



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**FELISA AGRICULTURAL CORPORATION,**

Petitioner,

- versus -

**NATIONAL TRANSMISSION CORPORATION (having been substituted in lieu of the NATIONAL POWER CORPORATION),**

Respondent.

**G.R. Nos. 231655 and 231670**

Present:

CARPIO, Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

Promulgated:

02 JUL 2018

x ----- *[Signature]* x

**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>1</sup> assailing the Amended Decision<sup>2</sup> dated May 26, 2016 and the Resolution<sup>3</sup> dated March 17, 2017 of the Court of Appeals (CA) in CA-G.R. CEB SP. Nos. 06204 and 06286, which nullified and set aside the Orders dated May 7, 2010<sup>4</sup> and May 11, 2011<sup>5</sup> (RTC Orders) of the Regional Trial Court of Bacolod City, Branch 54 (RTC) in Civil Case No. 01-11356 directing the National Power Corporation (NPC) or its assignee to compensate petitioner the amount of ₱7,845,000.00 representing the 100% zonal value of the subject land as initial payment.

**The Facts**

The instant case stemmed from a Complaint<sup>6</sup> for recovery of

<sup>1</sup> *Rollo*, pp. 11-38.

<sup>2</sup> *Id.* at 42-53. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Pamela Ann Abella Maxino and Germano Francisco D. Legaspi concurring.

<sup>3</sup> *Id.* at 54-55.

<sup>4</sup> CA *rollo* (CA-G.R. CEB SP. No. 06286), pp. 27-28. Issued by Judge Demosthenes L. Magallanes.

<sup>5</sup> *Id.* at 29.

<sup>6</sup> *Id.* at 30-36.

*[Handwritten mark]*

possession with damages or payment of just compensation dated January 9, 2001 filed by petitioner Felisa Agricultural Corporation (petitioner) against NPC before the RTC, docketed as Civil Case No. 01-11356. Petitioner claimed that in 1997, it discovered that the NPC's transmission towers and transmission lines were located within a 19,635-square meter (sq. m.) portion (subject land) of its lands situated in Brgy. Felisa, Bacolod City. Further verification revealed that the transmission towers were constructed sometime before 1985 by NPC which entered the subject land without its knowledge and consent.<sup>7</sup>

For its part,<sup>8</sup> NPC denied having entered the subject land without any authority, and claimed that petitioner's President, Jovito Sayson, granted it the permit to enter<sup>9</sup> on September 21, 1989 for the construction of the 138 KV Mabinay-Bacolod Transmission Line. It further countered that since the transmission lines have been in existence for more than ten (10) years, a continuous easement of right of way has already been established. Considering, however, that the action was brought beyond the five-year prescriptive period to do so in accordance with the NPC Charter, the claim is barred by prescription.<sup>10</sup>

In the course of the proceedings, the parties agreed to narrow down the issue to the payment of just compensation and agreed to settle the case at the price of ₱400.00/sq. m. but the proposed compromise did not push through in view of the failure of the Office of the Solicitor General (OSG) to act on the Deed of Sale entered into by the parties.<sup>11</sup> Subsequently, petitioner moved that NPC be immediately ordered to pay the amount of ₱7,845,000.00<sup>12</sup> representing the 100% zonal value of the subject land<sup>13</sup> in accordance with Republic Act No. (RA) 8974.<sup>14</sup> NPC opposed the motion, contending that the said law only applies to expropriation cases initiated by the government to acquire property for any national government infrastructure project.<sup>15</sup>

<sup>7</sup> See *CA rollo* (CA-G.R. CEB SP. No. 06286), pp. 27 and 31-32.

<sup>8</sup> See Answer dated April 10, 2001; *id.* at 40-45.

<sup>9</sup> *Id.* at 46.

<sup>10</sup> See *id.* at 40-42.

<sup>11</sup> See *rollo*, p. 48. See also *CA rollo* (CA-G.R. CEB SP. No. 06286), pp. 63-64.

<sup>12</sup> Should be ₱7,854,000.00 computed as follows:

₱400.00/sq. m. – zonal value of the subject land

x 19,635 sq. m. – area occupied by the transmission lines

₱7,854,000.00 initial payment sought by petitioner

(See *CA rollo* [CA-G.R. CEB SP. No. 06286], p. 49)

<sup>13</sup> See *rollo*, p. 48.

