

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

SECOND DIVISION

LAND BANK OF THE
PHILIPPINES,

Petitioner,

-versus-

MA. AURORA [RITA] DEL
ROSARIO AND IRENE DEL
ROSARIO,

Respondents.

G.R. No 210105

Present:

CARPIO, *Chairperson*
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
ZALAMEDA, JJ.

Promulgated:

02 SEP 2019

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 127485:

- 1) Decision dated July 31, 2013¹ affirming respondents' entitlement to just compensation, but in the main decreasing it from Php3,829,514.29 to Php2,176,571.58; and

¹ Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Francisco P. Acosta and Angelita A. Gacutan; *Rollo*, pp. 41-72.

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- 2) Resolution dated November 22, 2013² denying petitioner's motion for reconsideration.

Antecedents

The facts are undisputed.

Respondents Ma. Aurora and Irene del Rosario were the owners of a 39.1248-hectare agricultural land in Barangay Oma-oma, Ligao City, Albay. Sometime in October 2000, a team composed of representatives from petitioner Land Bank of the Philippines (Land Bank), Department of Agrarian Reform (DAR), the Municipal Agrarian Reform Officer (MARO) of Ligao City, and the Barangay Agrarian Reform Council (BARC) conducted an ocular inspection of the property. In their Field Investigation Report, the team recommended that 36.3168 hectares of the property be placed under the Comprehensive Agrarian Reform Program (CARP)³ pursuant to Republic Act (RA) 6657.⁴

On October 5, 2001, the Land Bank received the pertinent Claim Folder from DAR. The Land Bank then appraised the property at Php34,994.36 per hectare based on the prescribed formula under DAR Administrative Order (DAR AO) No. 5, s. of 1998. This valuation, however, was only applied to the 33.5017-hectare portion since the 2.8151-hectare area pertained to a non-compensable legal easement. The DAR offered Php1,172,369.21 as just compensation for the property but respondents rejected it.⁵

This prompted the Provincial Agrarian Reform Adjudicator (PARAD) – Albay to initiate summary administrative proceedings to determine the amount of just compensation for the property.⁶ Meantime, respondents were paid the Php1,172,369.21 provisional valuation. On November 26, 2001, the Register of Deeds of Albay issued TCT No. T-126930 in the name of the Republic.⁷

Under Decision dated February 18, 2004,⁸ the PARAD fixed just compensation at Php6,766,000.00 or about Php201,959.90 per hectare, excluding the legal easement. On April 1, 2004, it denied the Land Bank's motion for reconsideration.⁹

² *Rollo*, p. 75.

³ The remaining portion is exempt from the coverage of the program since its slope exceeded 18%; *Rollo*, p. 43.

⁴ AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES

⁵ *Rollo*, p. 43.

⁶ *Id.* at 44.

⁷ *Id.*

⁸ *Id.* at 288-291.

⁹ *Id.* at 45.

The Trial Court Proceedings

On April 20, 2004, the Land Bank filed before the Regional Trial Court (RTC)-Br. 3, Legazpi City, sitting as a Special Agrarian Court, a petition for determination of just compensation against respondents, the DAR Secretary, and the PARAD. The Land Bank maintained that it properly computed respondents' just compensation at Php1,172,369.21.

While the case was pending, the Congress, on July 1, 2009, enacted Republic Act 9700 (RA 9700),¹⁰ otherwise known as the CARPER Law, amending RA 6657. Among the amendments were the inclusion of two (2) additional factors in determining just compensation: (i) the value of the standing crop and (ii) seventy percent (70%) of the zonal valuation of the Bureau of Internal Revenue (BIR).¹¹ To implement RA 9700, DAR promulgated DAR AO No. 2, s. 2009 and No. 1, s. of 2010.

