

## THIRD DIVISION

[ G.R. No. 113194, March 11, 1996 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. COURT OF APPEALS AND MACAPANTON MANGONDATO, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

At what point in time should the value of the land subject of expropriation be computed: at the date of the "taking" or the date of the filing of the complaint for eminent domain? This is the main question posed by the parties in this petition for review on certiorari assailing the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> which affirmed in toto the decision of the Regional Trial Court of Marawi City.<sup>[3]</sup> The dispositive portion of the decision of the trial court reads:<sup>[4]</sup>

"WHEREFORE, the prayer in the recovery case for Napocor's surrender of the property is denied but Napocor is ordered to pay monthly rentals in the amount of P15,000.00 from 1978 up to July 1992 with 12% interest per annum from which sum the amount of P2,199,500.00 should be deducted; and the property is condemned in favor of Napocor effective July 1992 upon payment of the fair market value of the property at One Thousand (P1,000.00) Pesos per square meter or a total of Twenty-One Million Nine Hundred Ninety-Five Thousand (P21,995,000.00) Pesos.

"SO ORDERED. Costs against NAPOCOR."

#### **The Facts**

The facts are undisputed by both the petitioner and the private respondent,<sup>[5]</sup> and are quoted from the Decision of the respondent Court,<sup>[6]</sup> as follows:

"In 1978, National Power Corporation (NAPOCOR), took possession of a 21,995 square meter land which is a portion of Lot 1 of the subdivision plan (LRC) Psd-116159 situated in Marawi City, owned by Mangondato, and covered by Transfer Certificate of Title No. T-378-A, under the mistaken belief that it forms part of the public land reserved for use by NAPOCOR for hydroelectric power purposes under Proclamation No. 1354 of the President of the Philippines dated December 3, 1974.

"NAPOCOR alleged that the subject land was until then possessed and administered by Marawi City so that in exchange for the city's waiver and quitclaim of any right over the property, NAPOCOR had paid the city a 'financial assistance' of P40.00 per square meter.

"In 1979, when NAPOCOR started building its Agus I HE (Hydroelectric Plant) Project, Mangondato demanded compensation from NAPOCOR. NAPOCOR refused to compensate insisting that the property is public land and that it had already paid 'financial assistance' to Marawi City in exchange for the rights over the property.

"Mangondato claimed that the subject land is his duly registered private property covered by Transfer Certificate of Title No. T-378-A in his name, and that he is not privy to any agreement between NAPOCOR and Marawi City and that any payment made to said city cannot be considered as payment to him.

"More than a decade later NAPOCOR acceded to the fact that the property belongs to Mangondato.

"At the outset, in March, 1990, NAPOCOR's regional legal counsel, pursuant to Executive Order No. 329 dated July 11, 1988 requested Marawi City's City Appraisal Committee to appraise the market value of the property in Saduc, Marawi City affected by the infrastructure projects of NAPOCOR without specifying any particular land-owner. The City Appraisal Committee in its Minutes dated March 8, 1990, fixed the fair market value as follows:<sup>[7]</sup>

#### **'Land Fair Market Value Per Sq. M**

<b>Price Per Sq. M Along the City National Highway</b>		<b>Price per Sq. M. Not in the City National Highway</b>
<b>P150</b>	Residential Lot	P100
<b>P250</b>	Commercial Lot	P180
<b>P300</b>	Industrial Lot	P200

(Records, Civil Case No. 610-92, p. 20).

"On July 13, 1990, NAPOCOR's National Power Board (hereafter NAPOCOR's board) passed Resolution No. 90-225 resolving to pay Mangondato P100.00 per square meter for only a 12,132 square meter portion of the subject property plus 12% interest per annum from 1978. However, in the August 7, 1990 board meeting, confirmation of said resolution was deferred to allow NAPOCOR's regional legal counsel to determine whether P100.00 per square meter is the fair market value. (Records, Civil Case No. 605-92, p. 45).

"On August 14, 1990, NAPOCOR's board passed Resolution No. 90-316 resolving that Mangondato be paid the base price of P40.00 per square meter for the 12,132 square meter portion (P485,280.00) plus 12% interest per annum from 1978 (P698,808.00) pending the determination whether P100.00 per square meter is the fair market value of the property (id.).

