



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

“G.R. Nos. 223734-35 (City of Caloocan, represented by Hon. Oscar G. Malapitan v. Hon. Dionisio C. Sison, Presiding Judge, Branch 125 Regional Trial Court (RTC), Caloocan City, and Recom Realty, Inc., represented by Joseph U. Chuason). – Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated May 29, 2015 and the Resolution³ dated March 22, 2016 of the Court of Appeals (CA) in CA-G.R. SP Nos. 131631 and 134725. The CA denied the consolidated Petitions for *Certiorari*⁴ filed by the City of Caloocan (petitioner) and affirmed the Writ of Execution⁵ dated May 16, 2013 and the Orders⁶ dated October 2, 2013 and December 23, 2013 of Branch 125, Regional Trial Court (RTC) of Caloocan City.⁷

The Antecedents

On August 2, 1996, petitioner filed a complaint before the RTC for the expropriation of a 6,901-square-meter parcel of land owned by Recom Realty, Inc. (private respondent) located in Maypajo, Caloocan City for the purpose of providing low cost land for the landless citizens of Caloocan City.⁸ The case was docketed as Civil Case No. C-470

¹ *Rollo*, pp. 9-29.

² *Id.* at 303-312; penned by Associate Justice Rosmari D. Carandang (now a member of the Court) with Associate Justices Agnes Reyes-Carpio and Maria Elisa Sempio Diy, concurring.

³ *Id.* at 314 to 317; penned by Associate Justice Rosmari D. Carandang (now a member of the Court) with Associate Justices Agnes Reyes-Carpio and Maria Elisa Sempio Diy, concurring.

⁴ *Id.* at 63-78; 141-153.

⁵ *Id.* at 125-126; issued by Presiding Judge Dionisio C. Sison.

⁶ *Id.* at 177 and 192-193; issued by Presiding Judge Dionisio C. Sison.

⁷ *Id.* at 311.

⁸ *Id.* at 136-137.

(expropriation case).⁹

On June 23, 2003, the RTC issued an order fixing the amount of just compensation for the subject property at ₱7,208.00 per square meter or a total of ₱49,735,200.00.¹⁰ Private respondent moved for reconsideration but the RTC denied the motion on October 14, 2003.¹¹

Consequently, private respondent filed an omnibus motion on October 27, 2003 for the issuance of an order of expropriation, payment of just compensation, imposition of legal interest, attorney's fees, and release of the initial deposit amounting to ₱2,446,880.00.¹²

On December 22, 2003, the RTC issued an Order¹³ granting private respondent's omnibus motion, to wit:

WHEREFORE, in view of the foregoing, the court rules on the following:

1. Issuance of an order of expropriation and an order for payment of just compensation in favor of respondent Recom Realty, Corporation;
2. Ordering the petitioner to pay respondent the legal interest computed on the basis of the total amount of compensation at 6% per annum after deducting the initial deposit in the total amount of P2,446,880.00 reckoned from the date of the filing of the complaint; and
3. Ordering the petitioner to pay the respondent's counsel attorney's fee equivalent to one percent (1%) of the total compensation.

SO ORDERED.¹⁴

On even date, the RTC issued an Order of Expropriation,¹⁵ to wit:

WHEREFORE, premises considered, the property owned by respondent Recom Realty Corporation situated at Maypajo, Caloocan City, containing an area of SIX THOUSAND NINETY ONE [sic] (6,901) SQUARE METERS, covered by Transfer Certificate No.

⁹ *Id.* at 304.

¹⁰ *Id.* at 137.

¹¹ *Id.*

¹² *Id.* at 138.

¹³ *Id.* at 138-140; issued by Judge Modesto C. Juanson.

¹⁴ *Id.* at 139-140.

¹⁵ *Id.* at 136-137; issued by Judge Modesto C. Juanson.

250257 is hereby ordered expropriated in favor of the City of Caloocan after payment of just compensation equivalent to P49,735,200.00 including legal interest computed on the basis of the total amount of compensation after deducting the initial deposit in the total amount of P2,446,880.00 reckoned from the date of the filing of the complaint.