The Trial Court's Ruling

By Decision dated August 17, 2012,¹² the trial court fixed the amount of just compensation at Php3,829,514.29 and imposed twelve percent (12%) interest *per annum* on the portion of the amount which respondents had not yet received, *viz.*:

WHEREFORE, the Court hereby renders judgment and declares, as follow, to wit:

- a) The just compensation for Lot No. 4984-D with an area of 36.3168 hectares, owned by the private respondents, Ma. Aurora del Rosario and Irene del Rosario, is hereby fixed in the amount of Php3,829,514.29.
- b) The petitioner is hereby directed to compensate the private respondents in the afore-said sum minus the amount already received by the private respondents, if anything, within a period of thirty (30) days from notice of this decision free of any interest, and with interest at the rate of 12 percent *per annum* if not compensated within the 30-day period herein mandated, which payment of interest shall commence on the 31st day from notice of the decision until the amounts of just compensation are fully satisfied or received by the private respondents.

Issued this 17th day of August 2012 at Legazpi, City, Philippines.¹³

Notably, the trial court: *first*, did not deduct the 2.8151 legal easement from subject property, rendering the entire 36.3168-hectare area

¹⁰ AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR

¹¹ Section 7, RA 9700.

¹² Penned by Hon. Frank E. Lobrigo; *Rollo*, p. 126.

¹³ *Rollo*, pp. 126-142.

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compensable; *second*, reckoned the time of taking as of June 30, 2009 when RA 9700 was enacted while petitioner reckoned the time of taking as of August 2001; and *finally*, applied the prescribed formula under DAR AO No. 2, s. 2009 and No. 1, s. of 2010, and not the formula prescribed under DAR AO No. 5, s. of 1998.

On October 25, 2012, the trial court denied the Land Bank's motion for reconsideration.¹⁴

On appeal, the Land Bank faulted the trial court for allegedly ignoring the provisions of RA 6657 and the pertinent DAR issuances in fixing the just compensation for the property. It insisted on its own computation which purportedly adhered to legal standards.

Court of Appeals' Ruling

Through its assailed decision, the Court of Appeals affirmed with modification, *viz.*:

WHEREFORE, the appeal is partly granted. The trial court's Decision dated August 17, 2012 and Order dated October 25, 2012 are **AFFIRMED**, subject to the modification that the just compensation for the subject property shall be in the amount of P2,176,571.58.

Let a copy of this Decision be furnished the Honorable ponente in CA-G.R SP No. 119012, for his information and guidance.

SO ORDERED.¹⁵

The Court of Appeals found that the trial court erred in adopting June 30, 2009 as the time of taking. As borne by records, it noted that the property was placed under the coverage of CARP in 2001. Thus, DAR AO No. 5, s. of 1998 should govern the computation of just compensation here.¹⁶ More, the Land Bank properly deducted the legal easement before computing the value of the property.¹⁷

The Court of Appeals, nonetheless, noted that the Land Bank failed to include the amount of Php61,025.00 representing the value of standing trees on the property. Too, it modified the Land Bank's valuation of the average farm gate prices of copra per 100 kilos. Instead of using the average price from October 2000 to September 2001 at Php688.75, it used the average price from the six (6)-year period of 1998-2003, to wit:¹⁸

¹⁴ *Id.* at 155.

¹⁵ *Id.* at 71-72.

¹⁶ *Id.* at 61-62.

¹⁷ *Id.* at 66-67.

¹⁸ *Id.* at 328.

Year	Average Selling Price
1998	Php1,453.58
1999	1,681.17
2000	914.70
2001	688.75
2002	1,114.75
2003	1,313.75
Total	Php7,166.70
Six-year Average	Php 1,195.45

According to the Court of Appeals, this valuation was truly reflective of the income-producing capacity of subject property¹⁹; it considered statistical data showing that from 1998-2011, the price of copra was at its lowest in 2001.

Ultimately, the Court of Appeals fixed just compensation at Php2,176,571.58²⁰ and retained the twelve percent (12%) interest *per annum* which the trial court imposed. It denied petitioner's motion for reconsideration on November 22, 2013.

