

## SIXTEENTH DIVISION

[ CA-G.R. CV NO. 96407, March 21, 2014 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE TOLL REGULATORY BOARD, PLAINTIFF-APPELLANT, VS. C.C. UNSON COMPANY, INC., DEFENDANT-APPELLEE.**

### D E C I S I O N

**VILLON, J.:**

This is an ordinary appeal under Rule 41, Section 2 (a) of the 1997 Rules of Civil Procedure from the decision dated December 23, 2009<sup>[1]</sup> and order dated July 6, 2010<sup>[2]</sup> of the Regional Trial Court (RTC), Fourth Judicial Region, Branch 35, Calamba City in Civil Case No. 3818-05-C, entitled "*Republic of the Philippines, represented by the Toll Regulatory Board, Plaintiff, versus C.C. Unson Company, Inc., Defendant*" for Expropriation.

The relevant underlying factual and procedural antecedents of the case are hardly in dispute.

On August 3, 2005, plaintiff-appellant Republic of the Philippines (appellant), through the Toll Regulatory Board (TRB), instituted<sup>[3]</sup> an expropriation proceeding against defendant-appellee C.C. Unson Company, Inc. (appellee). The subjects of expropriation were two properties owned by appellee and covered by Transfer Certificate of Title (TCT) No. T-57646<sup>[4]</sup> and TCT No. T-51596.<sup>[5]</sup> Appellant alleged that the areas affected by the expropriation had a zonal value of P2,250.00 per square meter. Accordingly, appellee was duly served with summons.<sup>[6]</sup> Appellee then filed its Answer<sup>[7]</sup> on September 22, 2005. Following the joinder of issues the case was set for pre-trial.<sup>[8]</sup>

On November 15, 2006, appellant filed its Amended Complaint<sup>[9]</sup> along with a Motion for Leave to File Amended Complaint. The said motion was granted by the court *a quo*. In its Amended Complaint, appellant alleged that instead of the earlier valuation of P2,250.00 per square meter, the property affected by the expropriation which was covered by TCT No. T-51596 had a zonal value of only P1,050.00 per square meter.

On November 27, 2006, the trial court terminated the pre-trial conference and ordered that the case be heard on the merits.<sup>[10]</sup>

On December 4, 2006, appellee filed an Urgent Twin Motion to Release Initial Deposit and to Order Plaintiff to Make Additional Deposit.<sup>[11]</sup> In the said pleading, appellee prayed that the amount of P37,549,350.00 earlier deposited by appellant, representing part of the valuation of the expropriated areas, be released to it. Likewise, appellee prayed for an additional deposit of P20,336,400.00, insisting on the initial zonal valuation of the property covered by TCT No. T-51596 at P2,250.00

per square meter. On December 20, 2006, appellant filed an Urgent Ex-Parte Motion for Issuance of Writ of Possession in view of the deposit of the said amount of P37,549,350.00 with the Development Bank of the Philippines (DBP).<sup>[12]</sup>

On December 21, 2006, the court *a quo* issued an order<sup>[13]</sup> directing DBP to turn over the amount of P37,549,350.00 to appellee. The trial court likewise ordered the issuance of a writ of possession in favor of appellant. However, the trial court's resolution on the Motion to Order Plaintiff to Make Additional Deposit was held in abeyance pending appellant's comment thereto. Thereafter, appellant filed its opposition<sup>[14]</sup> to the said Motion. Then, the court *a quo* issued an order<sup>[15]</sup> dated June 15, 2007 directing appellant to pay appellee the additional amount of P20,336,400.00, which it did.

On July 19, 2009, the court *a quo* appointed the members of the Board of Commissioners which was constituted to assist it in determining the just compensation of the properties subject of expropriation. The board was composed of 1) Atty. Allan S. Hilbero (Hibero), as Chairman; 2) Mr. Antonio B. Amata (Amata), who was nominated by appellant; and 3) Engr. Salvador D. Oscianas, Jr. (Oscianas), who was nominated by appellee.<sup>[16]</sup> The parties then filed their position papers,<sup>[17]</sup> in support of their respective postures on the proper valuation of the subject properties.

The Commissioners' Report dated November 25, 2009<sup>[18]</sup> was then submitted to the trial court. Each of the members of the Board of Commissioners made his own recommendation on just compensation, thus: Hibero recommended the amount at P3,000.00 per square meter; Amata pegged just compensation at P2,250.00 per square meter; and Oscianas proposed the amount of P4,400.00 per square meter.

