

## SECOND DIVISION

[ G.R. No. 143643, June 27, 2003 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. SPS. JOSE C. CAMPOS, JR. AND MA. CLARA LOPEZ-CAMPOS, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for review of the Decision<sup>[1]</sup> dated June 16, 2000 of the Court of Appeals in CA-G.R. CV No. 54265. The assailed decision affirmed *in toto* the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 98, which ordered petitioner National Power Corporation to pay, among others, actual, moral and nominal damages in the total amount of P1,980,000 to respondents Spouses Jose C. Campos, Jr. and Ma. Clara A. Lopez-Campos.

The petition at bar stemmed from the following antecedents:

On February 2, 1996, the respondents filed with the court *a quo* an action for sum of money and damages against the petitioner. In their complaint, the respondents alleged that they are the owners of a parcel of land situated in Bo. San Agustin, Dasmariñas, Cavite, consisting of 66,819 square meters ("subject property") covered by Transfer Certificate of Title (TCT) No. T-957323. Sometime in the middle of 1970, Dr. Paulo C. Campos, who was then the President of the Cavite Electric Cooperative and brother of respondent Jose C. Campos, Jr., verbally requested the respondents to grant the petitioner a right-of-way over a portion of the subject property. Wooden electrical posts and transmission lines were to be installed for the electrification of Puerto Azul. The respondents acceded to this request upon the condition that the said installation would only be temporary in nature. The petitioner assured the respondents that the arrangement would be temporary and that the wooden electric posts would be relocated as soon as permanent posts and transmission lines shall have been installed. Contrary to the verbal agreement of the parties, however, the petitioner continued to use the subject property for its wooden electrical posts and transmission lines without compensating the respondents therefor.<sup>[3]</sup>

The complaint likewise alleged that some time in 1994, the petitioner's agents trespassed on the subject property and conducted engineering surveys thereon. The respondents' caretaker asked these agents to leave the property. Thereafter, in 1995, a certain "Mr. Raz," who claimed to be the petitioner's agent, went to the office of respondent Jose C. Campos, Jr., then Associate Justice of the Supreme Court, and requested permission from the latter to enter the subject property and conduct a survey in connection with the petitioner's plan to erect an all-steel transmission line tower on a 24-square meter area inside the subject property. Respondent Jose Campos, Jr., refused to grant the permission and expressed his preference to talk to the Chief of the Calaca Sub-station or the head of the

petitioner's Quezon City office. The respondents did not hear from "Mr. Raz" or any one from the petitioner's office since then. Sometime in July or August of 1995, the petitioner's agents again trespassed on the subject property, presenting to the respondents' caretaker a letter of authority purportedly written by respondent Jose C. Campos, Jr. When the caretaker demanded that the letter be given to him for verification with respondent Jose C. Campos, Jr. himself, the petitioner's agents refused to do so. Consequently, the caretaker ordered the agents to leave the subject property.<sup>[4]</sup>

The complaint further alleged that on December 12, 1995, the petitioner instituted an expropriation case involving the subject property before the RTC of Imus, Cavite, Branch 22. The case was docketed as Civil Case No. 1174-95. The petitioner alleged in its complaint therein that the subject property was selected "in a manner compatible with the greatest public good and the least private injury" and that it (petitioner) had tried to negotiate with the respondents for the acquisition of the right-of-way easement on the subject property but that the parties failed to reach an amicable settlement.<sup>[5]</sup>

The respondents maintained that, contrary to the petitioner's allegations, there were other more suitable or appropriate sites for the petitioner's all-steel transmission lines and that the petitioner chose the subject property in a whimsical and capricious manner. The respondents averred that the proposed right-of-way was not the least injurious to them as the system design prepared by the petitioner could be further revised to avoid having to traverse the subject property. The respondents vigorously denied negotiating with the petitioner in connection with the latter's acquisition of a right-of-way on the subject property.<sup>[6]</sup>

Finally, the complaint alleged that unaware of the petitioner's intention to expropriate a portion of the subject property, the respondents sold the same to Solar Resources, Inc. As a consequence, the respondents stand to lose a substantial amount of money derived from the proceeds of the sale of the subject property should the buyer (Solar Resources, Inc.) decide to annul the sale because of the contemplated expropriation of the subject property.<sup>[7]</sup>

The complaint *a quo* thus prayed that the petitioner be adjudged liable to pay the respondents, among others, actual, nominal and moral damages:

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Court award the plaintiffs:

- a. Actual damages for the use of defendants' property since middle 1970's, including legal interest thereon, as may be established during the trial;
- b. P1,000,000.00 as nominal damages;
- c. P1,000,000.00 as moral damages;
- d. Lost business opportunity as may be established during the trial;
- e. P250,000.00 as attorney's fees;

f. Costs of suit.

