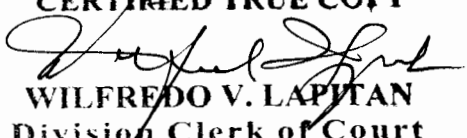




Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

FEB 20 2018

THIRD DIVISION

THE MANILA BANKING CORPORATION,
 Petitioner,

G.R. No. 230144

Present:

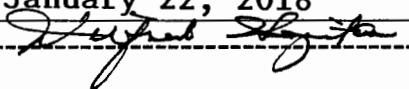
- versus -

VELASCO, JR., *J.*, Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES,* and
 GESMUNDO, *JJ.*

BASES CONVERSION AND DEVELOPMENT AUTHORITY,
 Respondent.

Promulgated:

January 22, 2018

x----------x

DECISION

VELASCO, JR., *J.*:

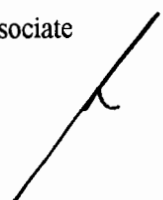
The Case

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision¹ dated October 26, 2016 and the Resolution² dated February 22, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 104234, which reversed and set aside the Order dated August 28, 2014 of Branch 60, Regional Trial Court (RTC) of Angeles City, Pampanga, in Civil Case No. 03-11226.

* On leave.

¹ *Rollo*, pp. 47-63. Penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Ramon Paul L. Hernando and Nina G. Antonio-Valenzuela.

² *Id.* at 64-66.



The Facts

Respondent Bases Conversion and Development Authority (“BCDA”) was created as a government corporation on March 13, 1992 by virtue of Republic Act No. 7227 (RA 7227). It is tasked mainly to manage the Clark and Subic military reservations/camps and their extensions and to adopt and implement a comprehensive development plan for their conversion into productive uses, with a view to promoting the economic and social development of the country (Section 4, RA 7227). Among the powers expressly granted to it is the power to exercise the right of eminent domain (Section 5[k]).³

On November 21, 2003, BCDA filed a complaint against herein petitioner The Manila Banking Corporation (“TMBC”) and Bangko Sentral ng Pilipinas (“BSP”), seeking to expropriate a parcel of land covered by Transfer Certificate of Title (TCT) No. 308513-R of the Registry of Deeds of Pampanga, registered in the name of TMBC with a total area of Ten Million Two Hundred Forty Thousand square meters (10,240,000 sq.m.) situated in Barangay Dolores, Municipality of Porac, Province of Pampanga (“Subject Property”). The area to be affected by expropriation was estimated to be One Hundred Eighty-Six Thousand Three Hundred Fifty-Five square meters (186,355 sq.m.), more or less.⁴ BCDA also alleged that the subject property was classified as agricultural land and had the zonal value of ₱30 per square meter at the time of filing of the complaint.⁵

According to BCDA, the subject property was being expropriated to pave the way for the implementation of the Subic-Clark-Tarlac Expressway (SCTEX) Project of the national government. The SCTEX Project was supposed to provide the shortest, direct and efficient link among vital development areas in Central Luzon, more specifically among three prime economic zones (Subic Bay Special Economic Zone in Zambales, Clark Special Economic Zone in Pampanga and the Hacienda Luisita Industrial Park in Tarlac) and significantly alleviate the worsening traffic condition of the North Luzon Expressway. BCDA further claimed that “the government will suffer immense and irreparable damage if this project will not proceed as scheduled by reason of the failure to negotiate with supposed owner after diligent efforts to do so.”⁶

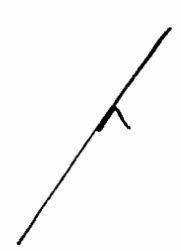
BCDA prayed for the issuance of a writ of possession upon payment to the landowner of an amount equivalent to 100% of the value of the subject property based on the current zonal valuation, pursuant to Section 4(a) of RA 7227, and thereafter, an order of expropriation requiring the defendants to answer within the time specified in the summons and

³ Id. at 47.

⁴ Id., id. at 68-69.

⁵ Id. at 69.

