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WHEREFORE, premises considered, the Petition for *Certiorari* is **DENIED** for lack of merit, and the Commission on Audit Decision No. 2011-003 dated January 20, 2011 and Decision No. 2013-212 dated December 3, 2013 are **AFFIRMED with MODIFICATION** that a legal interest of six percent (6%) *per annum* from the finality of this Decision until fully paid, is imposed on the amount of ₱10,461,338.00 that HI-LON Manufacturing Co., Inc. is required to refund to the Department of Public Works and Highways.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Bersamin, del Castillo, Mendoza, Perlas-Bernabe, Leonen, Martires, Tijam, and *Reyes, Jr., JJ.,* concur.

Jardeleza, J., no part, prior OSG action.

Caguioa, J., on leave.

EN BANC

[G.R. No. 223366. August 1, 2017]

NATIONAL TRANSMISSION CORPORATION, *petitioner, vs.* **OROVILLE DEVELOPMENT CORPORATION,** *respondent.*

SYLLABUS

1. POLITICAL LAW; STATE POWERS; EMINENT DOMAIN; REQUISITES.— Eminent domain is the right or power of a sovereign state to appropriate private property to particular uses to promote public welfare. It is an indispensable attribute of sovereignty; a power grounded in the primary duty of government to serve the common need and advance the general welfare.

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The power of eminent domain is inseparable in sovereignty being essential to the existence of the State and inherent in government. But the exercise of such right is not unlimited, for two mandatory requirements should underlie the Government's exercise of the power of eminent domain, namely: (1) that it is for a particular public purpose; and (2) that just compensation be paid to the property owner. These requirements partake the nature of implied conditions that should be complied with to enable the condemnor to keep the property expropriated.

2. **ID.; ID.; ID.; CASE OF *REPUBLIC V. VDA. DE CASTELLVI* ON THE REQUISITES OF TAKING.—** The landmark case of *Republic v. Vda. De Castellvi* provides an enlightening discourse on the requisites of taking. *First*, The expropriator must enter a private property; *Second*, the entrance into private property must be for more than a momentary period; *Third*, the entry into the property should be under warrant or color of legal authority; *Fourth*, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected; and *Fifth*, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property.

3. **ID.; ID.; ID.; JUST COMPENSATION; RECKONED FROM THE DATE OF ACTUAL TAKING.—** 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. In addition, Section 4, Rule 67 of the Rules of Court provides: **Section 4.** *Order of expropriation*. – If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, **upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first**. x x x Indeed, the State is only obliged to make good the loss sustained by the landowner, with due consideration of the circumstances

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availing at the time the property was taken. The concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.

4. ID.; ID.; ID.; ID.; ID.; RULINGS IN *MACABANGKIT SANGKAY* AND *SALUDARES* RECKONING; JUST COMPENSATION FROM THE TIME THE PROPERTY OWNERS INITIATED INVERSE CONDEMNATION PROCEEDINGS NOTWITHSTANDING THAT THE TAKING OF THE PROPERTIES OCCURRED EARLIER ARE MERE EXCEPTIONS.— The Court is not unaware of the rulings in *National Power Corporation v. Heirs of Macabangkit Sangkay (Macabangkit Sangkay)* and *National Power Corporation v. Spouses Saludares (Saludares)* wherein it was held that just compensation should be reckoned from the time the property owners initiated inverse condemnation proceedings notwithstanding that the taking of the properties occurred earlier. x x x These rulings, however, are exceptions to the general rule that just compensation must be reckoned from the time of taking or filing of the complaint, whichever came first. The special circumstances of the aforementioned cases called for the valuation of just compensation at the time the landowners initiated inverse condemnation proceedings notwithstanding that taking of the properties occurred first. In *Macabangkit* Sangkay, NAPOCOR did not even inform the property owners of the construction of the underground tunnels. Hence, it could be said that NAPOCOR employed stealth instead of complying with the legal process of expropriation. Further, considering that the tunnels were constructed underground, the property owners came to know thereof only when the purchaser of the property refused to proceed with the sale upon discovery of the underground tunnels. In this case, however, the transmission lines are visible, such that Oroville could not deny knowledge of its construction in 1983. In *Saludares*, NAPOCOR refused to acknowledge the respondents' claim and insisted that it already paid just compensation because the respondents' property was the same one involved in the Pereyra case. Thus, NAPOCOR had no intention to pay just compensation. This circumstance does not exist in the case at bench. The rulings in *Macabangkit Sangkay* and *Saludares* are more in consonance with the rules of equity than with the Rules of Court, specifically Rule 67 on expropriation.

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5. ID.; ID.; ID.; ID.; DELAY IN THE PAYMENT OF JUST COMPENSATION WARRANTS PAYMENT OF INTEREST; FAILURE TO INITIATE AN EXPROPRIATION PROCEEDING TO THE PREJUDICE OF THE LANDOWNER WARRANTS AWARD OF EXEMPLARY DAMAGES AND ATTORNEY'S FEES.— The owner's loss, of course, is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. Thus, the rationale for imposing the interest is to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking. x x x In the case at bench, x x x Oroville is entitled to twelve percent (12%) interest *per annum* which is the prevailing rate during such period pursuant to Central Bank Circular No. 905, effective from December 22, 1982 to June 30, 2013. Oroville is also awarded additional compensation by way of exemplary damages and attorney's fees. In *Republic v. CA*, the Court held that the failure of the government to initiate an expropriation proceeding to the prejudice of the landowner may be corrected with the awarding of exemplary damages, attorney's fees and costs of litigation. x x x Hence, considering that Oroville was deprived of beneficial ownership over their property without the benefit of a timely expropriation proceeding, and to serve as a deterrent to the State from failing to institute such proceedings, a grant of exemplary damages x x x is fair and reasonable. Moreover, an award for attorney's fees x x x is in order.

6. REMEDIAL LAW; DOCTRINE OF *STARE DECISIS*; APPLIED IN CASE AT BAR.— [T]he doctrine of *stare decisis* constrains the Court to follow the ruling laid down in *Tecson* and similar cases. "Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere*. Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even

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though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike." To reiterate, the facts of the instant case are substantially the same with *Tecson* and similar cases cited therein. A government agency took possession of private property for the benefit of the public without, however, initiating expropriation proceedings, which thus, constrained the landowner to file actions to recover their properties or to demand payment of just compensation. Hence, in the absence of any compelling reason to deviate from the rulings in the aforecited cases, the Court, in the case at bench, must adhere to the doctrines established therein.