SO ORDERED.¹⁶

Petitioner thereafter appealed the order of expropriation to the CA. The CA, however, denied the appeal on November 10, 2006 which, notably, became final and executory on November 30, 2006. Unfortunately, despite several attempts to execute the judgment, private respondent was not able to collect payment from petitioner.¹⁷

Aggrieved, private respondent filed a Petition for *Mandamus*¹⁸ against petitioner with the RTC on November 19, 2012. The case was docketed as SCA Case No. C-1091 (*mandamus* case).¹⁹

Ruling of the RTC

The RTC ruled in favor of private respondent in the Decision²⁰ dated January 30, 2013, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the petitioner ordering the respondents through respondent *Sangguniang Panglunsod* of respondent City of Caloocan to enact and approve an Ordinance/Supplemental Ordinance appropriating the funds for the payment of petitioner's claim as of October 31, 2011 in the total amount of Php115,158,348.95 plus the adjudged 6% interest per annum (Order dated December 22, 2003) on the unpaid just compensation (Php47,288,320.00) from November, 2011 until full payment is made within fifteen (15) days from receipt of this Order and to immediately release/pay the appropriated funds to the petitioner.

SO ORDERED.²¹

Petitioner received a copy of the RTC Decision²² on February 6,

¹⁶ *Id.* at 137.

¹⁷ *Id.* at 305.

¹⁸ *Id.* at 81-87.

¹⁹ *Id.* at 81.

²⁰ *Id.* at 104-108; penned by Presiding Judge Dionisio C. Sison.

²¹ *Id.* at 108.

²² *Id.* at 104-108.

2013.²³ Citing various reasons such as “pressing official matters,” petitioner filed Motions for Extension of Time²⁴ to file a motion for reconsideration on February 21, 2013, March 7, 2013, and March 22, 2013. Finally, on April 10, 2013, petitioner filed a Motion for Reconsideration²⁵ of the Decision²⁶ dated January 30, 2013 with the RTC.²⁷

In an Order²⁸ dated May 7, 2013, the RTC denied petitioner’s motion for reconsideration for being filed out of time. On May 16, 2013, the RTC issued the corresponding Writ of Execution²⁹ in the *mandamus* case. On May 23, 2013, petitioner moved for reconsideration³⁰ of the Order³¹ dated May 7, 2013, but the RTC denied the motion in another Order³² dated June 5, 2013. On July 31, 2013, the sheriff sent the 3rd Notice of Demand to Pay³³ to petitioner.³⁴

On August 5, 2013, petitioner filed a Motion to Quash Writ of Execution³⁵ on the following grounds: (1) the Order³⁶ dated May 7, 2013 had not yet become final, and thus, not ripe for execution; and (2) the amount contained in the Writ of Execution³⁷ was not in accordance with the Order³⁸ dated December 22, 2003 rendered in the expropriation case. The RTC, however, denied the motion in an Order³⁹ dated October 2, 2013.

Undeterred, petitioner filed a Motion for Reconsideration⁴⁰ of the Order⁴¹ dated October 2, 2013, but the RTC denied it in an Order⁴² dated December 23, 2013.

²³ *Id.* at 109.

²⁴ *Id.* at 109-115.

²⁵ *Id.* at 116-120.

²⁶ *Id.* at 104-108.

²⁷ *Id.* at 306.

²⁸ *Id.* at 124; issued by Presiding Judge Dionisio C. Sison.

²⁹ *Id.* at 125-126.

³⁰ *Id.* at 127-130.

³¹ *Id.* at 124.

³² *Id.* at 135; issued by Presiding Judge Dionisio C. Sison.

³³ *Id.* at 162.

³⁴ *Id.* at 163.

³⁵ *Id.* at 163-166.

³⁶ *Id.* at 124.

³⁷ *Id.* at 125-126.

³⁸ *Id.* at 136-137.

³⁹ *Id.* at 177.

⁴⁰ *Id.* at 178-182.

⁴¹ *Id.* at 177.

⁴² *Id.* at 192-193.

Aggrieved, petitioner elevated the case *via* a Petition for *Certiorari*⁴³ under Rule 65 of the Rules of Court with the CA assailing the RTC Decision⁴⁴ dated January 30, 2013. The case was docketed as CA-G.R. SP No. 131631.⁴⁵

While CA-G.R. SP No. 131631 was still pending before the CA, petitioner filed another Petition for *Certiorari*,⁴⁶ docketed as CA-G.R. SP No. 134725,⁴⁷ this time, assailing the RTC Order⁴⁸ dated October 2, 2013 which denied its Motion to Quash Writ of Execution⁴⁹ dated August 5, 2013.