⁶ Id. at 48.



authorizing BCDA to take the property sought to be expropriated for public purpose as stated in the complaint.⁷

Prior to the filing of the complaint on June 21, 1999, it appears that the property was the subject of a *Dacion En Pago Con Pacto de Retro* agreement between TMBC and the Central Bank Board of Liquidators ("CB-BOL"). Pursuant to a revised repayment plan, TMBC delivered several properties in settlement of the balance of its debt to CB-BOL amounting to ₱2,265,953,378.83. On December 20, 2000, CB-BOL assigned all its rights and interests under the *Dacion* agreement in favor of the BSP. Thus, BSP sought the release of 100% of the value of the property based on the current zonal valuation of the Bureau of Internal Revenue ("BIR"), in accordance with Section 2, Rule 67 of the 1997 Rules of Procedure. TMBC opposed the motion and the issue was submitted for resolution at the trial during the pre-trial conference.⁸

Records also reveal that a Final Offer to Buy dated October 9, 2003 was sent by BCDA to TMBC, whereby BCDA offered the price of ₱75 per square meter for the subject property.⁹

On January 22, 2004, BCDA deposited the amount of Five Million Five Hundred Ninety Thousand and Six Hundred Fifty Pesos (₱5,590,650) before the Office of the Clerk of Court of Angeles, Pampanga. This amount was equivalent to the value of the actual affected area of the subject property based on the then current zonal valuation provided by the BIR.¹⁰

The trial court issued a writ of possession on March 11, 2004 and the subject property was placed in the possession of BCDA on June 10, 2004.¹¹

BCDA filed a Motion to Admit Supplemental Complaint, manifesting the reduction of the area to be taken from the original 186,355 sq.m. to One Hundred Sixty-Six Thousand Three Hundred Fifty-Five square meters (166,355 sq.m.) due to the realignment of the expressway. On April 11, 2007, BCDA further amended its complaint by adding an area of Six Thousand Seven Hundred Forty-Four square meters (6,744 sq.m.), making the total affected area of the subject property as One Hundred Seventy-Three Thousand Fifty-Nine square meters (173,059 sq.m.).¹²

In its Answer, TMBC contended that the offered price of ₱30 per square meter is way below the fair market value of the subject property. It pointed out that the subject property's value lies in the fact that it is the only remaining compact area of its size and nature within the Province of Pampanga; the proposed project would cut the property into two by the

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id. at 70-71.

¹¹ Id. at 48-49.

¹² Id. at 71.



construction of fences on both sides thereby rendering inaccessible one side to the other and its value would substantially depreciate. Just compensation should, thus, include expected depreciation of the remaining areas.¹³

In its Order dated April 29, 2005, the RTC declared that BCDA has clearly established its lawful right to take the property sought to be expropriated for public use or purpose described in the complaint upon the payment of just compensation. After termination of pre-trial, the parties were ordered to submit their nominations for the commissioners who will assist the trial court in arriving at the just compensation for the subject property.¹⁴

Meanwhile, TMBC filed a motion to release payment which was opposed by BSP. Subsequently, they agreed for the release of the entire amount (initial payment of BCDA) to TMBC to be deposited by the latter in an escrow account with BSP, without prejudice to the eventual determination of the just compensation, and who between BSP and TMBC is entitled to the expropriation proceeds. On June 19, 2008, the RTC denied TMBC's motion for release of payment for being premature as there is still a need to determine who between TMBC and BSP is entitled to the proceeds of the property. However, pursuant to the RTC's Order dated March 12, 2009, TMBC's motion for reconsideration was granted and the amount of Five Million Three Hundred Sixty-Six Thousand and Ten Pesos (Php5,366,010.00) was released in favor of TMBC and was thereafter deposited in an escrow account with BSP pursuant to their compromise agreement.¹⁵

On August 14, 2009, the RTC conducted an ocular inspection of the subject property in the presence of counsels for TMBC and BCDA, and the nominee-appraiser of BCDA, Mr. Alberto Murillo, Jr. ("Mr. Murillo"), then City Assessor of Angeles City, Pampanga. On September 24, 2009, TMBC filed a motion to set a second ocular inspection stating that the joint nominee of TMBC and BSP, Engr. Jose L. Ocampo ("Engr. Ocampo"), was unable to attend the ocular inspection. Said motion was granted by the trial court and a second ocular inspection was conducted on December 3, 2009, this time attended by counsels for BCDA and Manila Bank, and Engr. Ocampo.¹⁶

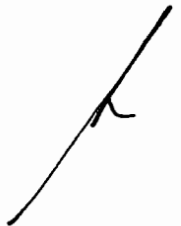
Mr. Murillo submitted to the court his report on August 19, 2009. TMBC moved to set aside the said report on grounds that it was filed even before he took his oath of office and that he failed to notify TMBC and BSP, nor were there hearings conducted for reception of evidence to aid him in reaching a fair, unbiased and comprehensive report on the fair market value of the property. In its comment, BCDA manifested that another report will just be submitted, adding that there is no necessity for Mr. Murillo to

¹³ Id. at 49.

¹⁴ Id.

¹⁵ Id., id. at 70-71.