VELASCO, JR., *J., dissenting opinion*:

POLITICAL LAW; STATE POWERS; EMINENT DOMAIN; WITHOUT EXPROPRIATION SUIT, TAKING OF PRIVATE PROPERTY IS VIOLATION OF THE CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW; JUST COMPENSATION AND INTEREST SHOULD BE COMPUTED NOT AT THE TIME OF TAKING BUT AT THE TIME OF JUDICIAL DEMAND.— With due respect I deviate from the ruling that the just compensation should be reckoned as of 1983 when Transco illegally constructed the Tagoloan-Pulangi 138 kV transmission line without any complaint for condemnation filed. I submit that the just compensation should be computed as of April 20, 2007 when respondent Oroville filed a complaint for injunction and damages seeking to enjoin the construction of the Abaga-Kirahon 230 kV transmission line x x x [W]ithout an expropriation suit, private property is being taken from the landowner without due notice, without providing him or her the opportunity to be heard, and is a gross and blatant violation of his or her constitutional right to due process of law. x x x There being no faithful observance of procedural due process rights in this case, the rulings in *National Power Corporation v. Heirs of Macabangkit Sangkay* and *National Power Corporation v. Saludares* can properly be invoked herein. x x x In such cases of taking that is illegal, if not criminal, and where the landowner is compelled to seek payment from the expropriating agency, the value of just compensation should be reckoned from the

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time of judicial demand, which in this case is in 2007. It is incorrect to claim that the payment of interest from the time of taking in 1983 would sufficiently answer for the delay in filing the expropriation complaint. For interest would accrue regardless of whether or not a case had been filed. Interest payment forms part of just compensation for the taking of the property, but it does not answer for the deprivation of due process. As held in *Macabangkit Sangkay* and *Saludares*, the more acceptable solution is to reckon the valuation of just compensation from the date of judicial demand.

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
Jo & Pintor Law Offices for respondent.

D E C I S I O N

MENDOZA, *J.*:

This is a petition for review on *certiorari* seeking to reverse and set aside the September 18, 2015 Decision[1] and January 25, 2016 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. CV No. 03571, which affirmed with modification the December 12, 2012 Decision[3] of the Regional Trial Court, Branch 17, Misamis Oriental *(RTC)* in Civil Case No. 2007-85, a case for expropriation.

The Antecedents

The present case involves two (2) parcels of land located in Puerto, Cagayan de Oro City, which originally belonged to Alfredo Reyes *(Reyes)* and Grace Calingasan *(Calingasan)*,

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[1] Penned by Associate Justice Edgardo T. Lloren with Associate Justice Romulo V. Borja and Associate Justice Maria Filomena D. Singh, concurring; *rollo*, pp. 23-36.

[2] *Id*. at 38-39.

[3] Penned by Presiding Judge Florencia D. Sealana-Abbu; *id*. at 61-73.

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covered by Original Certificate of Title *(OCT)* No. P-3 and OCT No. P-13, respectively.

In 1983, petitioner National Transmission Corporation *(TransCo)* constructed a power transmission line on these properties, known as the Tagoloan-Pulangi 138 kV transmission line.

At some point, Reyes sold his land to Antonio Navarette, who later sold the same property to respondent Oroville Development Corporation *(Oroville)*, which is now covered by Transfer Certificate of Title *(TCT)* No. T-85121. Likewise, Calingasan sold her land to Oroville, now registered under TCT No. T-104365. Thus, in 1995, Oroville became the registered owner of these properties with a total area of 13,904 square meters traversed by the existing Tagoloan-Pulangi 138 kV transmission line.

On November 17, 2006, TransCo offered to buy these properties from Oroville to be used for the construction of the Abaga-Kirahon 230 kV transmission line in Mindanao.

During the negotiation, Oroville, through its representative Antonio Tiu *(Tiu)*, requested to reroute the Abaga-Kirahon 230 kV transmission line because the Tagoloan-Pulangi 138 kV transmission line is already traversing its properties. Tiu also informed TransCo that Oroville has not been paid just compensation for the construction of the Tagoloan-Pulangi 138 kV transmission line in its property. TransCo, however, refused to reroute the proposed Abaga-Kirahon 230 kV transmission line because it planned to construct the said transmission line parallel to the existing Tagoloan-Pulangi 138 kV transmission line.

Consequently, on April 20, 2007, Oroville filed a complaint for injunction and damages with prayer for issuance of a temporary restraining order against TransCo, seeking to enjoin the construction of the Abaga-Kirahon 230 kV transmission line.

On May 9, 2007, TransCo filed its Answer denying the allegations in Oroville's complaint. It also manifested that it

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would file the required expropriation proceedings against Oroville in order to acquire the latter's properties for the Abaga-Kirahon 230 kV transmission line project.

During trial, the parties agreed to have the subject properties surveyed for purposes of fixing the just compensation. As a result, the trial court suspended the proceedings and directed TransCo to conduct a survey of the properties.

Subsequently, Oroville filed an omnibus motion to convert the proceedings into an expropriation case and to require TransCo to pay the Bureau of Internal Revenue *(BIR)* the zonal value of the subject properties. TransCo made no objections to the motion.

On May 17, 2010, the trial court directed TransCo to make a provisional deposit of ₱7,647,200.00 as just compensation for Oroville's properties consisting of 13,904 square meters and affected by the existing Tagoloan-Pulangi 138 kV transmission line. TransCo complied after the trial court denied its objections.

On February 4, 2011, the trial court directed the Land Bank of the Philippines, NAPOCOR Branch, to release the aforesaid deposit to Tiu.

On March 21, 2011, the trial court issued a writ of possession directing Oroville to surrender possession of the properties to TransCo.

Subsequently, on August 8, 2011, per nomination of the parties, the trial court appointed three (3) Commissioners, namely, Engr. Marilyn P. Legaspi, Engr. Norberto Badelles and Atty. Avelino Pakino, to determine the just compensation of the properties affected by the Abaga-Kirahon 230 kV transmission line.

