



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 31, 2022 which reads as follows:

“G.R. No. 259261 (*Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Spouses Marcial G Bernales and Rufina P. Bernales*). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated 22 December 2020 and the Resolution³ dated 28 October 2021 of the Court of Appeals (CA) in CA-G.R. CV No. 113826. The CA denied the appeal filed by petitioner Republic of the Philippines (petitioner) and affirmed the Decision⁴ dated 25 January 2019 of Branch 75, Regional Trial Court (RTC) of Valenzuela City.

Antecedents

Respondents spouses Marcial Bernales (respondent Marcial) and Rufina Bernales (respondent Rufina; respondents, collectively) are the registered owners of two parcels of land with improvements located in *Barangay* General T. de Leon, Valenzuela City. The first property has an area of 450 square meters and covered by Transfer Certificate of Title (TCT) No. V-6520. The second property has an area of 500 square meters and covered by TCT No. V-6521.

On 11 February 2013, petitioner, represented by the DPWH, initiated expropriation proceedings for the acquisition of a 122-square meter portion of the first property and 78-square meter portion of the second property for the construction of the C-5 Northern Link Road Project Phase 2 (Segment 9) from North Luzon Expressway (NLEX) to McArthur Highway, Valenzuela City. Petitioner claimed that based on Department of Finance (DOF)

¹ *Rollo*, pp. 21-39.

² *Id.* at 41-57; penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Ruben Reynaldo G. Roxas and Alfredo D. Ampuan.

³ *Id.* at 58-59.

⁴ *Id.* at 61-72; penned by Presiding Judge Lilia Mercedes Encarnacion A. Gepty.

Department Order (D.O.) No. 22-2003 dated 23 January 2003, the zonal valuation of the first property is ₱256,200.00 or ₱2,100.00 per square meter, while the second property is ₱163,800.00 or ₱2,100.00 per square meter. The total replacement cost of improvements is ₱6,146,697.66, broken down as follows:

	Replacement Cost
Two (2)-storey residential house (semi-concrete)	₱1,209,409.33
Three (3)-storey residential house (semi-concrete)	₱4,573,023.44
Concrete open slab	₱173,775.19
Concrete fence and steel gate	₱190,489.70
Total	₱6,146,697.66⁵

Petitioner offered to purchase the subject properties and their improvements at ₱6,146,697.66, but such offer was rejected by respondents.⁶

In their Answer, respondents assailed the genuine necessity and purpose of the exercise of the right of eminent domain. They argued that while the expropriation proceedings cover only a portion of the first and second properties, the normal use of the entire land and the improvements will be substantially impaired. They will be greatly inconvenienced by the demolition of the front section of the two residential houses as it will affect the houses structural integrity and render the same uninhabitable.⁷

According to respondents, the basis of just compensation should not be DOF D.O. No. 22-2003 considering that they still have to pay the capital gains and documentary stamp taxes. The determination of just compensation should consider the sentimental value of the properties, more particularly the antiques found in the residential houses. They pointed out that the subject properties house their antique repair shop and *bordahan* or “sewing shop for the dress of religious images” which are their primary livelihood. They were forced to close said shops in view of the impending expropriation.⁸

Further, respondent Marcial is a well-known wood sculptor and collector of antique woodcrafts. Through the years, he traveled to far regions of the country to painstakingly collect the antiques incorporated in the residential houses. The sentimental values of the antiques could not be easily equated with money. On the other hand, respondent Rufina is a famous *bordadera*. Her embroidery of religious images was made at the third floor of the three-storey house and its demolition would deprive her of inspiration to pursue another masterpiece.⁹

⁵ Id. at 45.

⁶ Id. at 62.

⁷ Id. at 44.

⁸ Id.

⁹ Id.

