



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NATIONAL TRANSMISSION G.R. No. 245266
CORPORATION,

Petitioner,

Present:

-versus-

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

RELIGIOUS OF THE VIRGIN
MARY, represented by Sis. MA.
TRANQUILINA T. YAMBAO,
Respondent.

Promulgated:
AUG 01 2022

X-----X

DECISION

LEONEN, J.:

Just compensation must not only be fairly and reasonably assessed, but must also be promptly paid. It shall be reckoned from the time the private property is taken for public use. Any delay in the payment of just compensation entails the accrual of legal interest beginning from the time of actual taking, considering the deprivation of property and loss of potential income suffered by the owner.

This Court resolves the Petition for Review on Certiorari¹ under Rule 45 of the 1997 Rules of Civil Procedure filed by the National Transmission Corporation (TransCo), praying that the Decision² and Resolution³ of the

* On leave.

¹ Rollo, p. 12-35.

² Id. at 41-56. The May 31, 2018 Decision in CA-G.R. CV No. 04683-MIN was penned by Associate Justice Romulo V. Borja, with the concurrence of Associate Justices Oscar V. Badelles and Marilyn Payoyo-Villordon of the Twenty-first Division, Court of Appeals, Cagayan de Oro City.

³ Id. at 57-58. The February 12, 2019 Resolution in CA-G.R. CV No. 04683-MIN was penned by

Court of Appeals be reversed and set aside.

The assailed Decision remanded the Complaint for Just Compensation and Damages filed by the Religious of the Virgin Mary to the Regional Trial Court, Branch 18, Cagayan De Oro City to determine just compensation in accordance with 2014 valuations.⁴ The assailed Resolution denied TransCo's Motion for Reconsideration.⁵

Religious of the Virgin Mary is the registered owner of a 360,029-square-meter⁶ parcel of land located in Barrio Iponan, Cagayan de Oro City, covered by Original Certificate of Title No. 0-452.⁷ On October 25, 2006, it filed a Complaint⁸ for just compensation and damages before the Regional Trial Court, Cagayan de Oro City. It sought just compensation from TransCo for the construction of transmission lines on a 17,185-square-meter portion of its property without its consent and without instituting expropriation proceedings.⁹

In its Answer,¹⁰ TransCo acknowledged that its transmissions lines occupy a portion of the Religious of the Virgin Mary's property. It maintained, however, that the occupied area amounted to less than 17,185 square meters. It added that its transmission lines had long been on the property and that, in the meantime, it had acquired an easement or right of way by prescription.¹¹

In a February 26, 2007 Order,¹² the Regional Trial Court commissioned the District Office of the Department of Environment and Natural Resources to survey the disputed property.¹³ Subsequently, Engr. Agnes Dejoras, Officer-in-Charge Chief of the Department of Environment and Natural Resources Survey Division, reported that "[t]he transmission line . . . has a total area of 8,721 square meters."¹⁴

On October 13, 2008,¹⁵ the case was referred for judicial dispute resolution. However, no settlement was reached.¹⁶

Associate Justice Oscar V. Badelles, with the concurrence of Associate Justices Marilyn Payoyo-Villordon and Walter S. Ong of the Special Former Twenty-first Division, Court of Appeals, Cagayan de Oro City.

⁴ Id. at 55.

⁵ Id. at 58.

⁶ 360,079 square meters in some parts of the *rollo*; Id. at 126.

⁷ Id. at 41-42, 126, 128, and 131.

⁸ Id. at 59-62. Religious of the Virgin Mary filed an Amended Complaint on November 21, 2006; Id. at 78-81.

⁹ Id. at 79.

¹⁰ Id. at 84-85

¹¹ Id. at 84.

¹² Id. at 91. The Order was penned by Presiding Judge Edgardo T. Lloren of the Regional Trial Court of Misamis Oriental, Branch 18, Cagayan de Oro City.

¹³ Id. at 42.

¹⁴ Id. at 145.

¹⁵ Id. at 104.

¹⁶ Id. at 42.

In an April 11, 2011 Order,¹⁷ the Regional Trial Court ordered TransCo to deposit the provisional amount of ₱982,742.00 in favor of the Religious of the Virgin Mary. The Regional Trial Court also ordered a writ of possession to be issued in favor of TransCo after the deposit.

TransCo subsequently moved to correct the April 11, 2011 Order of the Regional Trial Court, reasoning that the total area affected is only 8,560 square meters. With the zonal value pegged at ₱105.00 per square meter, TransCo claimed that the total amount should only be ₱898,800.00 and not ₱982,742.00.¹⁸

The Regional Trial Court granted TransCo's motion in its May 18, 2012 Order. TransCo thereafter deposited ₱898,000.00 in favor of the Religious of the Virgin Mary.¹⁹

Commissioners were named to determine the amount of just compensation. TransCo nominated Norberto Badelles, Jr. (Badelles) as commissioner.²⁰ The Religious of the Virgin Mary nominated Engr. Romualdo Lagsa (Lagsa).²¹ The Regional Trial Court named Atty. Noel Bacal as chairperson (Atty. Bacal).²²