A summary of the Commissioners' report reads as follows:

1. Engr. Marilyn Legaspi (Court-appointed Commissioner)
   Date of Taking: 1983 per Transmission Line Data and Information

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(Tagoloan-Pulangi 138 kV Transmission Line)
Valuation of the Property: ₱78.65 per square meter or a total of ₱5,924,772.48 inclusive of interests[4]

2. Engr. Norberto Badelles (engaged by Transco)
Date of Taking: 1983 per Transmission Line Data and Information
(Tagoloan-Pulangi 138 kV Transmission Line)
Valuation of the Property: ₱1.20 per square meter or a total of ₱45,716.35 inclusive of interests[5]

3. Atty. Avelino Pakino (nominated by Oroville)
Date of Taking: 1983 per Transmission Line Data and Information
(Tagoloan-Pulangi 138 kV Transmission Line)
Valuation of the Property: ₱2,000.00 per square meter or a total of ₱27,808,000.00 inclusive of interests[6]

The RTC Ruling

In its Decision, dated December 12, 2012, the RTC set aside the Commissioners' report and fixed the just compensation at the rate of ₱1,520.00 per square meter with legal interest of 12% per *annum* reckoned from April 20, 2007, the date of filing of the complaint. It held that the said amount was based on the fair market value of lots along the national highway of Barangay Puerto, Cagayan de Oro City in accordance with the schedule of values under City Ordinance No. 10425-2006 otherwise known as An Ordinance Prescribing the Revised Schedule of Fair Market Values of Real Property in Cagayan de Oro and in accordance with the BIR Comparative Value of Zonal Fair Market Values. The RTC opined that the just compensation should not be reckoned from 1983, the time of taking, because it was established by the landowners that entry into their property was without their knowledge. The *fallo* reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered as follows:

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[4] *Id*. at 65.

[5] *Id*. at 66.

[6] *Id*. at 68.

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1) FIXING the just compensation of the affected area of 13,904 square meters at ₱1,520.00 per square meter reckoned from April 20, 2007, the date the complaint was filed, at interest rate of 12% per annum until the liability is fully paid

2) ORDERING defendant TRANSCO to pay plaintiff the just compensation in the amount of ₱1,520.00 per square meter for the 13,904 square meters the affected area at the rate of 12% per annum reckoned from April 20, 2007, the data of filing the complaint minus the amount of ₱7,647,200.00 representing the amount paid by TRANSCO as provisional payments

3) ORDERING defendant TRANSCO to pay plaintiff the interest of 12% per annum based on the deficiency amount;

4) ORDERING Plaintiff and Defendant to pay the Commissioners' fee in the amount of ₱10,000.00 each within 15 days from receipt of this Order.

The Court will leave to the parties the correct mathematical computation as to what is due to plaintiff based on the foregoing premises.

SO ORDERED.[7]

Aggrieved, TransCo elevated an appeal before the CA.

The CA Ruling

In its assailed Decision, dated September 18, 2015, the CA ruled that TransCo's entry into Oroville's lots in 1983 was made without warrant or color of authority because at the time TransCo constructed the Tagoloan-Pulangi 138 kV transmission line over the disputed properties in 1983, it was made without intent to expropriate. It added that TransCo constructed the transmission line without bothering to negotiate with the owner to purchase or expropriate the disputed lots.

Further, the CA adjudged that the construction of the Tagoloan-Pulangi 138 kV transmission line did not oust or deprive Oroville or its previous owners of the beneficial enjoyment of their

[7] *Id*. at 72-73.

properties as they continued to possess the same. It observed that the previous owners were able to sell the properties to Oroville; and that after acquiring them, Oroville considered developing the lots for residential subdivision purposes, but the subject properties were later on classified as agricultural lands covered by the Comprehensive Agrarian Reform Program *(CARP)* of the government.

The CA concluded that there was no actual taking of the subject properties in 1983 when TransCo constructed the Tagoloan-Pulangi 138 kV transmission line. Accordingly, the computation of the just compensation should be reckoned at the time of the filing of the complaint in 2007. The dispositive portion reads:

> WHEREFORE, the Judgment dated 12 December 2012 of the Regional Trial Court, (Branch 17), 10th Judicial Region, Cagayan de Oro City, is MODIFIED. Appellant National Transmission Corporation is hereby ORDERED to pay appellee Oroville Corporation the unpaid balance of the just compensation in the sum of ₱13,486,880.00 with legal interest of TWELVE PERCENT (12%) per annum computed from 21 March 2011 to 30 June 2013 and SIX PERCENT (6%) per annum from 1 July 2013 until its full payment. Both parties are DIRECTED to pay the Commissioners' fee in the amount of ₱10,000.00 each within 15 days from notice.
>
> SO ORDERED.[8]

TransCo moved for reconsideration, but the same was denied by the CA in its assailed Resolution, dated January 25, 2016.

Hence, this petition.

ISSUES

WHETHER THE COMPUTATION OF JUST COMPENSATION FOR THE EXPROPRIATED PROPERTY SHOULD BE BASED ON ITS VALUE AT THE TIME OF THE TAKING OF THE PROPERTY

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[8] *Id*. at 35.

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WHETHER THE IMPOSITION OF A LEGAL INTEREST OF 12% IS UNJUSTIFIED[9]

Petitioner argues that Section 4, Rule 67 of the Rules of Court and applicable jurisprudence are explicit in saying that just compensation for expropriated property shall be determined based on its fair market value at the time of its taking; that Oroville could not claim lack of knowledge to the construction of the transmission line since it is in plain view, considering its height and the huge space that it occupied; that Oroville should not be allowed to benefit from its failure to question such construction more than a decade after its completion; and that it should not be made to pay 12% interest *per annum* in the nature of damages for delay as it complied with the RTC's directive to make provisional deposit for the subject property.

