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SECOND DIVISION

[G.R. No. 185124. January 25, 2012]

REPUBLIC OF THE PHILIPPINES, represented by the NATIONAL IRRIGATION ADMINISTRATION (NIA), *petitioner, vs.* **RURAL BANK OF KABACAN, INC., LITTIE SARAH A. AGDEPPA, LEOSA NANETTE AGDEPPA and MARCELINO VIERNES, MARGARITA TABOADA, PORTIA CHARISMA RUTH ORTIZ, represented by LINA ERLINDA A. ORTIZ and MARIO ORTIZ, JUAN MAMAC and GLORIA MATAS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF THE COURT OF APPEALS; GENERALLY BINDING UPON THE SUPREME COURT; EXCEPTIONS. — [F]actual findings of the CA are generally binding on this Court. The rule admits of exceptions, though, such as when the factual findings of the appellate court and the trial court are contradictory, or when the findings are not supported by the evidence on record.

2. ID.; SPECIAL CIVIL ACTIONS; EXPROPRIATION; PAYMENT OF JUST COMPENSATION DOES NOT INCLUDE THE VALUE OF EXCAVATED SOIL. — We also uphold the CA ruling, which deleted the inclusion of the value of the excavated soil in the payment for just compensation. There is no legal basis to separate the value of the excavated soil from that of the expropriated properties, contrary to what the trial court did. In the context of expropriation proceedings, the soil has no value separate from that of the expropriated land. Just compensation ordinarily refers to the value of the land to compensate for what the owner actually loses. Such value could only be that which prevailed at the time of the taking.

3. ID.; ID.; ID.; TRIAL COURTS ARE REQUIRED TO BE MORE CIRCUMSPECT IN THEIR EVALUATION OF JUST COMPENSATION TO BE AWARDED TO THE OWNER OF THE EXPROPRIATED PROPERTY; RATIONALE. —

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> It should be noted that eminent domain cases involve the expenditure of public funds. In this kind of proceeding, we require trial courts to be more circumspect in their evaluation of the just compensation to be awarded to the owner of the expropriated property. Thus, it was imprudent for the appellate court to rely on the Rural Bank of Kabacan's mere declaration of non-ownership and non-participation in the expropriation proceeding to validate defendants-intervenors' claim of entitlement to that payment. The law imposes certain legal requirements in order for a conveyance of real property to be valid. It should be noted that Lot No. 3080 is a registered parcel of land covered by TCT No. T-61963. In order for the reconveyance of real property to be valid, the conveyance must be embodied in a public document and registered in the office of the Register of Deeds where the property is situated. x x x The trial court should have nevertheless required the rural bank and the defendants-intervenors to show proof or evidence pertaining to the conveyance of the subject lot. The court cannot rely on mere inference, considering that the payment of just compensation is intended to be awarded solely to the owner based on the latter's proof of ownership. The trial court should have been guided by Rule 67, Section 9 of the 1997 Rules of Court.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Littie Sarah A. Agdeppa for Leosa Nanette Agdeppa, *et al.*

D E C I S I O N

SERENO, *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking the reversal of the 12 August 2008 Court of Appeals (CA) Decision and 22 October 2008 Resolution in CA-G.R. CV No. 65196.

The assailed issuances affirmed with modification the 31 August 1999 "Judgment" promulgated by the Regional Trial Court (RTC), Branch 22, Judicial Region, Kabacan, Cotabato. The RTC had

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fixed the just compensation for the value of the land and improvements thereon that were expropriated by petitioner, but excluded the value of the excavated soil. Petitioner Republic of the Philippines is represented in this case by the National Irrigation Authority (NIA).

The Facts

NIA is a government-owned-and-controlled corporation created under Republic Act No. (R.A.) 3601 on 22 June 1963. It is primarily responsible for irrigation development and management in the country. Its charter was amended by Presidential Decree (P.D.) 552 on 11 September 1974 and P.D. 1702 on 17 July 1980. To carry out its purpose, NIA was specifically authorized under P.D. 552 to exercise the power of eminent domain.[1]

NIA needed some parcels of land for the purpose of constructing the Malitubog-Marigadao Irrigation Project. On 08 September 1994, it filed with the RTC of Kabacan, Cotabato a Complaint for the expropriation of a portion of three (3) parcels of land covering a total of 14,497.91 square meters.[2] The case was docketed as Special Civil Case No. 61 and was assigned to RTC-Branch 22. The affected parcels of land were the following:

1) Lot No. 3080 – covered by Transfer Certificate of Title (TCT) No. T-61963 and registered under the Rural Bank of Kabacan

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[1] Presidential Decree No. 552 - Amending Certain Sections of Republic Act Numbered Thirty-Six Hundred and One, Entitled, "An Act Creating the National Irrigation Administration"

SECTION 1. Section 2, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

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(e) To acquire, by any mode of acquisition, real and personal properties, and all appurtenant rights, easements, concessions and privileges, whether the same are already devoted to private or public use in connection with the development of projects by the NIA;

The National Irrigation Administration is empowered to exercise the right of eminent domain in the manner provided by law for the institution of expropriation proceedings.

[2] *Rollo*, p. 67.

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2) Lot No. 455 – covered by TCT No. T-74516 and registered under the names of RG May, Ronald and Rolando, all surnamed Lao

3) Lot No. 3039 – registered under the name of Littie Sarah Agdeppa[3]

On 11 July 1995, NIA filed an Amended Complaint to include Leosa Nanette A. Agdeppa and Marcelino Viernes as registered owners of Lot No. 3039.[4]

On 25 September 1995, NIA filed a Second Amended Complaint to allege properly the area sought to be expropriated, the exact address of the expropriated properties and the owners thereof. NIA further prayed that it be authorized to take immediate possession of the properties after depositing with the Philippine National Bank the amount of ₱19,246.58 representing the provisional value thereof.[5]

On 31 October 1995, respondents filed their Answer with Affirmative and Special Defenses and Counterclaim.[6] They alleged, *inter alia*, that NIA had no authority to expropriate portions of their land, because it was not a sovereign political entity; that it was not necessary to expropriate their properties, because there was an abandoned government property adjacent to theirs, where the project could pass through; that Lot No. 3080 was no longer owned by the Rural Bank of Kabacan; that NIA's valuation of their expropriated properties was inaccurate because of the improvements on the land that should have placed its value at ₱5 million; and that NIA never negotiated with the landowners before taking their properties for the project, causing permanent and irreparable damages to their properties valued at ₱250,000.[7]

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[3] *Rollo*, p. 50.

[4] *Id.* at 72-74.

[5] *Id.* at 83.

[6] *Id.* at 86.

[7] *Id.* at 88-98.

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On 11 September 1996, the RTC issued an Order forming a committee tasked to determine the fair market value of the expropriated properties to establish the just compensation to be paid to the owners. The committee was composed of the Clerk of Court of RTC Branch 22 as chairperson and two (2) members of the parties to the case.[8]

On 20 September 1996, in response to the expropriation Complaint, respondents-intervenors Margarita Tabaoda, Portia Charisma Ruth Ortiz, Lina Erlinda Ortiz, Mario Ortiz, Juan Mamac and Gloria Matas filed their Answer-in-Intervention with Affirmative and Special Defenses and Counter-Claim. They essentially adopted the allegations in the Answer of the other respondents and pointed out that Margarita Tabaoda and Portia Charisma Ruth Ortiz were the new owners of Lot No. 3080, which the two acquired from the Rural Bank of Kabacan. They further alleged that the four other respondents-intervenors were joint tenants-cultivators of Lot Nos. 3080 and 3039.[9]

On 10 October 1996, the lower court issued an Order stating it would issue a writ of possession in favor of NIA upon the determination of the fair market value of the properties, subject of the expropriation proceedings.[10] The lower court later amended its ruling and, on 21 October 1996, issued a Writ of Possession in favor of NIA.[11]

On 15 October 1996, the committee submitted a Commissioners' Report[12] to the RTC stating the following observations:

In the process of ocular inspection, the following were jointly observed:

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[8] *Id.* at 104.

[9] *Id.* at 52.

[10] *Id.*

[11] *Id.* at 53.

[12] *Id.* at 102-103. The Commission was composed of Atty. Hermenegildo Marasigan, Branch Clerk of Court, RTC-Br. 22 of Kabacan, Cotabato as chairperson; and members Atty. Littie Sarah Agdeppa (respondent) for the landowners and Engr. Abdulasis Mabang for NIA (petitioner).