¹⁶ Id. at 49-50.



conduct any hearing since what was submitted is his individual report and TMBC's commissioner should submit his own recommendation and the matter of just compensation will be left to the discretion of the court. TMBC insisted that an order directing Mr. Murillo to re-submit his Commissioner's Report would be greatly prejudicial as he had already shown bias in this case, failed to apply any basic standards of his office, and never accorded the parties an equal opportunity to be heard.¹⁷

Meanwhile, Engr. Ocampo requested to withdraw as commissioner on account of his deteriorating health. He was replaced by Engr. Roger F. Tolosa, Jr. ("Engr. Tolosa"), who was nominated by both TMBC and BSP. In its Order dated June 30, 2011, the RTC resolved to: (1) set aside Mr. Murillo's report dated August 18, 2009; (2) appoint Engr. Tolosa as Commissioner *vice* Engr. Ocampo; (3) appoint the Municipal Assessor of Porac, Pampanga as Commissioner in this case; (4) direct Engr. Tolosa and the Municipal Assessor to take their oath of office; and (5) direct the three Commissioners, parties and their counsels to conduct an ocular inspection on August 9, 2011 and submit their respective reports within 30 days. Municipal Assessor Myrna V. Lumanlan declined her appointment and instead recommended Engr. Glen I. Lansangan ("Engr. Lansangan"), Municipal Planning and Development Officer of Porac, Pampanga.¹⁸

The final group of Commissioners consisted of Mr. Murillo, Engr. Tolosa, and Engr. Lansangan. On October 6, 2011, they took their respective oaths of office.¹⁹

On October 6, 2011, the scheduled ocular inspection proceeded with the attendance of the counsel/representative from BCDA, TMBC, BSP, and the three Commissioners. As directed, the parties submitted their respective documentary evidence to the Commissioners.²⁰

The Commissioners did not come up with a group report, but made individual reports after their ocular inspection and they received the documents submitted by the parties.²¹

Engr. Tolosa submitted his Report dated November 2, 2011 where he concluded that:

Based on our investigation and analysis of all relevant facts and as supported by the accompanying narrative report, it is our opinion that the **Market Value** (for Just Compensation) of the land appraised as of October 6, 2011 is **Php388 per square meter** and is represented in the amount of **SIXTY-SEVEN MILLION, ONE HUNDRED FORTY-SIX**

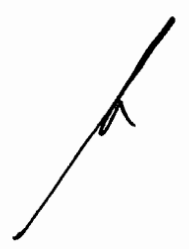
¹⁷ Id. at 50.

¹⁸ Id.

¹⁹ Id. at 72.

²⁰ Id. at 50.

²¹ Id. at 126.



THOUSAND EIGHT HUNDRED NINETY-TWO (PhP67,146,892) PESOS subject to the attached limiting conditions.²²

For his part, Engr. Lansangan made this recommendation in his Report:

Inspection and Valuation

We have personally inspected the property on October 6, 2011 and arriving at a reasonable valuation, I have researched price information from reputable sources and also giving consideration to the:

- a. Highest and best use at the property; and
- b. Zoning and current land usage in the locality

In view of the foregoing, it is of the opinion of the Commissioner that the Fair Market Value of the affected property is **Three Hundred Fifty Pesos (Php 350.00)** per square meter.²³

On the other hand, the Report of Mr. Murillo dated October 24, 2011 stated that—

Still I maintained my appraisal at Thirty Pesos per square meter (P30.00/sq.m.) based at the time of taking. It is my honest opinion that the Thirty Pesos per square meter (P30.00/sq.m.) be paid as just compensation to the owner. It is reasonable and fair enough to both parties concerned considering that **they are only agricultural lands which have a lower value than industrial or commercial lots.** Besides it is the general public who will benefit from the use of the SCTEX and not the government.

It is therefore recommended that the appraised value of Thirty Pesos per square meter (P30.00/sq.m.) be approved as basis for the payment of just compensation of the above mentioned property owner.²⁴

During the hearings, the three Commissioners testified and the parties presented their respective evidence. After the formal offer of evidence and submission of the parties' respective memorandum, the case was submitted for decision.

Ruling of the Regional Trial Court

In a Decision²⁵ dated September 4, 2012, the RTC ordered respondent BCDA to pay petitioner TMBC the amount of ₱250 per square meter as just compensation for the property taken. The dispositive portion of the RTC Decision reads:

²² Id. at 51.

²³ Id.

²⁴ Id.

²⁵ Id. at 68-87. Rendered by Presiding Judge Ofelia Tuazon Pinto.