In its Comment,[10] dated August 5, 2016, Oroville averred that to sustain the argument of TransCo that the basis of the payment for just compensation is the value of the property at the time of taking would sow immeasurable injustice; that the ₱78.65 per square meter valuation as recommended by Commissioner Legaspi and the ₱1.20 per square meter recommended by Commissioner Badelles would not be enough to reimburse Oroville for the realty taxes it paid from the year 1983 up to the present; that while it paid these annual taxes, TransCo had been earning billions of pesos from transmission charges; that as held in *Napocor v. Campos, Jr.,* there were instances when TransCo removed transmission lines from the affected properties due to diversion of its lines, thus, upon entry, TransCo did not have intent to expropriate the property because there might be a change of plans; that TransCo would initiate expropriation proceedings only when it was certain of its transmission plans; that the earlier entry into and/or possession of TransCo of the subject properties was patently without any color of legal authority as it did not have the slightest intention to acquire ownership of the subject properties either by voluntary

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[9] *Id.* at 8.

[10] *Id*. at 128-144.

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purchase or by exercise of eminent domain; and that the delay in the payment of just compensation justified the payment of 12% interest *per annum*.

In its Reply,[11] dated November 25, 2016, TransCo contended that this case is not an exception to the settled rule that just compensation should be based on the property's value at the time of its taking; that the value and classification of the subject property at the time of its taking in 1983 should be the basis for the computation of just compensation; that it informed Oroville of the construction of the new transmission line over its properties and readily agreed to the conversion of its complaint for injunctive relief into an expropriation case; and that the landowner should also bear the cost of being remiss in guarding against the effects of a belated claim.

The Court's Ruling

The petition is meritorious.

Eminent domain is the right or power of a sovereign state to appropriate private property to particular uses to promote public welfare. It is an indispensable attribute of sovereignty; a power grounded in the primary duty of government to serve the common need and advance the general welfare.[12] The power of eminent domain is inseparable in sovereignty being essential to the existence of the State and inherent in government. But the exercise of such right is not unlimited, for two mandatory requirements should underlie the Government's exercise of the power of eminent domain, namely: (1) that it is for a particular public purpose; and (2) that just compensation be paid to the property owner.[13] These requirements partake the nature of implied conditions that should be complied with to enable the condemnor to keep the property expropriated.[14]

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[11] *Id*. at 153-159.

[12] *Heirs of Suguitan v. City of Mandaluyong,* 384 Phil. 677, 687 (2000).

[13] *Mactan-Cebu International Airport Authority v. Lozada, Sr.,*627 Phil. 434, 445 (2010).

[14] *Id*.

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Taking of Oroville's property occurred in 1983 upon construction of the transmission lines

The landmark case of *Republic v. Vda. De Castellvi*[15] provides an enlightening discourse on the requisites of taking.

First, The expropriator must enter a private property; *Second,* the entrance into private property must be for more than a momentary period; *Third,* the entry into the property should be under warrant or color of legal authority; *Fourth,* the property must be devoted to a public use or otherwise informally appropriated or injuriously affected; and *Fifth,* the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property.[16]

The Court rules that there is taking of the property for purposes of eminent domain in 1983.

The first and fourth requisites are present in this case. TransCo took possession of Oroville's property in order to construct transmission lines to be used in generating electricity for the benefit of the public.

The second requisite is likewise present as there can be no question that the construction of transmission lines meant an indefinite stay in the property of Oroville. Further, TransCo's exercise of eminent domain is pursuant to its authority granted under Section 8 of Republic Act *(R.A.)* No. 9136 or the Electric Power Industry Reform Act of 2001.[17]

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[15] 157 Phil. 329 (1974).

[16] *Id*. at 345-346.

[17] Section 8. *Creation of the National Transmission Company.* – x x x

The TRANSCO may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws. Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities. x x x

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Finally, Oroville has been deprived of the beneficial enjoyment of its property. In several rulings, notably *National Power Corporation v. Spouses Zabala,*[18] *Republic v. Spouses Libunao,*[19] and *National Power Corporation v. Tuazon*[20] this Court has already declared that "since the high-tension electric current passing through the transmission lines will perpetually deprive the property owners of the normal use of their land, it is only just and proper to require Napocor to recompense them for the full market value of their property."

Just compensation reckoned from the date of actual taking

The next question to be resolved is whether just compensation should be reckoned from 1983 when the taking took place.

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.[21]

In addition, Section 4, Rule 67 of the Rules of Court provides:

Section 4. *Order of expropriation*. — If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, **upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.** xxxx[Emphasis supplied]

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[18] 702 Phil. 491, 501 (2013).

[19] 611 Phil. 748, 761 (2009).

[20] 668 Phil. 301, 310-311 (2011).

[21] *National Power Corporation v. Diato-Bernal*, 653 Phil. 345, 354 (2010).

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The case of *Secretary of the Department of Public Works and Highways v. Spouses Tecson (Tecson)*[22] provides a discussion of cases wherein the Court conformed to the abovementioned rule and held that payment of just compensation should be reckoned from the date of taking when such preceded the filing of the complaint for expropriation, to wit:

> In Forfom Development Corporation [Forfom] v. Philippine National Railways [PNR], PNR entered the property of Forfom in January 1973 for public use, that is, for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, Forfom filed a complaint for recovery of possession of real property and/or damages against PNR. In Eusebio v. Luis, respondent's parcel of land was taken in 1980 by the City of Pasig and used as a municipal road now known as A. Sandoval Avenue in Pasig City without the appropriate expropriation proceedings. In 1994, respondent demanded payment of the value of the property, but they could not agree on its valuation prompting respondent to file a complaint for reconveyance and/or damages against the city government and the mayor. In Manila International Airport Authority v. Rodriguez, in the early 1970s, petitioner implemented expansion programs for its runway necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent demanded the payment of the value of the property, but the demand remained unheeded prompting him to institute a case for *accion reivindicatoria* with damages against petitioner. In Republic v. Sarabia, sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal and the headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of possession with damages against the storeowners where ATO intervened claiming that the storeowners were its lessees.

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[22] 713 Phil. 55 (2013).