"Pursuant to the aforementioned resolution Mangondato was paid P1,184,088.00 (Id., p. 58).

"NAPOCOR's regional legal counsel's findings embodied in 2 memoranda to NAPOCOR's general counsel (dated January 29, 1991 and February 19, 1991) state that Mangondato's property is classified as industrial, that the market value of industrial lots in Marawi City when NAPOCOR took possession is P300.00 for those along the national highway and P200.00 for those not along the highway and that on the basis of recent Supreme Court decisions, NAPOCOR has to pay not less than P300.00 per square meter. NAPOCOR's general counsel incorporated the foregoing findings in his report to the board plus the data that the area possessed by NAPOCOR is 21,995 square meters, and that the legal rate of interest per annum from the time of the taking of the property alleged to be in 1978, is 12%, but recommended to the board that the fair market value of the property is P 100.00 per square meter; NAPOCOR's board on May 17, 1991 passed Resolution No. 91-247 resolving to pay Mangondato P100.00 per square meter for the property excluding 12% interest per annum (id., pp. 50-52).

"In a letter dated December 17, 1991, Mangondato disagreed with the NAPOCOR board's Resolution No. 91-247 pegging the compensation for his land at P 100.00 per square meter without interest from 1978. Mangondato submitted that the fair market value of his land is even more than the P300.00 (per) square meter stated in the City Appraisal Report but that for expediency, he is willing to settle for P300.00 per square meter plus 12% interest per annum from 1978 (id., pp. 53-59).

"In another letter dated February 4, 1992, Mangondato reiterated his disagreement to the P100.00 per square meter compensation without interest. At the same time, to get partial payment, he asked that he be paid in the meantime, P 100.00 per square meter without prejudice to pursuing his claim for the proper and just compensation plus interest thereon (id., p. 60).

"On February 12, 1992, NAPOCOR's general counsel filed a memorandum for its president finding no legal impediment if they, in the meantime were to pay Mangondato P100.00 per square meter without prejudice to the final determination of the proper and just compensation by the board inasmuch as the regional counsel submitted to him (general counsel) 2 memoranda stating that the appraisal of industrial lots in Marawi City when NAPOCOR took possession is P300.00 per square meter for those along the national highway and P200.00 per square meter for those not along the highway, and that NAPOCOR has to pay not less than P300.00 per square meter plus 12% interest on the basis of recent Supreme Court decisions. Further, the general counsel submitted that since the board has already set the purchase price at P100.00 per square meter (Resolution No. 91-247), NAPOCOR would not be prejudiced thereby (id., pp 60-62)

"In March, 1992, the parties executed a Deed of Sale Of A Registered Property where NAPOCOR acceded to Mangondato's request of

provisional payment of P100.00 per square meter excluding interest and without prejudice to Mangondato's pursuance of claims for just compensation and interest. Mangondato was paid P1,015,412.00 in addition to the P1,184,088.00 earlier paid to him by NAPOCOR which payments total P2,199,500.00 for the 12,995 square meter land (Records, Civil Case No. 610-92, pp. 85-87).

"In his letter to NAPOCOR's president dated April 20, 1992, Mangondato asked for the payment of P300.00 per square meter plus 12% interest per annum from 1978. NAPOCOR's president, in his memorandum to the board dated April 24, 1992 recommended the approval of Mangondato's request (Records, Civil Case No. 605-92, pp. 63-69).

"On May 25, 1992, NAPOCOR's board passed Resolution No. 92-121 granting its president the authority to negotiate for the payment of P100.00 per square meter for the land plus 12% interest per annum from 1978 less the payments already made to Mangondato and to Marawi City on the portion of his land and with the provisos that said authorized payment shall be effected only after Agus I HE Project has been placed in operation and that said payment shall be covered by a deed of absolute sale with a quitclaim executed by Mangondato (Id., pp. 70-71).