<sup>14</sup> Entitled "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES," approved on November 7, 2000.

<sup>15</sup> See NPC's Comment (On Plaintiff's Motion for Initial Payment of the Amount Pertaining to Just Compensation) dated March 8, 2009; *CA rollo* (CA-G.R. CEB SP. No. 06286), pp. 59-62.

### The RTC Ruling

In an Order<sup>16</sup> dated May 7, 2010, the RTC granted the motion and directed NPC or its assignee to compensate petitioner in the amount of ₱7,845,000.00 as initial payment.<sup>17</sup> It likewise denied the NPC's motion for reconsideration<sup>18</sup> in an Order<sup>19</sup> dated May 11, 2011, explaining further that the "initial payment is not the [j]ust [c]ompensation that is determined in the decision that shall dispose the case. The law so provides to obviate the long litigation and the landowner is partially paid."<sup>20</sup>

Unperturbed, NPC filed a petition for *certiorari*<sup>21</sup> before the CA, docketed as CA-G.R. CEB SP. Nos. 06204 and 06286.<sup>22</sup>

### The CA Ruling

In a Decision<sup>23</sup> dated June 27, 2014, the CA granted the *certiorari* petition, thereby nullifying and setting aside the RTC Orders.<sup>24</sup> It ruled that RA 8974 finds no application to the recovery of possession case as it only applies to an expropriation proceeding.<sup>25</sup>

Dissatisfied, petitioner moved for reconsideration,<sup>26</sup> contending that RA 8974 applies even if the government failed or refused to file an expropriation case considering that: (a) the recovery of possession case partakes of the nature of an inverse expropriation proceedings; and (b) the initiatory complaint was filed after its effectivity.<sup>27</sup>

Subsequently, respondent National Transmission Corporation (respondent), which assumed the electrical transmission function and the

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<sup>16</sup> Id. at 27-28.

<sup>17</sup> See id.

<sup>18</sup> Dated June 1, 2010. Id. at 193-198.

<sup>19</sup> Id. at 29.

<sup>20</sup> Id.

<sup>21</sup> Dated August 19, 2011. Id. at 3-26.

<sup>22</sup> The NPC's Motion for Extension of Time to File Petition for *Certiorari* (CA rollo [CA-G.R. CEB SP. No. 06204], pp. 3-8) was docketed as CA-G.R. CEB SP. No. 06204, while the corresponding petition for *certiorari* (CA rollo [CA-G.R. CEB SP. No. 06286], pp. 3-26) was erroneously assessed as a newly filed case, and accordingly, docketed separately as CA-G.R. CEB SP. No. 06286. However, none of the cases was dropped, hence, continued and resolved jointly. (See CA Resolution dated June 17, 2013 penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernandez and Carmelita Salandanan-Manahan concurring [CA-G.R. CEB SP. No. 06286], pp. 97-192.)

<sup>23</sup> Id. at 169-176. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Gabriel T. Ingles and Marie Christine Azcarraga-Jacob concurring.

<sup>24</sup> Id. at 175.

<sup>25</sup> See id. at 172-175.

<sup>26</sup> Dated July 28, 2014. Id. at 182-192.

<sup>27</sup> See id. at 184-190.

transmission-related cases of NPC, was substituted as party respondent in the case.<sup>28</sup>

In an Amended Decision<sup>29</sup> dated May 26, 2016, the CA denied the motion.<sup>30</sup> It ruled that since the taking of the property occurred sometime in 1985, RA 8974 which was approved and took effect subsequent thereto does not apply, and the provisions of Rule 67 of the Rules of Court should govern the case.<sup>31</sup> Accordingly, it remanded the case to the RTC for the determination of just compensation plus legal interest reckoned from the time of the taking of the subject land.<sup>32</sup>

Petitioner filed a partial motion for reconsideration,<sup>33</sup> which was, however, denied in a Resolution<sup>34</sup> dated March 17, 2017; hence, this petition.

### The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA was correct in holding that Rule 67 of the Rules of Court and not RA 8974 should govern the case.