In his report,²³ Badelles noted that an 8,580-square-meter portion of the Religious of the Virgin Mary's property was affected or traversed by the Lugait-Carmen 69 kV transmission line, which was constructed and commissioned by the National Power Corporation (NAPOCOR) in 1966.²⁴ From this, Badelles recognized that taking was done in 1966. He added, however, that no zonal valuation was undertaken by Bureau of Internal Revenue until 1994. Thus, as a practical matter, he maintained that just compensation should be reckoned based on the 1994 zonal values (*i.e.*, ₱50.00 per square meter).²⁵

Meanwhile, Lagsa recommended just compensation at ₱700.00 per square meter without specifying his basis.²⁶

For his part, Atty. Bacal found that the total affected area measures

¹⁷ Id. at 108. The Order was penned by Presiding Judge Dennis Z. Alcantar of the Regional Trial Court of Misamis Oriental, Branch 18, Cagayan de Oro City.

¹⁸ Id. at 115–116.

¹⁹ Id. at 119.

²⁰ Id. at 123–124.

²¹ Id. at 122.

²² Id. at 17.

²³ Id. at 127–129.

²⁴ Id. at 128.

²⁵ Id. at 129.

²⁶ Id. at 126.

8,721 square meters. Similar to Badelles, he also noted that the transmission line was constructed and commissioned by the National Power Corporation in 1966.²⁷ He recommended reckoning just compensation on the basis of the 2006 zonal value “since it is near the market value as to this date of valuation”²⁸ and recommended ₱200.00 per square meter as just compensation.

In a March 31, 2014 Order,²⁹ the Regional Trial Court approved Atty. Bacal’s recommendation. It directed TransCo to pay ₱1,744,200.00 as just compensation. Considering that a provisional deposit of ₱898,000.00 had been made, TransCo still needed to deliver the balance of ₱846,200.00. The Regional Trial Court further directed the payment of interest accruing from the filing of the Complaint.

The dispositive portion of the March 31, 2014 Order reads:

WHEREFORE, premises considered, instant Complaint for Just Compensation is granted. Defendant National Transmission Corporation (NTC) is hereby ordered to pay plaintiff Religious of the Virgin Mary (RVM) the amount of Eight Hundred Forty Six Thousand Two Hundred Pesos (P846,200.00), representing the unpaid balance of the value of the property expropriated, plus twelve percent (12%) [interest] per annum of One Million Seven Hundred Forty Four Thousand Two Hundred Pesos (P1,744,200.00) from October 25, 2006 to May 10, 2012 and Twelve percent (12%) [interest] per annum of Eight Hundred Forty Six Thousand Two Hundred Pesos (P846,200.00) from May 11, 2012 to date of payment.

Let Order of Expropriation issue to defendant National Transmission Corporation upon payment of just compensation to plaintiff Religious of the Virgin Mary.

SO ORDERED.³⁰

In a March 31, 2017 Order,³¹ the Regional Trial Court modified its March 31, 2014 Order as to the rate of interest imposed. In maintaining that just compensation should be based on 2006 values, it noted that no date of taking could be ascertained as TransCo failed to make any allegation to that effect in its Answer and in its Pre-Trial Brief. It added that, in any case, TransCo came into existence only on June 26, 2001.³²

The dispositive portion of the March 31, 2017 Order reads:

²⁷ Id. at 131.

²⁸ Id. at 133.

²⁹ Id. at 145–147. The Order was penned by Presiding Judge Dennis Z. Alcantar of the Regional Trial Court of Misamis Oriental, Branch 18, Cagayan de Oro City.

³⁰ Id. at 147.

³¹ Id. at 168–172. The Order was penned by Presiding Judge Dennis Z. Alcantar of the Regional Trial Court of Misamis Oriental, Branch 18, Cagayan de Oro City.

³² Id. at 170.

WHEREFORE, premises considered, the Motion for Reconsideration is partially granted in so far as the imposition of 12% percent (sic) interest per annum in concerned.

The Court's Order dated March 31, 2014 is hereby amended, ordering defendant National Transmission Corporation to pay plaintiff Religious of the Virgin Mary (RVM) twelve percent (12%) interest per annum of the total just compensation of One Million Seven Hundred Forty Four Thousand Two Hundred Pesos (₱1,744,200.00) from October 25, 2006 to June 30, 2013 and six percent (6%) per annum of the remaining balance of Eight Hundred Forty Six Thousand Two Hundred Pesos (₱846,200.00) from July 1, 2013 until fully paid.

SO ORDERED.³³

Unhappy with the Regional Trial Court's ruling basing just compensation on 2006 values, TransCo appealed to the Court of Appeals.³⁴

In its assailed May 31, 2018 Decision,³⁵ the Court of Appeals remanded the case to the Regional Trial Court, finding fault in its reliance on 2006 values. Citing *Heirs of Pidacan v. Air Transportation Office*,³⁶ it ruled that just compensation should instead be based on 2014 values considering that it was only with the Regional Trial Court's March 31, 2014 Order that TransCo's taking found legal mooring. It emphasized that when construction was undertaken in 1966, it was not considered as expropriation since the government never bothered to inform or otherwise seek the owner's permission.³⁷

The dispositive portion of the Court of Appeals' May 31, 2018 Decision reads:

WHEREFORE, the Court REMANDS this case to the court of origin to determine the just compensation based on the value of the subject properties as of the year 2014, plus 6% legal rate of interest of the total amount of just compensation. The assailed Order is SET ASIDE.