"On July 7, 1992, Mangondato filed before the lower court Civil Case No. 605-92 against NAPOCOR seeking to recover the possession of the property described in the complaint as Lots 1 and 3 of the subdivision plan (LRC) Psd-116159 against NAPOCOR, the payment of a monthly rent of P15,000.00 from 1978 until the surrender of the property, attorney's fees and costs, and the issuance of a temporary restraining order and a writ of preliminary mandatory injunction to restrain NAPOCOR from proceeding with any construction and/or improvements on Mangondato's land or from committing any act of dispossession (id., pp. 1-8).

"The temporary restraining order was issued by the lower court. Anent the prayer for the writ of preliminary mandatory injunction, NAPOCOR filed its Opposition thereto on July 23, 1992 (Id., pp. 17-20).

"Before the lower court could resolve the pending incident on the writ of preliminary mandatory injunction, and instead of filing a motion to dismiss, NAPOCOR, on July 27, 1992, filed also before the lower court, Civil Case No. 610-92 which is a Complaint for eminent domain against Mangondato over the subject property (Records, Civil Case No. 610-92, pp. 1-3).

"On the same date Mangondato filed his Manifestation in Lieu of Answer contending that the negotiations for payment made by NAPOCOR were 'virtual dictations' on a 'take it or leave it' basis; that he was given the 'run-around' by NAPOCOR for 15 years; so that there was no agreement reached as to payment because of NAPOCOR's insistence of its own determination of the price; that he treats the P2,199,500.00 so far received by him as partial payment for the rent for the use of his property. Mangondato prayed that he be compensated in damages for the unauthorized taking and continued possession of his land from 1978 until

the filing of the Complainant (sic) in the expropriation case; that should the lower court order the expropriation of the subject property, that the just compensation for the land be reckoned from the time of the filing of the expropriation case; that the expropriation case be consolidated with the recovery of possession case; that the restraining order issued in the recovery of possession case be maintained and a writ of preliminary injunction be at once issued against NAPOCOR; and that NAPOCOR be ordered to deposit the value of the land as provisionally determined by the lower court (id., pp. 4-5).

"Upon agreement of the parties, the 2 cases were ordered consolidated and the lower court appointed the following commissioners: Atty. Saipal Alawi, representing the lower court; Atty. Connie Doromal, representing NAPOCOR; and Mr. Alimbsar A. Ali, from the City Assessor's Office to ascertain and report to the court the just compensation (id., pp. 6-7).

"The lower court ordered NAPOCOR to deposit with the Philippine National Bank the amount of P10,997,500.00, provisionally fixing the value of the land at P500.00 per square meter P100.00 lower than the assessed value of the land appearing in Tax Declaration No. 0873 for 1992 which was used as basis by the lower court (id., p. 8).

"In its Motion for Reconsideration of the Order For Provisional Deposit[,] NAPOCOR opposed the provisional value quoted by the lower court saying that the basis of the provisional value of the land should be the assessed value of the property as of the time of the taking which in this case is 1978 when the assessed value of the land under Tax Declaration No. 7394 was P100.00 per square meter (id., pp. 28-32). In reply, Mangondato filed his Opposition To Motion For Reconsideration Of the Order For Provisional Deposit (id., pp. 44-46). However, the lower court did not rule on the provisional value to be deposited and chose to go right into the determination of just compensation on the ground that the 'provisional valuation could not be decided without going into the second phase of expropriation cases which is the determination by the court of the just compensation for the property sought (sic) to be taken (NPC vs. Jocson, supra)' (Decision, p. 5).

"On August 5, 1992, Mangondato filed a Motion To Dismiss in the expropriation case alleging that NAPOCOR filed its Complaint for eminent domain not for the legitimate aim of pursuing NAPOCOR's business and purpose but to legitimize a patently illegal possession and at the same time continue dictating its own valuation of the property. Said motion was however, later withdrawn by Mangondato (id., pp. 37-39 and 47).

"In the meanwhile, the commissioners filed their respective reports. On July 28, 1992, Commissioner Doromal filed his report recommending a fair market value of P300.00 per square meter as of November 23, 1978, (Id., pp. 11-27). On August 6, 1992, Commissioners Alawi and Ali filed their joint report recommending a fair market value of P1,000.00 per square meter as of 1992 (id., pp. 40-42).

"After the parties filed their respective comments to the commissioners'