### The Court's Ruling

Preliminarily, it bears pointing out that the RTC Orders subject of the *certiorari* petition before the CA merely pertained to the preliminary or provisional determination of the value of the subject land. At that time, the first stage of the expropriation proceedings, *i.e.*, the determination of the validity of the expropriation, has not been completed since no order of expropriation has yet been issued by the RTC, albeit it is not contested that the NPC's entry in the subject land was done for a public purpose,<sup>35</sup> *i.e.*, the construction/installation of transmission towers and lines which fall within the term "national government projects."<sup>36</sup> It is settled that there is no need to determine with reasonable certainty the final amount of just compensation until after the trial court ascertains the provisional amount to be paid.<sup>37</sup>

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<sup>28</sup> See *rollo*, p. 44. See also Section 8 of Republic Act No. 9136, entitled "AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES," otherwise known as the "Electric Power Industry Reform Act of 2001," approved on June 8, 2001.

<sup>29</sup> *Id.* at 42-53.

<sup>30</sup> *Id.* at 53. Erroneously stated as "petition" in the CA's Amended Decision.

<sup>31</sup> See *id.* at 51-52.

<sup>32</sup> See *id.* at 52-53.

<sup>33</sup> Dated July 1, 2016. CA *rollo* (CA-G.R. CEB SP. No. 06286), pp. 251-260.

<sup>34</sup> *Rollo*, pp. 54-55.

<sup>35</sup> See CA *rollo* (CA-G.R. CEB SP. No. 06286), p. 27.

<sup>36</sup> Section 2 (d) of the Implementing Rules and Regulations of RA 8974 explicitly include power generation, transmission and distribution projects among the national government projects covered by the law.

<sup>37</sup> See *Republic v. Spouses Cancio*, 597 Phil. 342, 351-352 (2009).

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The general rule is that upon the filing of the expropriation complaint, the plaintiff has the right to take or enter into possession of the real property involved if he deposits with the authorized government depositary an amount equivalent to the assessed value of the property. An exception to this procedure is provided by RA 8974 with respect to national government projects, which requires the payment of 100% of the zonal value of the property to be expropriated as the provisional value.<sup>38</sup> It must be emphasized, however, that whether a deposit is made under Rule 67 of the Rules of Court or the provisional value of the property is paid pursuant to RA 8974,<sup>39</sup> the said amount serves the double-purpose of: (a) pre-payment if the property is fully expropriated, and (b) indemnity for damages if the proceedings are dismissed.<sup>40</sup>

Section 2, Rule 67 of the Rules of Court requires the expropriator to deposit the amount equivalent to the assessed value of the property to be expropriated prior to entry. The assessed value<sup>41</sup> of a real property constitutes a mere percentage of its fair market value based on the assessment levels fixed under the pertinent ordinance passed by the local government where the property is located.<sup>42</sup> In contrast, RA 8974 requires

<sup>38</sup> *Metropolitan Cebu Water District (MCWD) v. J. King and Sons Company, Inc.*, 603 Phil. 471, 483 (2009). RA 8974 has been repealed by RA 10752, which substantially maintained in Section 6 thereof the requirement of “deposit” of 100% of the value of the land based on the current relevant BIR zonal valuation issued not more than three (3) years prior to the filing of the expropriation complaint.

<sup>39</sup> Section 6 of RA 10752 reverted to the term “deposit.”

<sup>40</sup> See *Visayan Refining Co. v. Camus*, 40 Phil. 550, 563 (1919). See also *Capitol Steel Corp. v. PHIVIDEC Industrial Authority*, 539 Phil. 644, 660 (2006); citation omitted.

<sup>41</sup> Section 199 (h), Chapter I, Title III of RA 7160, otherwise known as the “Local Government Code of 1991” (LGC; approved on October 10, 1991) defines *assessed value* as “the fair market value of the real property multiplied by the assessment level[, and] is synonymous to taxable value[.]”

