Supreme Court E-Library

The amount of damages awarded is hereby increased, ordering accused-appellant to pay the heirs of AAA the amount of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, and Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages for each count of Rape in Criminal Case Nos. F-2001-171-A, F-02-02-A, F-2001-170-A. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Carpio, Senior Associate Justice (*Chairperson*), *Perlas-Bernabe, Reyes, A. Jr.*, and *Reyes, J. Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. 217051. August 22, 2018]

REPUBLIC OF THE PHILIPPINES, represented by the DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH); ENGR. REBECCA J. ROCES, District Engineer, 2nd District Engineering Office of Camarines Sur; and ENGR. VICTORINO M. DEL SOCORRO, JR., Project Engineer, DPWH, Baras, Canaman, Camarines Sur, *petitioners, vs.* **SPOUSES CORNELIO ALFORTE and SUSANA ALFORTE,** *respondents.*

SYLLABUS

POLITICAL LAW; LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN (CA 141); LEGAL EASEMENT OF RIGHT-OF-WAY EXISTS IN FAVOR OF THE

Supreme Court E-Library

GOVERNMENT OVER LAND THAT WAS ORIGINALLY PUBLIC LAND AWARDED BY FREE PATENT EVEN IF THE LAND WAS SUBSEQUENTLY SOLD TO ANOTHER; CASE AT BAR.— [On issue is the interpretation] of Section 112 of CA 141, as amended. x x x Respondents' TCT 29597 specifically contains a proviso stating that said title is "subject to the provisions of the x x x Property Registration Decree and the Public Land Act, as well as to those of the Mining Laws x x x." Their title is therefore necessarily subject to the easement provided in Section 112, as amended. Such a proviso exists in TCT 29597 since it was derived from a free patent issued on March 21, 1956. A legal easement of right-of-way exists in favor of the Government over land that was originally public land awarded by free patent even if the land was subsequently sold to another. x x x [Thus] [r]espondents are x x x required to execute the corresponding quitclaim in favor of the State, with respect to the 127 square meters of respondents' land [for the road project]. Nonetheless, the Court observes that respondents' land is only 300 square meters, [and taking] *nearly half of the whole property* x x x could affect the integrity of the whole property, and may materially impair the land to such extent that it may be deemed a taking of the same – which thus entitles respondents to just compensation for the remaining portion of their property. In this regard, a thorough determination by the trial court must be made.

APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
Simando and Associates for respondents.

D E C I S I O N

DEL CASTILLO, *J.*:

On pure questions of law, herein petitioners directly come to this Court via this Petition for Review on *Certiorari*[1] to

[1] *Rollo*, pp. 10-43.

nullify and set aside the July 28, 2014 Decision (Partial)[2] and March 3, 2015 Order[3] of the Regional Trial Court of Naga City, Branch 22 (Naga RTC), in Civil Case No. RTC 2012-0013.

Factual Antecedents

Respondents Cornelio and Susana Alforte were the registered owners of a 300-square meter parcel of land (subject property) covered by Transfer Certificate of Title No. 29597 (TCT 29597).[4] The subject property, which appears to be a vacant lot, was originally covered by a March 21, 1956 Free Patent and April 14, 1956 Original Certificate of Title No. 235,[5] issued pursuant to Commonwealth Act No. 141 (CA 141) or the Public Land Act.

A total of 127 square meters of the subject property will be traversed by the Naga City-Milaor Bypass Road construction project of the Department of Public Works and Highways (DPWH). For this reason, respondents filed a Complaint[6] – docketed as Civil Case No. RTC 2012-0013 – before the Naga RTC to compel petitioners to pay them just compensation for the 127-square meter area that would have been lost to the road project, in the amount of ₱381,000.00, with additional prayer for attorney's fees and litigation expenses.

Petitioners filed their Answer[7] praying for the dismissal on the ground, among others, of lack of cause of action - arguing that, since the property was originally acquired by free patent, an easement in favor of the government of 60 meters existed without need of payment of just compensation – except if there were improvements, pursuant to Section 112 of CA 141, as

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[2] *Id*. at 44-57; penned by Judge Efren C. Santos.

[3] *Id*. at 58-59.

[4] *Id*. at 60.

[5] *Id*. at 73-78.

[6] *Id*. at 79-84.

[7] *Id*. at 85-99.

