



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

NATIONAL POWER CORPORATION,
 Petitioner,

G.R. No. 224324

Present:

- versus -

PERALTA, C.J., *Chairperson,*
 CAGUIOA, *Working Chairperson,*
 REYES, J. JR.,
 LAZARO-JAVIER, and
 LOPEZ, JJ.

**HEIRS OF SALVADOR SERRA
 SERRA, HEIRS OF GREGORIO
 SERRA SERRA, MARGARITA SERRA
 SERRA, FRANCISCA TERESA
 SERRA SERRA, FRANCISCO JOSE
 SERRA SERRA, SPOUSES
 PRIMITIVO HERNAEZ and PAZ
 BACOL, SPOUSES BERNARDINO
 MONCERA and ROGACIANA
 HERNAEZ, SPOUSES AMBROSIO
 FORTALIZA AND LUISA HERNAEZ;
 BANK OF THE PHILIPPINE
 ISLANDS, represented by its Manager,
 LUIS A. PUENTEVELLA and
 ARSENIO AL ACUÑA,**
 Respondents.

Promulgated:

JAN 22 2020

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RESOLUTION

REYES, J. JR., J.:

This is a Petition for Review filed under Rule 45 of the Rules of Court against the Decision¹ dated October 29, 2014 and Resolution² dated April 8, 2016 of the Court of Appeals-Cebu City (CA-Cebu City) in CA-G.R. CV

¹ Penned by Associate Justice Marilyn B. Lagura-Yap, with Associate Justices Jhosep Y. Lopez and Marie Christine A. Jacob, concurring; *rollo*, pp. 43-61.
² Penned by Associate Justice Marilyn B. Lagura-Yap, with Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi, concurring; *id.* at 65-70.

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No. 04256, which affirmed with modification the Decision³ dated May 26, 2011 of the Regional Trial Court (RTC) of Kabankalan City, Branch 61, in a case for eminent domain.

The pertinent facts follow.

Petitioner National Power Corporation (NAPOCOR) is a government-owned and controlled corporation, created and existing by virtue of Republic Act No. 6395, as amended.⁴

On October 16, 1998, NAPOCOR filed a Complaint for eminent domain before the RTC of Kabankalan City against the Heirs of Salvador Serra Serra, Heirs of Gregorio Serra Serra, Margarita Serra Serra, Francisca Teresa Serra Serra, Francisco Jose Serra Serra, Spouses Primitivo Hernaez and Paz Bacol, Spouses Bernardino Moncera and Rogaciana Hernaez, Spouses Ambrosio Fortaliza and Luisa Hernaez, Arsenio Al Acuña and the Bank of the Philippine Islands, represented by its Manager, Luis A. Puentevella (respondents).⁵ The complaint alleges that to enable NAPOCOR to construct and maintain its Kabankalan-Maricalum 138KV Transmission Line Island Grid Project, a project for public purpose, it is both necessary and urgent to acquire easement of right of way over portions of parcels of land, particularly Lot Numbers 2746 and 1316, owned and possessed by the respondents, consisting of more or less a total area of 54,060 square meters.⁶

After depositing the amount of P258,000.00 with the Philippine National Bank, Kabankalan Branch (PNB-Kabankalan), representing the provisional and assessed value of the property affected, NAPOCOR was placed in possession of the subject properties on August 3, 1999.⁷

Due to the need to include Lot 2747 and its improvements, considering NAPOCOR has also taken possession of the property, NAPOCOR was directed to amend its complaint on March 10, 2000.⁸ Thus, the Amended Complaint included Lot 2747 and increased the total area for expropriation to more or less 60,526.50 sq. meters.⁹

In an Order dated April 29, 2003, the RTC dismissed the case without prejudice, for failure to prosecute for an unreasonable length of time, which was reconsidered and set aside on October 15, 2003.¹⁰ It then constituted a

³ *Rollo*, pp. 27-28.

⁴ *Id.* at 23.

⁵ *Id.* at 25.

