

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 03298-MIN, February 26, 2015]

**NATIONAL TRANSMISSION CORPORATION (TRANSCO),
PLAINTIFF-APPELLANT, VS. HEIRS OF LEONCIO NOOT, NAMELY:
PAULITA TANIO-NOOT, LYDIA NOOT, SALVACION NOOT-
NARANJO, ADELAIDA NOOT-COMBONG, DEFENDANTS-
APPELLEES.**

D E C I S I O N

CAMELLO, J.:

This appeal impugns the Judgment dated 27 February 2013^[1] of the Regional Trial Court, Branch 27, Gingoog City^[2] in Civil Case No. 2005-781 for eminent domain.

The facts are undisputed:

The subject residential land comprises an area of approximately 5,705 square meters, located in Brgy. 26, Gingoog City covered by Original Certificate of Title (OCT) EP-473^[3] of the Registry of Deeds of Gingoog City pursuant to Emancipation Patent No. A-029295 in the name of Leoncio Noot.

By virtue of *Republic Act No. 9136*, also known as the *EPIRA Law*,^[4] the National Transmission Corporation (TRANSCO) sought the expropriation of a 917.75 square meters portion of the land of the late Leoncio Noot to be used for its transmission lines.

TRANSCO filed the complaint^[5] for eminent domain on 12 May 2005, praying (1) that an order be issued condemning 917.75 sq. m. within the subject land for public use, (2) that three commissioners be appointed to hear the parties, view the premises, assess the damage, and report to the Court the just compensation to be paid to the defendants, (3) that it be authorized to pay the defendants after the determination of the just compensation, and (4) that it be adjudged to have lawful right to enter, take possession, and acquire ownership of the portion of the subject land free from all liens and encumbrances.^[6]

On 07 July 2005, the defendants filed their Answer^[7] alleging, among other things, that the fair market value of the land is at least P1,000.00 per square meter.

On 18 October 2006, the court *a quo*, then presided over by Hon. Oscar N. Abella, referred the case to Hon. Avelino C. Pakino, the Presiding Judge of the Regional Trial Court, Branch 43, Gingoog City, for Judicial Dispute Resolution (JDR).^[8]

Unfortunately, no settlement was reached by the parties because TRANSCO was not amenable to the defendants' proposed just compensation.^[9]

On 16 January 2007, Hon. Avelino Pakino issued an Order^[10] returning the case to the court *a quo* with the observation that “[t]he parties are in accord that pivotal issue of the case hinges on the fixing of just compensation”,^[11] and that “[t]he matter on just compensation can be determined with dispatch by the Commissioners to be appointed by the Court.”^[12]

On 23 April 2007, TRANSCO filed an Urgent *Ex-Parte* Motion for the Issuance of a Writ of Possession^[13] alleging that it had already deposited under Certificate of Deposit No. 0001252940^[14] in the account name “TRANSCO vs. Leoncio Noot”, with the Land Bank of the Philippines (LBP) the amount of P2,946.00 representing the assessed value of the portion of the subject land.

On 23 May 2007, the court *a quo* issued a Resolution^[15] denying the motion on the ground that, as admitted by TRANSCO, it is already possessing the land subject of expropriation. In the same resolution, the court *a quo* directed the parties to submit the names of their respective commissioners noting that during the conference which was held in the chambers on 25 April 2007, the parties agreed to the determination of the just compensation by commissioners.^[16]

On 16 July 2007, the defendants submitted the name of their commissioner, Nena B. Corona of Purok 3, Brgy. 23, Gingoog City.^[17] Then, on 10 August 2007, TRANSCO submitted the name of its commissioner, Christopher A. Timogan, its Right-of-Way Officer assigned at the Northeastern Mindanao Area (NEMA).^[18]

On 27 August 2010, the court *a quo* issued an Order^[19] appointing Carlito P. Jomen as chairman of the board of commissioners. Eventually, commissioners Carlito P. Jomen, Nena B. Corona, and Christopher A. Timogan took their respective oaths of office.

On 02 August 2011, the court *a quo* issued an Order^[20] setting the first session of the hearing of commissioners on 06 October 2011 at 1:30 in the afternoon.

On 12 December 2011, the court *a quo* received the Commissioners’ Report^[21] signed by Carlito P. Jomen and Nena B. Corona. The report reads:

Pursuant to Court Order of Judge Giovanni Alfred H. Navarro dated August 2, 2011 relative to the above-entitled case “to ascertain the just compensation for the property sought to be taken,” the court appointed [sic] Commissioners had met on October 6, 2011 at RTC, Branch 27 this City. Present during the said meeting were Carlito P. Jomen REB as Chairman, Nena B. Corona, member representing the Heirs of Leoncio Noot, as Commissioners, Christopher A. Timogan as member Commissioner representing TRANSCO was absent. Also present were Atty. Benjamin Guimong, counsel for the said Heirs, and Lydia Noot Handerson one of the Heirs was likewise present. The rest of the parties notified by this Court were absent.

After ocular inspection, deliberation, and evaluation on the real estate values in the neighbourhood of subject residential area, Commissioners

Carlito P. Jomen and Nena B. Corona have pegged the current market value of said residential lot at P800.00/sq. m. The total area sought by TRANSCO is 917.75 sq. m., which is a portion of Lot 10941, Cad-295 located at barangay 26, Gingoog City under OCT EP-473 and the corresponding just compensation thereof is P734,200.00 to the Heirs of Leoncio Noot.

The Commissioners' compensation for their services rendered in this case is left to the sound discretion of the Honorable Court.

The Board of Commissioners hereby certifies to the accuracy and correctness of the foregoing valuation, this 6th day of December 2011 at Gingoog City, Philippines.

