

EIGHTH DIVISION

[CA-G.R. SP NO. 93207, August 17, 2006]

**LAND BANK OF THE PHILIPPINES, PETITIONERS, VS. HEIRS OF
ELEUTERIO CRUZ, REPRESENTED BY LORNA CRUZ, ET AL.,
RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

In this action for determination of the just compensation, Land Bank of the Philippines (LBP) appeals the judgment dated December 7, 2005 rendered by the Regional Trial Court (RTC), Branch 1, in Tuguegarao City, sitting as a Special Agrarian Court,^[1] that determined a valuation higher than its initial determination.

The respondents were the Heirs of Eleuterio Cruz, the registered owners of the unirrigated riceland situated at Lakambini, Tuao, Cagayan containing an area of 13.7320 hectares and covered by TCT No. T-368.

Only 13.5550 hectares of the landholding of the respondents were acquired by the Government under its Operation Land Transfer (OLT) program under P. D. 27. Relying on the valuation guidelines imposed under P. D. 27 and E. O. 228, LBP and the Department of Agrarian Reform (DAR) appraised the acquired property at P106,935.76, that is, P29,651.54 as the land value and P77,284.22 as incremental land value.^[2] The respondents rejected the LBP/DAR valuation, however, so that the Provincial Agrarian Reform Adjudicator (PARAD) of Cagayan conducted summary proceedings for the preliminary determination of just compensation.

On November 23, 1999, the PARAD valued the 13.5550-hectare property at P80,000.00/hectare, or P1,084,400.00 in all for the acquired area.^[3]

On January 28, 2000, therefore, LBP commenced this case in the RTC by petition for determination of the just compensation.^[4] Upon filing of the respondents' answer,^[5] the RTC conducted the pre-trial, wherein was admitted that the acquired property of 13.5550 hectares was placed under P. D. 27 coverage and that LBP computed the just compensation in accordance with the factors authorized by P. D. 27. ^[6]

The RTC rendered its decision on December 7, 2005,^[7] holding that:

It is undisputed, that, the land of Eleuterio Cruz located at Tuao, Cagayan with an area of 13.7320 hectares and covered by TCT No. T-368 was placed under Operation Land Transfer (P.D. 27) by the government.

The land was valued by the government at P2,187.50 per hectare using the formula provided for in paragraph 8 of P.D. 27, and, the valuation as

authorized under Section 2 of Executive Order No. 228.

Not satisfied by the valuation made by Land Bank, respondents filed a petition with DARAB to fix the just compensation of the property subject of the operation land transfer. Pursuant to the quasi-judicial powers of DARAB as provided for in Section 50 of R.A. 6657, after conducting a summary hearing, it fixed the value of the land per hectare at P80,000.00. Land Bank disagreed, hence, filed the instant petition for final determination of just compensation before this Special Agrarian Court pursuant to the provisions of Section 56 of R.A. No. 6657.

Let it be stressed, that, DARAB is vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform (Sec. 50, R.A. 6657). As such, the valuation made by the DAR Adjudicator must be given weight and probative value more so, if the valuation was in accordance with the provisions of the applicable laws. The Court discerns no irregularity in the fixing of the value of the land in suit at P80,000.00 per hectare by DARAB.

Now, in determining just compensation, the Regional Trial Court, acting as special agrarian court is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended; thus:

Sec. 17. Determination of Just Compensation. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farm workers and by the government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

These factors have been translated into a basic formula in DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994, issued pursuant to the DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

The formula stated in DAR Administrative Order No. 6, as amended, is as follows:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

Considering that the capitalized net income (CNI) or the Comparable Sales (CS) nor the market Value per Tax Declaration (MV) were not shown and proven by the respondents, then, the Court shall be guided on the valuation made by DARAB. Although, respondent stated in her judicial narration that the current market value per hectare is P150,000.00 to P200,000.00, it is not controlling as the same is not the market value stated in the tax declaration. No tax declaration was presented or adduced by the respondents.

Will it follows, that, the Court shall adopt the valuation made by Land Bank?

Records reveal that Land Bank's contention is not entirely correct.