Supreme Court E-Library

amended by Presidential Decree (PD) No. 1361,[8] which states thus:

> Sec. 112. Said land shall further be subject to a right-of-way not exceeding sixty (60) meters on width for public highways, railroads, irrigation ditches, aqueducts, telegraph and telephone lines, airport runways, including sites necessary for terminal buildings and other government structures needed for full operation of the airport, as well as areas and sites for government buildings for Resident and/or Project Engineers needed in the prosecution of government-infrastructure projects, and similar works as the Government or any public or quasi-public service or enterprise, including mining or forest concessionaires, may reasonably require for carrying on their business, with damages for the improvements only.
>
> Government officials charged with the prosecution of these projects or their representatives are authorized to take immediate possession of the portion of the property subject to the lien as soon as the need arises and after due notice to the owners. It is however, understood that ownership over said properties shall immediately revert to the title holders should the airport be abandoned or when the infrastructure projects are completed and buildings used by project engineers are abandoned or dismantled, but subject to the same lien for future improvements.

Petitioners argued that this lien followed the property even when respondents acquired the same from the original grantee of the patent or the latter's successor-in-interest, pursuant PD 1529, or the Property Registration Decree, which provides, thus:

> SECTION 44. Statutory liens affecting title. — Every registered owner receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land taking a certificate of title for value and in good faith, shall hold the same free from all encumbrances except those noted in said certificate and any of the following encumbrances which may be subsisting, namely:

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[8] FURTHER AMENDING THE PROVISIONS OF SECTION ONE HUNDRED TWELVE OF COMMONWEALTH ACT NUMBERED ONE HUNDRED FORTY-ONE, AS AMENDED BY PRESIDENTIAL DECREE NUMBERED SIX HUNDRED THIRTY-FIVE. April 26, 1978.

Supreme Court E-Library

First. Liens, claims or rights arising or existing under the laws and Constitution of the Philippines which are not by law required to appear of record in the Registry of Deeds in order to be valid against subsequent purchasers or encumbrancers of record.

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A writ of possession was issued in favor of petitioners.

After proceedings in due course, the Naga RTC issued the assailed Partial Decision, which contained the following pronouncement:

DEFENDANTS raised the issue that Section 112, CA No. 141 otherwise known as 'The Public Land Act' as amended by P.D. 653, imposes a 60-meter wide legal encumbrance on the property and thus, preclude[s] the SPS. ALFORTE from claiming just compensation.

The court is not persuaded by this argument.

It is not disputed that SPS. ALFORTE are the owners of a parcel of land consisting of 300 square meters, situated at Mabulo, Naga City and covered by TCT No. 29597. The same parcel of land was originally covered by Original Certificate of Title No. 235, dated April 14, 1956 pursuant to a Free Patent issued to Beatriz Santos and Bienvenido Santos who later on transferred the property to SPS. ALFORTE. Of the 300 square meters lot, 127 square meters thereof will be traversed by the Naga City-Milaor By-pass Road. SPS. ALFORTE agreed and Defendant DPWH assured them that [the latter] would pay the just compensation for the affected area. In fact[,] in a letter dated July 13, 2010 then District Engineer Rolando Valdez x x x even made a formal offer to pay the affected area. However, in a letter dated May 11, 2011 ENGR. VALDEZ informed SPS. ALFORTE that they [were] not entitled to the payment of just compensation of the affected area, such that before the Court could fix the amount of just compensation, the issue on the entitlement of the SPS. ALFORTE to the payment of just compensation [had] first to be resolved.

SPS. ALFORTE argued that they [were] entitled to just compensation based on the Constitutional precept that no private property should be taken for public use without payment of just compensation. They claimed that[,] as the subject property [was] now a private property, it [was] now beyond the coverage of CA

Supreme Court E-Library

No. 141 or the Public Land Act. On the other hand, DEFENDANTS insisted that SPS. ALFORTE [were] not entitled to just compensation for the reason that the subject land was acquired by SPS. ALFORTE from BEATRIZ SANTOS and BIENVENIDO SANTOS who acquired the subject property by virtue of a Free Patent under the Public Land Act. Section 112 of CA No. 141 or the Public Land Act provides that lands acquired under said Act shall be subject to a right-of-way not exceeding 60 meters in width for public highways.

