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Voluntary Arbitrator Ramon T. Jimenez from executing his July 10, 1997 Decision and September 20, 1997 Resolution, is LIFTED.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, and *Carpio, JJ.,* concur.

FIRST DIVISION

[G.R. No. 146587. July 2, 2002]

REPUBLIC OF THE PHILIPPINES, represented by the General Manager of the PHILIPPINE INFORMATION AGENCY (PIA), *petitioner, vs.* **THE HONORABLE COURT OF APPEALS and the HEIRS OF LUIS SANTOS as herein represented by DR. SABINO SANTOS and PURIFICACION SANTOS IMPERIAL,** *respondents.*

SYNOPSIS

Subject matter of the instant case is the 76,589-square meter property previously owned by Luis Santos, predecessor-in-interest of herein respondents, which form part of the 544,980 square meters of land expropriated by the petitioner Republic for the utilization of the Philippine Information Agency (PIA). On 26 February 1979,or more than nine years after the institution of the expropriation proceedings, the Regional Trial Court of Bulacan issued an order of condemnation. Petitioner, however, failed to pay herein respondents the compensation pursuant to the trial court's decision. On 09 May 1984, or five years after the 1979 judgment had become final, respondents instituted proceedings for payment against petitioner. On 07 June 1984, the Bulacan RTC issued a writ of execution for the implementation

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of the 26 February 1979 decision. Despite the trial court's order, respondents remained unpaid, and no action was taken on their case. On 16 September 1999, petitioner filed a manifestation and motion to permit deposit in court the just compensation for the expropriated properties. The respondents opposed the manifestation and motion. They asked, in the alternative, for the return of their property. On 01 March 2000, the Bulacan RTC issued an order vacating its decision of 26 February 1979 and declaring it to be unenforceable on the ground of prescription. Petitioner brought the matter to the Court of Appeals, but the petition was outrightly denied.

Hence, this petition.

In granting the petition, the Supreme Court held that the trial court, in issuing the assailed order, had acted beyond its lawful cognizance. The judgment rendered by the Bulacan RTC in 1979 on the expropriation proceedings provided not only for the payment of just compensation to herein respondents but likewise adjudged the property condemned in favor of petitioner over which parties, as well as their privies, were bound. Petitioner had occupied, utilized and, for all intents and purposes, exercised dominion over the property pursuant to the judgment. The exercise of such rights vested to it as the condemnee indeed has amounted to at least partial compliance or satisfaction of the 1979 judgment, thereby preempting any claim of bar by prescription on grounds of non-execution. Anent respondents' petition for the recovery of the expropriated property, the Court denied the same, holding that the respondents were entitled only to the unpaid award of just compensation with 12% interest computed from the date of taking of the property until actual payment.

SYLLABUS

1. **CONSTITUTIONAL LAW; STATE; POWER OF EMINENT DOMAIN; ELABORATED.**— The right of eminent domain is usually understood to be an ultimate right of the sovereign power to appropriate any property within its territorial sovereignty for a public purpose. Fundamental to the independent existence of a State, it requires no recognition by the Constitution, whose provisions are taken as being merely confirmatory of its presence and as being regulatory, at most,

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in the due exercise of the power. In the hands of the legislature, the power is inherent, its scope matching that of taxation, even that of police power itself, in many respects. It reaches to every form of property the State needs for public use and, as an old case so puts it, all separate interests of individuals in property are held under a tacit agreement or implied reservation vesting upon the sovereign the right to resume the possession of the property whenever the public interest so requires it.

2. **ID.; ID.; ID.; LIMITATIONS.**— Obviously, however, the power is not without its limits: *first*, the taking must be for public use, and *second*, that just compensation must be given to the private owner of the property. These twin proscriptions have their origin in the recognition of the necessity for achieving balance between the State interests, on the one hand, and private rights, upon the other hand, by effectively restraining the former and affording protection to the latter. In determining "public use," two approaches are utilized — the *first* is public employment or the actual use by the public, and the *second* is public advantage or benefit. It is also useful to view the matter as being subject to constant growth, which is to say that as society advances, its demands upon the individual so increases, and each demand is a new use to which the resources of the individual may be devoted.

