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FIRST DIVISION

[G.R. No. 160890. November 10, 2004]

BANK OF THE PHILIPPINE ISLANDS, *petitioner, vs.* **COURT OF APPEALS and NATIONAL POWER CORPORATION,** *respondents.*

SYNOPSIS

Private respondent National Power Corporation (NAPOCOR) filed a complaint for eminent domain seeking to expropriate a portion of petitioner's property in Dasmariñas, Cavite. The trial court designated three commissioners who determined the just value of the property subject of the expropriation to be at P10,000 per square meter. Subsequently, the trial court rendered a judgment in favor of petitioner and fixed the just compensation of the property at ₱10,000 per square meter and the commissioner's fee at ₱10,000 for each of the three commissioners. On appeal by NAPOCOR, the Court of Appeals (CA) fixed the just compensation of the expropriated property at ₱3,000 per square meter and ₱3,000 commissioner's fee for each of the three commissioners. Petitioner's motion for reconsideration of the decision of the CA was denied. Hence, this petition.

In denying the petition, the Supreme Court ruled that the rate imposed by the Commissioners was unsubstantiated. No official documents were presented to reflect the true market value of the lots in the surrounding area. The Court accorded more weight to Resolution No. 08-95 promulgated by the Provincial Appraisal Committee which pegs as fair and reasonable the value of ₱3,000 per square meter of all the lots in the Municipality of Dasmariñas, specifically along General Aguinaldo Highway.

In eminent domain or expropriation proceedings, the general rule is that the just compensation which the owner of condemned property is entitled to is the market value. Market value is 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.

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SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITIONS FOR REVIEW ON *CERTIORARI* UNDER RULE 45; LIMITED TO QUESTIONS OF LAW; EXCEPTIONS; CASE AT BAR.— In petitions for review on *certiorari* under Rule 45 of the Rules of Court, the general rule is that only questions of law may be raised by the parties and passed upon by this Court. However, this rule admits of exceptions, to wit: "(a) where there is grave abuse of discretion; (b) when the finding is grounded entirely on speculations, surmises or conjectures; (c) when the inference made is manifestly mistaken, absurd or impossible; (d) when the judgment of the Court of Appeals was based on a misapprehension of facts; (e) when the factual findings are conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, *(h) where the findings of fact of the Court of Appeals are contrary to those of the trial court, or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record."* The case at bar falls under one of the exceptions, *i.e.*, where the findings of fact of the Court of Appeals are contrary to those of the trial court.

2. ID.; ID.; SPECIAL CIVIL ACTIONS; EXPROPRIATION; JUST COMPENSATION; DEFINED.— 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. To compensate is to render something which is equal in value to that taken or received. The word "just" is used to intensify the meaning of the word "compensation"; to convey the idea that the equivalent to be rendered for the property taken shall be real, substantial, full, ample.

3. ID.; ID.; ID.; ID.; THE JUST COMPENSATION WHICH THE OWNER OF CONDEMNED PROPERTY IS ENTITLED TO IS THE MARKET VALUE.— In eminent domain or expropriation proceedings, the general rule is that the just compensation which

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the owner of condemned property is entitled to is the market value. Market value is "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."

4. ID.; ID.; ID.; ID.; JUST COMPENSATION; HOW DETERMINED; CASE AT BAR.— The just compensation is determined as of the date of the taking of the property or the filing of the complaint whichever came first. NAPOCOR filed the complaint on April 15, 1996. A period of 6 months has elapsed from the valuation of the Provincial Assessors and the filing of the complaint. We note the considerable discrepancy between the valuation of the former and that of the Commissioners. Indeed, the appellate court computed the increase of the valuation to be 233%.

APPEARANCES OF COUNSEL

Benedicto Verzosa Gealogo & Burkley for petitioner.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

This is a petition for review under Rule 45 of the Rules of Court, assailing the Decision dated August 30, 2002 of the Court of Appeals in CA-G.R. CV No. 69402,[1] which reversed the Decision of the Regional Trial Court of Imus, Cavite, Branch 21,[2] reducing from ₱10,000.00 to ₱3,000.00 the amount of just compensation for the expropriated land of petitioner; and decreasing from ₱10,000.00 to ₱3,000.00 the commissioners' fee for each of the three commissioners.

On April 15, 1996, private respondent National Power Corporation (NAPOCOR) filed a Complaint for Eminent Domain, seeking to expropriate a portion of petitioner Bank of the Philippine Islands' (BPI) property located in Barrio Bucal, Dasmariñas, Cavite, for

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[1] *Rollo*, pp. 25-37; penned by Associate Justice Ruben T. Reyes; concurred in by Associate Justices Renato C. Dacudao and Amelita G. Tolentino.