<sup>42</sup> Under Section 218 of the LGC, the assessment levels to be applied to the fair market value (FMV) of lands to determine their assessed value shall be fixed by ordinances of the sangguniang panlalawigan, sangguniang panlungsod or sangguniang bayan of a municipality within the Metropolitan Manila Area, at the rates not exceeding the following:

CLASS	ASSESSMENT LEVELS
Residential	20%
Agricultural	40%
Commercial	50%
Industrial	50%
Mineral	50%
Timberland	20%

At the time of the filing of the motion for initial payment on February 22, 2010 (See CA *rollo* [CA-G.R. CEB SP. No. 06286], p. 48), the FMV of the subject land was at **₱360.00/sq. m.** (See p. 32, Schedule of Base Unit Market Values for Residential, Commercial and Industrial Land attached to the Classification of Lands Situated in Commercial, Residential and Industrial Areas in the City of Bacolod, Annex “B” of City Ordinance No. 369 entitled “AN ORDINANCE PRESCRIBING A REVISED SCHEDULE OF CURRENT AND FAIR MARKET VALUES OF REAL PROPERTIES FOR THE CITY OF BACOLOD” passed by the *Sanggunian Panlungsod* of Bacolod (*Sanggunian*) on June 17, 2004; <<http://www.bacolodcity.gov.ph/spordinances/co04060369.pdf>> [visited July 6, 2018]).

Prior to the updating of the schedule of the FMV of real properties in Bacolod City through City Ordinance No. 827 entitled “AN ORDINANCE UPDATING THE SCHEDULE OF MARKET VALUE OF REAL PROPERTIES IN THE CITY OF BACOLOD AND OTHER PROVISIONS RELATIVE TO REAL PROPERTY TAX ADMINISTRATION” passed by the *Sanggunian* on October 26, 2017 (See <<http://www.bacolodcity.gov.ph/images/CO827.pdf>> [visited July 6, 2018]), the last updating was in 2005 (via City Ordinance No. 393 dated October 10, 2005 which amended the dates of implementation of certain provisions in City Ordinance No. 369; <<http://www.bacolodcity.gov.ph/spordinances/co05100393.pdf>> [visited July 6, 2018]), as the attempt to update in 2014 (via

the payment of the amount equivalent to 100% of the *current* zonal value<sup>43</sup> of the property, which is usually a higher amount.

In *Republic of the Philippines v. Judge Gingoyon*,<sup>44</sup> the Court recognized that while expropriation proceedings have always demanded just compensation in exchange for private property, the deposit requirement under Rule 67 of the Rules of Court “**impeded immediate compensation to the private owner, especially in cases wherein the determination of the final amount of compensation would prove highly disputed.**”<sup>45</sup> Thus, it categorically declared that “[i]t is the plain intent of [RA] 8974 to supersede the system of deposit under Rule 67 with the scheme of ‘**immediate payment**’ in cases involving national government infrastructure projects.”<sup>46</sup> The same case further ruled:

It likewise bears noting that **the appropriate standard of just compensation is a substantive matter. It is well within the province of the legislature to fix the standard, which it did through the enactment of [RA] 8974. Specifically, this prescribes the new standard in determining the amount of just compensation in expropriation cases relating to national government infrastructure projects, as well as the payment of the provisional value as a prerequisite to the issuance of a writ of possession.** Of course, rules of procedure, as distinguished from substantive matters, remain the exclusive preserve of the Supreme Court by virtue of Section 5(5), Article VIII of the Constitution. Indeed, Section 14 of the Implementing Rules recognizes the **continued applicability of Rule 67 on procedural aspects** when it provides “all matters regarding defenses and objections to the complaint, issues on uncertain ownership and conflicting claims, effects of appeal on the rights of the parties, and such other incidents affecting the complaint shall be resolved under the provisions on expropriation of Rule 67 of the Rules of Court.”<sup>47</sup> (Emphases supplied)

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City Ordinance No. 08-14-700 dated November 19, 2014) was declared null and void by the Department of Justice in February 2015 (See third preambular clause of City Ordinance No. 827. See also City Ordinance No. 09-16-781 passed by the Sanggunian on July 13, 2016; <<http://www.bacolodcity.gov.ph/spordinances/co0916781.pdf>> [visited July 6, 2018]).

On the other hand, the assessment levels were at the rates not exceeding the following:

CLASS	ASSESSMENT LEVELS
Residential	8%
Agricultural	40%
Commercial	12%
Industrial	12%
Mineral	50%
Timberland	20%

(See Article 21 of the Real Property Tax Code, Annex “A” of City Ordinance No. 369; <<http://www.bacolodcity.gov.ph/spordinances/co04060369.pdf>> [visited July 6, 2018]), which became effective on January 1, 2006 (See Section 2, City Ordinance No. 393 passed by the Sanggunian On October 10, 2005; <<http://www.bacolodcity.gov.ph/spordinances/co05100393.pdf>> [visited July 6, 2018].)

