

## SECOND DIVISION

[ G.R. No. 152436, June 20, 2003 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. SPOUSES  
IGMEDIO AND LIWAYWAY CHIONG AND THE HEIRS OF  
AGRIFINA ANGELES, REPRESENTED BY FRANCISCO MERCURIO,  
RESPONDENTS.**

### D E C I S I O N

**QUISUMBING, J.:**

This is a petition for review of the decision<sup>[1]</sup> of the Court of Appeals, dated October 26, 2001, in CA-G.R. SP No. 60716, affirming the Order of the Regional Trial Court (RTC) of Iba, Zambales, Branch 71, dated June 7, 2000 in Civil Case No. 1442-I. The trial court directed petitioner National Power Corporation (NPC) to pay the value of the land expropriated from respondents herein for use in NPC's Northwestern Luzon Transmission Line Project. Likewise assailed in this petition is the resolution<sup>[2]</sup> of the appellate court, dated February 26, 2002, denying herein petitioner's motion for reconsideration.

The undisputed facts of this case are as follows:

Petitioner is a government owned and controlled corporation, created and existing pursuant to Republic Act No. 6395,<sup>[3]</sup> as amended, for the purpose of undertaking the development of hydroelectric power, the production of electrical power from any source, particularly by constructing, operating, and maintaining power plants, auxiliary plants, dams, reservoirs, pipes, mains, transmission lines, power stations, and similar works to tap the power generated from any river, creek, lake, spring, or waterfall in the country and supplying such power to the inhabitants thereof. In order to carry out said purposes, NPC is authorized to exercise the power of eminent domain.

On February 19, 1998, NPC filed a complaint for eminent domain with the RTC of Iba, Zambales. It sought the acquisition of an easement of right-of-way and certain portions of agricultural lands owned by Igmadio and Liwayway Chiong and the Heirs of Agrifina<sup>[4]</sup> Angeles, as represented by Francisco Mercurio, to be used in its Northwestern Luzon Transmission Line Project. The complaint, which was docketed as Civil Case No. 1442-I, prayed for the issuance of a writ of possession and an order of expropriation, the appointment of three (3) commissioners to determine the just compensation, and to adjudge NPC as having a lawful right to enter, take, and acquire an easement of right-of-way over portions of the properties owned by herein respondents.

In their answer, the Heirs of Agrifina Angeles did not dispute the purpose of NPC in instituting the expropriation proceedings. However, they pointed out that NPC had already entered and taken possession of a portion of their realty with an area of

4,000 square meters, more or less (Lot "A") and wanted to occupy another 4,000 square meters of the adjacent property (Lot "B"). Respondents averred that the fair market value for both properties was P1,100.00 per square meter or a total of P8,800,000.00 and prayed that the trial court direct NPC to pay them said amount.

On March 31, 1998, NPC filed an *ex parte* motion for the issuance of a writ of possession, which the trial court granted.

At the pre-trial conference, the parties agreed that the controversy would be limited to determining the actual land area taken by NPC and the just compensation to be paid by petitioner.

On September 28, 1999, the trial court appointed as commissioners, Atty. Henry P. Alog, Atty. Regalado Castillo, and Ms. Roselyn B. Regadio, Legal Researcher of the trial court, to determine the fair market value of the land, as well as the total area taken by NPC from respondents.

On March 9, 2000, Atty. Castillo and Ms. Ragadio submitted their report to the court finding that the property classified as "unirrigated riceland shall have a fair market value of P500.00 per square meter"<sup>[5]</sup> considering that "the property is situated at Baytan, Babali, Lomboy, Sta. Cruz, Zambales which is more than 900 meters from the town proper."<sup>[6]</sup>

On May 5, 2000, Atty. Alog submitted his report recommending that NPC pay the Heirs of Agrifina Angeles an easement fee of P20,957.88 and the Spouses Chiong be paid total easement fees of P9,187.05.<sup>[7]</sup> The affected properties of the Heirs of Agrifina Angeles were assessed by Atty. Alog to have a fair market value of P22.50 per square meter, while those of the Spouses Chiong were assigned a fair market value of P15.75 per square meter.<sup>[8]</sup>

After considering the reports of the Commissioners, the trial court on June 7, 2000 decreed as follows:

The Commissioner's Report dated March 9, 2000 filed by Commissioner Roselyn B. Ragadio and Atty. Regalado Castillo is given due course.