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The Court in the above-mentioned cases was confronted with common factual circumstances where the government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. The Court thus determined the landowners' right to the payment of just compensation and, more importantly, the amount of just compensation. **The Court has uniformly ruled that just compensation is the value of the property at the time of taking that is controlling for purposes of compensation**. In Forfom, the payment of just compensation was reckoned from the time of taking in 1973; in Eusebio, the Court fixed the just compensation by determining the value of the property at the time of taking in 1980; in MIAA, the value of the lot at the time of taking in 1972 served as basis for the award of compensation to the owner; and in Republic, the Court was convinced that the taking occurred in 1956 and was thus the basis in fixing just compensation.[23] [Citations omitted and emphases supplied]

As further pointed out in *Republic v. Lara, et al.*,[24] thus:

x x x "The value of the property should be fixed as of the date when it was taken and not the date of the filing of the proceedings." For where property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken x x x.[25]

Indeed, the State is only obliged to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. The

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[23] *Id.* at 71-72.

[24] 96 Phil. 170 (1954).

[25] *Id.* at 177-178.

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concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.[26]

The sequence of events in all of these cited cases as well as in Tecson is similar to that obtaining in the case at bench, that is, the government took possession of private properties without initiating expropriation proceedings and later on, the property owners demanded either the return of their properties or the payment of just compensation. Thus, pursuant to the Rules of Court and in accordance with prevailing jurisprudence, the Court rules that just compensation must be ascertained as of the year 1983 when TransCo commenced construction of the transmission lines. Just compensation is therefore fixed at ₱78.65 per square meter, which is the fair market value of the property at the time of taking. As will be discussed later on, the imposition of interest would adequately compensate the property owner for the delay in the payment of just compensation considering that more often than not, the amount of interest to be paid is higher than the increase in the property's market value.

The rulings in Macabangkit Sangkay and Saludares are mere exceptions

The Court is not unaware of the rulings in *National Power Corporation v. Heirs of Macabangkit Sangkay (Macabangkit Sangkay)*[27] and *National Power Corporation v. Spouses Saludares (Saludares)*[28] wherein it was held that just compensation should be reckoned from the time the property owners initiated inverse condemnation proceedings notwithstanding that the taking of the properties occurred earlier.

In *Macabangkit Sangkay*, NAPOCOR, in the 1970s, undertook the construction of several underground tunnels to be used in

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[26] *Republic v. Court of Appeals,* 494 Phil. 494, 510 (2005).

[27] *National Power Corporation v. Heirs of Macabangkit Sangkay,* 671 Phil. 569 (2011).

[28] *National Power Corporation v. Spouses Saludares*, 686 Phil. 967 (2012).

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diverting the water flow from the Agus River to the hydroelectric plants. On November 21, 1997, respondents therein sued NAPOCOR for recovery of property and damages, alleging that they belatedly discovered that one of the underground tunnels of NPC traversed their land.[29] In that case, the Court adjudged that the value of the property at the time the property owners initiated inverse condemnation proceedings should be considered for purposes of just compensation for the following reasons, *viz*:

> Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by NPC's entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPC's entry denied elementary due process of law to the owners since then until the owners commenced the inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profiting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted.[30]

On the other hand, in *Saludares,* respondents therein filed a complaint for the payment of just compensation against NAPOCOR, averring that it had entered and occupied their property by erecting high-tension transmission lines and failed to reasonably compensate them for the intrusion. For its part, NAPOCOR countered that it had already paid just compensation for the establishment of the transmission lines by virtue of its compliance with the final and executory decision in *National Power Corporation v. Pereyras*.[31] In ruling that the reckoning value of just compensation is that prevailing at the time of the

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[29] *Supra* note 27, at 579-580.

[30] *Id*. at 597.

[31] *Supra* note 28, at 971.

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filing of the inverse condemnation proceedings, the Court declared:

> x x x To reiterate, NAPOCOR should have instituted eminent domain proceedings before it occupied respondent spouses' property. Because it failed to comply with this duty, respondent spouses were constrained to file the instant Complaint for just compensation before the trial court. From the 1970s until the present, they were deprived of just compensation, while NAPOCOR continuously burdened their property with its transmission lines. This Court cannot allow petitioner to profit from its failure to comply with the mandate of the law. We therefore rule that, to adequately compensate respondent spouses from the decades of burden on their property, NAPOCOR should be made to pay the value of the property at the time of the filing of the instant Complaint when respondent spouses made a judicial demand for just compensation.[32]

These rulings, however, are exceptions to the general rule that just compensation must be reckoned from the time of taking or filing of the complaint, whichever came first. The special circumstances of the aforementioned cases called for the valuation of just compensation at the time the landowners initiated inverse condemnation proceedings notwithstanding that taking of the properties occurred first. In *Macabangkit* Sangkay, NAPOCOR did not even inform the property owners of the construction of the underground tunnels. Hence, it could be said that NAPOCOR employed stealth instead of complying with the legal process of expropriation. Further, considering that the tunnels were constructed underground, the property owners came to know thereof only when the purchaser of the property refused to proceed with the sale upon discovery of the underground tunnels. In this case, however, the transmission lines are visible, such that Oroville could not deny knowledge of its construction in 1983. In *Saludares*, NAPOCOR refused to acknowledge the respondents' claim and insisted that it already paid just compensation because the respondents' property was the same one involved in the Pereyra case. Thus, NAPOCOR had no intention to pay just compensation. This circumstance does not exist in the case at bench.

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[32] *Id.* at 979-980.

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The rulings in *Macabangkit Sangkay* and *Saludares* are more in consonance with the rules of equity than with the Rules of Court, specifically Rule 67 on expropriation. Indeed, the practice of construct first, expropriate later is reprehensible and must not be countenanced. The Court, however, must not lose sight of Section 4, Rule 67 which mandates that just compensation must be determined "as of the date of the taking of the property or the filing of the complaint, whichever came first." This provision is, first and foremost, part of the Rules which the Court itself promulgated for purposes of uniformity, among others.

Further, the doctrine of *stare decisis* constrains the Court to follow the ruling laid down in *Tecson* and similar cases. "Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere*. Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike."[33]

To reiterate, the facts of the instant case are substantially the same with *Tecson* and similar cases cited therein. A government agency took possession of private property for the benefit of the public without, however, initiating expropriation proceedings, which thus, constrained the landowner to file actions to recover their properties or to demand payment of just compensation. Hence, in the absence of any compelling reason to deviate from the rulings in the aforecited cases, the Court, in the case at bench, must adhere to the doctrines established therein.