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Settled is the rule that no person may be deprived of his property without due process of law. The power of eminent domain therefore, whether exercised by the State itself or by agencies to which it has delegated such power, can be exercised only in accordance with the law of the land. There must be appropriate expropriation proceedings and payment of indemnity. A statute authorizing a corporation to exercise the power of eminent domain, being a derogation of general right and conferring upon it exceptional privileges with regard to the property of others, should be construed strictly in favor of landowners whose property is affected by its terms. Hence, before any right to take possession of land under such statute can be fully exercised by the corporation, the provisions of the statute must be fully and fairly complied with.

The Court is convinced that as between the provisions of CA No. 141 imposing [an] encumbrance in favor of the government on the subject property up to 60-meters in width as road right of way and the provisions of the Constitution particularly Article III, Section 1 which provides that "*no one should be deprived of life, liberty and property without due process of law, xxx*" and Section 9 which provides that "*Private property shall not be taken for public use without just compensation,*" it is the latter that should prevail.

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Thusly, the entitlement to just compensation of the SPS. ALFORTE having been determined and resolved, the Court can now proceed with the second stage in expropriation, that is, the compulsory determination of just compensation by the Court with the assistance of not more than three (3) commissioners designated by the court. Only upon completion of the two stages that expropriation is completed, and only upon payment of just compensation that title to the property passes to the Government.

Supreme Court E-Library

In this case and pending determination by the Court of the issue on the entitlement of the SPS. ALFORTE to just compensation of their property affected by the Naga City-Milaor By-Pass Road Project, it issued an Order of Condemnation and/or granted the issuance of the writ of possession on February 15, 2013 that authorized the DEFENDANTS to take possession of the aforesaid parcel of land which was implemented on July 1, 2013 at its instance, without the latter depositing with the authorized government depositary bank 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 as prescribed under Section 2, Rule 67.

Under the Rules, the determination of just compensation is done by the Court with the assistance of not more than three commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the commissioners would be final. It would finally dispose of the second stage of the suit and leave nothing more to be done by the court regarding the issue. Since this stage was omitted after the DEFENDANTS [were] placed in possession of the 127 square meters portion of the property of the SPS. ALFORTE and in order not to deny them due process, there is compelling reason and need to re-open this case and appoint in accordance with Section 5 of Rule 67, three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The determination of just compensation by the trial court with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all.

All told, this Court finds the SPS. ALFORTE [have] a cause of action against the DEFENDANTS and [are] therefore entitled to just compensation. Since the entire property of the SPS. ALFORTE consisting of 300 square meters and almost half of it or a total of 127 square meters was taken by the Government through the DPWH, as the same was traversed by the Naga City-Milaor By-Pass Road, it will indeed result to injustice if they will not be paid just compensation for their property just because of the provisions of CA No. 141.

WHEREFORE, premises considered, a Partial Decision is hereby rendered:

a) DECLARING the Plaintiffs Spouses Cornelio and Susana Alforte entitled to the payment of just compensation for the 127 square meters

Supreme Court E-Library

portion of their 300 square meters parcel of land covered by Transfer Certificate of Title No. 29597 of the Registry of Deeds for Naga City traversed and/or affected by the Naga City-Milaor By-Pass Road;

b) RECALLING the Order dated September 16, 2014 submitting this case for Decision and consequently, RE-OPENING the same for the determination only of just compensation in accordance with Section 5, Rule 67 of the 1997 Rules of Civil Procedure;

c) ORDERING the Defendants to deposit the amount of Php 190,500, the assessed value of the property taken and/or affected by the Naga City-Milaor By- Pass Road, with any authorized government depositary bank to be held by such bank until further orders from this Court within 15 days from receipt hereof in accordance with Section 2, Rule 67 of the 1997 Rules of Civil Procedure;

d) APPOINTING the following:

1. Alberto C. Villafuerte [III] - Local Assessment Operations Officer III, City Assessor's Office, Naga City;
2. Engr. Jose C. Ferro - No. 5 Jacod Ext., Liboton, Naga City;
3. Engr. Mar Basco - 383 Diamond St., Filoville Subd., Barangay Calauag, Naga City

as Commissioners to ascertain and report to this Court the just compensation of the 127 square meters parcel of land taken and affected by the Naga City-Milaor By-Pass Road.

ALBERTO C. VILLAFUERTE III, Local Assessment Officer III of the City Assessor's Office of Naga City and a Licensed Real Estate Appraiser is hereby designated as Chairman of the Board of Commissioners.