Land Bank's contention that the property was acquired for purposes of agrarian reform on October 21, 1972 pursuant to P.D. 27 as certified by Assistant Secretary for Administrative Affairs Benjamin b. Labayen (Exhibit "H"), the time of the effectivity of P.D. 27, ergo just compensation should be based on the value of the property as of that time and not at the time of possession is erroneous. In Office of the President, Malacañang, Manila vs. Court of Appeals (416 Phil. 473 (2001) citing Land Bank of the Philippines vs. Court of Appeals, 321 SCRA 629; the Supreme Court said, that, the seizure of the landholding did not take place on the date of the effectivity of P.D. 27 but would take effect on the payment of just compensation.

Under the factual circumstances of this case, the agrarian reform process is still incomplete as the just compensation to be paid the respondents has yet to be settled, thus; the determination of just compensation should indeed be determined on the date of payment and not from date of effectivity of P.D. 27.

It would certainly be inequitable to determine just compensation based on the guidelines provided for by P.D. 27 and EO 228 considering the DAR's failure to determine the just compensation for a considerable

length of time. That just compensation should indeed be determined in accordance with R.A. 6657 and not PD 27 or EO 228 is especially imperative considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial full and ample.

In accordance with settled principles of administrative law, primary jurisdiction is vested in the DARAB to determine in a preliminary manner the just compensation for the lands taken under the agrarian reform program. In the instant case, it adjudicated as just compensation the amount of P80,000.00 per hectare.

The Court agrees with the findings of DARAB.

Taking into consideration that the land subject of this case is planted with rice two to three times a year, thus, irrigated and considering further that its production per hectare for every harvest is from 80 to 100 cavans and considering finally, that, the market saleable value of the land per hectare is from P150,000.00 to P200,000.00, then, the reasonable value of the land for the purpose of fixing the just compensation is P80,000.00 per hectare.

and disposing as follows:

WHEREFORE, in the light of the foregoing ratiocination, judgment is hereby rendered fixing the amount of P80,000.00 to be the just compensation of the land subject of this case with an area of 13.7320 hectares situated at Lakambini, Tuao, Cagayan and covered by TCT No. T-368 and ordering Land Bank of the Philippines to pay respondent represented by Lorna Cruz-Felipe the amount of P1,098,560.00 in the manner provided by RA 6657 by way of full payment of the said just compensation.

SO DECIDED.

LBP moved for reconsideration,^[8] but its motion was denied on January 26, 2006.^[9]

Hence, this appeal, wherein LBP submits that the RTC:

xxx GRAVELY ERRED IN ADJUDGING THAT THE TOTAL AREA PLACED UNDER CARP COVERAGE CONSISTS OF 13.7320 HECTARES

xxx GRAVELY ERRED IN FIXING THE JUST COMPENSATION OF THE ACQUIRED PROPERTY AT P80,000.00 PER HECTARE BASED ON SEC. 17 OF RA 6657, NOTWITHSTANDING THE FACT THAT THE SUBJECT PROPERTY WAS ACQUIRED PURSUANT TO OPERATION LAND TRANSFER (OLT) UNDER PD 27

The appeal is partly meritorious.

On the first assigned error, we concur with LBP that the total area placed under

CARP coverage was only 13.5550 hectares, not 13.7320 hectares. The correct area of 13.5550 hectares was established before the PARAD, who expressly acknowledged so in his decision.^[10] Said area was also expressly stated in the pre-trial order itself.^[11]

For their part, the respondents do not contest the correction sought, as their comment bear out. Hence, LBP should pay just compensation to the respondents for only 13.5550 hectares.

II

In fixing the just compensation at P80,000.00/hectare, the RTC gave the following rationalization, to wit:

xxx in determining just compensation, the Regional Trial Court, acting as special agrarian court, is required to consider several factors enumerated in Sec. 17 of RA 6657 as amended, thus:

Sec. 17. Determination of just compensation. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be consider. The social and economic benefits contributed by the farmers and the farm workers and by the government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

xxx

It would certainly be inequitable to determine just compensation based on the guidelines provided for by PD 27 and EO 228 considering the DAR's failure to determine the just compensation for a considerable length of time. The just compensation should indeed be determined in accordance with RA 6657 and not PD 27 or EO 228 is especially imperative considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample.

xxx

Taking into consideration that the land subject of this case is planted with rice two to three times a year, thus, irrigated and considering further that its production per hectare for every harvest is from 80 to 100 cavans and considering finally that the market saleable value of the land per hectare is from P150,000.00 to P200,000.00, then the reasonable value for the land for the purpose of fixing the just compensation is P80,000.00 per hectare.

xxx