Ruling of the CA

The CA consolidated the two *certiorari* petitions but subsequently denied them in the assailed Decision⁵⁰ promulgated on May 29, 2015. It ruled on the issues raised, as follows:

First, the CA held that the three motions for extension of time to file a motion for reconsideration did not toll the reglementary period to appeal the RTC Decision⁵¹ dated January 30, 2013. There being no motion for reconsideration filed as of February 21, 2013, the RTC decision had become final and executory by operation of law. In view thereof, the RTC had the ministerial duty to issue and enforce the Writ of Execution,⁵² pursuant to Section 1, Rule 39 of the Revised Rules of Civil Procedure.⁵³

Second, as to the alleged disparity in the computation of just compensation, the CA found that the RTC Decision⁵⁴ dated January 30, 2013, Writ of Execution⁵⁵ dated May 16, 2013, and 3rd Notice of Demand to Pay⁵⁶ issued in the *mandamus* case did not vary the RTC Order⁵⁷ dated

⁴³ *Id.* at 194-207.

⁴⁴ *Id.* at 104-108.

⁴⁵ *Id.* at 63.

⁴⁶ *Id.* at 141-153.

⁴⁷ *Id.* at 141.

⁴⁸ *Id.* at 177.

⁴⁹ *Id.* at 163-165.

⁵⁰ *Id.* at 303-312.

⁵¹ *Id.* at 104-108.

⁵² *Id.* at 125-126.

⁵³ *Id.* at 308-309.

⁵⁴ *Id.* at 104-108.

⁵⁵ *Id.* at 125-126.

⁵⁶ *Id.* at 162.

⁵⁷ *Id.* at 138-140.

December 22, 2003⁵⁸ in the expropriation case. It clarified that the 6% interest as stated in the Order⁵⁹ dated December 22, 2003 pertained to the legal interest that should be paid from the time of the taking of possession as provided for in Section 10, Rule 67 of the Rules of Court,⁶⁰ which states:

SEC. 10. Rights of plaintiff after judgment and payment. — Upon payment by the plaintiff to the defendant of the compensation fixed by the judgment, *with legal interest thereon from the taking of the possession of the property*, or after tender to him of the amount so fixed and payment of the costs, the plaintiff shall have the right to enter upon the property expropriated and to appropriate it for the public use or purpose defined in the judgment, or to retain it should he have taken immediate possession thereof under the provision of Section 2 hereof.⁶¹ xxx (Emphasis supplied.)

The CA likewise noted that petitioner made no objections on the the RTC Orders adopting the computation of just compensation presented by private respondent as early as 2011.⁶²

Lastly, the CA ruled that petitioner cannot belatedly assail the personality of private respondent at the execution stage of the expropriation proceedings, when the RTC Decision had already become immutable. Contrary to petitioner's contention, it found that private respondent is the same "Recom Realty Corporation" in both the *mandamus* case and the expropriation case as shown in the Minutes of Special Meeting⁶³ and Secretary's Certificate⁶⁴ attached to the petition for *mandamus*.⁶⁵

Petitioner moved for reconsideration, but the CA denied the motion in its Resolution⁶⁶ dated March 22, 2016.

Hence, petitioner filed a Petition for Review on *Certiorari*⁶⁷ before the Court on the following grounds: (1) "Recom Realty, Inc." is not the real party-in-interest in the case considering that payment of just compensation in the expropriation case was ordered in favor of "Recom

⁵⁸ Erroneously referred to as December 23, 2003 in the CA Decision, *id.* at 309.

⁵⁹ *Rollo*, pp. 138-140.

⁶⁰ *Id.* at 309.

⁶¹ *Id.* at 310.

⁶² *Id.*

⁶³ *Id.* at 88.

⁶⁴ *Id.* at 89.

⁶⁵ *Id.* at 310-311.

⁶⁶ *Id.* at 314-317.

⁶⁷ *Id.* at 9-29.