Meanwhile, ALBERTO C. VILLAFUERTE III, ENGR. JOSE C. FERRO, and ENGR. MAR BASCO are hereby directed to report to this Court on September 15, 2014 at 8:30 o'clock in the morning and signify their willingness to accept their appointment as Members of the Board of Commissioners and to take their oath before the Branch Clerk of Court. Thereafter, the said Commissioners shall meet in first session and their report must be filed with this Court not later than October 31, 2014.

e) ORDERING the plaintiffs to pay the fees of the Commissioners pursuant to Section 12, Rule 67.

Supreme Court E-Library

The Branch Clerk of Court is hereby directed to notify the appointed Commissioners of their appointment.

SO ORDERED.[9] (Citations omitted)

Petitioners filed a Motion for Reconsideration, which the trial court denied through its March 3, 2015 Order, stating –

Before this Court is a Motion for Reconsideration of the Partial Decision issued by this Court on July 28, 2014 filed by the Defendants and the Comment/Opposition thereto filed by the Plaintiffs. The Motion for Reconsideration is anchored on the following grounds:

1. [T]hat Plaintiffs' land being originally covered by Free Patent is subject to the 60-meter wide perpetual legal easement of right of way or statutory lien for public highway at no cost to the government, imposed by Section 112 of the Public Land Act, thereby precluding Plaintiffs from claiming just compensation;

2. That the Republic's enforcement of its right-of-way or legal easement under Section 112 of the Public Land Act was upheld by the Supreme Court in the case of NIA vs. CA as well as in Republic vs. Andaya;

3. Plaintiffs admittedly failed to exhaust administrative remedies.

In their comment/opposition the Plaintiffs alleged that the issues being raised have been exhaustively addressed and determined by this Court and in fine there is no ground for reconsideration.

After considering the allegations of both parties this Court resolves to DENY the motion for reconsideration.

Granting *arguendo* that the Public Land Act will be followed, the right of way provided therein is only up to 60-meters. In the case of NIA vs. Manglapus cited by the Defendants, the canal constructed by NIA was only eleven (11) meters and was well within the 60-meter right of way provided by law. This is not true in this case because the portion of the property of the Plaintiffs occupied or traversed by the Naga City-Milaor By-Pass Road is 127 square meters. Besides, this Court maintains that other laws should be considered and interpreted in a manner consistent 1th our Constitution and that

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[9] *Rollo*, pp. 50-57.

Supreme Court E-Library

the issues raised in the motion had been passed upon and considered by this Court, thus no new matters were raised which will warrant a reconsideration of the Partial Decision issued by this Court.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.[10] (Citations omitted)

Hence, this Petition.

Issues

Petitioners submit the following issues for resolution:

THE RTC ERRED IN HOLDING THAT RESPONDENTS ARE ENTITLED TO JUST COMPENSATION DESPITE THE UNDISPUTED FACT THAT THE LAND WAS ORIGINALLY PUBLIC LAND AWARDED TO RESPONDENTS' PREDECESSORS-IN-INTEREST BY FREE PATENT, AND THUS A LEGAL EASEMENT OF SIXTY-METER WIDE RIGHT-OF-WAY EXISTS IN FAVOR OF THE GOVERNMENT.

RESPONDENTS' LAND BEING ORIGINALLY COVERED BY A FREE PATENT, IT IS SUBJECT TO THE 60-METER WIDE PERPETUAL LEGAL EASEMENT OF RIGHT-OF-WAY OR STATUTORY LIEN FOR PUBLIC HIGHWAYS, ETC. AT NO COST TO THE GOVERNMENT, IMPOSED BY SECTION 112 OF THE PUBLIC LAND ACT, THEREBY PRECLUDING RESPONDENTS FROM CLAIMING JUST COMPENSATION.

THE REPUBLIC'S ENFORCEMENT OF ITS RIGHT-OF-WAY OR LEGAL EASEMENT UNDER SECTION 112 OF THE PUBLIC LAND ACT WAS UPHELD BY THIS HONORABLE COURT IN *NATIONAL IRRIGATION ADMINISTRATION VS. COURT OF APPEALS*, 340 SCRA 661 (2000), AS WELL AS IN *REPUBLIC VS. ANDAYA*, 524 SCRA 671 (2007).

THE TRIAL COURT'S RATIOCINATION - THAT THE PUBLIC LAND ACT PROVIDES FOR A RIGHT OF WAY OF UP TO SIXTY (60) METERS, WHILE THE PORTION OF RESPONDENTS' PROPERTY TRAVERSED BY THE NAGA-MILAOR BY-PASS

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[10] *Id.* at 58-59.