Respondents thus prayed that the just compensation of the subject properties be based on their current full market value; the replacement cost of the two-storey house be at least ₱3,000,000.00 and the three-storey house be ₱6,000,000.00; the just compensation for the damages incurred as well as the expenses for the removal of the antiques be ₱2,000,000.00; and the loss of earnings be ₱500,000.00 per *annum*.¹⁰

On 21 May 2013, the RTC issued an Order which, among others, directed respondents to remove the antiques found on the properties sought to be expropriated within 30 days prior to the issuance of a writ of possession (WOP). Respondents voluntarily removed the antiques in compliance with the court's Order.¹¹

Five months thereafter, or on 26 October 2013, petitioner posted the provisional deposit amounting to ₱6,566,697.66 by way of Banco De Oro (BDO) Manager's Check No. 0069355 (MC) to the Branch Clerk of Court of the RTC.¹²

During the hearing for the issuance of the WOP, respondents manifested that the subject properties were mortgaged to Producers Savings Bank (PSB) in 2011 for ₱2,500,000.00 and they still have an outstanding balance of ₱900,000.00. They undertook to settle their indebtedness upon receipt of the provisional deposit, but petitioner insisted that respondents should first clear the encumbrance annotated on the TCTs prior to the release of the MC.¹³

Upon cancellation and release of the mortgage by PSB, respondents duly received from petitioner the MC amounting to ₱6,566,697.66 on 27 May 2014. Subsequently, the RTC issued the WOP on 08 August 2014 which was fully implemented and satisfied on 10 October 2014.¹⁴

An Order of Expropriation was issued by the RTC on 13 February 2015 upholding petitioner's authority to expropriate for public use the first and second properties after finding that respondents have no objections to the expropriation subject to the determination of just compensation.¹⁵

A Board of Commissioners was constituted for the purpose of determining the just compensation of the properties, composed of Michael Chui Agus (Agus), Anna Marie Claveria (Claveria), and Phoebe Scherrie C. Evangelista (Evangelista). The parties were directed to file their respective position papers.¹⁶

¹⁰ Id. at 44-45.

¹¹ Id. at 45.

¹² Id.

¹³ Id.

¹⁴ Id. at 45-46.

¹⁵ Id. at 46.

¹⁶ Id.

Petitioner insisted that the just compensation for the subject properties must be pegged at ₱2,100.00 per square meter, based on the zonal valuation. Respondents, for their part, recommended that the just compensation be fixed at ₱15,000.00 per square meter.¹⁷

In her Commissioner's Report, Evangelista pegged the amount of just compensation of the first property at ₱8,000.00 per square meter and the second property at ₱5,000.00 per square meter. She recommended that the replacement cost summary of petitioner be adopted considering the lack of evidence on the part of respondents. For Claveria, she suggested that just compensation be fixed at ₱1,950.00 per square meter based on DOF D.O. No. 22-2003. Agus did not submit his Commissioner's Report.¹⁸

Ruling of the RTC

In a Decision¹⁹ dated 25 January 2019, the RTC fixed the just compensation of the first property at ₱976,000.00 or ₱8,000.00 per square meter, and the second property at ₱234,000.00 or ₱3,000.00 per square meter. It adopted petitioner's replacement cost of improvements at ₱6,146,697.66, there being no evidence to the contrary. The dispositive portion of the Decision reads:

WHEREFORE, in the light of the foregoing considerations, the just compensation for the subject lot expropriated consisting of one hundred twenty-two (122) square meters which is covered by TCT No. V-6520, reclassified as a commercial lot, is fixed at EIGHT THOUSAND PESOS (Php 8,000.00) per square meter or a total of Nine Hundred Seventy-Six Thousand Pesos (Php 976,000.00). As for the subject lot covered by TCT No. V-6521, consisting of seventy-eight (78) square meters, the just compensation is fixed at THREE THOUSAND PESOS (Php 3,000.00) per square meter or a total of Two Hundred Thirty-Four Thousand Pesos (Php 234,000.000). Hence, the total just compensation for the two (2) subject lots amounted to One Million Two Hundred Ten Thousand Pesos (Php 1,210,000.00). The replacement cost for the improvement is maintained at Six Million One Hundred Forty-Six Thousand Six Hundred Ninety-Seven Pesos and Sixty-Six Centavos (Php 6,146,697.66). On the whole, the just compensation for the subject lots and their improvements has a total of SEVEN MILLION THREE HUNDRED FIFTY-SIX THOUSAND SIX HUNDRED NINETY-SEVEN PESOS AND SIXTY-SIX CENTAVOS (Php 7,356,697.66).