WHEREFORE, the Court hereby renders judgment ordering the plaintiff to pay the defendants, the amount of Two Hundred Fifty Pesos Per Square Meter (Php. 250.00/ per sq. m.), or a total of Thirty Seven Million Eight Hundred Ninety Eight Thousand and Seven Hundred Forty Pesos (Php. 37,898,740.00) representing the principal balance on the just compensation due on the taking of a total affected area of One Hundred Seventy Three Thousand Fifty Nine Square Meters (173,059 sq. m.) that is covered by TCT 671482- R and TCT 671484- R; both derived from the mother title- TCT 308513- R in the name of Manila Banking Corporation; plus twelve [percent] (12%) interest per annum, from November 21, 2003 until fully paid.

SO ORDERED.²⁶

Respondent BCDA filed a Motion for Reconsideration²⁷ dated November 21, 2012. However, petitioner pointed out that BCDA failed to put a notice of hearing in its motion. In an attempt to remedy this procedural infirmity, BCDA file a Manifestation and Motion on January 3, 2013, praying that the motion be heard. This was opposed by TMBC in a Comment/Opposition dated January 17, 2013.²⁸

Nevertheless, the RTC issued an Order dated July 26, 2013, reopening the case and requiring the parties to submit judicial affidavits to hear the case anew. TMBC moved for the reconsideration of the July 26, 2013 Order and for the declaration that the trial court's September 4, 2012 Decision be declared final and executory.²⁹

Without acting on TMBC's motion for reconsideration, the RTC granted BCDA's motion for reconsideration in an Order³⁰ dated August 28, 2014 fixing the just compensation at ₱190 per sq.m. The dispositive portion of the August 28, 2014 Order reads:

WHEREFORE, PREMISES CONSIDERED, the motion for reconsideration is given due course, the decision dated September 4, 2012 is hereby reconsidered[.] Judgment is hereby rendered fixing the just compensation of the subject lot at P190.00 per square meter or a total of thirty two million eight hundred eighty one thousand and two hundred ten pesos (Php32,881,210.00)[.] Considering that five million three hundred sixty six thousand and ten pesos (Php5,366,010) had been deposited as a condition for the issuance of writ of possession on March 3, 2004, the plaintiff Bases Conversion Development Authority is directed to pay the balance of twenty seven million five hundred fifteen thousand and two hundred ten pesos (Php27,515,210.00) to defendant the Manila Banking Corporation which shall earn interest at the rate of 12% per annum or the prevailing rate of interest whichever is lower from the time of actual taking on November 23, 2003[.]

²⁶ Id. at 87.

²⁷ Id. at 88-106.

²⁸ Id. at 119.

²⁹ Id. at 23-24.

³⁰ Id. at 118-136. Issued by Presiding Judge Eda P. Dizon-Era.



SO ORDERED.³¹

Respondent BCDA elevated the case to the CA, seeking to reverse the RTC's determination of just compensation and imposition of 12% interest rate for the unpaid balance of the just compensation.

Ruling of the Court of Appeals

Pursuant to the Resolution dated July 18, 2016 issued by the CA, BSP was dropped as a party from the title of the case after submitting proof of the "Release and Cancellation" executed by BSP in favor of TMBC concerning the subject property.³²

On October 26, 2016, the CA rendered the assailed Decision, giving due course to the petition and ruling in favor of respondent BCDA. The dispositive portion of the assailed Decision reads:

WHEREFORE, the appeal is **GRANTED**. The Order dated August 28, 2014 of the Regional Trial Court of Angeles City, Pampanga, Branch 60 in Civil Case No. 03-11226 is hereby **REVERSED** and **SET ASIDE**.

Just compensation for the portions of the property of The Manila Banking Corporation consisting of 173,059 square meters, expropriated by BCDA for the SCTEX Project, is hereby fixed at Php75.00 per square meter, or a total of Twelve Million Nine Hundred Seventy Nine Thousand Four Hundred Twenty Five Pesos (Php12,979,425.00). Since BCDA already deposited the amount of Five Million Three Hundred Sixty Six Thousand and Ten Pesos (Php5,366,010.00), BCDA is **DIRECTED** to pay to TMBC the balance of Seven Million Six Hundred Thirteen Thousand Four Hundred Fifteen Pesos (Php7,613,415.00), which shall earn interest at the rate of 12% per annum from November 21, 2003 up to June 30, 2013, and 6% per annum from July 1, 2013 until fully paid. Said amount shall further earn interest at 6% per annum from the date of the finality of this Decision until full payment.

SO ORDERED.³³

Petitioner TMBC's Motion for Reconsideration was denied in the assailed Resolution dated February 22, 2017.³⁴


Hence, this petition.

³¹ Id. at 135.

³² Id. at 24.

³³ Id. at 63.

³⁴ Id. at 65.



The Petition

Petitioner TMBC claims that the CA's Decision and Resolution are contrary to law and prevailing jurisprudence.