Supreme Court E-Library

ROAD IS 127 SQUARE METERS IS PATENTLY ERRONEOUS. THE LAW SPEAKS OF WIDTH, NOT AREA OF THE RIGHT OF WAY.

THE RTC, IN PRONOUNCING THAT "INJUSTICE" WILL RESULT "BECAUSE OF THE PROVISIONS OF CA NO. 141," VIOLATED THE PLAIN-MEANING RULE OR *VERBA LEGIS*.

BESIDES, RESPONDENTS MANIFESTLY FAILED TO EXHAUST ADMINISTRATIVE REMEDIES.[11]

Petitioners' Arguments

Praying that the assailed Naga RTC dispositions be set aside and that Civil Case No. RTC 2012-0013 be dismissed, petitioners contend in their Petition and Reply[12] that the trial court erred in declaring that respondents were entitled to just compensation, as CA 141 specifically provides that every title to land obtained under its provisions shall further be subject to a right-of-way easement not exceeding 60 meters on width, with damages for the improvements only; that this lien followed the subject property even when respondents acquired the same from the original grantee of the patent or the latter's successor-in-interest, pursuant to Section 44 of PD 1529; that these provisions of law were upheld by the Court in several cases, particularly *National Irrigation Administration v. Court of Appeals*[13] and *Republic v. Andaya*;[14] that the trial court erred in stating essentially that government was only entitled to 60 square meters, as opposed to 127 square meters that was being taken from respondents; and that respondents failed to exhaust administrative remedies by filing a case in court instead of filing a claim with the Commission on Audit.

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[11] *Id.* at 20-21.

[12] *Id.* at 198-211.

[13] 395 Phil. 48 (2000).

[14] 552 Phil. 40 (2007).

Supreme Court E-Library

Respondents' Arguments

In their Comment,[15] respondents maintain that they were entitled to just compensation for the 127-square meter portion taken from their land for use by the government in its road project; that CA 141 cannot prevail over the constitutional provision that no private property shall be taken for public use without payment of just compensation; that as the owners of the subject property, they have vested rights over the same which must be protected; and that there was no need to exhaust administrative remedies because there was nothing of an administrative nature involved in this case.

Our Ruling

The Petition is partially granted.

Petitioners are correct in their supposition that the only issue involved in this case is a purely substantive one – that is, an interpretation or reiteration of Section 112 of CA 141, as amended. The controversy concerns the correct application of the said law, and does not call for an examination of the probative value of the evidence presented, the truth or falsehood of the facts being admitted.

Neither were petitioners mistaken in coming directly to this Court; the controversy involves a major road project, the completion of which is of the utmost importance. For the respondents, the case is no less urgent; their property has been taken, which thus entitles them to reparation – "just compensation" as we call it in eminent domain cases.

Respondents' TCT 29597 specifically contains a proviso stating that said title is "subject to the provisions of the x x x Property Registration Decree and the Public Land Act, as well as to those of the Mining Laws x x x."[16] Their title is therefore necessarily subject to the easement provided in Section 112,

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[15] *Rollo*, pp. 176-190.

[16] *Id.* at 60.

Supreme Court E-Library

as amended. Such a proviso exists in TCT 29597 since it was derived from a free patent issued on March 21, 1956. A legal easement of right-of-way exists in favor of the Government over land that was originally public land awarded by free patent even if the land was subsequently sold to another. This was the ruling in *Republic v. Spouses Regulto*,[17] where the Court made the following pronouncement:

> This Court finds that the RTC erroneously ruled that the provisions of C.A. No. 141 are not applicable to the case at bar. On the contrary, this Court held that 'a legal easement of right-of-way exists in favor of the Government over land that was originally a public land awarded by free patent even if the land is subsequently sold to another.' This Court has expounded that the 'ruling would be otherwise if the land was originally a private property, to which just compensation must be paid for the taking of a part thereof for public use as an easement of right-of-way.'
>
> It is undisputed that the subject property originated from and was a part of a 7,759-square-meter property covered by free patent registered under OCT No. 235. Furthermore, the Spouses Regulto's transfer certificate of title, which the RTC relied, contained the reservation: '*subject to the provisions of the Property Registration Decree and the Public Land Act, as well as to those of the Mining Law, if the land is mineral, and subject, further, to such conditions contained in the original title as may be subsisting*.'
>
> Jurisprudence settles that one of the reservations and conditions under the Original Certificate of Title of land granted by free patent is that the said land is subject '*to all conditions and public easements and servitudes recognized and prescribed by law especially those mentioned in Sections 109, 110, 111, 112, 113 and 114, Commonwealth Act No. 141, as amended*.'
>
> Section 112 of C.A. No. 141, as amended, provides that lands granted by patent shall be subjected to a right-of-way in favor of the Government, to wit:
>
> > Sec. 112. Said land shall further be subject to a right-of-way not exceeding sixty (60) meters on width for public

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[17] 784 Phil. 805 (2016).