Plaintiff is hereby directed to deduct the provisional amount received by defendant-spouses for the subject lots and their improvements in the amount of Six Million Five Hundred Sixty-Six Thousand Six Hundred Ninety-Seven Pesos and Sixty-Six Centavos (Php 6,566,697.66). Hence, plaintiff is hereby directed

¹⁷ Id. at 46-47.

¹⁸ Id. at 47-48.

¹⁹ Id. at 61-72.

to pay defendants-spouses the balance of SEVEN HUNDRED NINETY THOUSAND PESOS (Php 790,000.00), subject to legal interest of six percent (6%) from October 10, 2014 or from the time the plaintiff took possession of the subject properties, until full payment.

Upon finality of the judgment, the total amount due, including interests, shall be subject to six percent (6%) interest per annum until fully satisfied.

The Office of the Register of Deeds of Valenzuela City, Metro Manila is likewise directed to annotate this Decision in TCT Nos. V-6520 and V-6521 respectively, registered under the names of spouses Marcial G. Bernales and Rufina P. Bernales.

SO ORDERED.²⁰

The RTC, in the exercise of its discretion, took into consideration all documents submitted, location, classification, and use of the subject properties, in fixing the amount of just compensation at ₱8,000.00 per square meter for the first property, and ₱3,000.00 per square meter for the second property. The RTC took judicial notice of the updated zonal valuation of the place where the subject properties are located, as provided under DOF D.O. 81-2015 issued on 29 July 2015. While the case was filed in 2013 and the updated zonal valuation was issued in 2015, the RTC ruled that it would be unfair for respondents if the zonal value indicated in DOF D.O. 22-03 would still be applied. Moreover, the expenses incurred in the removal and demolition of the improvements from the subject lots were also considered by the RTC in the determination of just compensation. Since respondents did not present evidence to substantiate a higher valuation for the replacement cost of the improvements, the RTC maintained the replacement cost assessed by petitioner.²¹

Petitioner moved for partial reconsideration, but it was denied in the Order²² dated 07 June 2019.

Ruling of the CA

In the assailed Decision²³ dated 22 December 2020, the CA denied petitioner's appeal and affirmed the RTC Decision:

WHEREFORE, the appeal is **DENIED**. The January 25, 2019 Decision and June 7, 2019 Order of the Regional Trial Court, Branch 75, Valenzuela City in Civil Case No. 37-V-13 are hereby **AFFIRMED**.

SO ORDERED.²⁴

²⁰ Id. at 71-72.

²¹ Id. at 48-51.

²² Not attached to the petition.

²³ *Rollo*, pp. 41-57.

²⁴ Id. at 56.

The CA held that the RTC's valuations of ₱8,000.00 per square meter for the first property and ₱3,000.00 per square meter for the second property are fair and sensible under the circumstances. The RTC did not merely rely on DOF D.O. 81-2015 in determining just compensation, but took into account the following standards mentioned under Section 5 of Republic Act No. (RA) 8974:²⁵ the classification and use for which the properties are suited; the current BIR Zonal valuation and location of the properties; and the expenses incurred by respondents for the removal and demolition of the improvements. The facts with respect to the condition of the properties sought to be expropriated, their surroundings, and available amenities were also duly considered by the RTC.²⁶

It did not also escape the CA's attention that as a result of the expropriation proceedings, respondents were compelled to remove the antiques found on the expropriated properties. Under RA 8974, the computation of just compensation includes the reasonable disturbance for the removal of the antiques incorporated in the residential houses which were painstakingly collected by respondent Marcial from far regions of the country.²⁷

Further, the CA ruled that the zonal values in DOF D.O. No. 22-2003 do not reflect the subject properties' values at the time of taking. DOF D.O. No. 22-2003 was issued on 23 January 2003 while the time of taking in this case was on 11 February 2013. This wide gap may have distorted the correct amount of just compensation. It is settled that just compensation refers to the value of the property at the time of taking not earlier nor later.²⁸

Petitioner moved for reconsideration, but it was denied in the Resolution²⁹ dated 28 October 2021.