SO ORDERED.³⁸

Following the denial³⁹ of TransCo's motion for reconsideration, it filed the present Petition.⁴⁰

Petitioner maintains that just compensation should be reckoned from

³³ Id. at 172.

³⁴ Id. at 173-174.

³⁵ Id. at 41-55.

³⁶ 552 Phil. 48 (2007) [Per J. Quisumbing, Second Division].

³⁷ *Rollo*, pp. 54-55.

³⁸ Id. at 55.

³⁹ Id. at 57-58.

⁴⁰ Id. at 12-35.

the time of the taking, that is, from 1966, when the transmission lines were constructed.⁴¹ It adds that the precedent cited by the Court of Appeals, *Pidacan*, is not applicable to this case.⁴²

The sole issue for this Court's resolution is whether or not the Court of Appeals erred in reckoning that the amount of just compensation due from petitioner National Transmission Corporation to respondent Religious of the Virgin Mary should start in 2014, and not in 1966.

Petitioner is correct in asserting that just compensation should be reckoned from the date of taking. However, owing to the dearth of evidence concerning 1966 valuations, or alternative bases for just compensation that approximates 1966 valuations, this Court is constrained to remand the case to the Regional Trial Court.

I

Contrary to the findings of the Regional Trial Court and the Court of Appeals, there was taking in 1966.

In its March 31, 2017 Order, the Regional Trial Court maintained that 2006 valuations should be the basis of just compensation because petitioner failed to allege any date of entry into the disputed property in its Answer or of taking in its Pre-Trial Brief, and that, in any case, petitioner came into existence only on June 26, 2001.⁴³

The Regional Trial Court overlooked other evidence before it, as well as the parties' own admissions and declarations. Two commissioner's reports—those of chairperson Atty. Bacal and petitioner's nominated commissioner, Oscar Badelles, Jr.—noted that the Lugait-Carmen Line traversing respondent's 360,029-square-meter property “was constructed and commissioned by the National Power Corporation in 1966.”⁴⁴ Their findings are supported by a certified true copy of the Project Profile for the Lugait-Carmen Line indicating that it was commissioned in 1966.⁴⁵

The Regional Trial Court's reference to TransCo's coming into existence only in 2001 is disingenuous. It should have taken judicial notice of the relation between NAPOCOR and TransCo borne by Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001, *i.e.*, that TransCo was created to “take over the electric transmission function of

⁴¹ Id. at 20–22.

⁴² Id. at 26.

⁴³ Id. at 170, 172.

⁴⁴ Id. at 128, 131.

⁴⁵ Id. at 24, 128.

[NAPOCOR].”⁴⁶ TransCo’s coming into existence in 2001 does not preclude its association with Lugait-Carmen Line precisely because it was tasked to take over the transmission function of the body that commissioned the line’s construction.

The requisites for taking in the context of the State’s power of eminent domain have long been spelled out by this Court in *Republic v. Vda. de Castellvi*.⁴⁷ These requisites were summarized in *National Transmission Corporation v. Oroville Development Corporation*⁴⁸ as follows:

First, The expropriator must enter a private property; Second, the entrance into private property must be for more than a momentary period; Third, the entry into the property should be under warrant or color of legal authority; Fourth, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected; and Fifth, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property.⁴⁹ (Citation omitted)

Oroville involved starkly similar incidents with this case. There, the Tagoloan-Pulangi 138 kV transmission line was constructed in 1983, portions of which occupied properties which were ultimately acquired by the respondent Oroville Development Corporation. However, no just compensation had been paid. This prompted Oroville Development Corporation to file a complaint for injunction and damages in 2007 against petitioner TransCo, the same petitioner in this case. Subsequently, Oroville Development Corporation sought the conversion of the proceedings into an expropriation case.⁵⁰ TransCo acceded to the conversion.⁵¹

Applying *Vda. de Castellvi*’s requisites, *Oroville* explained how there had been taking in 1983:

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

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

⁴⁶ National Power Corporation, *Historical Background*, NATIONAL POWER CORPORATION WEBSITE, available at <<https://www.NAPOCOR.gov.ph/index.php/about-us/who-we-are/epira-ra-9136>> (last accessed on August 10, 2022).

⁴⁷ 157 Phil. 329 (1974) [Per J. Zaldivar, En Banc].

⁴⁸ 815 Phil. 91 (2017) [Per J. Mendoza, En Banc].

⁴⁹ Id. at 104.

⁵⁰ Id. at 98.

⁵¹ Id.