Supreme Court E-Library

> highways, railroads, irrigation ditches, aqueducts, telegraph and telephone lines, airport runways, including sites necessary for terminal buildings and other government structures needed for full operation of the airport, as well as areas and sites for government buildings for Resident and/or Project Engineers needed in the prosecution of government-infrastructure projects, and similar works as the Government or any public or quasi-public service or enterprise, including mining or forest concessionaires, may reasonably require tor carrying on their business, **with damages for the improvements only**.
>
> Government officials charged with the prosecution of these projects or their representatives are authorized to take immediate possession of the portion of the property subject to the lien as soon as the need arises and after due notice to the owners. It is however, understood that ownership over said properties shall immediately revert to the title holders should the airport be abandoned or when the infrastructure projects are completed and buildings used by project engineers are abandoned or dismantled, but subject to the same lien for future improvements.

In other words, lands granted by patent shall be subject to a right-of-way not exceeding 60 meters in width for public highways, irrigation ditches, aqueducts, and other similar works of the government or any public enterprise, free of charge, except only for the value of the improvements existing thereon that may be affected.

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With the existence of the said easement of right-of-way in favor of the Government, the petitioners may appropriate the portion of the land necessary for the construction of the bypass road without paying for it, except for damages to the improvements. Consequently, the petitioners are ordered to obtain the necessary quitclaim deed from the Spouses Regulto for the 162-square-meter strip of land to be utilized in the bypass road project.[18] (Citations omitted)

Respondents are therefore required to execute the corresponding quitclaim in favor of the State, with respect to the 127 square meters of respondents' land.

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[18] *Id.* at 817-819.

Supreme Court E-Library

Nonetheless, the Court observes that, while respondents' land is only 300 square meters, the State requires 127 square meters thereof for its road project – or *nearly half of the whole property*. This could affect the integrity of the whole property, and may materially impair the land to such extent that it may be deemed a taking of the same – which thus entitles respondents to just compensation for the remaining portion of their property. In this regard, a thorough determination by the trial court must be made.

In the *Regulto* case cited above, the State took 162 square meters of the landowners' 300-square meter property, for which the Court declared that there was a taking of the whole property. It was held therein that –

> It is noted that the 162 square meters of the subject property traversed by the bypass road project is well within the limit provided by the law. While this Court concurs that the petitioners are not obliged to pay just compensation in the enforcement of its easement of right-of-way to lands which originated from public lands granted by free patent, we, however, rule that petitioners are not free from any liability as to the consequence of enforcing the said right-of-way granted over the original 7,759-square-meter property to the 300-square-meter property belonging to the Spouses Regulto.
>
> There is 'taking,' in the context of the State's inherent power of eminent domain, when the owner is actually deprived or dispossessed of his property; when there is a practical destruction or material impairment of the value of his property or when he is deprived of the ordinary use thereof. Using one of these standards, it is apparent that there is taking of the remaining area of the property of the Spouses Regulto. It is true that no burden was imposed thereon, and that the spouses still retained title and possession of the property. The fact that more than half of the property shall be devoted to the bypass road will undoubtedly result in material impairment of the value of the property. It reduced the subject property to an area of 138 square meters.
>
> Thus, the petitioners are liable to pay just compensation over the remaining area of the subject property, with interest thereon at the rate of six percent (6%) per annum from the date of writ of possession or the actual taking until full payment is made.

