

THIRD DIVISION

[G.R. No. 146735, October 25, 2004]

CARLOS D. VILLAMOR, PETITIONER, VS. NATIONAL POWER CORPORATION AND THE COURT OF APPEALS, RESPONDENTS.

DECISION

CARPIO MORALES, J.:

At bar is a petition for review on certiorari under Rule 45 of the Rules of Court^[1] seeking to reverse and set aside the November 23, 1999 Decision^[2] and January 2, 2001 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 48668 setting aside the order of execution pending appeal issued by the Regional Trial Court (RTC) of Danao City, Branch 25, in an expropriation case docketed as Civil Case No. DNA-389.

Respondent NAPOCOR instituted an action for eminent domain^[4] with prayer for the issuance of a writ of possession against petitioner, Carlos Villamor, before the RTC of Danao City. Subject of expropriation was a portion containing 3,224 square meters of a 10,625 square meter lot belonging to petitioner situated in Barangay Catipay, Carmen, Cebu where NAPOCOR intended to install transmission lines for its 230 KV Leyte-Cebu Interconnection Project.

By Order^[5] of August 1, 1996, Branch 25 of the RTC of Davao City directed the issuance of the writ prayed for allowing NAPOCOR to immediately take possession of the property subject of expropriation. NAPOCOR had earlier deposited P23,115.70 with the Philippine National Bank (PNB) representing the assessed value of the property as it appeared on the tax declaration thereon.

In an Amended Complaint^[6] dated March 12, 1997, NAPOCOR instead sought to expropriate two parcels of land situated in the same vicinity with an aggregate area of 8,724 square meters also belonging to petitioner.

By Order^[7] of July 14, 1997, the trial court granted NAPOCOR's Urgent Ex-Parte Motion for Issuance of a Writ of Possession and accordingly issued a writ allowing NAPOCOR to immediately take possession of petitioner's properties as described in the amended complaint.

The trial court later constituted a board composed of three commissioners to determine the amount of compensation that should be paid for the two parcels of land sought to be expropriated.

Following the submission by the board of its Report,^[8] the trial court, by Decision^[9] of December 22, 1997, expropriated the two parcels of land in favor of NAPOCOR. The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, facts and law considered, the Court hereby renders judgment condemning property subject of expropriation in favor of plaintiff; declaring in favor of defendants for plaintiff to pay the fair market value of the portions of the lots condemned by this (sic) expropriation proceedings at P450.00 per square meter and to pay to defendant Carlos Villamor the following amounts:

1. P2,515,842.00 for the 5,590.76 sq. mts. as the total affected area of Lot 3 of 6191, Cad. 1046-D;
2. P1,410,538.50 for the 3134.53 sq. mts. as the total affected area of Lot 4, of 1691, Cad. 1046-D;

or the total amount of Three Million Nine Hundred Twenty-Six Thousand Three Hundred Eighty Pesos and 50/100 (P3,926,380.50);

Declaring that the fair market value of all the improvements inside the affected lots to be in the amounts recommended in the Commissioners' Unit Base Market Value of the Land and Improvements Owned by Carlos Villamor attached to the Commissioners' Report and ordering the Plaintiff National Power Corporation to pay to the defendant Carlos Villamor the following amounts:

1. P648,932.00 for the total fair market value of the improvements in Lot 3, of 6191, Cad. 1046-D;
2. P372,968.00 for the total fair market value of the improvements in Lot 4, of 6191, Cad. 1046-D

or the total amount of One Million Twenty One Thousand Nine Hundred Pesos (P1,021,900.00);

Ordering the amount of One Million Seven Hundred Eighty Three Thousand Five Hundred Six Pesos and 50/100 (P1,783,506.50) representing just compensation of Lot 4 and improvements described in the Amended Complaint, to be divided among the Hrs. of Jose and Dolores Villamor, or to be awarded solely to defendant Carlos Villamor, whichever is favored by the decision of the case pending litigation and under appeal with the Court of Appeals.

SO ORDERED.^[10]

Petitioner filed a Motion for Reconsideration^[11] of the trial court's decision, no compensation having been awarded on a 15.23 square meter portion of the expropriated properties.

NAPOCOR also filed a Motion for Reconsideration^[12] praying that compensation for the expropriated properties be determined on the basis of tax declarations thereon and Sec. 3-A of Republic Act No. 6395 (An Act Revising the Charter of the NAPOCOR) as amended by Presidential Decree No. 938.^[13]

By Resolution^[14] of January 22, 1998, the trial court granted petitioner's Motion, ruling as follows:

Let therefore the dispositive portion of the Decision in the last paragraph be amended by adding the following:

Ordering Plaintiff to pay the sum of P6,853.50 to defendant Carlos Villamor, same amount to be included in the deposit for valid claimants as proceeds of Lot 4, described in the complaint. (Underscoring supplied)

SO ORDERED.^[15]

As for NAPOCOR's motion, the trial court, by Resolution^[16] of February 20, 1998 a copy of which was received by NAPOCOR on March 3, 1998,^[17] denied the same. There is no showing that petitioner was furnished a copy of this Resolution of February 20, 1998.

NAPOCOR thereupon filed a Notice of Appeal^[18] dated March 2, 1998 which was given due course by Order^[19] of March 9, 1998 of the trial court which ordered the Clerk of Court to transmit the original records of the case to the CA.