3. **ID.; ID.; ID.; PROPERTY CONDEMNED ASSUMED A PUBLIC CHARACTER UPON ITS EXPROPRIATION; CONDEMNOR MAY ALTER THE USE OF THE PROPERTY PROVIDED IT IS FOR PUBLIC USE.**— The expropriated property has been shown to be for the continued utilization by the PIA, a significant portion thereof being ceded for the expansion of the facilities of the Bulacan State University and for the propagation of the Philippine carabao, themselves in line with the requirements of public purpose. Respondents question the public nature of the utilization by petitioner of the condemned property, pointing out that its present use differs from the purpose originally contemplated in the 1969 expropriation proceedings. The argument is of no moment. The property has assumed a public character upon its expropriation. Surely, petitioner, as the condemnor and as the owner of the property, is well within its rights to alter and decide the use of that property, the only limitation being that it be for public use, which, decidedly, it is.

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4. ID.; ID.; ID.; NOT INHERENT TO THE LOCAL GOVERNMENT BUT MERELY DELEGATED AND OF LIMITED APPLICATION.— In insisting on the return of the expropriated property, respondents would exhort on the pronouncement in *Provincial Government of Sorsogon vs. Vda. de Villaroya* where the unpaid landowners were allowed the alternative remedy of recovery of the property there in question. It might be borne in mind that the case involved the municipal government of Sorsogon, to which the power of eminent domain is not inherent, but merely delegated and of limited application. The grant of the power of eminent domain to local governments under Republic Act No. 7160 cannot be understood as being the pervasive and all-encompassing power vested in the legislative branch of government. For local governments to be able to wield the power, it must, by enabling law, be delegated to it by the national legislature, but even then, this delegated power of eminent domain is not, strictly speaking, a power of eminent, but only of inferior, domain or only as broad or confined as the real authority would want it to be.

5. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; EMINENT DOMAIN; EXPROPRIATION PROCEEDINGS; NOT ADVERSARIAL IN NATURE.— The ubiquitous character of eminent domain is manifest in the nature of the expropriation proceedings. Expropriation proceedings are not adversarial in the conventional sense, for the condemning authority is not required to assert any conflicting interest in the property. Thus, by filing the action, the condemnor in effect merely serves notice that it is taking title and possession of the property, and the defendant asserts title or interest in the property, not to prove a right to possession, but to prove a right to compensation for the taking.

6. ID.; ID.; ID.; ID.; PRIVATE LANDOWNERS ARE NOT ENTITLED TO RECOVER POSSESSION OF THEIR PROPERTY BUT ONLY TO DEMAND COMPENSATION.— Thus, in *Valdehueza vs. Republic* where the private landowners had remained unpaid ten years after the termination of the expropriation proceedings, this Court ruled — "The points in dispute are whether such payment can still be made and, if so, in what amount. Said lots have been the subject of expropriation proceedings. By final and executory judgment in said proceedings, they were condemned for public use, as part of an airport, and ordered

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sold to the government. x x x It follows that both by virtue of the judgment, long final, in the expropriation suit, as well as the annotations upon their title certificates, plaintiffs are not entitled to recover possession of their expropriated lots — which are still devoted to the public use for which they were expropriated — but only to demand the fair market value of the same. "Said relief may be granted under plaintiffs' prayer for: 'such other remedies, which may be deemed just and equitable under the premises.'" The Court proceeded to reiterate its pronouncement *in Alfonso vs. Pasay City* where the recovery of possession of property taken for public use prayed for by the unpaid landowner was denied even while no requisite expropriation proceedings were first instituted. The landowner was merely given the relief of recovering compensation for his property computed at its market value at the time it was taken and appropriated by the State.