Supreme Court E-Library

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Consequently, the case is remanded to the court of origin for the purpose of determining the final just compensation for the remaining area of the subject property. The RTC is thereby ordered to make the determination of just compensation payable to the respondents Spouses Regulto with deliberate dispatch. The RTC is cautioned to make a determination based on the parameters set forth by law and jurisprudence regarding just compensation.[19] (Emphasis and italics in the original; citations omitted)

On the other hand, in *Bartolata v. Republic*,[20] the Court held:

To recapitulate, two elements must concur before the property owner will be entitled to just compensation for the remaining property under Sec. 112 of CA 141: (1) that the remainder is not subject to the statutory lien of right of way; and (2) that the enforcement of the right of way results in the practical destruction or material impairment of the value of the remaining property, or in the property owner being dispossessed or otherwise deprived of the normal use of the said remainder.

This doctrine in *Andaya* was reiterated in the recent *Republic v. Regulto*. We now apply the same parameters for determining petitioner's entitlement to just compensation in the case at bar.

Recall that the subject property in this case is a 400 square meter parcel of land. The 223 square meter portion of the subject property was traversed by respondents' Metro Manila Skyway Project And as noted by the CA, the subdivision plan shows that the covered area corresponds to the widths of 13.92 meters and 13.99 meters, well within the 60-meter width threshold provided by law. Respondents are then not under any legal obligation to pay just compensation for utilizing the 223 square meter portion pursuant to the Republic's right of way under Sec. 112 of CA 141, and in accordance with our ruling in *Andaya*.

Anent the remaining 177 square meters of the 400 square meter lot, suffice it to state that it was never proved that the said area was not subject to the statutory lien. Neither was it established that despite

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[19] *Id.* at 819-821.

[20] G.R. No. 223334, June 7, 2017, 827 SCRA 100, 119-120.

not having been utilized for the Metro Manila Skyway Project, the enforcement of the easement resulted in the 'taking' of the remaining property all the same. There is then no evidentiary basis for awarding petitioner just compensation, as correctly ruled by the RTC and the CA. However, petitioner remains the owner of the said 177 square meters and can fully exercise all the rights of ownership over the same.

Thus, there must be a thorough determination by the trial court if the utilization and taking of the 127-square meter portion of respondents' land amounts to a taking of the whole property – as it amounts to the material impairment of the value of the remaining portion, or if the respondents are being dispossessed or otherwise deprived of the normal use thereof.

Just compensation is defined as 'the full and fair equivalent of the property taken from its owner by the expropriator.' The word 'just' is used to qualify the meaning of the word 'compensation' and to convey the idea that the amount to be tendered for the property to be taken shall be real, substantial, full and ample. On the other hand, the word 'compensation' means 'a full indemnity or renumeration for the loss or damage sustained by the owner of property taken or injured tor public use.'[21]

Thereafter, the amount of just compensation — if any — shall be determined and computed.

WHEREFORE, the Petition is **PARTIALLY GRANTED**. The July 28, 2014 Decision (Partial) and March 3, 2015 Order of the Regional Trial Court of Naga City, Branch 22 in Civil Case No. RTC 2012-0013 are **REVERSED AND SET ASIDE**, except for that portion of the July 28, 2014 Decision (Partial) appointing commissioners, which becomes necessary in the event that respondents are found to be entitled to payment of just compensation.

The case is **ORDERED REMANDED** to the court of origin for the conduct of further proceedings to resolve the issue of

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[21] *Republic v. Judge Mupas*, 769 Phil. 21, 122 (2015).

Supreme Court E-Library

whether there is a taking of the remaining portion; and if so, how much shall be paid to respondents by way of just compensation.

SO ORDERED.

Peralta[*] (*Acting Chairperson*), *Tijam, Gesmundo*,[**] and *Reyes, J. Jr.*,[***] *JJ.*, concur.

EN BANC

[A.C. No. 12066. August 28, 2018]

VICENTE FERRER A. BILLANES, *complainant, vs.* **ATTY. LEO S. LATIDO,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; DISCIPLINARY CASES AGAINST LAWYERS; SUBSTANTIAL EVIDENCE IS THE PROPER EVIDENTIARY THRESHOLD TO BE APPLIED.— [T]he Court is satisfied that there exists substantial evidence to hold respondent administratively liable for procuring the spurious RTC Decision which caused great prejudice to complainant as his client. According to jurisprudence, substantial evidence is "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion." Contrary to the finding of the Investigating Commissioner, substantial

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[*] Designated Acting Chairperson per Special Order No. 2582 (Revised) dated August 8, 2018.

[**] Designated Acting Member per Special Order No. 2560 dated May 11, 2018.

[***] Designated Additional Member per August 20, 2018 raffle vice *J.* Jardeleza who recused due to prior action as Solicitor General.