<sup>43</sup> Admittedly, ₱400.00/sq. m. at the time of the filing of the motion for initial payment; see CA *rollo* (CA-G.R. CEB SP. No. 06286), pp. 10-11.

<sup>44</sup> 514 Phil. 657 (2005).

<sup>45</sup> Id. at 701; emphasis supplied.

<sup>46</sup> Id. at 689; emphasis supplied.

<sup>47</sup> Id. at 690.

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**Indubitably, a matter is substantive when it involves the creation of rights to be enjoyed by the owner of the property to be expropriated. The right of the owner to receive just compensation prior to acquisition of possession by the State of the property is a proprietary right, appropriately classified as a substantive matter and, thus, within the sole province of the legislature to legislate on.<sup>48</sup>**

Statutes are generally applied prospectively unless they expressly allow a retroactive application.<sup>49</sup> It is well known that the principle that a new law shall not have retroactive effect only governs rights arising from acts done under the rule of the former law. **However, if a right be declared for the first time by a subsequent law, it shall take effect from that time even though it has arisen from acts subject to the former laws, provided that it does not prejudice another acquired right of the same origin.<sup>50</sup>**

In this case, the government had long entered the subject land and constructed the transmission towers and lines. However, petitioner initiated inverse condemnation proceedings after the effectivity of RA 8974 on November 26, 2000;<sup>51</sup> hence, procedurally and substantially, the said law should govern. Notably, the payment of the provisional value of the subject land equivalent to 100% of its *current* zonal value is declared for the first time by the said law which is evidently more favorable to the landowner than the mere deposit of its assessed value<sup>52</sup> as required by Rule 67. Accordingly, the application of the provisions of RA 8974 to the instant case is beyond cavil. Besides, there is no legal impediment to the issuance of a writ of possession in favor of respondent, as successor of NPC, despite entry to the subject land long before the filing of the inverse condemnation proceedings before the RTC because **physical possession gained by entering the property is not equivalent to expropriating it with the aim of acquiring ownership thereon.** In *Republic v. Hon. Tagle*,<sup>53</sup> the Court explained:

**The expropriation of real property does not include mere physical entry or occupation of land.** Although eminent domain usually involves a taking of title, there may also be compensable taking of only some, not all, of the property interests in the bundle of rights that constitute ownership.

x x x [M]ere physical entry and occupation of the property fall short of the taking of title, which includes all the rights that may be exercised by an owner over the subject property. Its actual occupation,

<sup>48</sup> See Resolution in *Republic of the Philippines v. Judge Gingoyon*, 517 Phil. 1, 12 (2006); emphasis and underscoring supplied.

<sup>49</sup> Article 4 of the Civil Code provides:

Article 4. Laws shall have no retroactive effect, unless the contrary is provided.

<sup>50</sup> *Bona v. Briones*, 38 Phil. 276, 282 (1918); emphasis supplied.

<sup>51</sup> See *Sps. Curata, et al. v. Philippine Ports Authority*, 608 Phil. 9, 90 (2009).

<sup>52</sup> Computed at 8% of the FMV of the subject land.

<sup>53</sup> 359 Phil. 892 (1998).

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which renders academic the need for it to enter, does not by itself include its acquisition of all the rights of ownership. x x x.

x x x **Ineludibly, [the] writ [of possession] is both necessary and practical, because mere physical possession that is gained by entering the property is not equivalent to expropriating it with the aim of acquiring ownership over, or even the right to possess, the expropriated property.**<sup>54</sup> (Emphases supplied)

Section 1 of RA 8974 declares the State's policy to ensure that owners of real property acquired for national government infrastructure projects are **promptly** paid just compensation. However, the sad truth is that several cases reached this Court wherein various government agencies, including respondent, had constructed transmission lines, tunnels, and other infrastructure before it decided to expropriate the properties upon which they built the same. Still, in other cases, the property owners were compelled to initiate inverse condemnation proceedings due to the government's long inaction to commence expropriation proceedings to acquire their land. As early as the 1960 case of *Alfonso v. Pasay City*,<sup>55</sup> the Court had pronounced its disapproval of such practice and its vigilance in the defense of the rights of the unpaid landowner who has been deprived of possession, thus:

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 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 pigeon holed and forgotten and the papers lost, [or] mislaid x x x. 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,

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<sup>54</sup> Id. at 902-903.

