FIRST DIVISION

[CA-G.R. CV NO. 80157, August 15, 2006]

NATIONAL POWER CORPORATION, PLAINTIFF-APPELLANT, VS. EDUARDO VITUG AND FLORO ROXAS, DEFENDANTS-APPELLEES.

D E C I S I O N

DE GUIA-SALVADOR, J.:

Before us is an appeal from the Decision dated June 3, 2003 rendered by the Regional Trial Court of Bataan, Branch 4, in Civil Case No. 237-ML,[1] the decretal portion of which states:

> "WHEREFORE, the National Power Corporation should compensate spouses Floro Roxas and Eufemia Roque for Lot 3, Duale, Limay Bataan and covered by TCT No. 20076 in the amount of Php 100.00 per square meters or a total of Php 5,727,900.vSO ORDERED."[2]

The Facts

Pursuant to Republic Act No. 6395, as amended, and in connection with its 230 KV Limay-Hermosa Transmission Line Project, appellant National Power of Corporation sought the expropriation of portions of three parcels of land situated in Townsite Limay, Bataan. The first two parcels were agricultural lands registered in the name of Eduardo Vitug under Transfer Certificate of Title Nos. T-29237 and T-29236 of the Bataan registry. The third parcel, an irrigated riceland, was in turn registered in the names of the appellee Floro Roxas and his wife, Eufemia Roxas, under Transfer Certificate of Title No. T-20076 of the same registry.[3]

For the specific purpose of demanding a right of way for its transmission lines, appellant filed a complaint for eminent domain against said registered owners on November 17, 1994.[4] The record shows that after depositing the provisional amount of compensation required by Presidential Decree No. 42, appellant procured the issuance of the March 22, 1995 writ of possession which authorized its taking over the portions measuring 2,200 and 2,220 square meters from each of the parcels owned by Eduardo Vitug. From the parcel of land owned by appellee, on the other hand, appellant appears to have taken over a portion measuring 4,720 square meters.[5]

Appellee moved for a dismissal of the complaint on the ground, among other matters, that the trial court had no jurisdiction over the subject matter insofar as he was concerned.[6] Having in turn filed his answer thereto,[7] however, it appears that Eduardo Vitug reached a settlement with appellant whereby, in exchange for the right of way required by the latter's project over the aforesaid 2,200 and 2,220 square meter portions of his properties, he was paid compensation in the respective

sums of P77,439.11 and P131,536.28, or an average of P47.30 per square meter.[8] With said landowner subsequently dropped as defendant from the case,[9] the trial court proceeded to determine only the just compensation for the 4,720 square meter portion taken over by appellant from appellee's property.[10]

Upon agreement of the parties, Bataan Provincial Assessor Hermenegildo Pilapil and Limay Municipal Assessor Rodolfo Gomez were both appointed as commissioners to determine the just compensation for the subject 4,720 square meter portion, in terms of its fair market value.[11] While said commissioners submitted their March 16, 2000 report which pegged the fair market value of the realty at P300.00 square meters,[12] however, appellant promptly registered its objection thereto on the ground that said amount was the valuation current in the year 2000 instead of the time of actual taking in 1994.[13] Finding said objection meritorious, the trial court accordingly issued the April 25, 2003 order directing the above-named commissioners to submit once again an appraisal report on the true and fair market value of the property in 1994.[14]

A second appraisal report was, consequently, submitted to the trial court by Jocelyn Linao, then the incumbent Municipal Assessor of Limay. Instead of giving the fair market value of the property in 1994, however, said report adopted the valuation provided under the ***Schedule of Base Market Value of Properties Within the Province of Bulacan for the Years 1994 to 1996*** under Ordinance 8, Series of 1994. Approved by Resolution No. 31 of the ***Sangguniang Panlalawigan***, said ***Schedule*** pegged the base market value of the subject realty at P70,000.00 per hectare or P70.00 only per square meter.[15]

On June 3, 2003, the trial court rendered the decision which is the subject matter of the appeal at bench. Ignoring the second appraisal report as aforesaid, it ruled:

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> "The Provincial Assessor of Bataan submitted a Report which states that the land involved is agricultural (irrigated riceland) about two (2) kilometers away from the Roman Expressway, commercial, industrial, institutional and residential centers with regular means of transportation (tricycle) playing along and in the vicinity. It has a width of One Hundred (100) meters fronting Duale Road. It is a sone('s) throw away from the nearby built concrete water tank of Barangay Hall and Health Center. It is with Panelco extended electric facilities. It is adjacent to clusters of residential houses and there is a concrete road leading to the site from the expressway. He is recommending the amount of Php300.00 per square meter.
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> Considering that said Provincial Assessor made his report as to the proper compensation in the year 2000, while the actual taking and possession of Lot 3 happened way back in 1994, the undersigned fixes the amount of Php100.00 as reasonable compensation for said lot."[16]

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Aggrieved, appellant perfected the instant appeal with the filing of its June 17, 2003 Notice of Appeal within the reglementary period.[17]

The Issues

Appellant seeks the reversal and setting aside of the appealed decision on the ground that the trial court reversibly erred in the following wise:

"I

THE LOWER COURT ERRED IN DISREGARDING THE SECOND APPRAISAL REPORT PREPARED BY THE MUNICIPAL ASSESSOR OF LIMAY, BATAAN, AND IN FIXING THE PRICE OF P100.00 PER SQUARE METER AS JUST COMPENSATION FOR THE SUBJECT PROPERTY OWNED BY DEFENDANT-APPELLEE FLORO ROXAS.

II.

THE LOWER COURT ERRED IN OVERDERING THE ACQUISITION AND PAYMENT OF THE WHOLE LOT OF DEFENDANT-APPELLEE FLORO ROXAS WHEN ONLY AN EASEMENT OF RIGHT OF WAY OF A CERTAIN PORTION OF THE PROPERTY IS SOUGHT TO BE ACQUIRED BY PLAINTIFF-APPELLANT.

III.

THE LOWER COURT'S DECISION DIRECTING PLAINTIFF-APPELLANT TO PAY THE FULL FAIR MARKET VALUE OF THE SUBJECT PROPERTY CONTRAVENES SECTION 3-A (b) OF REPUBLIC ACT NO. 6395 AS AMENDED, WHICH PROVIDES FOR PAYMENT ONLY OF A MAXIMUM EASEMENT FEE EQUIVALENT TO TEN PERCENT (10%) OF THE MARKET VALUE AFFECTED BY THE EASEMENT OF RIGHT OF WAY."[18]

The Court's Ruling

We find the appeal impressed with sufficient merit to warrant a reversal of the appealed decision.

It bears emphasizing that ***just compensation*** means the full and fair equivalent of the property taken from its owner by the expropriator; the measure is, consequently, not the taker's gain but the owner's loss. ***Just*** is used to intensify the word ***compensation*** to convey the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full and ample.[19] Understood in its general sense, the concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also the payment of the land within a reasonable time from its taking.[20] In eminent domain or expropriation proceedings, the general rule is that the just compensation to which the owner of the condemned property is entitled is its ***market value***, *i.e.*, that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as a price to be given and received therefor.[21]