Plaintiffs pray for other, further and different reliefs as may be just and equitable under the premises.<sup>[8]</sup>

Upon receipt of the summons and complaint, the petitioner moved for additional time to file its responsive pleading. However, instead of filing an answer to the complaint, the petitioner filed a motion to dismiss on the ground that the action had prescribed and that there was another action pending between the same parties for the same cause (*litis pendencia*). The respondents opposed said motion. On May 2, 1996, the RTC issued an order denying the petitioner's motion to dismiss.

The petitioner then moved for reconsideration of the aforesaid order. The respondents opposed the same and moved to declare the petitioner in default on the ground that its motion for reconsideration did not have the required notice of hearing; hence, it did not toll the running of the reglementary period to file an answer.

On July 15, 1996, the RTC issued an order denying the petitioner's motion for reconsideration. Subsequently, on July 24, 1996, it issued another order granting the respondents' motion and declared the petitioner in default for its failure to file an answer. The petitioner filed a motion to set aside the order of default but the same was denied by the RTC.

The petitioner filed a petition for certiorari, prohibition and preliminary injunction with the Court of Appeals, docketed as CA-G.R. SP No. 41782, assailing the May 2, 1996, July 15, 1996 and July 24, 1996 Orders issued by the RTC as having been issued with grave abuse of discretion and to enjoin it from proceeding with the case. On February 13, 1996, the CA dismissed the petition for certiorari, prohibition and preliminary injunction filed by the petitioner in CA-G.R. SP No. 41782.

In the meantime, the respondents adduced their evidence *ex parte* in the RTC. As synthesized by the trial court, the respondents adduced evidence, thus:

From the evidence thus far submitted, it appears that the plaintiffs spouses, both of whom professional of high standing in society, are the absolute owners of a certain parcel of land situated in Bo. San Agustin, Dasmariñas, Cavite, consisting of 66,819 square meters, more or less, covered and embraced in TCT No. T-95732. Sometime in the mid-1970, Dr. Paulo C. Campos, brother of Justice Jose Campos, Jr., then President of the Cavite Electric Cooperative, approached the latter and confided to him the desire of the National Power Corporation to be allowed to install temporary wooden electric posts on the portion of his wife's property in order that the high-tension transmission line coming from Kaliraya passing thru that part of Cavite can be continued to the direction of Puerto Azul.

Having heard the plea of his brother and the fact that National Power Corporation was under pressure because at the time that Puerto Azul was being developed there was no electricity nor was there electrical lines towards that place and acting on the belief that the installation of wooden

electric posts would be temporary in nature, plaintiffs gave oral permission for the NPC personnel to enter the said parcel of land. Dr. Paulo C. Campos, assured him that it was just a temporary measure to meet the emergency need of the Puerto Azul and that the wooden electric posts will be relocated when a permanent posts and transmission lines shall have been installed. Pursuant to their understanding, the National Power Corporation installed wooden posts across a portion of plaintiffs' property occupying a total area of about 2,000 square meters more or less. To date, defendant NPC has been using the plaintiffs' property for its wooden electrical posts and transmission lines; that the latter has estimated that the aggregate rental (which they peg at the conservative rate of P1.00 per square meter) of the 2,000 square meters for twenty-four (24) years period, would amount to the aggregate sum of P480,000.00.