[2] *Id.*, pp. 45-46.

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the purpose of constructing and maintaining its Dasmariñas-Zapote 230 KV Transmission Line Project.

On August 1, 1996, pursuant to Section 2 of Rule 67 of the Rules of Court,[3] NAPOCOR deposited with the Philippine National Bank, NPC Branch, in Quezon City, the amount of ₱3,013.60, equivalent to the assessed value of the property. On August 15, 1996, NAPOCOR notified BPI, through registered mail, of its intention to take possession of the property. Thereafter, the trial court granted their urgent *ex-parte* motion for the issuance of a writ of possession and authorized them to enter and take possession of the premises.[4]

Previously, petitioner BPI filed a motion for bill of particulars which the trial court denied.[5] Consequently, BPI moved for the dismissal of the case and the same was granted without prejudice to its reinstatement.[6] Private respondent NAPOCOR filed a motion for reconsideration. The trial court granted the motion and reinstated the case.[7]

In its Order dated November 28, 1997,[8] the trial court designated three commissioners to determine the just value of the property subject of the expropriation in this case, namely: Mr. Lamberto C. Parra, Provincial Assessor of Cavite; Mr. Regalado Andaya, Municipal Assessor of Dasmariñas, Cavite; and Mr. Rodolfo D. Leonen, Defendant's Representative.

Accordingly, on February 26, 1999, the Commissioners submitted its Report which assessed the sum of the area of the property taken and the estimated value of just compensation at 75.34 square meters x ₱10,000.00 = ₱753,400.00, and recommended an additional payment of ₱524,660.00 as severance damage, or a total of ₱1,278,060.00.[9]

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[3] Based on Presidential Decree No. 42, Authorizing The Plaintiff In Eminent Domain Proceedings To Take The Possession Of The Property Involved Upon Depositing The Assessed Value, For Purposes Of Taxation, November 9, 1972.

[4] *Rollo*, pp. 2627.

[5] RTC Records, pp. 13-14.

[6] *Id.* at 68.

[7] *Id.* at 76.

[8] *Id.* at 115-116.

[9] *Rollo*, pp. 92-93.

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Likewise, they submitted an undated Commissioners' Valuation Report citing the "Market Data Approach" as the method used in arriving at the amount of ₱10,000.00 per square meter as just compensation, whereby the value of the land is based on sales and listing of comparable property registered within the immediate vicinity.[10]

On August 5, 1999, the trial court rendered judgment in favor of BPI, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered declaring that the portion of the parcel of land situated in Bucal, Dasmariñas, Cavite, embraced in, and covered by, Transfer Certificate of Title No. T-292517 of the Registry of Deed of Cavite consisting of 75.34 square meters to have been lawfully expropriated and now belongs to the plaintiff to be used for the construction and maintenance of its Dasmariñas-Zapote 230 KV Transmission Line Project.

The plaintiff is hereby ordered to pay to the defendant, through the Branch Clerk of this Court, the fair market value of the property at ₱10,000.00 per square meter or a total sum of ₱753,400.00 with legal rate of interest reckoned from the date of possession by the plaintiff.

The commissioner's fee is hereby fixed at ₱10,000.00 each to be paid by the plaintiff through the Branch Clerk of this Court.

The Clerk of this Court is ordered to have a certified copy of this decision be registered in the office of the Register of Deeds of Cavite.

SO ORDERED.[11]

After the denial of its motion for reconsideration, NAPOCOR appealed to the Court of Appeals, which ruled as follows:

WHEREFORE, the appealed judgment is hereby REVERSED. A new one is entered ordering plaintiff-appellant NAPOCOR to pay defendant-appellant BPI the amount of ₱3,000.00 per square meter as just compensation for the expropriated land; and ₱3,000.00 commissioner's fee to each of the three (3) commissioners.

SO ORDERED.[12]

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[10] *Id.* at 89-91.

[11] *Id.* at 46.

[12] *Id.* at 37.

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Petitioner BPI moved for the reconsideration of the decision of the Court of Appeals, but the same was denied for lack of merit.

Hence, this petition for review based on the sole issue of whether the Court of Appeals gravely abused its discretion and seriously erred in fixing the just compensation for the subject property at ₱3,000.00 per square meter.