Finally, Oroville has been deprived of the beneficial enjoyment of its property. In several rulings, notably *National Power Corporation v. Spouses Zabala*, *Republic v. Spouses Libunao*, and *National Power Corporation v. Tuazon* this Court has already declared that “since the high-tension electric current passing through the transmission lines will perpetually deprive the property owners of the normal use of their land, it is only just and proper to require Napocor to recompense them for the full market value of their property.”⁵² (Citations omitted)

As it was in *Oroville*, so it is here. In 1966, NAPOCOR entered private property to construct a transmission line from which the public benefitted. This construction was in keeping with NAPOCOR’s power to construct transmission lines under its original Charter.⁵³ It meant indefinite occupation. So too, the cases cited by *Oroville* which concluded that “high-tension electric current passing through the transmission lines will perpetually deprive the property owners of the normal use of their land”⁵⁴ apply with equal force to the construction of the Lugait-Carmen Line.

II

Payment of just compensation is anchored in the constitutional imperative that “[p]rivate property shall not be taken for public use without just compensation.”⁵⁵

Just compensation pertains to “the full and fair equivalent of the property taken from its owner by the expropriator.”⁵⁶ It is measured not against the taker’s gain, but against the owner’s loss.⁵⁷ The idea of *just* compensation, rather than plain compensation, “convey[s] thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample.”⁵⁸

⁵² Id. at 104–105.

⁵³ Commonwealth Act No. 120 (1936), sec. 2(g):
SECTION 2. The powers, functions, rights and activities of the said corporation shall be the following:

...
(g) To construct, operate and maintain power plants, auxiliary plants, dams, reservoirs, pipes, mains, transmission lines, power stations and substations, and other works for the purpose of developing hydraulic power from any river, creek, lake, spring and waterfall in the Philippines and supplying such power to the inhabitants thereof; to acquire, construct, install, maintain, operate and improve gas, oil, or steam engines, and/or other prime movers, generators and other machinery in plants and/or auxiliary plants for the production of electric power; to establish, develop, operate, maintain and administer power and lighting system for the use of the Government and the general public; to sell electric power and to fix the rates and provide for the collection of the charges for any service rendered: Provided, That the rates of charges shall not be subject to revision by the Public Service Commission

⁵⁴ *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 105 (2017) [Per J. Mendoza, En Banc].

⁵⁵ CONST., art. III, sec. 9.

⁵⁶ *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 105 (2017) [Per J. Mendoza, En Banc], citing *National Power Corporation v. Diato-Bernal*, 653 Phil. 345, 354 (2010) [Per J. Nachura, Second Division].

⁵⁷ Id.

⁵⁸ Id.

Rule 67, Section 4 of the 1997 Rules of Civil Procedure spells out the basis for reckoning just compensation, that is, “as of the date of the taking of the property or the filing of the complaint, whichever came first.”

Jurisprudence has explained the underlying wisdom for reckoning just compensation as of the date of taking. In *Republic v. Lara*:⁵⁹

For where property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way the compensation to be paid can be truly just; i.e., “just” not only to the individual whose property is taken, “but to the public, which is to pay for it” (18 Am. Jur., 873, 874).⁶⁰

Oroville further explained:

Indeed, the State is only obliged to make good the loss sustained by the landowner, with due consideration of the circumstances availing at the time the property was taken. The concept of just compensation does not imply fairness to the property owner alone. Compensation must also be just to the public, which ultimately bears the cost of expropriation.⁶¹

There have been many cases where this Court was confronted with instances of taking that long preceded the filing of actions for expropriation. *Secretary of the Department of Public Works and Highways v. Spouses Tecson*⁶² enumerated some of these cases and how this Court ruled that just compensation should be reckoned as of the date of taking:

When a property is taken by the government for public use, jurisprudence clearly provides for the remedies available to a landowner. The owner may recover his property if its return is feasible or, if it is not, the aggrieved owner may demand payment of just compensation for the land taken. For failure of respondents to question the lack of expropriation proceedings for a long period of time, they are deemed to have waived and are estopped from assailing the power of the government to expropriate or the public use for which the power was exercised. What is left to respondents is the right of compensation.

Just compensation is “the fair value of the property as between one

⁵⁹ *Republic v. Lara*, 96 Phil. 170 (1954) [Per J. Reyes, En Banc].

⁶⁰ *Id.* at 177–178.

⁶¹ *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 107–108 (2017) [Per J. Mendoza, En Banc], citing *Republic v. Court of Appeals*, 494 Phil. 494, 510 (2005) [Per J. Carpio, First Division].


⁶² 713 Phil. 55 (2013) [Per J. Peralta, Third Division].

who receives, and one who desires to sell, [. . .] fixed at the time of the actual taking by the government.” *This rule holds true when the property is taken before the filing of an expropriation suit, and even if it is the property owner who brings the action for compensation.*

The issue in this case is not novel.