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1) The area that was already occupied is 6x200 meters which is equivalent to 1,200 square meters;

2) The area which is to be occupied is 18,930 square meters, more or less;

3) That the area to be occupied is fully planted by gmelina trees with a spacing of 1x1 meters;

4) That the gmelina tress found in the area already occupied and used for [the] road is planted with gmelina with spacing of 2x2 and more or less one (1) year old;

5) That the gmelina trees found in the area to be occupied are already four (4) years old;

6) That the number of banana clumps (is) two hundred twenty (220);

7) That the number of coco trees found (is) fifteen (15).[13]

The report, however, stated that the committee members could not agree on the market value of the subject properties and recommended the appointment of new independent commissioners to replace the ones coming from the parties only.[14] On 22 October 1996, the RTC issued an Order[15] revoking the appointments of Atty. Agdeppa and Engr. Mabang as members of the committee and, in their stead, appointed Renato Sambrano, Assistant Provincial Assessor of the Province of Cotabato; and Jack Tumacmol, Division Chief of the Land Bank of the Philippines–Kidapawan Branch.[16]

On 25 November 1996, the new committee submitted its Commissioners' Report to the lower court. The committee had agreed that the fair market value of the land to be expropriated should be ₱65 per square meter based on the zonal valuation of the Bureau of Internal Revenue (BIR). As regards the improvement

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[13] *Rollo*, p. 103.

[14] *Id.*

[15] *Id.* at 177.

[16] *Id.* at 54.

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on the properties, the report recommended the following compensation:

a. ₱200 for each gmelina tree that are more than four (4) years old

b. ₱150 for each gmelina tree that are more than one (1) year old

c. ₱164 for each coco tree

d. ₱270 for each banana clump[17]

On 03 December 1997, the committee submitted to the RTC another report, which had adopted the first Committee Report, as well as the former's 25 November 1996 report. However, the committee added to its computation the value of the earthfill excavated from portions of Lot Nos. 3039 and 3080.[18] Petitioner objected to the inclusion of the value of the excavated soil in the computation of the value of the land.[19]

The Ruling of the Trial Court

On 31 August 1999, the RTC promulgated its "Judgment,"[20] the dispositive portion of which reads:

WHEREFORE, IN VIEW of all the foregoing considerations, the court finds and so holds that the commissioners have arrived at and were able to determine the fair market value of the properties. The court adopts their findings, and orders:

1. That 18,930 square meters of the lands owned by the defendants is hereby expropriated in favor of the Republic of the Philippines through the National Irrigation Administration;

2. That the NIA shall pay to the defendants the amount of ₱1,230,450 for the 18,930 square meters expropriated in proportion to the areas so expropriated;

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[17] *Id.* at 105-106.

[18] *Id.* at 107-108.

[19] *Id.* at 17.

[20] *Id.* at 109.

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3. That the NIA shall pay to the defendant-intervenors, owners of Lot No. 3080, the sum of ₱5,128,375.50, representing removed earthfill;

4. That the NIA shall pay to the defendants, owners of Lot No. 3039, the sum of ₱1,929,611.30 representing earthfill;

5. To pay to the defendants the sum of ₱60,000 for the destroyed G-melina trees (1 year old);

6. To pay to the defendants the sum of ₱3,786,000.00 for the 4-year old G-melina trees;

7. That NIA shall pay to the defendants the sum of ₱2,460.00 for the coconut trees;

8. That all payments intended for the defendant Rural Bank of Kabacan shall be given to the defendants and intervenors who have already acquired ownership over the land titled in the name of the Bank.[21]

NIA, through the Office of the Solicitor General (OSG), appealed the Decision of the RTC to the CA, which docketed the case as CA-G.R. CV No. 65196. NIA assailed the trial court's adoption of the Commissioners' Report, which had determined the just compensation to be awarded to the owners of the lands expropriated. NIA also impugned as error the RTC's inclusion for compensation of the excavated soil from the expropriated properties. Finally, it disputed the trial court's Order to deliver the payment intended for the Rural Bank of Kabacan to defendants-intervenors, who allegedly acquired ownership of the land still titled in the name of the said rural bank.[22]

The Ruling of the Court of Appeals

On 12 August 2008, the CA through its Twenty-First (21st) Division, promulgated a Decision[23] affirming with modification

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[21] *Id.* at 114-115.

[22] *Rollo*, p. 56.

[23] CA Decision in CA-G.R. CV No. 65196 dated 12 August 2008, penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Romulo V. Borja and Mario V. Lopez.

