

THIRTEENTH DIVISION

[CA-G.R. CV No. 100990, November 19, 2014]

**BASES CONVERSION & DEVELOPMENT AUTHORITY, PLAINTIFF-
APPELLANT, VS. STA. INES LANDHOLDINGS, INC., DEFENDANT-
APPELLANT.**

DECISION

LIBREA-LEAGOGO, J.:

Before this Court are the appeals filed by Sta. Ines Landholdings, Inc. and Bases Conversion Development Authority from the Decision^[1] dated 15 April 2013 of the Regional Trial Court, Third Judicial Region, Branch 84, Malolos City, Bulacan in the case entitled "*Bases Conversion and Development Authority v. Sta. Ines Landholdings, Inc.*," docketed as Civil Case No. 795-M-2008, the dispositive portion of which reads:

"WHEREFORE, finding merit in the complaint at bench, the affected portions of the subject lots covered by TCT Nos. 347375 (M) and 347372 (M) in the aggregate area of Nine Hundred Forty One (941) square meters, more or less, and the improvement existing thereon, if any, are hereby ordered expropriated in favor of the plaintiff BCDA. Accordingly, the plaintiff is directed to pay the defendants just compensation in the amount of Php600.00 per square meter for the expropriated lot covered by TCT No. 347375 (M) or the sum of Php510,600.00 and Php500.00 per square meter for the lot covered by TCT No. 347372 (M) or the amount of Php45,000.00 or the total amount of Php555,600.00, minus the sum of Php177,890.00 it already deposited with the Office of the Clerk of Court.

SO ORDERED"^[2]

Defendant-appellant filed its Appellant's Brief^[3] dated 27 March 2014, while plaintiff-appellant filed its Appellant's Brief^[4] dated 13 June 2014. Plaintiff-appellant then filed its Appellee's Brief^[5] dated 07 July 2014, while defendant-appellant also filed its Appellee's Brief^[6] dated 28 August 2014. Per JRD verification,^[7] no reply brief was filed. Thus, the appeals are submitted for decision.

FACTUAL ANTECEDENTS

A Complaint for Expropriation (with prayer for the issuance of a writ of possession)^[8] dated 07 November 2008 was filed by plaintiff Bases Conversion and Development Corporation ("BCDA," for brevity) against defendant Sta. Ines

Landholdings, Inc. ("SILI," for brevity) before the Regional Trial Court of Malolos City, Bulacan, docketed as *Civil Case No. 795-M-2008*.

Plaintiff BCDA alleged in the Complaint, *inter alia*, that: pursuant to Section 4(b) of Republic Act No. 7227, as amended by Republic Act No. 7917, it is mandated by law to adopt, prepare and implement a comprehensive and detailed development plan for the sound and balanced conversion of the Clark and Subic military reservations and their extensions into other productive uses, inclusive of the development of transport infrastructures that would make them accessible, in order to promote the economic and social development of Central Luzon in particular and the country in general; in 1995, BCDA incorporated North Luzon Railways Corporation ("Northrail," for brevity) to develop and implement rail projects linking the former military facilities in Luzon, partly by reviving rail operations along the abandoned PNR lines; the Northrail Phase I project would run approximately sixty-four (64) kilometers, connecting the Bonifacio Global City (formerly Fort Bonifacio) located in Taguig City to the Clark Special Economic Zone (formerly Clark Air Base) in Central Luzon; for ease of implementation, Phase I has been further subdivided into Phase I-a (Caloocan to Malolos), Phase I-b (Fort Bonifacio to Caloocan), and Phase I-c (Malolos to Clark); under Section 5(k) of R.A. No. 7227, it is vested, among others, with the power to exercise the right of eminent domain; SILI is in possession of and owns parcels of land, situated at Barangay Bunlo, Bocaue, Bulacan: Lot No. 94-B covered by TCT No. T-347375(M) having an affected area of 851 square meters ("sq.m.," for brevity) and Lot No. 705 covered by TCT No. T-347372(M) having an affected area of 90 sq.m.; the said properties are sought to be expropriated in order to pave the way for the implementation of the Northrail Phase I-a project, an important and vital flagship road project of the Philippine Government; the total area of the properties to be affected is nine hundred forty-one (941) sq.m. and the classification thereof is agricultural; the prevailing BIR zonal valuation thereof is Php190.00/sq.m. for Lot No. 94-B and Php180.00/sq.m. for Lot 705; the development of these properties will provide the shortest, direct and efficient link among vital development areas in Metro Manila and Central Luzon; in view of the apparent and pressing need for the immediate completion of the Northrail Phase I-a Project, plaintiff urgently needs to acquire those portions of the parcels of land to facilitate the construction thereon; the said parcels of land and the existing improvements thereon, if any, sought to be expropriated have not been applied to, nor expropriated for, any public use, and they have been selected as the most ideal and feasible sites for the implementation of the Northrail Phase I-a Project, in a manner compatible with the greatest public good and the least private injury in accordance with the Master Plan Study for the Northrail Project; plaintiff attempted to negotiate with and offered to buy from SILI portions of the subject property for a public purpose, at a price prescribed by law but failed to arrive at an agreement for the same, despite the repeated negotiations between the parties; the government will suffer irreparable damage if this project will not proceed as scheduled by reason of the failure to negotiate with the supposed owner after diligent efforts to do so; and pursuant to R.A. No. 8974 in relation to Section 8(a) of the Implementing Rules and Regulations ("IRR," for brevity) of the said law, plaintiff is willing, able and ready to pay the total amount of Php177,890.00 for the total affected area of 941 sq.m. with the Office of the Clerk of Court for purposes of the issuance of a writ of possession. BCDA prayed for: the issuance of a writ of possession and order of expropriation; appointment of three (3) competent and disinterested commissioners; after the determination of just compensation, to authorize the payment by plaintiff to defendant; for plaintiff to be adjudged to have the lawful