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

The Court in the above-mentioned cases was confronted with common factual circumstances where the government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. The Court thus determined the landowners’ right to the payment of just compensation and, more importantly, the amount of just compensation. The Court has uniformly ruled that just compensation is the value of the property at the time of taking that is controlling for purposes of compensation. In *Forfom*, the payment of just compensation was reckoned from the time of taking in 1973; in *Eusebio*, the Court fixed the just compensation by determining the value of the property at the time of taking in 1980; in *MIAA*, the value of the lot at the time of taking in 1972 served as basis for the award of compensation to the owner; and in *Republic*, the Court was convinced that the taking occurred in 1956 and was thus the basis in fixing just compensation. As in said cases, just compensation due respondents in this case should, therefore, be fixed not



as of the time of payment but at the time of taking, that is, in 1940.⁶³
(Emphasis supplied, citations omitted)

Consistent with *Tecson, Forfom Development Corporation v. Philippine National Railways*,⁶⁴ *Eusebio v. Luis*,⁶⁵ *Manila International Airport Authority v. Rodriguez*,⁶⁶ and *Republic v. Sarabia*,⁶⁷ Oroville proceeded to rule that just compensation should be reckoned as of the time of taking in 1983, rather than on the basis of the date when Oroville Development Corporation filed its Complaint:

The sequence of events in all of these cited cases as well as in *Tecson* is similar to that obtaining in the case at bench, that is, the government took possession of private properties without initiating expropriation proceedings and later on, the property owners demanded either the return of their properties or the payment of just compensation. Thus, pursuant to the Rules of Court and in accordance with prevailing jurisprudence, the Court rules that just compensation must be ascertained as of the year 1983 when TransCo commenced construction of the transmission lines. Just compensation is therefore fixed at ₱78.65 per square meter, which is the fair market value of the property at the time of taking. As will be discussed later on, the imposition of interest would adequately compensate the property owner for the delay in the payment of just compensation considering that more often than not, the amount of interest to be paid is higher than the increase in the property's market value.⁶⁸

There have, however, been instances where this Court ruled that in cases of inverse condemnation (*i.e.*, when the owner seeks to “to recover the value of property taken in fact by the governmental defendant, even though no formal exercise of the power of eminent domain has been attempted by the taking agency”⁶⁹), just compensation should be reckoned as of the date of the filing of the owner's Complaint. In *National Power Corporation v. Heirs of Sangkay*:

We rule that the reckoning value is the value at the time of the filing of the complaint, as the RTC provided in its decision. Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by NPC's entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPC's entry denied elementary due process of law to the owners since then until the owners commenced the

⁶³ *Id.* at 70–72.

⁶⁴ 594 Phil. 10 (2008) [Per J. Chico-Nazario, Third Division].

⁶⁵ 618 Phil. 586 (2009) [Per J. Peralta, Third Division].

⁶⁶ 518 Phil. 750 (2006) [Per J. Tinga, Third Division].

⁶⁷ 505 Phil. 253 (2005) [Per J. Garcia, Third Division].

⁶⁸ *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 108 (2017) [Per J. Mendoza, En Banc].

⁶⁹ *National Power Corporation v. Heirs of Sangkay*, 671 Phil. 569, 591 (2011) [Per J. Bersamin, First Division]. (Citation omitted)

inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profiting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted.⁷⁰

Similarly, in *National Power Corporation v. Spouses Saludares*,⁷¹ this Court noted:

To reiterate, NAPOCOR should have instituted eminent domain proceedings before it occupied respondent spouses' property. Because it failed to comply with this duty, respondent spouses were constrained to file the instant Complaint for just compensation before the trial court. From the 1970s until the present, they were deprived of just compensation, while NAPOCOR continuously burdened their property with its transmission lines. This Court cannot allow petitioner to profit from its failure to comply with the mandate of the law. We therefore rule that, to adequately compensate respondent spouses from the decades of burden on their property, NAPOCOR should be made to pay the value of the property at the time of the filing of the instant Complaint when respondent spouses made a judicial demand for just compensation.⁷²

Oroville accounted for *Sangkay* and *Saludares*. It explained that those cases involved exceptional circumstances that hindered the owners from timely bringing complaints to vindicate their rights. In *Sangkay*, it was the surreptitious construction of subterranean tunnels. Thus, the owners could not have known of the construction. In *Saludares*, it was the virtual misleading of the owners by the claim that just compensation had already been paid. The rulings in *Sangkay* and *Saludares* were thus, more in the nature of equitable measures to enable a measure of recompense given that the owners found themselves unable to timely act.

Oroville explained:

In *Macabangkit Sangkay*, NAPOCOR, in the 1970s, undertook the construction of several underground tunnels to be used in diverting the water flow from the Agus River to the hydroelectric plants. On November 21, 1997, respondents therein sued NAPOCOR for recovery of property and damages, alleging that they belatedly discovered that one of the underground tunnels of NPC traversed their land.

.....

On the other hand, in *Saludares*, respondents therein filed a complaint for the payment of just compensation against NAPOCOR, averring that it had entered and occupied their property by erecting high-tension transmission lines and failed to reasonably compensate them for

⁷⁰ Id. at 597.

⁷¹ 686 Phil. 967 (2012). [Per J. Sereno, Second Division].

⁷² Id. at 979-980.

the intrusion. For its part, NAPOCOR countered that it had already paid just compensation for the establishment of the transmission lines by virtue of its compliance with the final and executory decision in *National Power Corporation v. Pereyras*.

....