⁶ *Id.* at 45.

⁷ *Id.* at 47.

⁸ *Id.* at 48.

⁹ *Id.* at 49.

¹⁰ *Id.* at 51.

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Board of Commissioners to determine the just compensation for the affected properties, which submitted its report on October 25, 2007.¹¹

Eventually, on May 26, 2011, the RTC rendered its Decision ordering the expropriation of the lands in question.¹² In determining just compensation, the RTC took into account and gave weight to the empirical data provided by Department of Finance Department Order No. 60-97, which assigned zonal values for 1997.¹³ It also considered the fact that the lots were planted with sugarcane despite its residential classification, as well as the extent of disturbance that the expropriation would cause to the respondents.¹⁴ As disposed:

WHEREFORE, premises considered, in the interest of justice, judgment is hereby rendered in favor of [NAPOCOR] as follows:

- (a) An order of expropriation is hereby issued declaring xxx NAPOCOR to have the lawful right to take the properties of the [respondents] as alleged in the amended complaint particularly in Lot(s) No. 1316 with an affected area of 16,560 sq. meters, more or less; Lot Nos. 2746 (717-A) with an affected area of 37,500 sq. meters more or less and Lot No. 2747 (717-B) with an affected area of 6,466.50 more or less, as shown by the respective sketch plans for the areas affected as annexed to the complaint, for the purpose of the operation of [NAPOCOR's] Kabankalan-Maricalum 138 KV Transmission Island Grid Project. [NAPOCOR] having been installed in the possession of the areas expropriated shall continue to possess the same.
- (b) x x x NAPOCOR is hereby ordered to pay the Estate of Primitivo Hernaez, Luisa Hernaez and Rogaciana Hernaez, through its Judicial Administrators, just compensation for the properties expropriated as follows:
 - 1) P9,356,400.00 representing just compensation for Lot 1316 with an affected area of 16,560 sq. meters more or less;
 - 2) P8,156,250.00 representing just compensation for Lot 2746 (717-A) with an affected area of 37,500 sq. meters more or less;
 - 3) P1,406,463.75 representing just compensation for Lot 2747 (717-B) with an affected area of 6,466.50 sq. meters more or less;
- (c) The amount of P258,000.00 earlier deposited with the Philippine National Bank shall be deducted from the total amount of just compensation of the subject properties and thus the remaining balance to be paid by [NAPOCOR] to [respondents] as just compensation shall be P18,661,113.75 with legal interest from taking of possession until fully paid.

¹¹ Id. at 52.

¹² Id. at 52-54.

¹³ Id. at 56.

¹⁴ Id. at 57.

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SO ORDERED.¹⁵

On appeal, the CA-Cebu City rendered the assailed Decision dated October 29, 2014, affirming with modification the decision of the RTC.¹⁶ It found the trial court's reliance on other indices of the value of the properties, including but not limited to their actual use and potential, proper and well founded.¹⁷ Thus:

WHEREFORE, premises considered, the appeal is **DENIED**. The [May 26, 2011] Decision of the Regional Trial Court (RTC), [6th] Judicial Region, Branch [61] of [Kabankalan City], in Civil Case No. [861] is **AFFIRMED, with MODIFICATION**, in that paragraph (c) thereof should read:

- (c) the amount of [P]258,000.00 earlier deposited with the Philippine National Bank shall be deducted from the total amount of just compensation of the subject properties and thus the remaining balance to be paid by [NAPOCOR] to [respondents] as just compensation shall be P18,661,113.75 **with legal interest of 12% per annum** from taking of possession until fully paid.

SO ORDERED.¹⁸

On April 8, 2016, the CA denied NAPOCOR's Motion for Reconsideration, but amended its dispositive portion in the assailed decision on account of errors.¹⁹ The amended portion presently reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The May 26, 2011 Decision of the Regional Trial Court (RTC), 6th Judicial Region, Branch 61 of Kabankalan City, in Civil Case No. 861 is **AFFIRMED, with MODIFICATION**, in that paragraph (c) thereof should read:

- (c) the amount of [P]258,000.00 earlier deposited with the Philippine National Bank shall be deducted from the total amount of just compensation of the subject properties and thus the remaining balance to be paid by [NAPOCOR] to [respondents] as just compensation shall be P18,661,113.75 with **legal interest of 12% per annum** from the time of the filing of the complaint until fully paid.