WHEREFORE, the plaintiff is directed to pay the defendants Mercurio their land containing an area of 4,000 square meters at P500.00 per square meter and an interest of six (6%) percent per annum from April 16, 1998 until fully paid.

SO ORDERED.<sup>[9]</sup>

Dissatisfied, NPC filed a special civil action for certiorari with the appellate court, docketed as CA-G.R. SP No. 60716. NPC averred that the trial court committed grave abuse of discretion amounting to excess or want of jurisdiction when it: (a) directed NPC to pay just compensation for the land taken without first issuing an order of expropriation; (b) adopted the compensation recommended by the two commissioners without a hearing; and (c) directed petitioner to pay the full market value of the property instead of a mere easement fee.

On October 26, 2001, the appellate court decided CA-G.R. SP No. 60716 as follows:

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED.<sup>[10]</sup>

In holding that NPC was not entitled to a writ of certiorari, the Court of Appeals found that the trial court did not commit a grave abuse of discretion when it failed to issue an expropriation order. The appellate court pointed out that as early as the pre-trial, respondents did not question NPC's right to expropriate their properties. Hence, the only matter to be addressed by the trial court was the amount of just compensation to be paid. Second, NPC could not claim that it was denied due process because the trial court issued the order without first conducting a hearing on the commissioners' report. The court *a quo* noted that formal-type hearings are not necessary in expropriation proceedings, as long as the parties are afforded a fair and reasonable opportunity to be heard before the order to pay compensation is issued. NPC was afforded ample time or opportunity to object to the commissioners' report before said order was issued. This it failed to do. It likewise failed to move for reconsideration or to appeal the trial court's order. Hence, NPC was now estopped from claiming that it had been denied due process. The appellate court likewise found the assessed value of P500.00 per square meter to be fair as opposed to the NPC-appointed commissioner's valuation of P22.50 per square meter. Finally, the CA held that as NPC failed to appeal the trial court's order, certiorari could not be a substitute for a lost or lapsed right to appeal.

NPC moved for reconsideration, but this was denied by the appellate court in its resolution of February 26, 2002.

Hence, the instant recourse to this Court, with petitioner submitting the following issues for our resolution:

I

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A GRAVE ERROR IN UPHOLDING THE DECISION OF THE COURT *A QUO* IN DIRECTING THE PETITIONER TO PAY THE COMPENSATION FOR THE LAND SOUGHT TO BE EXPROPRIATED WITHOUT FIRST ORDERING ITS EXPROPRIATION.

II

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A GRAVE ERROR WHEN IT UPHELD THE DECISION OF THE TRIAL COURT ADOPTING *IN TOTO* THE UNSUBSTANTIATED REPORT OF THE APPOINTED COMMISSIONERS MS. REGADIO AND ATTY. CASTILLO, WITHOUT CONSIDERING THE THIRD COMMISSIONER, ATTY. ALOG AND WITHOUT CONDUCTING A HEARING.

III

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A GRAVE ERROR WHEN IT UPHELD THE DECISION OF THE TRIAL COURT IN DIRECTING PETITIONER TO PAY THE FULL MARKET VALUE OF THE LAND INSTEAD OF THE EASEMENT FEE AS PRAYED FOR IN THE COMPLAINT AND PROVIDED UNDER REPUBLIC ACT NO. 6395 AS AMENDED, WHICH IS OTHERWISE KNOWN AS THE REVISED NPC CHARTER.<sup>[11]</sup>

In sum, we find that the pertinent issues before us are the following: (1) whether petitioner NPC was deprived of due process; and (2) whether the Court of Appeals erred in sustaining the Order of the RTC of Iba, Zambales, dated June 7, 2000, by dismissing NPC's petition for certiorari.