<sup>55</sup> 106 Phil. 1017 (1960).



subject to his disposal. This would mean delay and difficulty for the Government, but all of its own making.<sup>56</sup>

Notably, in its Answer,<sup>57</sup> NPC invoked prescription of petitioner's claim,<sup>58</sup> and despite the agreement to settle the case at the price of ₱400.00/sq. m., the proposed compromise did not push through in view of the failure of the OSG for a number of years to duly act on the Deed of Sale entered into by the parties,<sup>59</sup> prompting petitioner to file the motion for the payment of the provisional value of the subject land. Since the NPC's entry in the subject land on September 21, 1989, or for almost twenty-nine (29) years, the registered owner had been effectively deprived of the beneficial enjoyment of the subject land without having been paid a single centavo.

The Court reminds the government and its agencies that it is their obligation to immediately initiate eminent domain proceedings whenever they intend to take private property for any public purpose, which includes the payment of the provisional value thereof.<sup>60</sup>

<sup>56</sup> Id. at 1020-1021.

<sup>57</sup> CA *rollo* (CA-G.R. CEB SP. No. 06286), pp. 401-45.

<sup>58</sup> See id. at 42.

<sup>59</sup> See *rollo*, p. 48. See also CA *rollo* (CA-G.R. CEB SP. No. 06286), pp. 63-64.

<sup>60</sup> Section 6 of RA 10752, entitled "AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS," otherwise known as "The Right-of-Way Act," (April 3, 2016), which repealed RA 8974, pertinently provides:

SECTION 6. *Guidelines for Expropriation Proceedings.* – Whenever it is necessary to acquire real property for the right-of-way site or location for any national government infrastructure through expropriation, the appropriate implementing agency, through the Office of the Solicitor General, the Office of the Government Corporate Counsel, or their deputize government or private legal counsel, shall immediately initiate the expropriation proceedings before the proper court under the following guidelines:

- (a) **Upon the filing of the complaint or at any time thereafter, and after due notice to the defendant, the implementing agency shall immediately deposit to the court in favor of the owner the amount equivalent to the sum of:**
- (1) **One hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR) issued not more than three (3) years prior to the filing of the expropriation complaint subject to subparagraph (c) of this section;**
  - (2) The replacement cost at current market value of the improvements and structures as determined by:
    - (i) The implementing agency;
    - (ii) A government financial institution with adequate experience in property appraisal; and
    - (iii) An independent property appraiser accredited by the BSP.
  - (3) The current market value of crops and trees located within the property as determined by a government financial institution or an independent property appraiser to be selected as indicated in subparagraph (a) of Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

x x x (Emphases and underscoring supplied)

In view of the foregoing, the Court finds that the CA erred in setting aside the RTC Orders which should be, perforce, reinstated. Accordingly, the case should be remanded to the RTC for the determination of just compensation for the subject land, taking into consideration, the relevant standards<sup>61</sup> set forth under RA 8974.

It must be emphasized that RA 8974 does not take away from the courts the power to judicially determine the amount of just compensation. It merely provides relevant standards in order to facilitate the determination of just compensation, and sets the minimum price of the property as the provisional value<sup>62</sup> to immediately recompense the landowner with the same degree of speed as the taking of the property, which reconciles the inherent unease attending expropriation proceedings with a position of fundamental equity.<sup>63</sup>

Nonetheless, it is settled that where actual taking was made without the benefit of expropriation proceedings, and the owner sought recovery of the possession of the property prior to the filing of expropriation proceedings, the Court has invariably ruled that it is the value of the property at the time of taking that is controlling for purposes of compensation.<sup>64</sup> Any other interpretation would be repugnant to the Constitution which commands the expropriator to pay the property owner no less than the full and fair equivalent of the property **from the date of taking.**<sup>65</sup>

The reason for the rule, as pointed out in *Republic v. Lara*,<sup>66</sup> is that:

[W]here 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 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 that 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.”<sup>67</sup>

However, it must be emphasized that in determining just compensation, the courts must consider and apply the parameters set by the law and its implementing rules and regulations in order to ensure that they

<sup>61</sup> See Section 5 of RA 8974.