Realty Corporation”,⁶⁸ (2) the interest rate imposed in the *mandamus* case does not conform to the final judgment in the expropriation case;⁶⁹ and (3) the monetary judgment against petitioner is subject to the primary jurisdiction of the Commission on Audit (COA)⁷⁰ pursuant to the case of *University of the Phils., et al. v. Judge Dizon*.⁷¹ In the case, the Court held that the RTC had no authority to direct the immediate withdrawal of any portion of the garnished funds from the depository banks of the University of the Philippines, to wit:

It was of no moment that a final and executory decision already validated the claim against the UP. The settlement of the monetary claim was still subject to the primary jurisdiction of the COA despite the final decision of the RTC having already validated the claim. As such, Stern Builders and dela Cruz as the claimants had no alternative except to first seek the approval of the COA of their monetary claim.⁷²

In its Comment,⁷³ private respondent stated that on October 26, 2015, it filed a claim with the COA against petitioner docketed as COA CP Case No. 2015-791. However, as of the filing of this petition, the aforementioned case is still pending with the COA.⁷⁴

The Court’s Ruling

The petition is without merit.

At the outset, the Court agrees with the CA that the judgment in the *mandamus* case from which the issuance of the writ of execution stemmed had long become final and executory. The filing of the three motions for extension of time to file a motion for reconsideration did not toll the fifteen-day reglementary period for the filing of an appeal.⁷⁵

The Court enunciated the mandatory prohibition on the filing of a motion for extension to file a motion for reconsideration in *Habaluyas Enterprises, Inc. v. Judge Japson*,⁷⁶ to wit:

⁶⁸ *Id.* at 16-18.

⁶⁹ *Id.* at 18-23.

⁷⁰ *Id.* at 23-25.

⁷¹ 693 Phil. 226 (2012).

⁷² *Id.* at 252-253.

⁷³ *Rollo*, pp. 278-295.

⁷⁴ *Id.* at 281.

⁷⁵ *Id.* at 308.

⁷⁶ 226 Phil. 144 (1986). See also *Rollogue v. Court of Appeals*, 271 Phil. 40 (1991) and *De Leon v. Hercules Agro Industrial Corporation*, 734 Phil. 652 (2014).

J. Beginning one month after the promulgation of this Resolution, *the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court.* Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested.⁷⁷ (Emphasis supplied.)

Here, the *three* motions for extension of time filed by petitioner before the RTC, being *prohibited pleadings*, did *not* suspend the running of the reglementary period to file a motion for reconsideration to assail the RTC Decision⁷⁸ dated January 30, 2013.⁷⁹ Thus, petitioner's failure to file a *timely* motion for reconsideration, in effect, has rendered the assailed RTC decision final and executory, and beyond the jurisdiction of the Court.⁸⁰

In view thereof, petitioner can no longer question the personality of private respondent in the *mandamus* case and the RTC's computation of just compensation. Both issues are barred by the *doctrine of immutability of judgments*, which provides that "a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land."⁸¹

Once a decision has attained finality, as in this case, it can no longer be challenged by any party or be modified, whether directly or indirectly, even by the Court.⁸² It bears stressing that petitioner's use of the words "disbursement of public funds" in the petition is not a magic wand that will compel the Court to suspend procedural rules and to simply disregard the doctrine on immutability of judgments.

The Court likewise finds that petitioner is barred by *laches*⁸³ for its failure to opportunely raise the doctrine of primary jurisdiction of the COA before the RTC in the *mandamus* case and the CA in both Petitions

⁷⁷ *Id.* at 148.

⁷⁸ *Id.* at 104-108.

⁷⁹ *Heirs of Teofilo Gaudio v. Benemerito*, 545 Phil. 311, 317 (2007).

⁸⁰ *Uy v. CA*, 349 Phil. 1004, 1011-1012 (1998).

⁸¹ *FGU Insurance Corp. v. RTC of Makati City, Br. 66 et al.*, 659 Phil. 117, 123 (2011).

⁸² *Philippine Commercial and Industrial Bank v. Court of Appeals*, 391 Phil. 145, 153 (2000).

⁸³ Laches is defined as "the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier." See *Star Special Corporate Security Management, Inc. v. Commission on Audit*, G.R. No. 225366, September 1, 2020.

for *Certiorari*⁸⁴ dated September 6, 2013 and April 4, 2014.