On 14 December 2011, the court *a quo* issued an Order^[22] directing the Branch Clerk of Court, Atty. Alfredo Z. Gomez, to serve copies of the report on all interested parties and their counsels with notice that they are allowed ten (10) days to file objections to the findings of the report, if they so desire.

On 30 January 2012, the defendants filed their Compliance^[23] manifesting that they have no objection to the findings in the report.

On 27 April 2012, TRANSCO filed its Comment on the Commissioners' Report^[24] alleging that the commissioners did not state in the report the factual or legal basis for fixing the value of the subject land at P800.00 per square meter. It then prayed that a clarificatory hearing be conducted in order for the commissioners to explain the findings in the report.

On 30 May 2012, the court *a quo* issued an Order^[25] setting the hearing of the Commissioners' Report on 08 August 2012 at 8:30 in the morning.

In the 08 August 2012 hearing, TRANSCO, through counsel, filed a motion to be allowed to conduct a re-validation survey of the subject land, and the court *a quo* granted the motion, directing the defendants to allow TRANSCO to conduct a re-validation survey of the subject land within 25 days.^[26]

In an Order dated 08 August 2012,^[27] the court *a quo* recommitted the Commissioners' Report for further hearing on grounds that it is not a full and accurate report of all the proceedings and that the finding of just compensation has no factual basis. The court *a quo* set the hearing on 07 September 2012 at 10:00 o'clock in the morning, directing the commissioners to give all the parties the opportunity to introduce evidence on the just compensation of the subject land.

On 01 October 2012, the court *a quo* received the second Commissioners' Report^[28] signed by Carlito P. Jomen and Nena B. Corona. The report reads:

Pursuant to Court Order of Judge Giovanni Alfred H. Navarro dated August 8, 2012, the court appointed [*sic*] Commissioners namely: Carlito P. Jomen as Chairman, Nena B. Corona representing the heirs and Christopher A. Timogan representing TRANSCO as members, re-conducted a hearing on September 7, 2012 to determine "the just

compensation with factual basis as, but not limited to, the market value of the adjoining properties, the consequential damages to the property not taken and the consequential benefits to be derived by the defendants, if any.”

Present during the proceeding were: Carlito P. Jomen, Nena B. Corona, Commissioners; Atty. Benjamin Guimong, counsel for defendants; Paulita T. Noot, Salvacion Noot Naranjo, and Adelaida Noot Combong, heirs of Leoncio D. Noot.

Duly notified by the Court, with proof of service on file with the Clerk of Court; Christopher A. Timogan a member representing the plaintiff; Attys. Leon G. Tapel, Jr. and Rommel M. Alonto, legal counsels for the plaintiff were absent from the proceedings.

In view of the foregoing and for a speedy resolution of this case, the Commissioners hereby render its report as follows:

- A. Total area affected as traversed by 69 KV transmission line 917.75 sq. m.
conservatively valued @ P800.00 per sq. m. -
----- P734,200.00
Add: Commissioners’ fee 10% value-
P73,420.00

*Total value of land affected ----- P
807,620.00*

- B. Consequential Damages Incurred by Defendants:
B.1 Loss of Income from the Land -P
405,000.00
B.2 Loss of backyard income from:
Hog Raising ----- P
201,600.00
Poultry Raising ----- P
317,520.00
B.3 Cost of Relocation and Rebuilding the House
of Leoncio D. Noot -----P 120,000.00
*Total value of Consequential Damages -----
----- P1,044,120.00*

*Total Value of the Land and Consequential
Damages --- P1,851,740.00*

We certify that the full and accurate valuation reports are [sic] fair, true, and accurate to our best knowledge and belief.

Prepared and signed this 21th day of September, 2012 in Gingoog City.

In a resignation letter dated 19 October 2012,^[30] Christopher A. Timogan stated that he could no longer discharge his duty as a commissioner because of his work at the National Grid Corporation of the Philippines.

On 29 October 2012, TRANSCO asked for time to submit its comment on the report.^[31] The court *a quo* granted the request and gave TRANSCO a non-extendible period of 30 days within which to submit its comment on the report.^[32]

On 16 November 2012, the court *a quo* filed its Comment of the Commissioners' Report.^[33]

On 27 February 2013, the court *a quo* rendered a Judgment,^[34] which decreed to wit:

WHEREFORE, judgment is hereby rendered as follows:

1. Ordering the National Transmission Corporation to pay the defendants the amount of P458,875.00 as just compensation for the 917.75 square-meter portion of Lot No. 10941, Cad-295 and the amount of P120,000.00 as disturbance compensation for the removal and transfer of the latter's house;
2. Ordering all the defendants, upon National Transmission Corporation's payment of the full amount, to convey to the National Transmission Corporation the 917.75 square-meter portion of Lot No. 10941, Cad-295.
3. Ordering the National Transmission Corporation to pay Carlito P. Jomen the amount of P5,000.00 and Nena B. Corona the amount of P5,000.00 as fees for acting as commissioners; and
4. Ordering the Land Bank of the Philippines to release to the National Transmission Corporation the amount of P2,946.00 which the latter deposited under the account name "TRANSCO vs. Leoncio Noot" using Certificate of Deposit No. 0001252940.

SO ORDERED.^[35]

On 27 March 2013, TRANSCO filed a Notice of Appeal,^[36] to which the court *a quo* gave due course in an Order dated 17 June 2013.^[37]

TRANSCO ascribed to the court *a quo* this lone error, to wit:

THE COURT A QUO GRAVELY ERRED WHEN IT RULED ON THE AMOUNT OF JUST COMPENSATION BASED ON INCOMPETENT AND INSUFFICIENT EVIDENCE.^[38]

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word "compensation" and to convey the idea that the equivalent to be rendered for the