The Present Petition

The Land Bank now invokes the Court's discretionary appellate jurisdiction to modify the amount of just compensation fixed by the Court of Appeals for respondents' copra produce from Php1,195.45 to Php688.75 per 100 kilos and to delete the award of twelve percent (12%) interest *per annum*. The Land Bank essentially argues:

- 1) In determining the amount of just compensation for respondents' copra produce, the Court of Appeals should have considered the prevailing market price at the time of taking in 2011, *i.e.* Php688.75; and not the average selling price from 1998-2003, *i.e.* 1,195.45; and
- 2) It is not guilty of delay in the payment of the initial valuation at Php1,172,369.21. Hence, the imposition of twelve percent (12%) interest *per annum* should be deleted.

On the other hand, respondents riposte that the questions raised here are purely factual and beyond this Court's power of review.²¹

Issue

Did the Court of Appeals err when it computed the amount of just compensation for the property at Php2,176,571.58, plus twelve percent (12%) interest *per annum*?

¹⁹ *Id.* at 67.

²⁰ *Id.* at 68-69.

²¹ *Id.* at 345-351.

Ruling

The petition is partly meritorious.

The amount of just compensation is based on prevailing values at the time of taking; the valuation method prescribed under RA 6657 and DAR AO No. 5, s. or 1998 should therefore be applied

The taking of private lands under the agrarian reform program partakes of the nature of an expropriation proceeding, thus, subject to payment of just compensation.²² Section 4, Article XIII of the Constitution ordains:

Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the, case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and **subject to the payment of just compensation.** In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing. (emphasis added)

Just compensation is 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.²³ In computing the just compensation, the trial courts take into consideration the value of the land "at the time of the taking" or when the landowner was deprived of the use and benefit of his or her property, such as when title is transferred to the Republic.²⁴

Here, the Court of Appeals correctly reckoned the time of taking as of 2001. Indeed, records bear that: (i) the notice of coverage for the property was sent to respondents on February 20, 2001; (ii) petitioner received the Claim Folder from the DAR on October 5, 2001; and (iii) TCT No. T-126930 was issued under the name of the Republic on November 26, 2001. This Court considers the date of transfer of the property to the name of the Republic on November 26, 2001 as the time of taking.

Consequently, RA 6657, prior to its amendment by RA 9700, governs the present case. This finds support in Section 5, RA 9700 which amended Section 7, RA 6657, in this wise:

²² *Land Bank of the Philippines v. Heirs of Sps. Encinas*, 686 Phil. 48, 55 (2012).

²³ *Rep. of the Phils. v. Cebuan, et al.*, 810 Phil. 767, 779 (2017).

²⁴ *Supra* note 22.

SEC. 7. *Priorities.* - The DAR, in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands from the effectivity of this Act until June 30, 2014. Lands shall be acquired and distributed as follows:

"Phase One: During the five (5)-year extension period hereafter all remaining lands above fifty (50) hectares shall be covered for purposes of agrarian reform upon the effectivity of this Act. All private agricultural lands of landowners with aggregate landholdings in excess of fifty (50) hectares which have already been subjected to a notice of coverage issued on or before December 10, 2008; rice and corn lands under Presidential Decree No. 27; all idle or abandoned lands; all private lands voluntarily offered by the owners for agrarian reform: *Provided*, That with respect to voluntary land transfer, only those submitted by June 30, 2009 shall be allowed *Provided, further*, That after June 30, 2009, the modes of acquisition shall be limited to voluntary offer to sell and compulsory acquisition: *Provided, furthermore*, **That all previously acquired lands wherein valuation is subject to challenge by landowners shall be completed and finally resolved pursuant to Section 17 of Republic Act No. 6657, as amended: xxx (emphasis added)**

The provision is clear: any new valuation method introduced by the DAR pursuant to RA 9700 cannot be given retroactive effect as to cover agricultural properties taken prior to the enactment of said law.


Section 17 of RA 6657 enumerates the relevant factors in determining just compensation, *viz.*:

Section 17. Determination of Just Compensation. — In determining just compensation, the cost of acquisition of the land, the current value of the like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

This provision had been translated into a basic formula under pertinent DAR administrative issuances. In determining just compensation, courts are duty bound to apply both the compensation valuation factors enumerated under Section 17 of RA 6657 and the applicable basic formula.²⁵

DAR AO No. 5, s. of 1998 was still in force at the time of taking in this case. The formula embodied therein for fixing just compensation should, therefore, be applied.