In petitions for review on *certiorari* under Rule 45 of the Rules of Court, the general rule is that only questions of law may be raised by the parties and passed upon by this Court. However, this rule admits of exceptions, to wit:

> (a) where there is grave abuse of discretion; (b) when the finding is grounded entirely on speculations, surmises or conjectures; (c) when the inference made is manifestly mistaken, absurd or impossible; (d) when the judgment of the Court of Appeals was based on a misapprehension of facts; (e) when the factual findings are conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, *(h) where the findings of fact of the Court of Appeals are contrary to those of the trial court, or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.*[13] (Italics provided)

The case at bar falls under one of the exceptions, *i.e.*, where the findings of fact of the Court of Appeals are contrary to those of the trial court.

Petitioner asserts that the finding of just compensation by the court-appointed commissioners was based on clear evidence of prior sales and acceptable market valuation methods. Petitioner

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[13] *PAL, Inc. v. CA*, G.R. No. 127473, 8 December, 2003, 417 SCRA 196, 204-205.

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likewise avers that the valuation made by the commissioners must be accorded weight. Likewise it argues that NAPOCOR is estopped from questioning the valuation of the land considering that its own nominee concurred with the findings of the other commissioners.

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.[14] To compensate is to render something which is equal in value to that taken or received. The word "just" is used to intensify the meaning of the word "compensation"; to convey the idea that the equivalent to be rendered for the property taken shall be real, substantial, full, ample.[15]

In eminent domain or expropriation proceedings, the general rule is that the just compensation which the owner of condemned property is entitled to is the market value. Market value is "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."[16]

After a careful perusal of the records, we find no reason to disturb this finding of fact by the Court of Appeals, sufficiently supported as it is, by the evidence on record.[17]

We find that the rate imposed by the Commissioners is unsubstantiated. No official documents were presented to reflect the true market value of the subject lots in the surrounding area. The Commissioner's Report merely states that the value

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[14] *PC v. Manubay Agro-Industrial*, G.R. No. 150936, 18 August 2004.

[15] Jose Y. Feria and Maria Concepcion S. Noche, *Civil Procedure Annotated,* Vol. 2, 2001 Ed., p. 543; citing *Manila Railroad Co. v. Velasquez*, 32 Phil. 286, 313-314 (1915) and *Province of Tayabas v. Perez*, 66 Phil. 467 (1938).

[16] *National Power Corporation v. Chiong*, G.R. No. 152436, 20 June 2003, 404 SCRA 527, 538-539.

[17] *Coca-Cola Bottlers Philippines, Inc. v. Court of Appeals*, G.R. No. 100957, 27 January 1994, 229 SCRA 533, 538.

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of the land is based on sales and listings of comparable property registered within the immediate vicinity without any evidence to support the market data provided.

In this instance, we accord more weight to Resolution No. 08-95 promulgated by the Provincial Appraisal Committee of Cavite held at the Office of the Provincial Assessor on October 25, 1995.[18] Said Resolution pegs as fair and reasonable the value of ₱3,000.00 per square meter of all the lots in the Municipality of Dasmariñas, specifically along General Aguinaldo Highway.

The just compensation is determined as of the date of the taking of the property or the filing of the complaint whichever came first.[19] NAPOCOR filed the complaint on April 15, 1996. A period of 6 months has elapsed from the valuation of the Provincial Assessors and the filing of the complaint. We note the considerable discrepancy between the valuation of the former and that of the Commissioners. Indeed, the appellate court computed the increase of the valuation to be 233%.

The Court of Appeals pointed out that more than 70% of the 200 lot owners have entered into compromise agreements and accepted the price set by the Provincial Appraisal Committee of Cavite. It is also worthy to note that one of the Commissioners in this case, Mr. Lamberto C. Parra, was the Chairman Provincial Assessor and signatory of the same Resolution.

WHEREFORE, the petition for review on *certiorari* is *DENIED*. The Decision of the Court of Appeals in CA-G.R. CV No. 69402, which reversed the decision of the Regional Trial Court of Imus, Cavite, Branch 21 in Civil Case No. 1298-96, is *AFFIRMED in toto.*

SO ORDERED.

Davide, Jr., C. J., Quisumbing, Carpio, and *Azcuna, JJ.*, concur.

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[18] RTC Records, pp. 139-140.

[19] Jose Y. Feria and Maria Concepcion S. Noche, *Civil Procedure Annotated*, Vol. 2, 2001 Ed., p. 539; citing *Republic v. I'da. de Castelvi*, 157 Phil. 329 (1974).