right to enter, take possession and acquire portions of the subject properties, including all its improvements; the issuance of an order requiring defendant to surrender the owner's copy of the transfer certificates of title, to facilitate conveyance of title of the affected properties; and for the Register of Deeds of the place where the properties are located to effect the registration of title over the properties subject of the expropriation case to the BCDA.

In its Answer^[9] dated 26 January 2009, defendant SILI alleged, *inter alia*, that: it admits the allegations in paragraphs 1, 2 and 7 of the Complaint; partially admits the allegations in paragraphs 3, 6, and 15 of the same; specifically denies the allegations in paragraphs 4, 5, 8, 10, and 11; specifically denies the allegations in paragraph 9 in so far as it alleged that the value of the subject property is Php180.00 per sq.m., the truth being that the present market value of the same is significantly more than that considering that the area and immediate vicinity is undergoing rapid development and urbanization; specifically denies the allegations in paragraph 12 in so far as it alleged that the subject expropriation sought by plaintiff is the most ideal and feasible and with least injury to defendant, the truth being those alleged in its special and affirmative defenses; specifically denies the allegations in paragraph 13, the truth being that save for the subject letters sent by plaintiff, there were no other communications, much less repeated negotiations between the parties; specifically denies the allegations in paragraph 14 in so far as it alleged diligent efforts on the part of the plaintiff to negotiate with defendant; and specifically denies the allegations in paragraph 16 for being mere conclusions of law. By way of special and affirmative defenses, defendant SILI alleged that: the acts of plaintiff is illegal and not sanctioned by law; there is no particular provision of law specifically empowering plaintiff to exercise the power of expropriation for the use of developing a transport infrastructure; the expropriation of the portions of defendant's property is unnecessary as the present railway and/or right of way is sufficient to meet the needs of a mass rail transport system; hence, the expropriation of the subject property is clearly not for a public purpose but an unjust burden imposed upon defendant's property rights; and the market value of the subject property is way above the alleged amount of Php180.00 per sq.m. quoted by plaintiff which is grossly undervalued.

Plaintiff BCDA filed a Motion to Deposit and for the Issuance of Writ of Possession^[10] dated 24 February 2009 praying that it be allowed to deposit the amount of Php177,890.00 with the Office of the Clerk of Court, and that it be issued a writ of possession. Defendant SILI filed its Comment^[11] dated 23 March 2009. In an Order^[12] dated 30 June 2009, the trial court granted the Motion and ordered plaintiff BCDA to deposit with the Office of the Clerk of Court the amount of Php177,890.00, equivalent to the amount of 100% of the value of the affected property based on the current Bureau of Internal Revenue ("BIR," for brevity) zonal valuation, to be paid to the owner of the subject property.

Plaintiff BCDA submitted the Judicial Affidavits of Engineer Virgilio J. Pidelo ("Engr. Pidelo," for brevity)^[13] and Mrs. Evelyn V. Peralta ("Peralta," for brevity).^[14]

Peralta testified, *inter alia*, that: she is currently employed with Northrail as Senior Manager for Financial Services; BCDA is the mother agency of Northrail; as Senior Finance Manager, she is in-charge of all the financial transactions of Northrail, including the issuance of the certificate of funds availability; and she identified her

judicial affidavit, affirmed and confirmed the contents thereof, and adopted the same as her direct testimony.^[15]

In an Order^[16] dated 15 September 2009, it was stated that considering the manifestation of defendant SILI's counsel that he would no longer conduct his cross-examination on Peralta and he has no opposition to the issuance of writ of possession, the same was issued; and the parties were directed to submit the names of their nominees who will determine the just compensation of the subject property. A Writ of Possession^[17] dated 30 September 2009 was issued.

Defendant SILI nominated Benjamin Isidro ("Isidro," for brevity), Municipal Assessor of Bocaue, Bulacan,^[18] while plaintiff BCDA nominated the BIR Representative of the Revenue District Office of Plaridel, Bulacan.^[19]

In the Order^[20] dated 23 October 2009, the trial court declared plaintiff BCDA as having a lawful right to take the property in question for purposes for which the same was expropriated under R.A. No. 7227 and R.A. No. 8974; and the municipal assessor of Bocaue, Bulacan, the municipal engineer of Bocaue, Bulacan and the revenue district officer of BIR Plaridel, Bulacan were appointed as commissioners to ascertain and report to the trial court the just compensation for the property subject to be taken.