7. **ID.; ID.; ID.; JUDGMENT THEREIN PROVIDES NOT ONLY FOR PAYMENT OF JUST COMPENSATION BUT LIKEWISE ADJUDGES THE PROPERTY CONDEMNED IN FAVOR OF CONDEMNOR.**— The judgment rendered by the Bulacan RTC in 1979 on the expropriation proceedings provides not only for the payment of just compensation to herein respondents but likewise adjudges the property condemned in favor of petitioner over which parties, as well as their privies, are bound. Petitioner has occupied, utilized and, for all intents and purposes, exercised dominion over the property pursuant to the judgment. The exercise of such rights vested to it as the condemnee indeed has amounted to at least a partial compliance or satisfaction of the 1979 judgment, thereby preempting any claim of bar by prescription on grounds of non-execution.

8. **ID.; ID.; ID.; AN *IN REM* PROCEEDING; CONDEMNATION ACTS UPON THE PROPERTY.**— In arguing for the return of their property on the basis of non-payment, respondents ignore the fact that the right of the expropriatory authority is far from that of an unpaid seller in ordinary sales, to which the remedy of rescission might perhaps apply. An *in rem* proceeding, condemnation acts upon the property. After condemnation, the paramount title is in the public under a new and independent title; thus, by giving notice to all claimants to a disputed title, condemnation proceedings provide a judicial process for

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securing better title against all the world than may be obtained by voluntary conveyance.

9. **ID.; ID.; ID.; ID.; JUST COMPENSATION; IF PROPERTY IS TAKEN BEFORE COMPENSATION IS DEPOSITED WITH THE COURT, THE FINAL COMPENSATION MUST INCLUDE INTEREST ON ITS JUST VALUE COMPUTED FROM TIME OF TAKING TO THE TIME OF ACTUAL PAYMENT.**— 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, it 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 interests 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 interests 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.

10. **ID.; ID.; ID.; ID.; ID.; IMPOSITION OF 12% INTEREST ON ZONAL VALUE OF PROPERTY FROM THE TIME OF TAKING TO TIME OF PAYMENT, PROPER IN CASE AT BAR.**— The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time. Article 1250 of the Civil Code, providing that, in case of extraordinary inflation or deflation, the value of the currency at the time of the establishment of the obligation shall be the basis for the payment when no agreement to the contrary is stipulated, has strict application only to contractual obligations. In other words, a contractual

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agreement is needed for the effects of extraordinary inflation to be taken into account to alter the value of the currency.

11. ID.; LACHES; RULE APPLICABLE AGAINST RESPONDENTS IN CASE AT BAR.— Respondents, in arguing laches against petitioner did not take into account that the same argument could likewise apply against them. Respondents first instituted proceedings for payment against petitioner on 09 May 1984, or five years after the 1979 judgment had become final. The unusually long delay in bringing the action to compel payment against herein petitioner would militate against them. Consistently with the rule that one should take good care of his own concern, respondents should have commenced the proper action upon the finality of the judgment which, indeed, resulted in a permanent deprivation of their ownership and possession of the property.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Pantaleon Law Office for private respondents.

D E C I S I O N

VITUG, *J.*:

Petitioner instituted expropriation proceedings on 19 September 1969 before the Regional Trial Court ("RTC") of Bulacan, docketed Civil Cases No. 3839-M, No. 3840-M, No. 3841-M and No. 3842-M, covering a total of 544,980 square meters of contiguous land situated along MacArthur Highway, Malolos, Bulacan, to be utilized for the continued broadcast operation and use of radio transmitter facilities for the "Voice of the Philippines" project. Petitioner, through the Philippine Information Agency ("PIA"), took over the premises after the previous lessee, the "Voice of America," had ceased its operations thereat. Petitioner made a deposit of ₱517,558.80, the sum provisionally fixed as being the reasonable value of the property. On 26 February 1979, or more than nine years after the institution of the expropriation proceedings, the trial court issued this order—

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"WHEREFORE, premises considered, judgment is hereby rendered:

"Condemning the properties of the defendants in Civil Cases Nos. 3839-M to 3842-M located at KM 43, MacArthur Highway, Malolos, Bulacan and covered by several transfer certificates of title appearing in the Commissioners' Appraisal Report consisting of the total area of 544,980 square meters, as indicated in plan, Exhibit A, for plaintiff, also marked as Exhibit I for the defendants, and as Appendix 'A' attached to the Commissioners' Appraisal Report, for the purpose stated by the plaintiff in its complaint;

"Ordering the plaintiff to pay the defendants the just compensation for said property which is the fair market value of the land condemned, computed at the rate of six pesos (₱6.00) per square meter, with legal rate of interest from September 19, 1969, until fully paid; and

"Ordering the plaintiff to pay the costs of suit, which includes the aforesaid fees of commissioners, Atty. Victorino P. Evangelista and Mr. Pablo Domingo."[1]

The bone of contention in the instant controversy is the 76,589-square meter property previously owned by Luis Santos, predecessor-in-interest of herein respondents, which forms part of the expropriated area.

It would appear that the national government failed to pay to herein respondents the compensation pursuant to the foregoing decision, such that a little over five years later, or on 09 May 1984, respondents filed a manifestation with a motion seeking payment for the expropriated property. On 07 June 1984, the Bulacan RTC, after ascertaining that the heirs remained unpaid in the sum of ₱1,058,655.05, issued a writ of execution served on the plaintiff, through the Office of the Solicitor General, for the implementation thereof. When the order was not complied with, respondents again filed a motion urging the trial court to direct the provincial treasurer of Bulacan to release to them the amount of ₱72,683.55, a portion of the sum deposited by petitioner at the inception of the expropriation proceedings in 1969, corresponding to their share of the deposit. The trial court, in its order of 10 July 1984, granted the motion.

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[1] *Rollo*, p. 66.

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In the meantime, President Joseph Ejercito Estrada issued Proclamation No. 22,[2] transferring 20 hectares of the expropriated property to the Bulacan State University for the expansion of its facilities and another 5 hectares to be used exclusively for the propagation of the Philippine carabao. The remaining portion was retained by the PIA. This fact notwithstanding, and despite the 1984 court order, the Santos heirs remained unpaid, and no action was taken on their case until 16 September 1999 when petitioner filed its manifestation and motion to permit the deposit in court of the amount of ₱4,664,000.00 by way of just compensation for the expropriated property of the late Luis Santos subject to such final computation as might be approved by the court. This time, the Santos heirs, opposing the manifestation and motion, submitted a counter-motion to adjust the compensation from ₱6.00 per square meter previously fixed in the 1979 decision to its current zonal valuation pegged at ₱5,000.00 per square meter or, in the alternative, to cause the return to them of the expropriated property. On 01 March 2000, the Bulacan RTC ruled in favor of respondents and issued the assailed order, vacating its decision of 26 February 1979 and declaring it to be unenforceable on the ground of prescription —

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[2] The Dispositive Portion of Proclamation No. 22, entitled "TRANSFERRING OWNERSHIP OF A PORTION OF THE PROPERTY OF THE PHILIPPINE INFORMATION AGENCY TO THE BULACAN STATE UNIVERSITY," reads:

> NOW, THEREFORE, I, JOSEPH EJERCITO ESTRADA, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby transfer to the Bulacan State University, twenty (20) hectares of the property mentioned above, and another five (5) hectares for the exclusive use of the propagation of the Philippine carabao, adjacent to the university campus, located in Malolos, Bulacan. The remaining portions of the property fronting the national highway shall be retained by the Philippine Information Agency for its proposed development plan, including offices of the PIA Regional Office, the Bulacan Provincial Information Center, the training center and the depository of equipment and other properties of PIA.