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[33] *Chinese Young Men's Christian Association of the Philippine Islands v. Remington Steel Corporation,* 573 Phil. 320, 337 (2008).

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Amount of interest to be paid

The owner's loss, of course, is not only his property but also its income-generating potential.[34] Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost.[35] Thus, the rationale for imposing the interest is to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking.[36]

The Court, in *Republic v. Court of Appeals*,[37] further enunciated on the necessity of the payment of interest to compensate for delay in the payment of just compensation, *viz*:

> 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, if fixed at the time of the actual taking by the government. Thus, if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, **the final compensation must include interest [s] on its just value to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court. In fine, between the taking of the property and the actual payment, legal interest [s] accrue in order to place the owner in a position as good as (but not better than) the position he was in before the taking occurred.**[38] [Emphasis supplied]

Tecson also clarified the amount of interest due the landowners, to wit:

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[34] *Apo Fruits Corporation v. Land Bank of the Philippines*, 647 Phil. 251, 276 (2010).

[35] *Id*.

[36] *Secretary of the Department of Public Works and Highways v. Spouses Tecson (Resolution),* G.R. No. 179334, 756 SCRA 389, 413 (2015).

[37] 433 Phil. 106 (2002).

[38] *Id*. at 122-123.

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x x x In other words, the just compensation due to the landowners amounts to an effective forbearance on the part of the State — a proper subject of interest computed from the time the property was taken until the full amount of just compensation is paid — in order to eradicate the issue of the constant variability of the value of the currency over time.

x x x x x x x x x

It is important to note, however, that interest shall be compounded at the time judicial demand is made pursuant to Article 2212 of the Civil Code of the Philippines, and sustained in *Eastern Shipping Lines v. Court of Appeals*, then later on in *Nacar v. Gallery Frames*, save for the reduction of interest rate to 6% for loans or forbearance of money. [39] x x x

In the case at bench, Transco made a provisional deposit of ₱7,647,200.00 on January 21, 2011. Consequently, from 1983 to January 21, 2011, Oroville is entitled to twelve percent (12%) interest per *annum* which is the prevailing rate during such period pursuant to Central Bank Circular No. 905,[40] effective from December 22, 1982 to June 30, 2013.

Oroville is also awarded additional compensation by way of exemplary damages and attorney's fees. In *Republic v. CA,*[41] the Court held that the failure of the government to initiate an expropriation proceeding to the prejudice of the landowner may be corrected with the awarding of exemplary damages, attorney's fees and costs of litigation. Thus:

x x x **However, we find it proper to award temperate and exemplary damages in light of NIA's misuse of its power of eminent domain**. Any arm of the State that exercises the delegated power of eminent domain must wield that power with circumspection and utmost

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[39] *Supra* note 36, at 414-419.

[40] Section 2. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall continue to be twelve per cent (12%) per annum.

[41] *Supra* note 26.

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regard for procedural requirements. **A government instrumentality that fails to observe the constitutional guarantees of just compensation and due process abuses the authority delegated to it, and is liable to the property owner for damages**.[42] x x x

Hence, considering that Oroville was deprived of beneficial ownership over their property without the benefit of a timely expropriation proceeding, and to serve as a deterrent to the State from failing to institute such proceedings, a grant of exemplary damages in the amount of One Million Pesos (₱1,000,000.00) is fair and reasonable. Moreover, an award for attorney's fees in the amount of Two Hundred Thousand Pesos (₱200,000.00) in favor of Oroville is in order.

To recapitulate, Transco is liable to pay Oroville ₱78.65 per square meter representing the fair market value of the property at the time of taking in 1983 and 12% interest *per annum* on the total fair market value, computed from 1983 to January 21, 2011, the date when Transco made a provisional deposit in favor of Oroville. Considering that the actual date of taking cannot be determined from the records of the case, the date of taking is pegged on January 1, 1983. Oroville is also awarded exemplary damages in the amount of ₱1,000,000.00 and attorney's fees in the amount of ₱200,000.00.

On a final note, there are several cases which reached this Court in which TransCo and even other government agencies constructed transmission lines, tunnels and other infrastructures before it decided to expropriate the private properties upon which they built the same. The Court reminds the government and its agencies that it is their obligation to initiate eminent domain proceedings whenever they intend to take private property for any public purpose. Before the expropriating power enters a private property, it must first file an action for eminent domain[43] and deposit with the authorized government depositary an amount equivalent to the assessed value of the property.[44]

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[42] *Id*. at 512-513.

[43] Rules of Court, Rule 67, Section 1.

[44] Rules of Court, Rule 67, Section 2.

TransCo should first file an expropriation case before it proceeds to construct transmission lines or any other infrastructure on any private property. The practice of construct first, expropriate later must be put to a stop.

WHEREFORE, the petition is **GRANTED**. The September 18, 2015 Decision and January 25, 2016 Resolution of the Court of Appeals in CA-G.R. CV No. 03571, are **REVERSED and SET ASIDE.** The valuation of the subject property owned by respondent Oroville shall be ₱78.65 per square meter, with interest at twelve percent (12%) per *annum* from January 1983 until January 21, 2011. Petitioner Transco is also ordered to pay respondent Oroville exemplary damages in the amount of ₱1,000,000.00 and attorney's fees in the amount of ₱200,000.00.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Peralta, Bersamin, del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Martires, Tijam, and *Reyes, Jr., JJ.,* concur.

Velasco, Jr., J., see dissenting opinion.

Caguioa, J., on leave.

DISSENTING OPINION

VELASCO, JR., *J.*:

I fully agree with the concluding statement in the *ponencia* of my esteemed colleague, Justice Jose Catral Mendoza, that the National Transmission Company (TransCo) "should first file an expropriation case before it proceeds to construct transmission lines or any infrastructure on any private party." It is about time that Government, especially the Department of Public Works and Highways, TransCo and other government corporations and agencies clothed with the power of expropriation, should stop the patently illegal and highly reprehensible practice of "construct now, expropriate later."