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the RTC Decision. It ruled that the committee tasked to determine the fair market value of the properties and improvements for the purpose of arriving at the just compensation, properly performed its function. The appellate court noted that the committee members had conducted ocular inspections of the area surrounding the expropriated properties and made their recommendations based on official documents from the BIR with regard to the zonal valuations of the affected properties.[24] The CA observed that, as far as the valuation of the improvements on the properties was concerned, the committee members took into consideration the provincial assessor's appraisal of the age of the trees, their productivity and the inputs made.[25] The appellate court further noted that despite the Manifestation of NIA that it be allowed to present evidence to rebut the recommendation of the committee on the valuations of the expropriated properties, NIA failed to do so.[26]

The assailed CA Decision, however, deleted the inclusion of the value of the soil excavated from the properties in the just compensation. It ruled that the property owner was entitled to compensation only for the value of the property at the time of the taking.[27] In the construction of irrigation projects, excavations are necessary to build the canals, and the excavated soil cannot be valued separately from the land expropriated. Thus, it concluded that NIA, as the new owner of the affected properties, had the right to enjoy and make use of the property, including the excavated soil, pursuant to the latter's objectives.[28]

Finally, the CA affirmed the trial court's ruling that recognized defendants-intervenors Margarita Tabaoda and Portia Charisma Ruth Ortiz as the new owners of Lot No. 3080 and held that they were thus entitled to just compensation. The appellate court based its conclusion on the non-participation by the Rural Bank

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[24] *Rollo*, p. 58.

[25] *Id.* at 59.

[26] *Id.*

[27] *Id.* at 61.

[28] *Id.* at 62.

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of Kabacan in the expropriation proceedings and the latter's Manifestation that it no longer owned Lot No. 3080.[29]

On 11 September 2008, the NIA through the OSG filed a Motion for Reconsideration of the 12 August 2008 Decision, but that motion was denied.[30]

Aggrieved by the appellate court's Decision, NIA now comes to this Court via a Petition for Review on *Certiorari* under Rule 45.

The Issues

The following are the issues proffered by petitioner:

THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE TRIAL COURT'S FINDING OF JUST COMPENSATION OF THE LAND AND THE IMPROVEMENTS THEREON BASED ON THE REPORT OF THE COMMISSIONERS.

THE COURT OF APPEALS ERRED IN RULING THAT THE PAYMENT OF JUST COMPENSATION FOR LOT NO. 3080 SHOULD BE MADE TO RESPONDENTS MARGARITA TABOADA AND PORTIA CHARISMA RUTH ORTIZ.[31]

The Court's Ruling

On the first issue, the Petition is not meritorious.

In expropriation proceedings, 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.[32] The

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[29] *Id.*

[30] *Id.* at 64-65.

[31] *Rollo*, p. 20.

[32] *National Power Corporation v. Teresita Diato-Bernal*, G.R. No. 180979, 15 December 2010, 638 SCRA 660, citing *Republic v. Libunao*, 594 SCRA 363(2009).

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constitutional limitation of "just compensation" is considered to be a sum equivalent to the market value of the property, broadly defined as 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.[33]

In the instant case, we affirm the appellate court's ruling that the commissioners properly determined the just compensation to be awarded to the landowners whose properties were expropriated by petitioner.

The records show that the trial court dutifully followed the procedure under Rule 67 of the 1997 Rules of Civil Procedure when it formed a committee that was tasked to determine the just compensation for the expropriated properties. The first set of committee members made an ocular inspection of the properties, subject of the expropriation. They also determined the exact areas affected, as well as the kinds and the number of improvements on the properties.[34] When the members were unable to agree on the valuation of the land and the improvements thereon, the trial court selected another batch of disinterested members to carry out the task of determining the value of the land and the improvements.

The new committee members even made a second ocular inspection of the expropriated areas. They also obtained data from the BIR to determine the zonal valuation of the expropriated properties, interviewed the adjacent property owners, and considered other factors such as distance from the highway and the nearby town center.[35] Further, the committee members also considered Provincial Ordinance No. 173, which was promulgated by the Province of Cotabato on 15 June 1999, and which provide

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[33] OSWALDO D. AGCAOILI, *PROPERTY REGISTRATION DECREE AND RELATED LAWS (LAND TITLES AND DEEDS)* 581 (2000).

[34] *Rollo*, p. 58.