On the *first issue*, petitioner contends that the appellate court gravely erred in affirming the trial court's order directing it to pay the respondent the compensation recommended by the majority report of the commissioners. Petitioner points out that there were two reports submitted by the commissioners, with conflicting findings as to the market values of the expropriated properties. It insists that, given said situation, the trial court should have conducted hearings on the two reports, as required by Rule 67, Sections 7<sup>[12]</sup> and 8<sup>[13]</sup> of the 1997 Rules of Civil Procedure, before accepting the majority report. In failing to do so, the trial court not only blatantly violated the Rules; it likewise denied petitioner due process, as the latter was not afforded a chance to raise its objections to the majority report in a hearing held for that purpose. It was, thus, grievous error for the appellate court to have sustained the trial court.

The respondents, Heirs of Agrifina Angeles, point out that the petitioner's contentions are without basis, since it was given ample time and/or opportunity by the trial court to object to the questioned order. The respondents assert that the petitioner, had it been so minded, could have moved for reconsideration or filed an appeal therefrom within the reglementary period, but it did not. Instead, it opted for the wrong remedy by filing a special civil action for certiorari with the Court of Appeals, after the period to appeal had lapsed. Having made an erroneous choice in its remedies, petitioner cannot now come to this Tribunal crying that it was denied due process.

On record we find that the majority report of Commissioners Ragadio and Atty. Castillo was submitted to the trial court on March 9, 2000, while the minority report of Commissioner Atty. Alog, was submitted on May 5, 2000. It is not disputed that petitioner was furnished copies of said reports. After petitioner NPC obtained its copy of the majority report, it did nothing. The records do not disclose any objection thereto or any comment opposing the findings and recommendations of the two commissioners in their report.

The majority report was submitted on March 9, 2000. The trial court issued its order adopting the majority report on June 7, 2000. Clearly, petitioner had ample time to make its objections or ventilate its opposition to the majority report before the trial court. A formal hearing or trial was not required for the petitioner to avail of its opportunity to object and oppose the majority report. Petitioner could have filed a motion raising all possible grounds for objecting to the findings and recommendations of the commissioners. It could have moved the trial court to remand the report to the commissioners for additional facts. Or it could have moved

to expunge the majority report, for reasons petitioner could muster. Petitioner, however, failed to seize the opportunity to register its opposition or objections before the trial court. It is a bit too late in the day now to be asking for a hearing on the pretext that it had not been afforded due process.

The elements of due process are well established, *viz*:

- (1) There must be a court or tribunal clothed with judicial power to hear and determine the matter before it;
- (2) Jurisdiction must be lawfully acquired over the person of the defendant or property which is the subject of the proceedings;
- (3) The defendant must be given an opportunity to be heard;  
and
- (4) Judgment must be rendered upon lawful hearing.<sup>[14]</sup>

What is repugnant to due process is the denial of the opportunity to be heard.<sup>[15]</sup> As pointed out that the petitioner was afforded this opportunity is beyond question. Having failed to make use of this opportunity, the petitioner cannot justifiably claim now that its right to due process has been violated.

The duty of the court in considering the commissioners' report is to satisfy itself that just compensation will be made to the defendant by its final judgment in the matter, and in order to fulfill its duty in this respect, the court will be obliged to exercise its discretion in dealing with the report as the particular circumstances of the case may require.<sup>[16]</sup> Rule 67, Section 8, of the 1997 Rules of Civil Procedure clearly shows that the trial court has the discretion to act upon the commissioners' report in any of the following ways: (1) it may accept the same and render judgment therewith; or (2) for cause shown, it may: [a] recommit the report to the commissioners for further report of facts; or [b] set aside the report and appoint new commissioners; or [c] accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.<sup>[17]</sup>

From March 9, 2000 to June 7, 2000, petitioner did not object to the majority report. On record, it did not, at the time, signify its opposition thereto, or specify that not all of the evidence, pertinent and material thereto, had been considered by the commissioners or presented to the court. The option of recommitting the report of the commissioners, which petitioner now claims, was not ventilated before the trial court. No claim appears on record that fraud or prejudice tainted the majority report. When it still had the opportunity below, herein petitioner did not challenge the majority report on the ground that the commissioners concerned disregarded the evidence before them, or used an improper rule of assessment, in their submission to the trial court. As previously held, where there was no opposition filed to the Commissioners' Report in the lower court, the findings in said Report will not be disturbed.<sup>[18]</sup> Absent the objections raised by the petitioner, it became the duty of the trial court to make a final order and judgment in which the proper award will be made and thus end the controversy.