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"WHEREFORE, premises considered, the court hereby:

"1) declares the decision rendered by this Court on February 26, 1979 no longer enforceable, execution of the same by either a motion or an independent action having already prescribed in accordance with Section 6, Rule 39 of both the 1964 Revised Rules of Court and the 1997 Rules of Civil Procedure;

"2) denies the plaintiff's Manifestation and Motion to Permit Plaintiff to Deposit in Court Payment for Expropriated Properties dated September 16, 1999 for the reason stated in the next preceding paragraph hereof; and

"3) orders the return of the expropriated property of the late defendant Luis Santos to his heirs conformably with the ruling of the Supreme Court in *Government of Sorsogon vs. Vda. De Villaroya*, 153 SCRA 291, without prejudice to any case which the parties may deem appropriate to institute in relation with the amount already paid to herein oppositors and the purported transfer of a portion of the said realty to the Bulacan State University pursuant to Proclamation No. 22 issued by President Joseph Ejercito."[3]

Petitioner brought the matter up to the Court of Appeals but the petition was outrightly denied. It would appear that the denial was based on Section 4, Rule 65, of the 1997 Rules of Civil Procedure which provided that the filing of a motion for reconsideration in due time after filing of the judgment, order or resolution interrupted the running of the sixty-day period within which to file a petition for *certiorari*; and that if a motion for reconsideration was denied, the aggrieved party could file the petition only within the remaining period, but which should not be less than five days in any event, reckoned from the notice of such denial. The reglementary period, however, was later modified by A.M. No. 00-2-03 S.C., now reading thusly:

"Sec. 4. *When and where petition filed.* — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion."

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[3] *Rollo*, pp. 76-77.

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The amendatory provision, being curative in nature, should be made applicable to all cases still pending with the courts at the time of its effectivity.

In *Narzoles vs. NLRC,*[4] the Court has said:

"The Court has observed that Circular No. 39-98 has generated tremendous confusion resulting in the dismissal of numerous cases for late filing. This may have been because, historically, *i.e.*, even before the 1997 revision to the Rules of Civil Procedure, a party had a fresh period from receipt of the order denying the motion for reconsideration to file a petition for *certiorari*. Were it not for the amendments brought about by Circular No. 39-98, the cases so dismissed would have been resolved on the merits. Hence, the Court deemed it wise to revert to the old rule allowing a party a fresh 60-day period from notice of the denial of the motion for reconsideration to file a petition for *certiorari*. x x x

"The latest amendments took effect on September 1, 2000, following its publication in the Manila Bulletin on August 4, 2000 and in the Philippine Daily Inquirer on August 7, 2000, two newspapers of general circulation.

"In view of its purpose, the Resolution further amending Section 4, Rule 65, can only be described as curative in nature, and the principles governing curative statutes are applicable.

"Curative statutes are enacted to cure defects in a prior law or to validate legal proceedings which would otherwise be void for want of conformity with certain legal requirements. (*Erectors, Inc. vs. National Labor Relations Commission,* 256 SCRA 629 [1996].) They are intended to supply defects, abridge superfluities and curb certain evils. They are intended to enable persons to carry into effect that which they have designed or intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute was invalid. Their purpose is to give validity to acts

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[4] 341 SCRA 533. See also *PCGG vs. Desierto*, 28 December 2001, G.R. No. 140358; *PCGG vs. Desierto*, 19 January 2001, G.R. No. 140323; *Medina Investigation vs. Court of Appeals,* 20 March 2001, G.R. No. 144074; *Pfizer vs. Galan,* 25 May 2001, G.R. No. 143389; *Santos vs. Court of Appeals,* 05 July 2001, G.R. No. 141947.

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done that would have been invalid under existing laws, as if existing laws have been complied with. (*Batong Buhay Gold Mines, Inc. vs. Dela Serna*, 312 SCRA 22 [1999].) Curative statutes, therefore, by their very essence, are retroactive. (*Municipality of San Narciso, Quezon vs. Mendez, Sr.*, 239 SCRA 11 [1994].)"[5]

At all events, petitioner has a valid point in emphasizing the "public nature" of the expropriated property. The petition being imbued with public interest, the Court has resolved to give it due course and to decide the case on its merits.