[35] *Id.*

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for the value of the properties and the improvements for taxation purposes.[36]

We can readily deduce from these established facts that the committee members endeavored a rigorous process to determine the just compensation to be awarded to the owners of the expropriated properties. We cannot, as petitioner would want us to, oversimplify the process undertaken by the committee in arriving at its recommendations, because these were not based on mere conjectures and unreliable data.

In *National Power Corporation v. Diato-Bernal*,[37] this Court emphasized that the "just"-ness of the compensation could only be attained by using reliable and actual data as bases for fixing the value of the condemned property. The reliable and actual data we referred to in that case were the sworn declarations of realtors in the area, as well as tax declarations and zonal valuation from the BIR. In disregarding the Committee Report assailed by the National Power Corporation in the said case, we ruled thus:

> It is evident that the above conclusions are highly speculative and devoid of any actual and reliable basis. First, the market values of the subject property's neighboring lots were mere estimates and unsupported by any corroborative documents, such as sworn declarations of realtors in the area concerned, tax declarations or zonal valuation from the Bureau of Internal Revenue for the contiguous residential dwellings and commercial establishments. The report also failed to elaborate on how and by how much the community centers and convenience facilities enhanced the value of respondent's property. Finally, the market sales data and price listings alluded to in the report were not even appended thereto.
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> As correctly invoked by NAPOCOR, a commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.
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> The trial court adopted the flawed findings of the commissioners hook, line, and sinker. It did not even bother to require the submission of the alleged "market sales data" and "price listings." Further, the

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[36] *Id.*

[37] *Supra* note 32.

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RTC overlooked the fact that the recommended just compensation was gauged as of September 10, 1999 or more than two years after the complaint was filed on January 8, 1997. It is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint. Clearly, the recommended just compensation in the commissioners' report is unacceptable.[38]

In the instant case, the committee members based their recommendations on reliable data and, as aptly noted by the appellate court, considered various factors that affected the value of the land and the improvements.[39]

Petitioner, however, strongly objects to the CA's affirmation of the trial court's adoption of Provincial Ordinance No. 173. The OSG, on behalf of petitioner, strongly argues that the recommendations of the committee formed by the trial court were inaccurate. The OSG contends that the ordinance reflects the 1999 market values of real properties in the Province of Cotabato, while the actual taking was made in 1996.[40]

We are not persuaded.

We note that petitioner had ample opportunity to rebut the testimonial, as well as documentary evidence presented by respondents when the case was still on trial. It failed to do so, however. The issue raised by petitioner was adequately addresses by the CA's assailed Decision in this wise:

A thorough scrutiny of the records reveals that the second set of Commissioners, with Atty. Marasigan still being the Chairperson and Mr. Zambrano and Mr. Tomacmol as members, was not arbitrary and capricious in performing the task assigned to them. We note that these Commissioners were competent and disinterested persons who were handpicked by the court *a quo* due to their expertise in

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[38] *Id.* at 668-669.

[39] *Rollo*, p. 60.

[40] *Id.* at 24-26.

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appraising the value of the land and the improvements thereon in the province of Cotabato. They made a careful study of the area affected by the expropriation, mindful of the fact that the value of the land and its may be affected by many factors. The duly appointed Commissioners made a second ocular inspection of the subject area on 4 September 1997; went to the BIR office in order to get the BIR zonal valuation of the properties located in Carmen, Cotabato; interviewed adjacent property owners; and took into consideration various factors such as the location of the land which is just less than a kilometer away from the Poblacion and half a kilometer away from the highway and the fact that it is near a military reservation. With regard to the improvements, the Commissioners took into consideration the valuation of the Provincial Assessor, the age of the trees, and the inputs and their productivity.

Thus, it could not be said that the schedule of market values in Ordinance No. 173 was the sole basis of the Commissioners in arriving at their valuation. Said ordinance merely gave credence to their valuation which is comparable to the current price at that time. Besides, Mr. Zambrano testified that the date used as bases for Ordinance No. 173 were taken from 1995 to 1996.[41]

Moreover, factual findings of the CA are generally binding on this Court. The rule admits of exceptions, though, such as when the factual findings of the appellate court and the trial court are contradictory, or when the findings are not supported by the evidence on record.[42] These exceptions, however, are not present in the instant case.

Thus, in the absence of contrary evidence, we affirm the findings of the CA, which sustained the trial court's Decision adopting the committee's recommendations on the just compensation to be awarded to herein respondents.