In the meantime, or on March 16, 1998, petitioner filed a Motion for Execution Pending Appeal^[20] before the trial court which was granted by Resolution^[21] of May 12, 1998. The trial court ratiocinated:

The records show that the Court, xxx, has still jurisdiction to issue the writ of execution pending appeal considering that the original records of the case have not as yet been transmitted to the Appellate Court.

The Court finds and is convinced that defendant Carlos Villamor is entitled to same valuation of the parcel of land adjacent to the land in question as they are similarly situated. The failure or absence of any objection by plaintiff to the Commissioners' Report which was based on the opinion values from different competent government agencies and the failure to offer evidence why such Commissioners' Report may not be given validity, provides the Court a special reason to give due course to the Motion for Execution Pending Appeal. Evidence on record marked Exhibits "1" and "2" together with submarkings showed convincingly that defendant Carlos Villamor is entitled to immediate execution pending appeal. Evidence on record are (sic) more than sufficient to provide a special reason for the execution of judgment pending appeal.^[22]

From the trial court's order granting petitioner's Motion for Execution Pending Appeal, NAPOCOR filed a Motion for Reconsideration,^[23] it asserting that when petitioner filed the motion, the trial court no longer had jurisdiction over the case.

By Resolution^[24] of June 23, 1998, the trial court denied NAPOCOR's Motion for Reconsideration and issued a writ of execution^[25] the following day, June 24, 1998.

A Notice of Garnishment on Execution^[26] dated July 10, 1998 was consequently

addressed to the PNB and the Land Bank of the Philippines in Cebu City, informing that all stocks, shares, credits, deposits, interest and other personal properties in their possession or under their control belonging to NAPOCOR were being attached and garnished in favor of petitioner.

NAPOCOR thus filed a petition for certiorari^[27] with the CA seeking the annulment of the May 12, 1998 and June 23, 1998 Orders of the trial court.

In the meantime, per the RTC Sheriff's Return^[28] dated August 20, 1998, complete payment of the fair market value of the expropriated property was transacted by the Land Bank in favor of petitioner in satisfaction of the writ of execution.

By Decision of November 23, 1999, the CA granted NAPOCOR's petition for certiorari and set aside the assailed Orders of the trial court. The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, the petition is GRANTED and the assailed orders of respondent judge set aside. Respondent Carlos Villamor is directed to pay to [NAPOCOR] the amount of P6,837,823.18 plus interest thereon at the legal rate from August 20, 1998 until fully paid.

SO ORDERED.^[29]

Petitioner filed a Motion for Reconsideration^[30] of the CA Decision which was partially granted by the CA by Resolution of January 2, 2001. The dispositive portion of the resolution reads, quoted *verbatim*:

WHEREFORE, the motion for reconsideration is PARTIALLY GRANTED in the sense that the dispositive portion of the decision dated November 23, 1999 is amended to read as follows:

"WHEREFORE, the petition is GRANTED and the assailed orders of respondent judge set aside. Respondent Carlos Villamor is directed to pay to petitioner the amount of P4,955,134.00 plus interest thereon at the legal rate from August 20, 1998 until fully paid."

SO ORDERED.^[31] (Underscoring supplied)

Petitioner thus comes before this Court via petition for review on certiorari assigning to the CA the following errors:

I.

THE COURT OF APPEALS ACTED CONTRARY TO PERTINENT RULES OF PROCEDURE AND JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THE REGIONAL TRIAL COURT HAD LOST JURISDICTION TO ENTERTAIN AND GRANT HEREIN PETITIONER'S MOTION FOR EXECUTION PENDING APPEAL;

II.

THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION

AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT THERE WAS NO URGENT NEED FOR IMMEDIATE EXECUTION OF THE APPEALED DECISION; and

III.

THE COURT OF APPEALS WENT AGAINST SETTLED JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN PREMATURELY HOLDING THAT THE APPEAL OF RESPONDENT NPC WAS NOT DILATORY.^[32]

Section 2 (a), Rule 39 of the Rules of Civil Procedure, the provision governing execution of judgments pending appeal, provides:

SEC. 2. Discretionary execution. –

(a) Execution of a judgment or final order pending appeal. – On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

Passing on the provision of the Rules, this Court explains:

xxx the trial court may only grant discretionary execution while it has jurisdiction over the case and is in possession of either of the original record or the record on appeal, as the case may be, at the time of the filing of such motion. When not all of the parties have perfected their appeal and the period to appeal has yet to expire, the trial court still retains its so-called “residual jurisdiction” to order discretionary execution. Discretionary execution is thus barred when the trial court loses jurisdiction and this occurs when all of the parties have filed their respective appeals or when the period to appeal has lapsed for those who did not file their appeals and when the court is no longer in possession of the records of the case.^[33] (Underscoring supplied)

NAPOCOR maintains that the trial court no longer had jurisdiction to grant petitioner’s Motion for Execution Pending Appeal as at the time it was filed, it (NAPOCOR) had already perfected its appeal to the CA, hence, so it continues, petitioner should have filed the Motion with the appellate court.

Section 9 of Rule 41 of the Rules of Court provides:

*SEC. 9. Perfection of appeal; effect thereof. – A party’s appeal by notice of appeal is deemed perfected **as to him** upon the filing of the notice of appeal in due time.*