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

The rulings in Macabangkit Sangkay and Saludares are more in consonance with the rules of equity than with the Rules of Court, specifically Rule 67 on expropriation. Indeed, the practice of construct first, expropriate later is reprehensible and must not be countenanced. The Court, however, must not lose sight of Section 4, Rule 67 which mandates that just compensation must be determined "as of the date of the taking of the property or the filing of the complaint, whichever came first." This provision is, first and foremost, part of the Rules which the Court itself promulgated for purposes of uniformity, among other.⁷³ (Emphasis supplied, citations omitted)

Pidacan, which the Court of Appeals cited as authority for ruling that just compensation should be reckoned on the basis of 2014 values, involves circumstances that are akin to those in *Saludares*. Like NAPOCOR in *Saludares*—which claimed to have already acquired the disputed property and paid just compensation for it—the Air Transportation Office in *Pidacan* also claimed “that the heirs were not entitled to any payment, either of the value of the land or of the rentals because the property had [already] been sold to its predecessor, the defunct Civil Aeronautics Administration for ₱0.70 per square meter.”⁷⁴ As with *Saludares*, *Pidacan*'s ruling was more in consonance with equity.

⁷³ *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 108–111 (2017) [Per J. Mendoza, En Banc].

⁷⁴ *Heirs of Pidacan v. Air Transportation Office*, 552 Phil. 48, 51 (2007) [Per J. Quisumbing, Second Division].

This Court finds none of the exceptional circumstances that attended *Sangkay*, *Saludaes*, or *Pidacan* to be present in this case. The very nature of transmission lines—how they run great distances and are supported by towers extending several stories in height—as well as respondent's own claim that there was intrusion in a sizeable portion (initially claimed to be more than 17,000 square meters) of its property precludes the expropriator's stealth and the owner's utter cluelessness. Moreover, petitioner's assertion that it acquired an easement or right of way by prescription for which reason it did not need to pay just compensation is markedly different from the claims in *Saludaes* and *Pidacan* that payment had already been made. While in *Saludaes* and *Pidacan*, NAPOCOR and the Air Transportation Office insisted on an entirely different version of facts, petitioner here conceded the facts of both its unauthorized intrusion as well as non-payment, albeit positing a legal argument for why payment was subsequently no longer necessary. Petitioner here did not call into question the basic incidents giving rise to the case although it averred its own legal basis.

As it was in the plethora of cases previously discussed therefore, this Court sees no need to deviate from the rule that just compensation must be reckoned from the date of the taking, in this case, 1966.

III

Given the preceding discussions, this Court could ideally come to a specific disposition referencing 1966 valuations. Unfortunately, the records fail to provide this information.

Badelles reported that no zonal valuation was undertaken by Bureau of Internal Revenue until 1994, for which reason he recommended that just compensation should be reckoned on the basis of 1994 zonal values.⁷⁵ However, his assertions do not appear to be supported by independent proof or otherwise verified. Apart from Badelles's report, there does not seem to have been any other reliable efforts to ascertain the value at the time of taking or to otherwise come to a reasonable approximation of it.

A similar situation confronted in Court in *Sy v. Local Government of Quezon City*.⁷⁶ There, this Court ruled that just compensation should be reckoned from 1986, when the property was actually taken. However, the records only bore information concerning valuations in 1996, when the respondent belatedly brought an action for expropriation. This Court was thus constrained to remand the case to the Regional Trial Court to determine just compensation for taking done in 1986:

⁷⁵ *Rollo*, p. 129.

⁷⁶ 710 Phil. 549 (2013) [Per J. Perlas-Bernabe, Second Division].

Finally, the Court cannot sustain the amount of ₱5,500.00/sq. m. as just compensation which was set by the [Regional Trial Court] and upheld by the [Court of Appeals]. The said valuation was actually arrived at after considering: (a) the September 4, 1996 recommendation of the City Appraisal Committee; (b) several sworn statements made by Sy himself; and (c) Sy's own tax declaration for 1996. It is well-settled that the amount of just compensation is to be ascertained as of the time of the taking. However, the above-stated documents do not reflect the value of the subject property at the time of its taking in 1986 but rather, its valuation in 1996. Consequently, the case must be remanded to the [Regional Trial Court] in order to properly determine the amount of just compensation during such time the subject property was actually taken.⁷⁷

Given the dearth of information on respondent's property's valuation in 1966, this Court is constrained—as in *Sy*—to remand the case to the Regional Trial Court, Cagayan de Oro City. The Regional Trial Court shall ascertain the property's value at the time of taking in 1966, or otherwise endeavor to make the most reasonable approximation of that value, and, based on this, determine the amount of just compensation properly due to respondent.

IV

This Court is mindful of the disadvantage brought upon respondent by petitioner's delay in paying the just compensation owed to it. However, reckoning just compensation based on the date of the taking is not meant to condone the government's delay in compensating an owner. This is particularly compelling in cases where there was a prolonged intervening duration between taking and the determination of just compensation, and in cases of inverse condemnation. To address this delay, the remedy has been the imposition of interest, not the reckoning of just compensation to contemporary valuations.