From the time National Power Corporation installed those temporary wooden posts, no notice was ever served upon the plaintiffs of their intention to relocate the same or to install permanent transmission line on the property. Also, there was no personal contact between them. However, in late 1994, plaintiffs' overseer found a group of persons of the defendant NPC conducting survey inside the said property, and were asked to leave the premises upon being discovered that they have no authority to do so from the owners thereof. Subsequently thereafter, or sometime in 1995, a person by the name of Mr. Paz, bearing a letter from Calaca Regional Office, went to see Justice Jose C. Campos, Jr. in his office, informing the latter that he was authorized by the National Power Corporation to acquire private lands. In the same breath, Mr. Paz requested his permission to let NPC men enter the subject property and to conduct a survey in connection with its plan to erect an all steel transmission line tower on a 24 square meter area inside plaintiffs' property, but same was denied. Justice Campos, however, expressed his preference to talk instead to the Chief of the Calaca Sub-station or the Head of the NPC, Quezon City office. Since then, nothing however transpired.

Sometime in July or August 1995, plaintiffs learned that defendant's agents again entered the subject property. This time, they have presented to the caretaker a letter of authority supposedly from Justice Jose C. Campos, Jr. And, when prodded to see the letter for verification, defendant's agents refused to do so. So, they were ordered out of the vicinity. Plaintiffs stressed that defendant's repeated intrusions into their property without their expressed knowledge and consent had impugned on their constitutional right to protection over their property.

Later, on December 12, 1995, plaintiffs received copy of summons and complaint in Civil Case No. 1174-95 filed by the defendant before the Regional Trial Court, Fourth Judicial Region, Branch 22, Imus, Cavite for the expropriation of 5,320 square meters of plaintiffs' above-described property to be used as right-of-way for the all-steel transmission line tower of the Calaca-Dasmariñas 230 KV T/L Project. But what had caused plaintiffs' discomfiture is the allegation in said complaint stating that the "parcel of land sought to be expropriated has not been applied to nor

expropriated for any public use and is selected by plaintiff in a manner compatible with the greatest good and the least private injury" and that defendant "had negotiated with (plaintiffs) for the acquisition of the right-of-way easement over the portion of the same for the public purpose as above-stated at a price prescribed by law, but failed to reach an agreement with them notwithstanding the repeated negotiations between the parties".

Plaintiffs' assert that at no instance was there a negotiation between them and the NPC or its representative. The alleged "talk" initiated by Mr. Paz with Justice Campos, Jr. just ended in the latter's remonstrance and in prevailing upon the former of his preference to discuss the matter with a more responsible officer of the National Power Corporation, such as the Chief of the Calaca Sub-Station or the Head of NPC's Office in Quezon City. But plaintiffs' plea just fell on the deaf ear. The next thing they know was Civil Case No. Q-1174-95 already filed in court. A party to a case shall not do falsehood nor shall mislead or misrepresent the contents of its pleading. That gross misrepresentation had been made by the National Power Corporation in their said pleading is irrefutable.

Plaintiffs-spouses Campos declared that there are other areas more suitable or appropriate that can be utilized as alternative sites for the all-steel transmission line tower. Just a few meters from the planned right-of-way is an abandoned road occupied by squatters; it is a government property and the possession of which the NPC need not compensate. The latter had not exercised judiciously in the proper selection of the property to be appropriated. Evidently, NPC's choice was whimsical and capricious. Such arbitrary selection of plaintiffs' property despite the availability of another property in a manner compatible with the greatest public good and the least private injury, constitutes an impermissible encroachment of plaintiffs' proprietary rights and their right to due process and equal protection.

Concededly, NPC's intention is to expropriate a portion of plaintiffs' property. This limitation on the right of ownership is the paramount right of the National Power Corporation granted by law. But before a person can be deprived of his property through the exercise of the power of eminent domain, the requisites of law must strictly be complied with. (*Endencia vs. Lualhati*, 9 Phil. 177) No person shall be deprived of his property except by competent authority and for public use and always upon payment of just compensation. Should this requirement be not first complied with, the courts shall protect and, in a proper case, restore the owner in his possession. (Art. 433 Civil Code of the Philippines)

Records disclose that in breach of such verbal promise, defendant NPC had not withdrawn the wooden electrical posts and transmission lines; said wooden electrical posts and transmission lines still occupy a portion of plaintiffs' property; that the NPC had benefited from them for a long period of time already, sans compensation to the owners thereof.

Without first complying with the primordial requisites appurtenant to the exercise of the power of eminent domain, defendant NPC again boldly