession, unlike other regions, although it has experienced also the depreciation of the peso and the rise of the prices of prime commodities and real properties, much higher than P15,000.00 per square meter than the recorded past sales prices. He recommended for a maximum price of P6,000.00 per square meter as fair market value of the properties in question.

Atty. Emmanuel Agustin in behalf of his clients submitted a Decision by Compromise Agreement dated January 20, 1999 in the Court of Appeals in that case of Dimaano vs. PPA pegging the price per square meter at P10,000.00 involving a similarly situated lot (Exh. "47").

Jurisprudence on expropriation pricing has shown that the fair market valuation is greatly guided by prior sales near the date of expropriation (Toledo City vs. Fernandos, et al., G.R. L-45144, April 15, 1998 and prior

Supreme Court decisions).

Based on the foregoing considerations, the Court hereby sets the fair market value at P5,500.00 per square meter of the lots of the above-named defendants and those similarly situated, including those who did not file answer.

SO ORDERED.

Subsequently, the trial court issued several Orders directing petitioner to pay respondents, represented by their respective counsel, just h compensation computed at P5,500.00 per square meter pursuant to its Order dated August 15, 2000, thus:

1. Order dated August 17, 2000 for respondents represented by Atty. Emmanuel Agustin, thus:

Pursuant to the order of 15 August 2000, plaintiff is required to pay by way of just compensation to the following defendants, represented by Atty. Emmanuel D. Agustin, to wit:

Names of Defendants	TCT/TaxArea	Dec. No.	Property Owned by them.	Amount due on Likewise, P5,500.00/sq.m. as per August 15, 2000 partial in the Judgment Order complaint and in the Answer	Just compensation based on
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1. Felipa D. Acosta married to Honesto Hernella; Heirs of Eleuterio D. Acosta married to Martha Galang; Pacita D. Acosta married to Emilio Berberabe; Lamberto D. Acosta married to Angelina

Ituralde	TD No. 90-00010	13,131 sq. m.	P72,220,500.00
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xxx 24 Heirs of Francisco Sumanga	xxx TD No. 033-02504	856 sq. m.	4,708,000.00
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TD No. 033-02475	1,305 sq. m.	7,177,500.00
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GRAND TOTAL P 854,293,000.00

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