In the subsequent Order^[21] dated 02 December 2009, it was stated that: despite receipt of the Order dated 23 October 2009, the designated commissioners have not filed any compliance therewith; in order to expedite the proceedings, said Order is amended by appointing Atty. Rhoderick P. Caraig ("Atty. Caraig," for brevity), Branch Clerk of Court, to act as chairperson of the commissioners together with the Municipal Assessor of Bocaue, Bulacan and the Revenue District Officer ("RDO," for brevity), BIR Plaridel, Bulacan, as members, to ascertain and report to the trial court the just compensation of the affected property subject of expropriation; and for said commissioners to appear before the trial court to take an oath.

Upon joint motion, the trial court, in an Order^[22] dated 04 February 2010, allowed the parties to submit their respective position papers on the just compensation of the property and thereafter, the appointed commissioners shall make the evaluation of the same for submission of a report to the court.

In its Position Paper^[23] dated 02 March 2009, defendant SILI averred, *inter alia*, that: the subject property is strategically located within the vicinity of a major local development project, i.e. relocation and construction of the new municipal building, which is transforming the Igulot area and its immediate surroundings into the new town center; the same resulted to the ongoing urbanization and commercialization of the area which logically and inevitably pushed the market value of the affected lands, including the subject property; the property owners of lands located within the vicinity of the said local development project in Igulot and its immediate environs and surrounding realties, as well as property owners similarly situated as defendant, are offering their properties for sale anywhere from Php3,000.00 to Php5,000.00 per sq.m.; in the residential subdivision project which is adjacent to subject property, the market selling price is Php5,000.00 per sq.m.; other similarly situated property owners have relayed their collective stand of selling their

properties at Php10,000.00 per sq.m. As their response to plaintiff's offer to buy their properties; the amount of Php5,000.00 per sq.m. is the fair market value as the same is truly reflective of the market realities of the area and approximates the prevailing real property market price; and said amount should thus be fixed by the court as just compensation.

In an Order^[24] dated 31 May 2010, the filing of plaintiff BCDA's position paper was deemed waived. The RDO of Plaridel, Bulacan and the Municipal Assessor of Bocaue, Bulacan were directed to file their respective position papers insofar as the zonal valuation of the subject property is concerned for the determination of just compensation.^[25]

Commissioner Isidro, Municipal Assessor of Bocaue, Bulacan, submitted a Member Commissioner's Report^[26] dated 04 November 2010 stating that: the subject real properties are classified as agricultural lots; based on opinion gathered from authoritative person at Barangay Bunlo, Bocaue, Bulacan, the current and fair market value of agricultural lots is Php1,175.00 per sq.m. and for Barangay Igulot, the Php896.88 per sq.m.; and it was recommended that the defendant is entitled to be paid Php1,175.00 per sq.m. for Barangay Bunlo and Php896.88 per sq.m. for Barangay Igulot, as just compensation.

Commissioner Richard S. Ricarte ("Ricarte," for brevity) of BIR Revenue District No. 25A Plaridel, Bulacan, submitted his Member Commissioner's Report^[27] dated 25 January 2011, which stated that: subject properties are classified as agricultural (A1) irrigated riceland which is the actual use as appearing in the Tax Declaration of Real Property; pursuant to the Department Order No. 29-09 of the Department of Finance issued to implement the revised zonal values of real properties for purposes of computing any internal revenue tax due on sale/transfer or any other disposition of real properties, the zonal value of the land situated at Barangay Bunlo and covered by TCT No. 347375 (M) is Php600.00 per sq.m. while the land situated at Barangay Igulot and covered by TCT No. 347372 (M) is Php500.00 per sq.m. effective 15 July 2009; and the zonal value as stated shall apply provided the same is higher than (a) the fair market value as shown in the Schedule of Values of the provincial or municipal/city assessor, and (b) the gross selling price/consideration as shown in the duly notarized document of sale or transfer of real property.

In an Order^[28] dated 12 May 2011, the trial court directed the parties to comment on the Commissioner's Report filed by Isidro and Ricarte.

Defendant SILI filed its Comment, *etc.*^[29] dated 23 May 2011 reiterating its position that the just compensation for the subject property is Php5,000.00 per sq.m. In its Manifestation, *etc.*^[30] dated 26 May 2011, plaintiff BCDA stated that: those are the individual reports of the members of the Board of Commissioners and not a consolidated Commissioners' Report prepared and signed by the Chairman of the Board and its members as contemplated by Sections 6, 7, and 8 of Rule 67 of the 1997 Rules of Civil Procedure; as such, the filing of its comment to the same is not only premature, but also contrary to the rules; and the filing of its comment be held in abeyance pending the submission of the consolidated Commissioners' Report. Defendant SILI filed a Supplement to Comment^[31] dated 02 July 2011. Plaintiff filed a Manifestation, *etc.*^[32] dated 29 June 2011 which prayed that the filing of its