On December 23, 2009, the court *a quo* rendered its assailed decision fixing the amount of just compensation at P3,500.00 per square meter. The dispositive portion of the decision reads:

"WHEREFORE, with the foregoing premises, this Court renders judgment fixing the amount of Three Thousand Five Hundred (Php3,500.00) Pesos per square meter as the just compensation for the properties of defendant corporation herein. Accordingly, the Republic of the Philippines, represented by the Toll Regulatory Board is ordered to pay the defendant corporation the amount of Php32,158,750.00 which represents the difference between the Php57,885,750.00 received by the defendant as provisional payment for the 25,727 sq. meter lots owned by defendant corporation and the amount of Php90,044,500.00 computed at the rate of Php3,500.00 per square meter.

Further, the defendants are hereby ordered to pay Commissioner's fee of Ten Thousand Pesos (P10,000.00) each Commissioner.

SO ORDERED."<sup>[19]</sup>

Appellant moved for reconsideration of the said decision but the same was denied in the assailed order dated July 6, 2010.

Hence, this appeal appellant contending that:

I.

THE TRIAL COURT'S RULING ON JUST COMPENSATION DUE DEFENDANT-APPELLEE IS ERRONEOUS.

II.

**PLAINTIFF-APPELLANT WAS DENIED DUE PROCESS WHEN IT WAS NOT ALLOWED TO FILE ITS COMMENT OR OPPOSITION TO THE COMMISSIONER'S REPORT DATED NOVEMBER 25, 2009.**

The appeal is bereft of merit.

Appellant contends that the court *a quo* erred when it considered the highest and best use of the subject parcels of land in its valuation; and that the trial court likewise erred in holding that appellant must further compensate appellee for the remaining area thereof, consisting of 750 square meters which was not subject of the expropriation proceedings.

Appellant's argument is untenable.

One of the basic principles enshrined in our Constitution is that no person shall be deprived of his private property without due process of law; and in expropriation cases, an essential element of due process is that there must be just compensation whenever private property is taken for public use.<sup>[20]</sup> The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be the price fixed by the seller in open market in the usual and ordinary course of legal action and competition or the fair value of the property as between one who receives, and one who desires to sell, it fixed at the time of the actual taking by the government.<sup>[21]</sup>

In expropriation proceedings, 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 thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full and ample. The constitutional limitation of just compensation is considered to be a sum equivalent to the market value of the property, broadly defined as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition; or the fair value of the property; as between one who receives and one who desires to sell it, fixed at the time of the actual taking by the government.

<sup>[22]</sup> It is settled that the determination of just compensation is a judicial function.

<sup>[23]</sup> The parties may, however, properly present and introduce evidence bearing on the properties' fair market value.<sup>[24]</sup>

Section 5 of Republic Act (RA) No. 8974 provides:

"Section 5. *Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale.* - In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

- (a) The classification and use for which the property is suited;

- (b) The developmental costs for improving the land;
- (c) The value declared by the owners;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvement on the land and for the value of improvements thereon;
- (f) The size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly- situated lands of approximate areas as those acquired from them by the government , and thereby rehabilitate themselves as early as possible."

Contrary to appellant's belief, "highest and best use" of the land does not equate to "potential use." Rather, it refers to Sec. 5 (a) of RA No. 8974 or the classification and use for which the property is suited. As defined by the commissioners in this case:

"Highest and Best Use is defined as the most profitable likely use of the property. This opinion maybe (sic) based on the highest and most profitable continuous use to which the property is adapted and needed, or that use of land which may reasonably be expected to produce the greatest net return to land over a fiven (sic) period of time."<sup>[25]</sup>

Thus, highest and best use is the use of the land where it would be best suited in terms of profitability and utility which, as found by the commissioners and the court *a quo*, is industrial development. We find no cogent reason to hold otherwise.

Moreover, contrary to appellant's belief, the trial court took into account the other factors in determining just compensation pursuant to Sec. 5 of RA No. 8974. Appellant placed too much premium on the value of lots adjacent and similar to the subject parcels of land. However, there is no evidence to show that the said lots are similar to the property under expropriation.

Individually, the indices enumerated in Sec. 5 of RA 8974 cannot be the sole bases of "just compensation" in expropriation cases.<sup>[26]</sup> Nevertheless, taken as a whole, as in this case, such determination, in the absence of any irregularity , must be given great weight and respect since what is involved is the opinion of disinterested experts.

The purpose 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 on the matter, and 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. 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