First, the trial court's determination of just compensation in its September 4, 2012 Decision and August 28, 2014 Order had legal and factual basis which were existing at the time of the taking of the property, contrary to the pronouncement of the CA. TMBC reiterated the pertinent portions of the RTC's September 4, 2012 Decision, which relied on factors such as character and utility of the property, sales and holding prices of similar land within the immediate vicinity, and the highest and best use of the property, in determining that ₱250 per square meter was the appropriate just compensation for the subject property at the time of its taking. TMBC also argued that the August 28, 2014 Decision of the RTC was based on clear and unequivocal reasons and used the comparative approach in fixing the just compensation at ₱190 per square meter.³⁵

Second, TMBC asserts that the CA failed to make a ruling on whether the September 4, 2012 Decision of the RTC was already final and executory, considering that the motion for reconsideration filed by BCDA was defective as it did not contain any notice of hearing. Since the motion for reconsideration was a mere scrap of paper which did not toll the running of the period to appeal, then the RTC's September 4, 2012 Decision had become final and executory.³⁶

Third, TMBC argues that contrary to the CA's observation, the RTC did not merely "solely and primarily rely on the valuation made by the DPWH Provincial Appraisal Committee." It also finds error in the CA's pronouncement that the trial court "should have given weight to the actual and reliable data consisting of the tax declarations, zonal valuation and documentary evidence in the sales of the SCTEX Project" since there are other factors which must also be considered under the law in determining just compensation.³⁷

³⁵ Id. at 27-31.

³⁶ Id. at 31-33.

³⁷ Id. at 33-37.



TMBC cited Section 5 of Republic Act No. 8974³⁸ (RA 8974) which included the standards for the courts to use in the determination of just compensation. It argued that the CA erred in fixing the just compensation based on the selling prices in deeds of absolute sale of similarly affected landowners in the vicinity for the SCTEX project and in disregarding factors such as size of the property and the “highest and best use of the land,” as well as the appraisal of a similar property in the area made by the Provincial Appraisal Committee.³⁹

Finally, TMBC finds error in the CA’s pronouncement that the award of interest of 6% per annum should be reckoned from July 1, 2013. Instead, it argues that considering the case is not yet final and executory as the case is still pending appeal, then the 12% interest should continue to accrue, and the 6% interest should only begin to accrue upon the finality of judgment of this case.⁴⁰

In compliance with this Court’s July 3, 2017 Resolution,⁴¹ respondent BCDA filed its Comment⁴² dated August 29, 2017. It argued that the CA was correct in finding that the RTC did not have factual and legal bases in determining just compensation at ₱190. BCDA asserts that the CA considered all applicable factors to this case in its determination of just compensation.⁴³ It further contends that there was no need for the CA to decide on the validity of its motion for reconsideration since it was already rendered moot and academic by the trial court’s action on the same.⁴⁴

BCDA also refutes TMBC’s argument that the CA erred in not factoring in the “highest and best use of the land,” citing *Republic of the Philippines represented by the DPWH v. Spouses Tan Song Bok, et al.*⁴⁵ (*Tan Song Bok* case). It pointed out that unlike in the *Tan Song Bok* case where there were no relevant evidence for the court to determine just

³⁸ An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Project and For Other Purposes.

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;
- (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) This 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.

³⁹ *Rollo*, pp. 34-35.

⁴⁰ *Id.* at 37-38.

⁴¹ *Id.* at 140.

⁴² *Id.* at 144-160.

⁴³ *Id.* at 149-152.

⁴⁴ *Id.* at 152-154.

⁴⁵ G.R. No. 191448, November 16, 2011.

compensation except for the highest and best use of the land, BCDA presented other pieces of evidence which were properly taken into consideration by the CA, specifically, the deeds of absolute sale executed with landowners in Porac, Pampanga indicating a value of ₱60 to ₱75 for parcels of land adjacent and contiguous to the subject property and similarly acquired for the SCTEX Project.

BCDA further noted that the Tan Song Bok case had already been superseded by the case of *Secretary of Public Works and Highways, et al. v. Spouses Tecson*⁴⁶ (*Tecson case*), where this Court ruled that just compensation is determined by considering the value of the property at the time of actual taking.⁴⁷

Relying on the *Tecson* case, BCDA argued that the CA correctly ruled on the rate of interest to be applied where the interest rate shall be 12% for the period beginning November 21, 2003 until June 30, 2013, and 6% from July 1, 2013 until fully paid.⁴⁸

The Issues

Petitioner TMBC raised the following issues:

1. Whether respondent BCDA's Motion for Reconsideration of the September 4, 2012 Decision of the RTC tolled the running of the period to appeal the said decision.
2. Whether the CA erred in reversing and setting aside the RTC's Decision and Order on its determination of just compensation and interest.
3. Whether the CA erred in awarding just compensation at the rate of ₱75 per square meter, instead of ₱250 per square meter as originally ordered by the RTC in its September 4, 2012 Decision, or ₱190 per square meter as reconsidered by the RTC in its August 28, 2014 Order.
4. Whether the CA was correct in imposing an interest rate of 12% per annum from November 21, 2003 up to June 30, 2013, and 6% per annum from July 1, 2013 until full payment.