SO ORDERED.²⁰

Undeterred, NAPOCOR filed this petition, raising the lone issue of whether or not:

¹⁵ Id. at 53-54.

¹⁶ Supra note 1.

¹⁷ *Rollo*, pp. 57-58.

¹⁸ Id. at 60-61, in relation to subsequent court action to correct typographical errors, id. at 68-69.

¹⁹ Supra note 2.

²⁰ Id. at 70.

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The amount of just compensation awarded to respondents should be based on the prevailing price and character of the property at the time [of] filing of the Complaint for eminent domain [in] 1998.²¹

NAPOCOR submits that the court *a quo* erred by considering the improvements on the property as of 2006 in fixing the amount of just compensation.²² On the other hand, respondents argue that NAPOCOR misleads us by contending that the RTC erroneously determined just compensation which the RTC based on established factors affecting the value of the properties in 1998 conformably with Rule 67 of the Rules of Court.²³

Upon careful review of the petition, we find no need to remand this case for a re-determination of just compensation.

As correctly noted by the CA-Cebu City, the RTC properly ascertained the value and character of the property as of the time of the filing of the complaint (the year 1998), pursuant to the appropriate period under the Rules of Court and jurisprudence.²⁴ The appellate court observed that the trial court did not consider the improvements on the subject properties as of 2006, which is certainly not the proper period for the correct determination of just compensation in this case. The assailed decision partly reads:

Though the trial court made mention of the observations of the Commissioners, particularly the improvements had on the subject properties, after the year 1998 or after the filing of the original expropriation complaint thereon; a closer scrutiny of the ratiocinations of the trial court reveals, that it did not take into consideration these improvements in determining just compensation.²⁵

“Factual findings of the trial and appellate courts will not be disturbed by this Court unless they are grounded entirely on speculations, surmises, or conjectures, among others.”²⁶ NAPOCOR’s submission raises a new factual allegation. As a rule, this Court is not a trier of facts. Only questions of law distinctly set forth in the petition ought to be raised before this Court.²⁷ The petition now refers to a particular period – that is, the year 2006 – on which allegedly, the trial court erroneously based its determination. This strains the Court to review the evidence. We, however, find no valid ground that would

²¹ Id. at 28.

²² Id. at 29.

²³ Id. at 91-92.

²⁴ RULES OF COURT, Rule 67, Sec. 4; *National Power Corporation v. Sps. Asoque*, 795 Phil. 19, 52 (2016); *National Power Corporation v. Tiangco*, 543 Phil. 637, 647 (2007); *National Power Corporation v. Spouses Igmedio*, 452 Phil. 649, 664 (2003); *National Power Corporation v. CA*, 325 Phil. 29, 43 (1996).

²⁵ *Rollo*, pp. 91-92.

²⁶ *National Power Corporation v. Sps. Asoque*, 795 Phil. 19, 49 (2016).

²⁷ RULES OF COURT, Rule 45, Sec. 1.

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warrant a reversal of the factual findings of the appellate court or any reasonable basis to treat this case as an exception.

In the first place, the allegation does not hold. NAPOCOR either misconstrues the ruling of the appellate court or makes it appear that in determining just compensation, the courts *a quo* recognized the improvements in the year 2006. As alleged in NAPOCOR's petition:

The trial court fixed the assailed amount of just compensation of the subject properties taking into consideration the fact that there were existing improvements within the vicinity of these properties. xxx This ruling was affirmed by the Court of Appeals, ruling that the values proposed by respondents were "based on a comparative analysis of the fair market value of the properties' peripheral area in the year 2006."