<sup>62</sup> *Metropolitan Cebu Water District v. J. King and Sons Co., Inc.*, supra note 38, at 485.

<sup>63</sup> 514 Phil. 657, 701 (2005).

<sup>64</sup> *Manila International Airport Authority v. Rodriguez*, 518 Phil. 750, 757 (2006).

<sup>65</sup> See Section 9, Article III of the 1987 Constitution which provides:

“Section 9. Private property shall not be taken for public use without just compensation.”

<sup>66</sup> 96 Phil. 170 (1954).

<sup>67</sup> *Id.* at 177-178.

do not arbitrarily fix an amount as just compensation that is contradictory to the objectives of the law. Be that as it may, when acting within such parameters, courts are not strictly bound to apply the same to its minutest detail, particularly when faced with situations that do not warrant its strict application. **Thus, the courts may, in the exercise of their discretion, relax the application of the guidelines subject to the jurisprudential limitation that the factual situation calls for it and the courts clearly explain the reason for such deviation.**<sup>68</sup>

Finally, the Court deems it proper to modify the amount of the provisional value from ₱7,845,000.00 to ₱7,854,000.00 computed by multiplying the area of 19,635 sq. m. occupied by the transmission lines<sup>69</sup> by the zonal value of the subject land at ₱400.00/sq. m. Moreover, it must be clarified that the government's initial payment of the land's provisional value does not excuse it from avoiding payment of interest on any difference between the amount of final just compensation adjudged and the initial payment<sup>70</sup> (unpaid balance). Legal interest shall be imposed on the unpaid balance at the rate of twelve percent (12%) per annum from the time of taking, *i.e.*, from entry in the subject land on September 21, 1989,<sup>71</sup> until June 30, 2013; thereafter, or beginning July 1, 2013, until fully paid, the just compensation due petitioner shall earn interest at the rate six percent (6%) per annum.<sup>72</sup>

**WHEREFORE**, the petition is **GRANTED**. The Amended Decision dated May 26, 2016 and the Resolution dated March 17, 2017 of the Court of Appeals in CA-G.R. CEB SP. Nos. 06204 and 06286 are hereby **REVERSED** and **SET ASIDE**. The Orders dated May 7, 2010 and May 11, 2011 of the Regional Trial Court of Bacolod City, Branch 54 (RTC) in Civil Case No. 01-11356 directing the National Power Corporation or its assignee (respondent National Transmission Corporation) to compensate petitioner the provisional value of the subject land in an amount equivalent to its 100% zonal value, herein recomputed at ₱7,854,000.00, is **REINSTATED**. The records of the case are **REMANDED** to the RTC for reception of evidence on the issue of just compensation in accordance with the guidelines afore-discussed.

The RTC is directed to conduct the proceedings in said case with reasonable dispatch, and to submit to the Court a report on its findings and recommended conclusions within sixty (60) days from notice of this Decision.

<sup>68</sup> See *Republic of the Philippines v. Ng*, G.R. No. 229335, November 29, 2017.

<sup>69</sup> See *CA rollo* (CA-G.R. CEB SP. No. 06286), p. 49.

<sup>70</sup> *Republic v. Mupas*, 769 Phil. 21, 196 (2015).

<sup>71</sup> *CA rollo* (CA-G.R. CEB SP. No. 06286), p. 41.

<sup>72</sup> In line with the amendment introduced by the Bangko Sentral ng Pilipinas Monetary Board in BSP-MB Circular No. 799, Series of 2013 (Rate of interest in the absence of stipulation; dated June 21, 2013).



**SO ORDERED.**

*Perlas-Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

*Antonio Carpio*

**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

*Diosdado M. Peralta*

**DIOSDADO M. PERALTA**  
Associate Justice

*Alfredo Benjamin S. Caguioa*

**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*Reyes*

**ANDRES B. REYES, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.

*Antonio Carpio*

**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, Republic Act No. 296,  
The Judiciary Act of 1948, as amended)