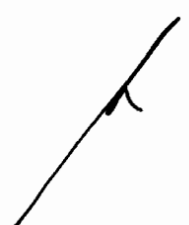
The Court's Ruling

The petition lacks merit.

⁴⁶ G.R. No. 179334, April 21, 2015.

⁴⁷ *Rollo*, pp. 154-155.

⁴⁸ *Id.* at 155-156.



Failure to include a notice of hearing in a motion for reconsideration is not fatal where the other party was given the opportunity to be heard

Rule 15, Section 4 of the Rules of Court requires every motion to be set for hearing by the applicant and to give notice of such hearing to the other party at least three days before the date of the hearing. Section 5 of the same Rule mandates that the notice of hearing should be addressed to all parties concerned and should specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. Where a motion has no notice of hearing, it is considered *pro forma* and does not affect the reglementary period for the appeal or the filing of the requisite pleading.⁴⁹

Nevertheless, this Court has relaxed procedural rules when a rigid application of these rules only hinders substantial justice.⁵⁰ The rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application especially on technical matters, which tends to frustrate rather than promote substantial justice, must be avoided. Even the Revised Rules of Court envisions this liberality. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from the courts.⁵¹ Yet, the relaxation of its rules is subject to certain conditions and for liberality to be applied, it must be assured that the adverse party has been afforded the opportunity to be heard through pleadings filed in opposition to the motion.⁵²

In the present case, the records reveal that TMBC was given the opportunity to be heard when it filed a comment/opposition to the motion for reconsideration, assailing the same and raising substantive arguments for its dismissal.⁵³ Moreover, the RTC went a step further and directed the parties to submit judicial affidavits of their witnesses with documentary exhibits to substantiate their respective positions.⁵⁴ Clearly, the requirements of procedural due process were substantially complied with and such compliance justified a departure from a literal application of the rule on notice of hearing.

⁴⁹ *Jehan Shipping Corporation v. National Food Authority*, G.R. No. 159750, December 14, 2005.

⁵⁰ *City of Dagupan, represented by the City Mayor Benjamin S. Lim v. Ester F. Maramba, represented by her Attorney-in-Fact Johnny Ferrer*, G.R. No. 174411, July 2, 2014.

⁵¹ *Julie S. Sumbilla v. Matrix Finance Corporation*, G.R. No. 197582, June 29, 2015.

⁵² *Magellan Aerospace Corporation v. Philippine Air Force*, G.R. No. 216566, February 24, 2016.

⁵³ *Rollo*, pp. 119-120.

⁵⁴ *Id.* at 39.

The Court of Appeals was correct in reversing the trial court and in fixing the just compensation at ₱75 per square meter

For the second and third issues raised by petitioner, the Court shall discuss them jointly considering they are closely interrelated.

In reversing and setting aside the trial court's determination of just compensation, the CA reviewed the reports submitted by the commissioners, as well as the trial court's September 4, 2012 Decision and the August 28, 2014 Order. The CA noted that while the trial court based its first valuation on the recommendations of the commissioners, it did not give any explanation on how it arrived at the amount of ₱250 per square meter. As for the second valuation of ₱190, the CA observed that the trial court gave more weight to two documents included in Engr. Tolosa's Report, specifically: 1) Resolution No. 12-2006 of the DPWH Provincial Appraisal Committee which fixed the just compensation of an expropriated land for the Porac Mancatian Dike Project at ₱190 per square meter; and 2) Deed of Absolute Sale between TMBC and DPWH over the property taken in the area for the price of ₱190 per square meter.⁵⁵

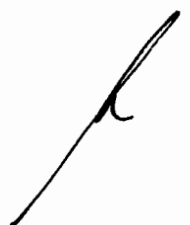
We agree with the findings of the appellate court.

Section 5 of RA 8974 provides:

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;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvements 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

⁵⁵ Id. at 58-59.



- (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.