The present case is almost on all fours with the case of *Star Special Corporate Security Management, Inc. v. Commission on Audit*.⁸⁵ In the case, the Court found that the respondent is barred by *laches* due to its failure to assail the jurisdiction of the trial court and invoke the doctrine of primary jurisdiction of the COA within a reasonable time despite having actively participated in the trial court proceedings.⁸⁶

Besides, “[b]asic consideration of due process impels the rule that points of law, theories, issues, and arguments not brought to the attention of the trial court will not be and ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.”⁸⁷ As such, the Court cannot now consider and resolve the issue regarding the COA’s primary jurisdiction over the money claim in this case as it was raised for the *first time* on appeal in the present petition.

The Court notes that from the time petitioner took possession of the subject property, private respondent has waited for more than two decades to collect its just compensation. In *Apo Fruits Corp., et al. v. Land Bank of the Phils.*,⁸⁸ the Court held that compensation, to be “just,” must not only be fair and reasonable, but must also be made *without delay*.⁸⁹ Compensation cannot be considered just if the property is immediately taken *without prompt payment* considering that the owner thereby immediately suffers not only the loss of his property, but also the loss of its fruits or income.⁹⁰ To grant this petition would be tantamount to rewarding petitioner for its dilatory tactics. The Court will not condone petitioner’s lapses lest substantial justice will be frustrated rather than promoted.

Lastly, it is well to note that, since petitioner, as the judgment debtor in this case, is a local government unit, the final satisfaction of the judgment award, must still be done in the pending case before the COA.⁹¹ As the judgment award is already final and executory, the merits thereof cannot anymore be disturbed, altered, or modified in any respect.

⁸⁴ *Rollo*, pp. 63-78; 141-153.

⁸⁵ *Star Special Corporate Security Management, Inc. v. Commission on Audit*, *supra*.

⁸⁶ *Id.*

⁸⁷ *Perez v. Rasaceña*, 797 Phil. 369, 381-382 (2016), citing *Nuñez v. SLTEAS Phoenix Solutions, Inc.*, 632 Phil. 143, 155 (2010).

⁸⁸ 647 Phil. 251 (2010).

⁸⁹ *Id.* at 273.

⁹⁰ *Id.*

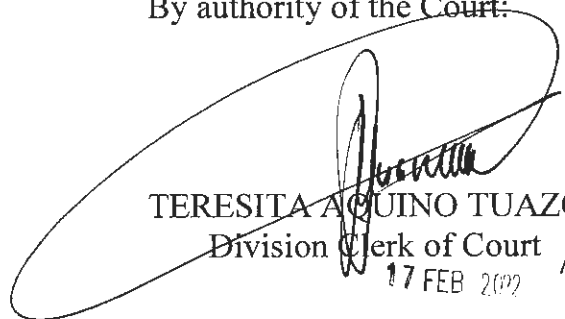
⁹¹ *Republic v. Cortez*, 805 Phil. 294, 358 (2017).

As held in *Taisei Shimizu Joint Venture v. Commission on Audit*,⁹² “the COA’s exercise of discretion in approving or disapproving money claims that have been determined by final judgment is akin to the power of an execution court.”⁹³ As such, its task is restricted “to determining the source of public funds from which the final and executory arbitral award may be satisfied pursuant to the general auditing laws [it] is tasked to implement.”⁹⁴

WHEREFORE, the petition is **DENIED**. The Decision dated May 29, 2015 and the Resolution dated March 22, 2016 of the Court of Appeals in CA-G.R. No. SP Nos. 131631 and 134725 are hereby **AFFIRMED**.

SO ORDERED.” (ROSARIO, *J.*, designated as Additional Member per Special Order No. 2835 dated July 15, 2021.)

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
17 FEB 2022 P 2/17

⁹² G.R. No. 238761, June 2, 2020.

⁹³ *Id.*

⁹⁴ *Id.*

CITY LEGAL DEPARTMENT (reg)
Counsel for Petitioner
8/F, Caloocan City Hall, 8th Avenue
corner 8th Street, Grace Park,
Caloocan City

PONFERRADA TY LAW OFFICES (reg)
Counsel for Respondent Recom Realty
Level 17, 6750 Ayala Avenue
Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 125
Caloocan City

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP Nos. 131631 & 134725

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