We also uphold the CA ruling, which deleted the inclusion of the value of the excavated soil in the payment for just compensation. There is no legal basis to separate the value of the excavated

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

[42] *The Republic of the Philippines represented by the National Irrigation Administration v. Court of Appeals*, G.R. No. 147245, 31 March 2005, 454 SCRA 516.

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soil from that of the expropriated properties, contrary to what the trial court did. In the context of expropriation proceedings, the soil has no value separate from that of the expropriated land. Just compensation ordinarily refers to the value of the land to compensate for what the owner actually loses. Such value could only be that which prevailed at the time of the taking.

In *National Power Corporation v. Ibrahim, et al.*,[43] we held that rights over lands are indivisible, *viz*:

> [C]onsequently, the CA's findings which upheld those of the trial court that respondents owned and possessed the property and that its substrata was possessed by petitioner since 1978 for the underground tunnels, cannot be disturbed. Moreover, the Court sustains the finding of the lower courts that the sub-terrain portion of the property similarly belongs to respondents. This conclusion is drawn from Article 437 of the Civil Code which provides:
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> > ART. 437. The owner of a parcel of land is the owner of its surface and of everything under it, and he can construct thereon any works or make any plantations and excavations which he may deem proper, without detriment to servitudes and subject to special laws and ordinances. He cannot complain of the reasonable requirements of aerial navigation.
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> Thus, the ownership of land extends to the surface as well as to the subsoil under it.
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> x x x x x x x x x
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> Registered landowners may even be ousted of ownership and possession of their properties in the event the latter are reclassified as mineral lands because real properties are characteristically indivisible. For the loss sustained by such owners, they are entitled to just compensation under the Mining Laws or in appropriate expropriation proceedings.
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> Moreover, petitioner's argument that the landowners' right extends to the sub-soil insofar as necessary for their practical interests serves only to further weaken its case. The theory would limit the right to the sub-soil upon the economic utility which such area offers to

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[43] *National Power Corporation v. Ibrahim*, G.R. No. 168732, 29 June 2007, 526 SCRA 149, 159-160.

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the surface owners. Presumably, the landowners' right extends to such height or depth where it is possible for them to obtain some benefit or enjoyment, and it is extinguished beyond such limit as there would be no more interest protected by law.

Hence, the CA correctly modified the trial court's Decision when it ruled thus:

> We agree with the OSG that NIA, in the construction of irrigation projects, must necessarily make excavations in order to build the canals. Indeed it is preposterous that NIA will be made to pay not only for the value of the land but also for the soil excavated from such land when such excavation is a necessary phase in the building of irrigation projects. That NIA will make use of the excavated soil is of no moment and is of no concern to the landowner who has been paid the fair market value of his land. As pointed out by the OSG, the law does not limit the use of the expropriated land to the surface area only. Further, NIA, now being the owner of the expropriated property, has the right to enjoy and make use of the property in accordance with its mandate and objectives as provided by law. To sanction the payment of the excavated soil is to allow the landowners to recover more than the value of the land at the time when it was taken, which is the true measure of the damages, or just compensation, and would discourage the construction of important public improvements.[44]

On the second issue, the Petition is meritorious.

The CA affirmed the ruling of the trial court, which had awarded the payment of just compensation — intended for Lot No. 3080 registered in the name of the Rural Bank of Kabacan — to the defendants-intervenors on the basis of the non-participation of the rural bank in the proceedings and the latter's subsequent Manifestation that it was no longer the owner of that lot. The appellate court erred on this matter.

It should be noted that eminent domain cases involve the expenditure of public funds.[45] In this kind of proceeding, we

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[44] *Rollo*, pp. 61-62.

[45] *National Power Corporation v. Spouses Dela Cruz*, G.R. No. 156093, 02 February 2007, 514 SCRA 56.

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require trial courts to be more circumspect in their evaluation of the just compensation to be awarded to the owner of the expropriated property.[46] Thus, it was imprudent for the appellate court to rely on the Rural Bank of Kabacan's mere declaration of non-ownership and non-participation in the expropriation proceeding to validate defendants-intervenors' claim of entitlement to that payment.