²⁵ *Mateo, et al. v. Department of Agrarian Reform, et al.*, 805 Phil. 707, 728 (2017).



**The Court of Appeals failed to apply DAR
AO No. 5, s. of 1998**

DAR AO No. 5, s. of 1998 prescribes the following basic formula for fixing just compensation:

$$\text{Land Value} = (\text{Capitalized Net Income} \times 0.9) + (\text{Market Value} \times 0.1)^{26}$$

The Land Bank does not question the applicability of this formula here, nor the Court of Appeals' computation of the market value of subject property. What it assails though is the Court of Appeals' use of the prevailing selling price of copra from 1998-2003 for the purpose of computing the Capitalized Net Income of the property.

We agree with the Land Bank.

Under DAR AO No. 5, s. of 1998, Capitalized Net Income is computed as follows:

$$\begin{aligned} \text{Capitalized Net Income} &= \text{Annual Gross Production (AGP)} \\ &\quad \times \text{Selling Price (SP)} \\ &\quad \times \text{Net Income Rate (NIR)} \\ &\quad \div \text{Capitalization Rate}^{27} \\ &\quad \text{Capitalized Net Income} \end{aligned}$$

Where:

AGP = Annual Gross Production corresponding to the latest available 12-months' gross production immediately preceding the date of Field Investigation.

SP = **The average of the latest available 12-months' selling prices prior to the date of receipt of the Claim Folder** by LBP for processing, such prices to be secured from the Department of Agriculture and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. If possible, SP data shall be gathered for the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

²⁶ When data on comparable sales are absent.

²⁷ Fixed at 12%

The Selling Price, one of the components of Capitalized Net Income, is based on the **12-month average** farm gate prices of crop grown in the covered property. Thus, as between the 2001 average of Php688.75 which petitioner used, on one hand, and the six (6)-year average of Php1,195.45 which the Court of Appeals utilized, on the other, the former has stronger legal mooring.

In contrast, the Court of Appeals' use of 2002 and 2003 data finds no support in law. In fact, it contradicts the hornbook doctrine that just compensation be based on the value of the land "at the time of taking." In fine, private respondents cannot derive any benefit nor suffer prejudice from any change in the value of the property after the government had already taken it.

In light of the foregoing considerations, the amount of just compensation here should be fixed, as follows:

A. Computing for the Average Selling Price:

2001 Average Farm Gate Price of Copra per 100 kilos	Php688.75 ²⁸
Average Selling Price per kilo	6.89

B. Computing for the Capitalized Net Income:

$$\begin{aligned}
 &= (\text{AGP} \times \text{SP} \times \text{NIR}) / 0.12 \\
 &= (975 \text{ kilos/hectare}^{29} \times \text{Php}6.89/\text{kilo} \times 70\%^{30}) / 0.12 \\
 &= \text{Php}39,186.88/\text{hectare}
 \end{aligned}$$

C. Computing for the Market Value per Tax Declaration:³¹

$$\begin{aligned}
 &= (\text{SUMV land} \times \text{LAF} \times \text{RCPI}) + \\
 &\quad (\text{trees/hectare} \times \text{SUMV tree} \times \text{LAF} \times \text{RCPI}) \\
 &= (\text{Php}13,720.00 \times 81\% \times 1.098) + \\
 &\quad (65 \times \text{Php}140.00 \times 81\% \times 1.098) \\
 &= \text{Php}12,202.29 + \text{Php}8,093.36 \\
 &= \text{Php}20,295.65/\text{hectare}
 \end{aligned}$$

²⁸ *Rollo*, p. 328.

²⁹ Annual Gross Production = (65 trees/hectare x 60 nuts/year) / 4 nuts/kilo = 975 kilos/hectare

³⁰ Per DAR AO No. 5, s. of 1998, "Landholdings planted to coconut which are productive at the time of Field Investigation shall continue to use the assumed NIR of 70%".