Hence, this petition for review on *certiorari* filed by petitioner.³⁰

Issue

The sole issue to be resolved is whether the CA correctly affirmed the RTC Decision fixing the amount of just compensation at ₱8,000.00 per square meter for the first property, and ₱3,000.00 per square meter for the second property.

²⁵ Entitled, "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES." Approved: 07 November 2000. As amended by RA 10752 (2016) also known as "The Right-of-Way Act."

²⁶ Id. at 53-54.

²⁷ Id. at 54.

²⁸ Id. at 54-55.

²⁹ Id. at 58-59.

³⁰ Id. at 21-32.

Ruling of the Court

The petition is devoid of merit.

Preliminarily, the Court notes that petitioner no longer questions the value of the replacement cost of improvements in the total amount of ₱6,146,697.66 as well as the propriety of the imposition of legal interest on the balance of just compensation.

Petitioner mainly assails the amount of just compensation pegged by the RTC, as affirmed by the CA, which was allegedly based on DOF D.O. No. 81-2015 issued on 28 July 2015, or almost one year after petitioner had taken possession of the properties. Petitioner contends that it should not bear the increased value reflected in DOF D.O. No. 81-2015 when it had already seized the properties and had paid respondents the amount equivalent to 100% of the zonal valuation of the subject properties long before the said D.O. was issued.

Even assuming that the RTC did in fact consider other factors in the determination of just compensation, petitioner argues that respondents failed to proffer evidence that the subject parcels of land must be pegged at a value higher than their zonal valuation at the time they were taken. On the other hand, petitioner presented the properties' prevailing BIR zonal valuation and the tax declarations.

Petitioner's arguments do not persuade.

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 for the property to be taken shall be real, substantial, full, and ample.³¹

Section 5 of RA 8974, the applicable law in this case, enumerates the following relevant standards which the court may consider in determining just compensation for national government infrastructure projects:

Section 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. — In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

- (a) The classification and use for which the property is suited;
- (b) The developmental costs for improving the land;
- (c) The value declared by the owners;

³¹ *Republic v. Spouses Darlucio*, G.R. No. 227960, 24 July 2019.

- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvement on the land and for the value of improvements thereon;
- (f) The size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

The Court, in *Republic v. Cebuan*,³² notably described the enumeration in Section 5 of RA 8974 to be *non-exclusive, permissive, and discretionary* in character. The courts are *not* strictly bound to mechanically follow each of these standards as they are merely *recommendatory* in nature. The determination of just compensation in expropriation cases, after all, is a judicial function by constitutional mandate. As such, any legislative enactment or executive issuance that aims to fix or provide a strict method of computing just compensation would be tantamount to an impermissible encroachment on judicial prerogatives.³³

A perusal of the RTC Decision shows that it considered the relevant factors enumerated in Section 5 of RA 8974 in fixing the amount of just compensation. Contrary to petitioner's assertion, the RTC did not peg the just compensation solely on the basis of DOF D.O. No. 81-2015, which was issued two years after the filing of the expropriation proceedings and almost one year from petitioner's possession of the subject properties. The updated zonal values under DOF D.O. No. 81-2015 were just but one of the considerations used by the RTC in fixing the amount of just compensation.

Applying Section 5 of RA 8974, the following factors were duly considered: a) classification and use of the property – the first property was reclassified as a commercial lot while the second property remained residential; b) location of the subject properties, *i.e.*, Kaingin Street, Parada, Valenzuela; c) the current or updated BIR Zonal valuation, where the zonal values are ₱3,000.00 per square meter for residential lots, and ₱8,000.00 per square meter for commercial lots; and d) reasonable disturbance compensation pertaining to the expenses incurred by respondents in the removal and demolition of the improvements.

³² 810 Phil. 767 (2017), cited in *Spouses Buot v. National Transmission Corp.*, G.R. No. 240720, 17 November 2021.