The law imposes certain legal requirements in order for a conveyance of real property to be valid. It should be noted that Lot No. 3080 is a registered parcel of land covered by TCT No. T-61963. In order for the reconveyance of real property to be valid, the conveyance must be embodied in a public document[47] and registered in the office of the Register of Deeds where the property is situated.[48]

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[46] *Supra*, note 38.

[47] Civil Code of the Philippines:

Art. 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein a governed by Articles 1403, No. 2, and 1405;

[48] P.D. 1529:

CHAPTER XII

Forms Used in Land Registration and Conveyancing

SECTION 112. Forms in Conveyancing. — The Commissioner of Land Registration shall prepare convenient blank forms as may be necessary to help facilitate the proceedings in land registration and shall take charge of the printing of land title forms.

Deeds, conveyances, encumbrances, discharges, powers of attorney and other voluntary instruments, whether affecting registered or unregistered land, executed in accordance with law in the form of public instruments shall be registrable: Provided, that, every such instrument shall be signed by the person or persons executing the same in the presence of at least two witnesses who shall likewise sign thereon, and shall be acknowledged to be the free act and deed of the person or persons executing the same before a notary public or other public officer authorized by law to take acknowledgment. Where the instrument so acknowledged consists of two or more pages including the page whereon acknowledgment is written, each page of the copy which is to be

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We have scrupulously examined the records of the case and found no proof of conveyance or evidence of transfer of ownership of Lot No. 3080 from its registered owner, the Rural Bank of Kabacan, to defendants-intervenors. As it is, the TCT is still registered in the name of the said rural bank. It is not disputed that the bank did not participate in the expropriation proceedings, and that it manifested that it no longer owned Lot No. 3080. The trial court should have nevertheless required the rural bank and the defendants-intervenors to show proof or evidence pertaining to the conveyance of the subject lot. The court cannot rely on mere inference, considering that the payment of just compensation is intended to be awarded solely owner based on the latter's proof of ownership.

The trial court should have been guided by Rule 67, Section 9 of the 1997 Rules of Court, which provides thus:

> SEC. 9. Uncertain ownership; conflicting claims. — If the ownership of the property taken is uncertain, or there are conflicting claims to any part thereof, the court may order any sum or sums awarded as compensation for the property to be paid to the court for the benefit of the person adjudged in the same proceeding to be entitled thereto. But the judgment shall require the payment of the sum or sums awarded to either the defendant or the court before the plaintiff can enter upon the property, or retain it for the public use or purpose if entry has already been made.

Hence, the appellate court erred in affirming the trial court's Order to award payment of just compensation to the defendants-intervenors. There is doubt as to the real owner of Lot No. 3080. Despite the fact that the lot was covered by TCT No. T-61963 and was registered under its name, the Rural Bank of

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registered in the office of the Register of Deeds, or if registration is not contemplated, each page of the copy to be kept by the notary public, except the page where the signatures already appear at the foot of the instrument, shall be signed on the left margin thereof by the person or persons executing the instrument and their witnesses, and all the pages sealed with the notarial seal, and this fact as well as the number of pages shall be stated in the acknowledgment. Where the instrument acknowledged relates to a sale, transfer, mortgage or encumbrance of two or more parcels of land, the number thereof shall likewise be set forth in said acknowledgment.

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Kabacan manifested that the owner of the lot was no longer the bank, but the defendants-intervenors; however, it presented no proof as to the conveyance thereof. In this regard, we deem it proper to remand this case to the trial court for the reception of evidence to establish the present owner of Lot No. 3080 who will be entitled to receive the payment of just compensation.

WHEREFORE, the Petition is **PARTLY GRANTED.** The 12 August 2008 CA Decision in CA-G.R. CV No. 65196, awarding just compensation to the defendants as owners of the expropriated properties and deleting the inclusion of the value of the excavated soil, is hereby **AFFIRMED** with **MODIFICATION.** The case is hereby **REMANDED** to the trial court for the reception of evidence to establish the present owner of Lot No. 3080. No pronouncements as to cost.

SO ORDERED.

Carpio (Chairperson), Perez, Reyes, and *Perlas-Bernabe,*[*] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 185960. January 25, 2012]

MARINO B. ICDANG, *petitioner, vs.* **SANDIGANBAYAN (Second Division) and PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; DECISIONS AND FINAL ORDERS OF THE SANDIGANBAYAN SHALL BE

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[*] Designated as acting Member of the Second Division vice Associate Justice Arturo D. Brion per Special Order No. 1174 dated January 9, 2012.