With due respect, however, I deviate from the ruling that the just compensation should be reckoned as of 1983 when

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Transco illegally constructed the Tagoloan-Pulangi 138 kV transmission line without any complaint for condemnation filed. I submit that the just compensation should be computed as of April 20, 2007 when respondent Oroville filed a complaint for injunction and damages seeking to enjoin the construction of the Abaga-Kirahon 230 kV transmission line for the following reasons:

First, as can be gleaned from the Complaint, **the subject matter thereof is the area affected by the Abaga-Kirahon 230 kV transmission line**. Thus the reckoning date for determining just compensation should be April 20, 2007 when the complaint for the expropriation of property for that particular purpose was filed. **The date of the illegal taking of the areas affected by the irst TransCo line – the Tagoloan-Pulangi 138 kV transmission line in 1983 is irrelevant and immaterial.**

Second, it is clear that Transco impliedly admitted that the date to be used in computing the first compensation is the date of the filing of the complaint on April 20, 2007 because it did not object to the conversion of the proceedings into an expropriation case. At that time, **Transco has not yet occupied and possessed the areas to be used for the Abaga-Kirahon 230 kV transmission, which are SEPARATE and DISTINCT from the Tagaloan-Pulangi 138 kV transmission line**.

Third, TransCo already had the power to expropriate on April 20, 2007 (date of complaint) because Republic Act No. 8974 or the EPIRA Law, which was cited by the ponencia as the source of TransCo's power of eminent domain, became effective on June 8, 2001. On the other hand, the illegal taking of the areas affected by the Tagoloan-Pulangi 138 kV transmission line in 1983 occurred prior to the effectivity of the EPIRA Law.

Finally, and, more importantly, the power of eminent domain delegated unto TransCo is not unbridled and is, in fact, circumscribed under the EPIRA law:

Section 8. *Creation of the National Transmission Company*. – x x x

x x x x x x x x x

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The TRANSCO may exercise the power of eminent domain **subject to the requirements of the Constitution and existing laws**. Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities.

x x x x x x x x x

Thus, any taking of private property is subject to the Constitution, pertinent laws, and the Rules of Court.

Foremost of the statutory restrictions on the exercise of eminent domain are the constitutional guarantees enshrined in the Bill of Rights, *viz*:

Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

x x x x x x x x x

Section 9. Private property shall not be taken for public use without just compensation.

The Bill of Rights aims to protect the people against arbitrary and discriminatory use of political power. The basic rights and restrictions enumerated therein guarantee the preservation of our natural rights, which include personal liberty and security against invasion by the government or any of its branches or instrumentalities.[1] In relation to the inherent state power of eminent domain, the aforementioned provisions extend to the citizens a sense of security in their property rights despite the implied understanding that the sovereign can, at any time, reclaim from them the possession and ownership over portions of its territory. They afford the citizens a mantle of protection from indiscriminate land-grabbing by the government through the installation of defned safeguards, without which the exercise of the power of eminent domain can become oppressive.[2]

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[1] *Sales v. Sandiganbayan*, G.R. No. 143802, November 16, 2011, 269 SCRA 293, 310.

[2] *J.* Velasco, Jr., Dissenting Opinion, *Secretary of the Department of Public Works and Highways v. Tecson*, G.R. No. 179334, April 21, 2015, 756 SCRA 389, 435.

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It may be that expropriation usually results in an involuntary sale to the authorities, but the ultimate immateriality of the seller's consent is not a license for the government's various instrumentalities to "construct first, expropriate later." We need no reminding that part and parcel of the imperatives of procedural due process in eminent domain proceedings is the prior filing of an expropriation case. This is so because filing the action for expropriation effectively serves as notice to the property owner that the government is taking title and possession thereof.[3] Moreover, this is the *only* avenue for the landowner to contest the validity of the taking, and for the government to prove that the requirements under Sec. 9, Art. III of the Constitution are satisfied. This is also the only time to set the amount of deposit that is a precondition for entry. As pertinently provided under Rule 67 of the Rules of Court:

Section 1. *The complaint*. – **The right of eminent domain shall be exercised by the filing of a veriied complaint** which shall state with certainty the right and purpose of expropriation, describe the real or personal property sought to be expropriated, and join as defendants all persons owning or claiming to own, or occupying, any part thereof or interest therein. x x x x.

Section 2. *Entry of plaintiff upon depositing value with authorized government depositary*. – Upon the fling of the complaint or at any time thereafter and after due notice to the defendant, **the plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the authorized government depositary an amount equivalent to the assessed value of the property** for purposes of taxation to be held by such bank subject to the orders of the court. x x x.

x x x x x x x x x

After such deposit is made the court shall order the sheriff or other proper officer to forthwith place the plaintiff in possession of the property involved and promptly submit a report thereof to the court with service of copies to the parties.

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[3] *Air Transportation Ofice (ATO) v. Gopuco, Jr.*, G.R. No. 158563, June 30, 2005, 462 SCRA 544, 557.

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Section 3. *Defenses and objections*. – x x x x

If a defendant has any objection to the filing of or the allegations in the complaint, or any objection or defense to the taking of his property, he shall serve his answer within the time stated in the summons. The answer shall speciically designate or identify the property in which he claims to have an interest, state the nature and extent of the interest claimed, and adduce all his objections and defenses to the taking of his property.

Hence, without an expropriation suit, private property is being taken from the landowner without due notice, without providing him or her the opportunity to be heard, and is a gross and blatant violation of his or her constitutional right to due process of law.

The rationale behind placing the burden on the government to initiate condemnation proceedings prior to taking over property has been explained in the Court's eloquent pronouncement in *Alfonso v. City of Pasay*, *viz*:

This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay. The private owner is usually at a great and distinct disadvantage. He has against him the whole Government, central or local, that has occupied and appropriated his property, summarily and arbitrarily, sometimes, if not more often, against his consent. There is no agreement as to its price or its rent. In the meantime, the landowner makes requests for payment, rent, or even some understanding, patiently waiting and hoping that the Government would soon get around to hearing and granting his claim. The offcials concerned may promise to consider his claim and come to an agreement as to the amount and time for compensation, but with the not infrequent government delay and red tape, and with the change in administration, specially local, the claim is pigeon holed and forgotten and the papers lost, mislaid, or even destroyed as happened during the last war. And when fnally losing patience and hope, he brings a court action and hires a lawyer to represent him in the vindication of his valid claim, he faces the government represented by no less than the Solicitor General or the Provincial Fiscal or City Attorney, who blandly and with self-assurance, invokes prescription.