³³ *Id.*

Further, during the ocular inspection conducted by the members of the Board of Commissioners, they noted that the subject properties are rectangular in shape and basic utilities such as electricity, water supply, telecommunication facilities are readily available in the area. The neighboring properties are generally residential in character, and different modes of transportation such as tricycle, taxi, and jeepney are accessible in the vicinity.

Certainly, the RTC duly considered as guideposts the factors in Section 5 of RA 8974, particularly paragraphs (a), (e), and (f), as well as the condition of the subject properties, their surroundings, and available amenities, and thereafter fixed just compensation at ₱8,000.00 per square meter for the first property or a total of ₱976,000.00;³⁴ and ₱3,000.00 per square meter for the second property or a total of ₱234,000.00.³⁵

Petitioner's insistence on pegging just compensation at the zonal value on the basis of DOF D.O. No. 22-2003 must necessarily fail. Zonal valuation is simply one of the indices of the fair market value of real estate. By itself, this index cannot be the sole basis of just compensation in expropriation cases.³⁶ Zonal value alone of the properties in the area, whether of recent or vintage years, does not equate to just compensation.³⁷ The same is true for the value indicated in the property's tax declaration.³⁸ Therefore, any amount that exceeds the zonal or tax-declared value is not necessarily exorbitant.³⁹

As observed by both the RTC and the CA, DOF D.O. No. 22-2003 does not reflect the actual values of the subject properties at the time of taking. DOF D.O. No. 22-2003 was issued on 23 January 2003 while the time of taking in this case was on 11 February 2013, reckoned from the filing of the complaint for expropriation. The 10-year gap between the issuance of the zonal valuations in 2003, and the time of taking or the filing of the expropriation proceedings in 2013, highlights the unreliability and inaccuracy of said zonal valuation under DOF D.O. No. 22-2003. Using the zonal values under said D.O. would not be the real, substantial, full, and ample compensation of the subject properties.

Petitioner contends that it should not bear the increased value reflected in DOF D.O. No. 81-2015 when it had paid respondents the amount equivalent to 100% of the zonal valuation of the subject properties long before the said D.O. was issued. This payment of 100% of the zonal valuation pertains to the payment of provisional value as a condition for the issuance of a writ of possession. It is different from the payment of just compensation for the expropriated property. While the provisional value is

³⁴ ₱8,000.00 x 122 square meter = ₱976,000.00.

³⁵ ₱3,000.00 x 78 square meter = ₱234,000.00.

³⁶ *National Grid Corporation of the Philippines v. Bautista*, G.R. No. 232120, 30 September 2020.

³⁷ *Id.*

³⁸ *Republic v. Spouses Silvestre*, G.R. No. 237324, 6 February 2019.

³⁹ *See Leca Realty Corp. v. Republic*, 534 Phil. 693 (2006).

based on the current relevant zonal valuation, just compensation is based on the prevailing fair market value of the property.⁴⁰ As the Court explained in *Republic v. Spouses Goloyuco*:⁴¹

The first refers to the preliminary or provisional determination of the value of the property. It serves a double-purpose of pre-payment if the property is fully expropriated, and of an indemnity for damages if the proceedings are dismissed. It is not a final determination of just compensation and may not necessarily be equivalent to the prevailing fair market value of the property. Of course, it may be a factor to be considered in the determination of just compensation.


Just compensation, on the other hand, is the final determination of the fair market value of the property. It has been described as “the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of the expropriation.” x x x

In fine, the Court finds no cogent reason to reverse the findings of the RTC, as affirmed by the CA, insofar as the amount of just compensation is concerned. Moreover, in the absence of any legal basis to the contrary, or any objection from the parties, the Court further affirms the imposition of 6% per *annum* legal interest on the unpaid balance of the just compensation, being in accord with applicable law and jurisprudence.⁴²

WHEREFORE, the petition is **DENIED**. The Decision dated 22 December 2020 and the Resolution dated 28 October 2021 of the Court of Appeals in CA-G.R. CV No. 113826 are hereby **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gfb 9/27*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

15-II

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⁴⁰ *Republic v. Spouses Goloyuco*, G.R. No. 222551, 19 June 2019.

⁴¹ *Id.*

⁴² *Republic v. Spouses Silvestre*, *supra*.

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