As early as 1960, this Court has expressed its displeasure at government's delay in compensating the owners of expropriated properties:

This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay. The private owner is usually at a great and distinct disadvantage. He has against him the whole Government, central or local, that has occupied and appropriated his property, summarily and arbitrarily, sometimes, if not more often, against his consent. There is no agreement as to its price or its rent. In the meantime, the landowner makes requests for payment, rent, or even some understanding, patiently waiting and hoping that the Government would soon get around to hearing and granting his claim. The officials concerned may promise to consider his

⁷⁷ Id. at 562.

claim and come to an agreement as to the amount and time for compensation, but with the not infrequent government delay and red tape, and with the change in administration, specially local, the claim is pigeonholed and forgotten and the papers lost, mislaid, or even destroyed as happened during the last war. And when finally losing patience and hope, he brings a court action and hires a lawyer to represent him in the vindication of his valid claim, he faces the government represented by no less than the Solicitor General or the Provincial Fiscal or City Attorney, who blandly and with self-assurance, invokes prescription. The litigation sometimes drags on for years. In our opinion, that is neither just nor fair. When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are first initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean delay and difficulty for the Government, but all of its own making.⁷⁸

In *Apo Fruits Corporation v. Land Bank of the Philippines*,⁷⁹ this Court noted that even if there had been a deposit for fair market value at the time of taking, such was “not enough to compensate the petitioners for the potential income the landholdings could have earned for them if no immediate taking had taken place.”⁸⁰ It explained:

Apart from the requirement that compensation for expropriated land must be fair and reasonable, compensation, to be “just,” must also be made without delay. Without prompt payment, compensation cannot be considered “just” if the property is immediately taken as the property owner suffers the immediate deprivation of both his land and its fruits or income.

This is the principle at the core of the present case where the petitioners were made to wait for more than a decade after the taking of their property before they actually received the full amount of the principal of the just compensation due them. What they have not received to date is the income of their landholdings corresponding to what they would have received had no uncompensated taking of these lands been immediately made.

.....

The owner’s loss, of course, is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. The just compensation is made available to the property owner so that he may derive income from this compensation, in the same manner that he would have derived income from his expropriated property. If full compensation is not paid for property taken, then the State must make up for the shortfall in the earning potential immediately lost due to the taking, and the absence

⁷⁸ *Alfonso v. Pasay City*, 106 Phil. 1017, 1020–1021 (1960) [Per J. Montemayor, En Banc].

⁷⁹ 647 Phil. 251 (2010) [Per J. Brion, En Banc].

⁸⁰ *Id.* at 272.

of replacement property from which income can be derived[.]⁸¹ (Citations omitted)

Accordingly, this Court had emphasized the need for the payment of interest “to compensate for delay in the payment of just compensation.”⁸² In *Republic v. Court of Appeals and Heirs of Santos*.⁸³

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.⁸⁴

In the same vein, this Court’s 2015 Resolution in *Tecson*⁸⁵ discussed the imposition of interest, as follows:

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

....

It is important to note, however, that interest shall be compounded at the time judicial demand is made pursuant to Article 2212 of the Civil Code of the Philippines, and sustained in *Eastern Shipping Lines v. Court of Appeals*, then later on in *Nacar v. Gallery Frames*, save for the reduction of interest rate to 6% for loans or forbearance of money[.]⁸⁶ (Citations omitted)

Parenthetically, there has been discussion on the propriety of a sweeping imposition of the legal rate of interest. Separate opinions to the original 2013 Decision and to the 2015 Resolution in *Tecson* have espoused the use of the economic concept of present value—in lieu of the cut and

⁸¹ Id. at 273–276.

⁸² *National Transmission Corporation v. Oroville Development Corporation*, 815 Phil. 91, 112 (2017) [Per J. Mendoza, En Banc],

⁸³ 433 Phil. 106 (2002) [Per J. Vitug, First Division].

⁸⁴ Id. at 122–123, citing *Manila Railway Company v. Fabie*, 17 Phil. 206 (1910) [Per J. Moreland, En Banc]; *Philippine Railway Company v. Solon*, 13 Phil. 34 (1909) [Per J. Willard, En Banc], and *Commissioner of Public Highways v. Burgos*, 185 Phil. 606 (1980) [Per J. De Castro, First Division].

⁸⁵ 758 Phil. 604 (2015) [Per J. Peralta, En Banc].

⁸⁶ Id. at 636–640.

dried legal rate of interest—as a more dynamic means of reckoning the further compensation owed to owners because of the delay in payment: “By applying this concept, we are able to capture just compensation in a more holistic manner. We take into consideration the potential of money to increase (or decrease) in value across time.”⁸⁷ A dissenting opinion to the 2015 Resolution in *Tecson* explained:

Using present value is different from applying legal interest rates imposed for the use or forbearance of money. Legal interest rates are simple interest rates and, hence, are not compounded. Simple interest rates fail to capture the economic reality that money earns more money. With simple interest rates, the interest earned is the product of the principal amount multiplied by the interest rate, and that product is multiplied further by the number of periods involved. This is opposed to compounded interest rates, where the interest earned from the first period is also subject to interest earnings in a subsequent period, with the amount subjected to the interest rate increasing each period. Consequently, interest earnings increase every year as well.

....