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The litigation sometimes drags on for years. In our opinion, **that is neither just nor fair**. When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are frst initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean delay and diffculty for the Government, but all of its own making.[4] (emphasis added)

Guilty of repetition, it is the government that is mandated to satisfy the constitutional due process requirement, including the initiation of condemnation proceedings. It is absurd to expect that the unwilling seller in the involuntary sale would also be the one required to additionally spend time, money, and effort to secure payment. And, as aptly observed in *Alfonso*, the private landowners, compared to the State, may not have the financial capacity to initiate the proceedings for just compensation themselves. The government, on the other hand, has the legal personnel and the access to the necessary funds to prosecute its case. These realities lead to the inevitable conclusion that respondents should not be the ones to suffer the adverse economic effects of the government's failure to file the expropriation proceedings. On the contrary, in such a scenario, it is the government that should bear the brunt of failing to comply with its constitutional mandate, and of the prejudicial effects of an illegal, if not criminal, act of usurping real property belonging to a private individual.[5]

There being no faithful observance of procedural due process rights in this case, the rulings in *National Power Corporation v. Heirs of Macabangkit Sangkay*[6] and *National Power Corporation v. Saludares*[7] can properly be invoked herein. In *Heirs of Macabangkit Sangkay*, the Court held that:

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[4] *Alfonso v. Pasay*, No. L-12754, January 30, 1960, 106 Phil. 1017.

[5] *J.* Velasco, Jr., Dissenting Opinion, *Secretary of the Department of Public Works and Highways v. Tecson*, *supra* note 2, at 438-439.

[6] G.R. No. 165828, August 24, 2011, 656 SCRA 60.

[7] G.R. No. 189127, April 25, 2012, 671 SCRA 266.

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x x x x **Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by NPCs entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPCs entry denied elementary due process of law to the owners** since then until the owners commenced the inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted.[8] (emphasis added)

And in *Saludares*:

Indeed, **respondent spouses would be deprived of their right to just compensation if the value of the property is pegged back to its value in the 1970s**. To reiterate, NAPOCOR should have instituted eminent domain proceedings before it occupied respondent spouses' property. Because it failed to comply with this duty, respondent spouses were constrained to file the instant Complaint for just compensation before the trial court. From the 1970s until the present, they were deprived of just compensation, while NAPOCOR continuously burdened their property with its transmission lines. This Court cannot allow petitioner to profit from its failure to comply with the mandate of the law. We therefore rule that, to adequately compensate respondent spouses from the decades of burden on their property, NAPOCOR should be made to pay the value of the property at the time of the filing of the instant Complaint when respondent spouses made a judicial demand for just compensation.[9]

It bears stressing, that Our ruling in *Macabangkit Sangkay* is not premised on whether or not the landowner had knowledge of the government's entry, but on whether or not due process

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[8] *National Power Corporation v. Heirs of Macabangkit Sangkay*, *supra* note 6, at 88.

[9] *National Power Corporation v. Saludares*, *supra* note 7, at 279.

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was observed. For more important than knowledge of the entry is the opportunity to oppose the same, which is why the Court endeavored to determine in that case whether or not the NPC actually intended to formally expropriate the property. Indeed, if knowledge of the entry is the controlling factor in determining just compensation, then *Saludares*, which similarly involves the construction of transmission lines, should have been resolved differently.

There is no substantial distinction between *Saludares* and the instant petition. The *ponencia* makes much ado of the lack of intent on the part of the NPC therein, but it also holds true for TransCo insofar as the first expropriation project is concerned. Needless to state, the construction of the Tagoloan-Pulangi 138kV transmission line commenced in 1983, yet it never bothered to formally initiate the condemnation proceedings. Instead, TransCo unceremoniously entered the titled land and constructed transmission lines thereon, allowing it to proft while the registered landowners are deprived not only of their right to possess the property, but to be paid just compensation for such deprivation.

Clearly, the doctrines in *Macabangkit Sangkay* and *Saludares* are herein applicable, *mutatis mutandis*. The common denominator among these three cases is the deprivation of due process. In such cases of taking that is illegal, if not criminal, and where the landowner is compelled to seek payment from the expropriating agency, the value of just compensation should be reckoned from the time of judicial demand, which in this case is in 2007.

It is incorrect to claim that the payment of interest from the time of taking in 1983 would suffciently answer for the delay in filing the expropriation complaint. For interest would accrue regardless of whether or not a case had been filed. Interest payment forms part of just compensation for the taking of the property, but it does not answer for the deprivation of due process. As held in *Macabangkit Sangkay* and *Saludares*, the more acceptable solution is to reckon the valuation of just compensation from the date of judicial demand.

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As a final note, I reiterate my position in support of the campaign to put a stop to the "construct now, expropriate later" government strategy, which, deplorable as it may be, seems to have ripened into policy. However, this could not be achieved by merely slapping the culprits on their wrists through the imposition of exemplary damages. The gravity of the deprivation of due process caused to the landowners must be felt by valuing just compensation based on the prevailing prices at the time of judicial demand, and by prosecuting the erring offcials, if necessary, to the full extent of the law.

WHEREFORE, premises considered, I respectfully register my vote to **DENY** the instant petition. The Court of Appeals did not commit reversible error when it fixed the amount of just compensation based on 2007 prices. The September 18, 2015 Decision and January 25, 2016 Resolution of the appellate court in CA-G.R. CV No. 03571-MIN should, therefore, be **AFFIRMED IN TOTO**.

SECOND DIVISION

[G.R. Nos. 144760-61. August 2, 2017]

EVELYN L. MIRANDA, *petitioner, vs.* **SANDIGANBAYAN and THE OMBUDSMAN,** *respondents.*

[G.R. Nos. 167311-12. August 2, 2017]

EVELYN L. MIRANDA, *petitioner, vs.* **SANDIGANBAYAN and THE PEOPLE OF THE PHILIPPINES,** *respondents.*