Assailing the finding of prescription by the trial court, petitioner here posited that a motion which respondents had filed on 17 February 1984, followed up by other motions subsequent thereto, was made within the reglementary period that thereby interrupted the 5-year prescriptive period within which to enforce the 1979 judgment. Furthermore, petitioner claimed, the receipt by respondents of partial compensation in the sum of ₱72,683.55 on 23 July 1984 constituted partial compliance on the part of petitioners and effectively estopped respondents from invoking prescription expressed in Section 6, Rule 39, of the Rules of Court.[6]

In opposing the petition, respondents advanced the view that pursuant to Section 6, Rule 39, of the Rules of Court, the failure of petitioner to execute the judgment, dated 26 February 1979, within five years after it had become final and executory, rendered it unenforceable by mere motion. The motion for payment, dated 09 May 1984, as well as the subsequent disbursement to them of the sum of ₱72,683.55 by the provincial treasurer of Bulacan, could not be considered as having interrupted the five-year period, since a motion, to be considered otherwise,

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[5] At pp. 537-538.

[6] Section 6, Rule 39 of the Rules of Court provides:

Execution by motion or by independent action. A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the Statute of Limitations, a judgment may be enforced by action.

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should instead be made by the prevailing party, in this case by petitioner. Respondents maintained that the ₱72,683.55 paid to them by the provincial treasurer of Bulacan pursuant to the 1984 order of the trial court was part of the initial deposit made by petitioner when it first entered possession of the property in 1969 and should not be so regarded as a partial payment. Respondents further questioned the right of PIA to transfer ownership of a portion of the property to the Bulacan State University even while the just compensation due the heirs had yet to be finally settled.

The right of eminent domain is usually understood to be an ultimate right of the sovereign power to appropriate any property within its territorial sovereignty for a public purpose.[7] Fundamental to the independent existence of a State, it requires no recognition by the Constitution, whose provisions are taken as being merely confirmatory of its presence and as being regulatory, at most, in the due exercise of the power. In the hands of the legislature, the power is inherent, its scope matching that of taxation, even that of police power itself, in many respects. It reaches to every form of property the State needs for public use and, as an old case so puts it, all separate interests of individuals in property are held under a tacit agreement or implied reservation vesting upon the sovereign the right to resume the possession of the property whenever the public interest so requires it.[8]

The ubiquitous character of eminent domain is manifest in the nature of the expropriation proceedings. Expropriation proceedings are not adversarial in the conventional sense, for the condemning authority is not required to assert any conflicting interest in the property. Thus, by filing the action, the condemnor in effect merely serves notice that it is taking title and possession of the property, and the defendant asserts title or interest in

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[7] Bernas, 1987 Edition, p. 276, quoting Justice Story in *Charles River Bridge vs. Warren Bridge.*

[8] *US vs. Certain Lands in Highlands (DY NY)* 48 F Supp 306.

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the property, not to prove a right to possession, but to prove a right to compensation for the taking.[9]

Obviously, however, the power is not without its limits: *first*, the taking must be for public use, and *second*, that just compensation must be given to the private owner of the property.[10] These twin proscriptions have their origin in the recognition of the necessity for achieving balance between the State interests, on the one hand, and private rights, upon the other hand, by effectively restraining the former and affording protection to the latter.[11] In determining "public use," two approaches are utilized — the *first* is public employment or the actual use by the public, and the *second* is public advantage or benefit.[12] It is also useful to view the matter as being subject to constant growth, which is to say that as society advances, its demands upon the individual so increases, and each demand is a new use to which the resources of the individual may be devoted.[13]

The expropriated property has been shown to be for the continued utilization by the PIA, a significant portion thereof being ceded for the expansion of the facilities of the Bulacan State University and for the propagation of the Philippine carabao, themselves in line with the requirements of public purpose. Respondents question the public nature of the utilization by petitioner of the condemned property, pointing out that its present use differs from the purpose originally contemplated in the 1969 expropriation proceedings. The argument is of no moment. The property has assumed a public character upon its expropriation.