The use of compounded interest rates is intrinsic in the determination of present value. It is not anchored on Article 2212 of the Civil Code. Article 2212 states that “[i]nterest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.” It is inaccurate to use this law because it contemplates a situation where the payee goes to court to collect payment. In expropriation cases, it is not the obligation of the payee to initiate proceedings to determine just compensation. It is the obligation of the state to initiate these proceedings in order not to violate the rights of the private property owner. The private property owner only files a court action as a matter of last resort in order not to be denied of his or her constitutional right to just compensation.

Interest rates are compounded to determine the present value of the amount of money due to property owners. Compounded interest rates are part of the value of the property itself and not merely the interest given by two parties entering into a loan or an interest rate given together with a monetary judgment.

The use of economics, or any other discipline, in aid of judicial decisions does not violate the judicial temperament. Economics can be a tool for this court to approximate the constitutional ideal of “just compensation.” Judge Richard A. Posner recommends that:

we need a new style of judicial opinion writing (really a return to an older style), in which formalistic crutches — such as the canons of statutory construction and the pretense of deterministic precedent — exaggerate the autonomous elements in legal reasoning are replaced by a more candid engagement with the realistic premises of decision. Judicial decisionmaking must also become more

⁸⁷ J. Leonen, Separate Opinion in *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, 713 Phil. 55, 75 (2013) [Per J. Peralta, Third Division].

receptive to the insights of social science. Lawyers and judges must overcome the prevalent (and disgraceful) mathblock that afflicts the legal profession.

Furthermore, legal interest rates is fixed at 6% or 12% depending on which prevailing Central Bank circular has been enacted. Meanwhile, computation of present value is dependent on the historical average of year-to-year interest rates.

Using fixed interest rates does not reflect the historical and contemporary economic realities. Contrary to the position of Justice Brion, this court has arbitrarily selected this in order to satisfy the need to give an equitable award of “just compensation” within the bounds of jurisprudence when it feels that the original landowner has been unduly deprived by government.

There is no clear basis as to why interest rates fixed at 6% or 12% will be able to approximate the replacement value of the property and, thus, result to just compensation for the landowners.

Previous jurisprudence cited the use of Act No. 2655 and Central Bank circulars issued in relation to that law as basis for the use of 6% and 12%. Act No. 2655 is a law that determines a ceiling interest rate to avoid usurious loans. Throughout the text of the law, reference is made to a “person” or “corporation.” This law is not nuanced to fit the purposes of determining just compensation in favor of a private property owner. The transaction involved here is not a loan or forbearance of money between two private parties but expropriation, an exercise of eminent domain powers of the state. The use of usury laws and circulars in order to determine “just compensation” in case of delay is as crude as it is imprecise.

Shifting from the method used in earlier jurisprudence to a more accurate method of using present value is more in keeping with the constitutional character of the concept of just compensation. For purposes of determination of just compensation, statutes and executive enactments are merely recommendatory.⁸⁸ (Citations omitted)

This Court notes that the Regional Trial Court’s March 31, 2014 and March 31, 2017 Orders which occasioned petitioner’s appeal to the Court of Appeals both stipulated petitioner’s liability for interest. The March 31, 2017 Order adjusted the rates of interest due in view of *Nacar v. Gallery Frames*.⁸⁹ Notwithstanding the propositions made for the application of present value in lieu of interest at the legal rate, the Regional Trial Court’s imposition of interest is in keeping with prevailing jurisprudence. It has accordingly, extended to respondent the standard recompense for petitioner’s delay in paying just compensation. This liability for interest shall rightly extend until such time that full payment has been made.

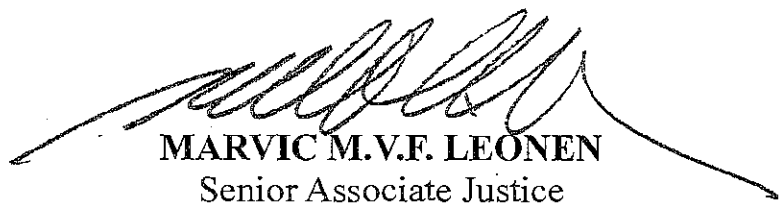
ACCORDINGLY, the Petition is PARTLY GRANTED. The

⁸⁸ J. Leonen, Dissenting Opinion in *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, 758 Phil. 604, 709 (2015) [Per J. Peralta, En Banc].

⁸⁹ 716 Phil. 267 (2013) [Per J. Peralta, En Banc].


assailed May 31, 2018 Decision and February 12, 2019 Resolution of the Court of Appeals in CA-G.R. CV No. 04683-MIN are **REVERSED and SET ASIDE**. The case is **REMANDED** to the Regional Trial Court, Cagayan de Oro City for the proper determination of the amount of just compensation, along with interest, in accordance with this Decision.

SO ORDERED.



MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARIC Y. LOPEZ
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

On leave
ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

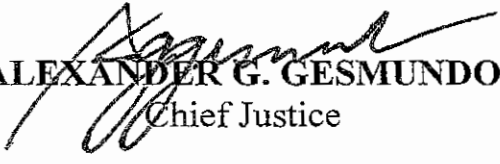
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