³¹ Per computation of the Court of Appeals; *Rollo*, p. 68.

D. Computing for the Land Value per hectare:

$$\begin{aligned} &= (\text{Capitalized Net Income} \times 90\%) + (\text{Market Value} \times 10\%) \\ &= (\text{Php}39,186.88/\text{hectare} \times 90\%) + (\text{Php}20,295.65/\text{hectare} \times 10\%) \\ &= \text{Php} 35,268.19/\text{hectare} + \text{Php}2,029.57/\text{hectare} \\ &= \text{Php}\mathbf{37,297.76/\text{hectare}} \end{aligned}$$

E. Computing for the Total Land Value:

$$\begin{aligned} &= \text{Land value for 36.3168 hectares} - \\ &\quad \text{Land value for legal easement} + \\ &\quad \text{Land value for standing trees} \\ &= (36.3168 \text{ hectares} \times \text{Php}37,297.76/\text{hectare}) - \\ &\quad (2.8151 \text{ hectares} \times \text{Php}37,297.76/\text{hectare}) + \\ &\quad \text{Php} 61,025.00 \\ &= \text{Php}1,354,535.29 - \text{Php}104,996.92 + \text{Php} 61,025.00 \\ &= \text{Php}\mathbf{1,310,563.37} \end{aligned}$$

The Land Bank had already paid respondents Php1,172,369.21 of the amount due, leaving a balance of Php138,194.16.

The interest on the balance of Php138,194.16 is warranted. For the right to just compensation includes the right to be paid on time. As explained in *Apo Fruits Corporation, et al. v. Land Bank of the Philippines*,³² the rationale for imposing interest on just compensation is to compensate the property owners for the income that they would have made if they had been paid the full amount of just compensation at the time of taking when they were deprived of their property.

Although the Land Bank has timely paid respondents based on the initial valuation of the property, it is, nevertheless, guilty of delay insofar as the balance is concerned. The balance of Php138,194.16, therefore, shall earn legal interest of twelve percent (12%) *per annum*, reckoned from the time of taking on November 26, 2001. Beginning July 1, 2013, until fully paid, the balance due shall earn interest at the new legal rate of six percent (6%) *per annum*.³³

³² 647 Phil. 251, 283 (2010).

³³ See *Nacar v. Gallery Frames, et al.*, 716 Phil. 267, 280 (2013).


ACCORDINGLY, the petition is **PARTIALLY GRANTED**. The Court of Appeals Decision dated July 31, 2013 and Resolution dated November 22, 2013 are **AFFIRMED with MODIFICATION** as follows:

- (i) Just compensation on the property is fixed at Php1,310,563.37;
- (ii) The Land Bank is directed to pay respondents Php1,310,563.37 less Php1,172,369.21 or a balance of Php138,194.16;
- (iii) The Land Bank is directed to pay legal interest on the balance of Php138,194.16 at:
 - a. Twelve percent (12%) *per annum* from November 26, 2001 until June 30, 2013; and
 - b. Six percent (6%) *per annum* from July 1, 2013 until full payment.

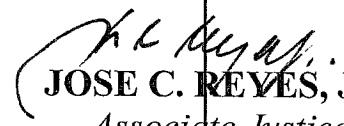
SO ORDERED.

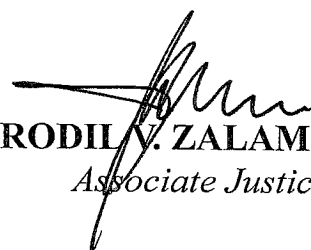

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

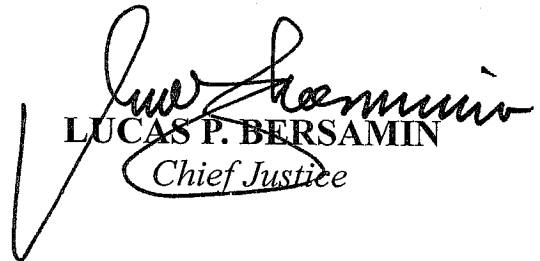
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

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



LUCAS P. BERSAMIN
Chief Justice