There is no question that at the time of taking of the subject property, it was classified as agricultural land, based on the records of the Municipal Assessor's Office of Porac, Pampanga.⁵⁶ As observed by Mr. Murillo in his Commissioner's Report, the subject property consists of sugar land and sand deposits. He further noted that while there were allegations that the property was reclassified to industrial land, there was no sign of industrial development at the time of the ocular inspection except for the construction of the SCTEX project.⁵⁷

We could not give any weight to Engr. Lansangan's Report since he did not provide any explanation for arriving at his recommendation of ₱350 per square meter as just compensation for the subject property, except for his declaration that he arrived at the same based on the price information he had researched from reputable sources, as well as the highest and best use of the property and the zoning and current land usage in the locality.⁵⁸

During his testimony, Engr. Lansangan clarified that his recommendation was based on the reclassification of the property to residential, commercial and industrial areas, the BIR Zonal Valuation as industrial area with assessed value of ₱200 per square meter, and the value for residential area at ₱500 per square meter, the average of which is ₱350 per square meter.⁵⁹ However, Engr. Lansangan's recommendation was erroneous since it was established that the subject property was not included in the area which was reclassified by the province.⁶⁰ Furthermore, the reclassification was made after the time of taking of the subject property; thus, any change in valuation as a result thereof would have no bearing on the amount of just compensation.

As for Engr. Tolosa's Report, a review thereof shows that his recommendation to set the just compensation for the subject property at the amount of ₱388 per square meter was mostly based on the market approach, where the value of the land is based on sales and listings of comparable properties within the vicinity.⁶¹ While this approach is an acceptable basis to determine just compensation, We note that the data gathered by Engr. Tolosa on which he relied his recommendation were based on current market values at the time of the ocular inspection which was on October 6, 2011—

⁵⁶ Records, pp. 836, 842.

⁵⁷ Id. at 810.

⁵⁸ Id. at 820-821.

⁵⁹ Id. at 820-821.

⁶⁰ *Rollo*, p. 132.

⁶¹ Records, p. 865.

almost eight years from the time of taking of the subject property in November 2003.

In arriving at the amount of ₱250 per square meter, the trial court relied on the eight DPWH transactions of neighboring properties as relevant market data on the actual value of the subject property in November 2003.⁶² The RTC failed to consider the nine Deeds of Absolute Sale between BCDA and several landowners for the sale of properties situated in Barangay Dolores, Porac, Pampanga with selling price ranging from ₱60 to ₱75 per square meter, which were executed between March 2004 and September 2008. The RTC reasoned that the BCDA allegedly failed to establish the proximity of these properties with the subject property.⁶³

As correctly observed by the CA, however, the properties subject of the nine deeds of absolute sale were directly contiguous and adjacent to the subject property, to wit:

We hold that the RTC committed reversible error for it is plainly obvious that the areas expropriated for the SCTEX project are contiguous and adjacent properties. Specifically, the lands covered by no less than nine (9) Deeds of Absolute Sale are all situated in Barangay Dolores, Municipality of Porac, Province of Pampanga. BCDA's offer to buy the subject property at Php75.00 per square meter was the same selling price of its neighboring properties affected by the same infrastructure project. Such price is also based on the following factual considerations: (1) the nature of the subject property as agricultural land with no improvements ("no electricity, no road outlet and not accessible to regular mode of transportation"); (2) the zonal valuation by the BIR (Php30.00 per square meter); and (3) tax declarations ("Agricultural-Sugar") indicating the total market value of the subject property at Php27,400.92.⁶⁴ (citations omitted)

Time and again, this Court has ruled that the determination of just compensation must be based on reliable and actual data, as explained in *Republic of the Philippines v. C.C. Unson Company, Inc.*,⁶⁵ to wit:

In *Republic v. Asia Pacific Integrated Steel Corporation*, the Court defined just compensation "as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word 'just' is used to intensify the meaning of the word 'compensation' and to convey thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample. Such 'just'-ness of the compensation can only be attained by using reliable and actual data as bases in fixing the value of the condemned property. Trial courts are required to be more circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds."

⁶² *Rollo*, pp. 86-87.

⁶³ *Records*, pp. 741-778.

⁶⁴ *Rollo*, pp. 59-60.

⁶⁵ G.R. No. 215107, February 24, 2016.



The Court further stated in *National Power Corporation v. Tuazon*, that “[t]he determination of just compensation in expropriation cases is a function addressed to the discretion of the courts, and may not be usurped by any other branch or official of the government. This judicial function has constitutional *raison d’être*; Article III of the 1987 Constitution mandates that no private property shall be taken for public use without payment of just compensation.” Legislative enactments, as well as executive issuances, fixing or providing for the method of computing just compensation are tantamount to impermissible encroachment on judicial prerogatives. They are not binding on courts and, at best, are treated as mere guidelines in ascertaining the amount of just compensation. (citations omitted)

Based on the foregoing, We find that the CA committed no reversible error in reversing and setting aside the trial court’s determination of just compensation and in fixing the just compensation of the subject property at ₱75 per square meter. The CA, guided by the standards set in RA 8974, took into consideration the documentary evidence presented by the parties to determine the appropriate value of the property at the time it was taken in November 2003.