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[9] *US vs. Certain Lands in Highlands (DY NY)* 48 F Supp 306; *San Bernardino Valley Municipal Water District vs. Gage Canal Co. (4th Dist)* 226 Cal App 2d 206, 37 Cal Rptr 856.

[10] *Seña vs. Manila Railroad Co.*, 42 Phil. 102.

[11] *Visayan Refining Co. vs. Camus*, 40 Phil 550.

[12] *Thornton Development Authority vs. Upah (DC Colo)* 640 F Supp 1071.

[13] *Visayan Refining, supra.*

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Surely, petitioner, as the condemnor and as the owner of the property, is well within its rights to alter and decide the use of that property, the only limitation being that it be for public use, which, decidedly, it is.

In insisting on the return of the expropriated property, respondents would exhort on the pronouncement in *Provincial Government of Sorsogon vs. Vda. de Villaroya*[14] where the unpaid landowners were allowed the alternative remedy of recovery of the property there in question. It might be borne in mind that the case involved the municipal government of Sorsogon, to which the power of eminent domain is not inherent, but merely delegated and of limited application. The grant of the power of eminent domain to local governments under Republic Act No. 7160[15] cannot be understood as being the pervasive and all-encompassing power vested in the legislative branch of government. For local governments to be able to wield the power, it must, by enabling law, be delegated to it by the national legislature, but even then, this delegated power of eminent domain is not, strictly speaking, a power of eminent, but only of inferior, domain or only as broad or confined as the real authority would want it to be.[16]

Thus, in *Valdehueza vs. Republic*[17] where the private landowners had remained unpaid ten years after the termination of the expropriation proceedings, this Court ruled —

"The points in dispute are whether such payment can still be made and, if so, in what amount. Said lots have been the subject of expropriation proceedings. By final and executory judgment in said proceedings, they were condemned for public use, as part of an airport, and ordered sold to the government. x x x It follows that both by virtue of the judgment, long final, in the expropriation suit, as well

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[14] 153 SCRA 291.

[15] See Local Government Code of 1991.

[16] *City of Manila vs. Chinese Community of Manila*, 40 Phil. 349.

[17] 17 SCRA 107.

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as the annotations upon their title certificates, plaintiffs are not entitled to recover possession of their expropriated lots — which are still devoted to the public use for which they were expropriated — but only to demand the fair market value of the same.

"Said relief may be granted under plaintiffs' prayer for: 'such other remedies, which may be deemed just and equitable under the premises.'"[18]

The Court proceeded to reiterate its pronouncement in *Alfonso vs. Pasay City*[19] where the recovery of possession of property taken for public use prayed for by the unpaid landowner was denied even while no requisite expropriation proceedings were first instituted. The landowner was merely given the relief of recovering compensation for his property computed at its market value at the time it was taken and appropriated by the State.

The judgment rendered by the Bulacan RTC in 1979 on the expropriation proceedings provides not only for the payment of just compensation to herein respondents but likewise adjudges the property condemned in favor of petitioner over which parties, as well as their privies, are bound.[20] Petitioner has occupied, utilized and, for all intents and purposes, exercised dominion over the property pursuant to the judgment. The exercise of such rights vested to it as the condemnee indeed has amounted to at least a partial compliance or satisfaction of the 1979 judgment, thereby preempting any claim of bar by prescription on grounds of non-execution. In arguing for the return of their property on the basis of non-payment, respondents ignore the fact that the right of the expropriatory authority is far from that of an unpaid seller in ordinary sales, to which the remedy of rescission might perhaps apply. An *in rem* proceeding, condemnation acts upon the property.[21] After condemnation,

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[18] At p. 112.

[19] 106 Phil. 1017.