The Court of Appeals committed no reversible error in modifying the interest rates to be imposed on the just compensation


For the final issue raised by petitioner, it argues that the award of interest of 6% per annum as imposed under the BSP – Monetary Board (BSP-MB) Circular No. 799, Series of 2013, should only be reckoned from the date of finality of judgment and not from July 1, 2013 as ruled by the CA.

Petitioner is mistaken.

In the landmark case of *Eastern Shipping Lines, Inc. v. Court of Appeals*, the Court laid down the guidelines regarding the manner of computing legal interest, particularly declaring that when judgments of the court awarding a sum of money become final and executory, the rate of legal interest shall be 12% per annum from such finality until its satisfaction, since this interim period is deemed to be by then an equivalent to a forbearance of credit.⁶⁶

With the issuance of BSP-MB Circular No. 799, Series of 2013, however, which became effective on July 1, 2013, in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments shall no longer be twelve percent (12%) per annum but shall now be six percent (6%) per annum effective July 1,

⁶⁶ G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.



2013. Consequently, the twelve percent (12%) per annum legal interest shall apply only until June 30, 2013, and from July 1, 2013 the new rate of six percent (6%) per annum shall be the prevailing rate of interest when applicable.⁶⁷

In the recent case of *Secretary of the Department of Public Works and Highways v. Spouses Tecson*,⁶⁸ the Court explained:


Lastly, from finality of the Court's Resolution on reconsideration until full payment, the total amount due to respondents-movants shall earn a straight six percent (6%) legal interest, pursuant to Circular No. 799 and the case of *Nacar*. Such interest is imposed by reason of the Court's decision and takes the nature of a judicial debt.

Clearly, the award of interest on the value of the land at the time of taking in 1940 until full payment is adequate compensation to respondents movants for the deprivation of their property without the benefit of expropriation proceedings. Such interest, however meager or enormous it may be, cannot be inequitable and unconscionable because it resulted directly from the application of law and jurisprudence—standards that have taken into account fairness and equity in setting the interest rates due for the use or forbearance of money. Thus, adding the interest computed to the market value of the property at the time of taking signifies the real, substantial, full and ample value of the property. Verily, the same constitutes due compliance with the constitutional mandate on eminent domain and serves as a basic measure of fairness.

From the foregoing, it is clear that the CA was correct in imposing an interest on the just compensation at the rate of 12% per annum from November 21, 2003 up to June 30, 2013, and 6% per annum from July 1, 2013 until full payment.

WHEREFORE, the petition is **DENIED**. The Decision dated October 26, 2016 and the Resolution dated February 22, 2017 of the Court of Appeals in CA-G.R. CV No. 104234 are hereby **AFFIRMED**.

SO ORDERED.

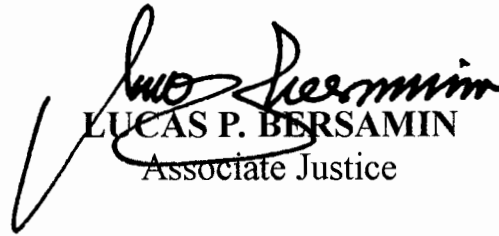


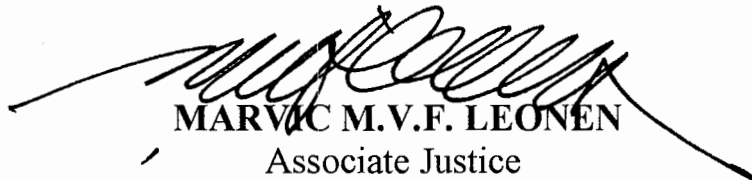
PRESBITERO J. VELASCO, JR.
Associate Justice

⁶⁷ *Dario Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, August 13, 2013.

⁶⁸ G.R. No. 179334, April 21, 2015.

WE CONCUR:


LUCAS P. BERSAMIN
 Associate Justice



MARVIC M.V.F. LEONEN
 Associate Justice

(On Leave)
SAMUEL R. MARTIRES
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

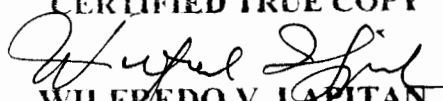
ATTESTATION


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.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division


MARIA LOURDES P. A. SERENO
 Chief Justice

FEB 20 2018