[20] *Mines vs. Canal Authority of the State (Fla)* 467 So2d 989, 10 FLW 230.

[21] *Cadorette vs. US CCA (Mass)* 988 F2d 215.

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the paramount title is in the public under a new and independent title;[22] thus, by giving notice to all claimants to a disputed title, condemnation proceedings provide a judicial process for securing better title against all the world than may be obtained by voluntary conveyance.[23]

Respondents, in arguing laches against petitioner did not take into account that the same argument could likewise apply against them. Respondents first instituted proceedings for payment against petitioner on 09 May 1984, or five years after the 1979 judgment had become final. The unusually long delay in bringing the action to compel payment against herein petitioner would militate against them. Consistently with the rule that one should take good care of his own concern, respondents should have commenced the proper action upon the finality of the judgment which, indeed, resulted in a permanent deprivation of their ownership and possession of the property.[24]

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, it fixed at the time of the actual taking by the government.[25] 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 interests 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.[26] In fine, between the taking of the property and the actual payment, legal interests

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[22] *Ibid.*

[23] *Ibid.*

[24] 17 SCRA 107, *supra.*

[25] *Manila Railway Co. vs. Fabie*, 17 Phil. 206.

[26] *Philippine Railway Co. vs. Solon*, 13 Phil. 34.

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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.[27]

The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum[28] should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time.[29] Article 1250 of the Civil Code, providing that, in case of extraordinary inflation or deflation, the value of the currency at the time of the establishment of the obligation shall be the basis for the payment when no agreement to the contrary is stipulated, has strict application only to contractual obligations.[30] In other words, a contractual agreement is needed for the effects of extraordinary inflation to be taken into account to alter the value of the currency.[31]

All given, the trial court of Bulacan in issuing its order, dated 01 March 2000, vacating its decision of 26 February 1979 has acted beyond its lawful cognizance, the only authority left to it being to order its execution. Verily, private respondents, although not entitled to the return of the expropriated property, deserve to be paid promptly on the yet unpaid award of just compensation already fixed by final judgment of the Bulacan RTC on 26 February 1979 at ₱6.00 per square meter, with legal interest thereon at 12% *per annum* computed from the

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[27] *Commissioner of Public Highways vs. Burgos*, 96 SCRA 831.

[28] *Eastern Shipping Lines, Inc. vs. Court of Appeals*, 234 SCRA 78.

[29] *US vs. Klamath and Moadoc Tribes*, 304 US 119, 82 L Ed 1219, 58 S Ct 799.

[30] *Commissioner of Public Highways vs. Burgos, supra.*

[31] *Ibid.*

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date of "taking" of the property, *i.e.*, 19 September 1969, until the due amount shall have been fully paid.

WHEREFORE, the petition is GRANTED. The resolution, dated 31 July 2000, of the Court of Appeals dismissing the petition for *certiorari*, as well as its resolution of 04 January 2001 denying the motion for reconsideration, and the decision of the Regional Trial Court of Bulacan, dated 01 March 2000, are SET ASIDE. Let the case be forthwith remanded to the Regional Trial Court of Bulacan for the proper execution of its decision promulgated on 26 February 1979 which is hereby REINSTATED. No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, Ynares-Santiago, and *Austria-Martinez, JJ.,* concur.

THIRD DIVISION

[G.R. No. 146845. July 2, 2002]

SPOUSES MICHAELANGELO and GRACE MESINA, *petitioners, vs.* **HUMBERTO D. MEER,** *respondent.*

SYNOPSIS

Respondent, registered owner of a parcel of land covered by TCT No. 158886, discovered that his certificate of title had been cancelled and a new one, TCT No. 166074, was issued in the name of spouses Sergio and Lerma Bunquin. The latter acquired said property by virtue of a deed of sale purportedly executed by respondent in their favor. Hence, the respondent sought the cancellation of TCT No. 166074 with the Metropolitan Trial Court of Manila. A notice of *lis pendens* was annotated at the back of TCT No. 166074. While the case was pending,