It is respectfully submitted that the courts *a quo* erred in considering said improvements as of the year 2006 in fixing the amount of just compensation. (Underscoring supplied)²⁸

The portion of the decision from which the quoted phrase was lifted reveals that the statement refers to respondents' proposal, which the court *a quo* expressly did not take into account because it was "based on generalities" and "not hinged upon the relevant period." The relevant portion, in fact, reads:

From the foregoing, it is therefore beyond cavil that the amounts arrived at by the court deserve more merit, than the figures proposed by either [NAPOCOR or respondents] before it. It is worth mentioning that the values proposed by [NAPOCOR] in the complaint were solely based on the tax declarations of the subject properties issued in 1996. The values proposed by [respondents] were, on the other hand, "based on a comparative analysis of the fair market value of the properties' peripheral area in the year 2006." While [NAPOCOR's] tax declaration, cannot, by and of itself, be an absolute substitute to just compensation. The comparative analysis of [respondents] is to Us plainly based on generalities and not hinged upon the relevant period. (Underscoring supplied)²⁹

A complete textual reading does not in any way show that the RTC, as affirmed by the CA, adopted respondents' proposal in arriving at the fair market value of the subject properties. The RTC properly based its valuation on the year 1998, and not 2006. It plainly arrived at the disputed amount independently, after considering the commissioners' report and both parties' respective proposals.

Having addressed the RTC's ascertainment of the value and character of the properties, we now tackle the interest rate imposed on the amount to be paid to the respondents. It is settled that "the difference in the amount

²⁸ *Rollo*, pp. 28-29.

²⁹ *Id.* at 59-60.

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between the final amount as adjudged by the court and the initial payment made by the government – which is part and parcel of the just compensation due to the property owner – should earn legal interest as a forbearance of money.”³⁰ Here, the amount deposited by NAPOCOR with PNB-Kabankalan constitutes the initial payment that was accordingly deducted by the RTC from the final amount adjudged as just compensation.

To recall, in the RTC’s May 26, 2011 Decision, it ordered the payment of legal interest on the balance of the just compensation computed from the taking of possession of the properties until fully paid. When the CA-Cebu City sustained the RTC’s valuation of the properties, it specified the legal interest as 12% per annum, still computed from taking of possession until fully paid. However, in the CA-Cebu City’s subsequent resolution on reconsideration, it modified the reckoning period to commence from the time of the filing of the complaint until fully paid. It appears that the reckoning point in Rule 67 for the valuation of expropriated property was similarly applied by the appellate court to the interest rate imposable on the just compensation.

In *Republic v. Macabagdal*,³¹ we had occasion to point out that accrual of legal interest should begin “not from the date of the filing of the complaint but from the date of the issuance of the Writ of Possession xxx, since it is from this date that the fact of the deprivation of property can be established.”

In *Evergreen Manufacturing Corp. v. Republic*,³² the filing of the expropriation complaint also preceded the actual taking of the property and we ruled that “the just compensation shall be appraised as of [the date of filing of the complaint],” and clarified that “no interest shall accrue as the government did not take possession of the subject premises.” We then held that the legal interest, on the difference between the final amount adjudged by the Court and the initial payment made, shall accrue from when the government was able to take possession of the property. Here, it was established that the amount deposited by NAPOCOR with PNB-Kabankalan caused it to be placed in possession of the expropriated properties on August 3, 1999. Hence, it is from this date that legal interest should begin to run.

As to the applicable interest rate specified by the CA-Cebu City as 12% p.a., this is applicable only until June 30, 2013, in line with *Secretary of the Department of Public Works and Highways v. Spouses Tecson*,³³ which upheld the applicability of *Banko Sentral ng Pilipinas*-Monetary Board Circular No. 799, Series of 2013 to forbearances of money in expropriation

³⁰ *Evergreen Manufacturing Corp. v. Rep. of the Phils.*, 817 Phil. 1048, 1069 (2017).

³¹ G.R. No. 227215, January 10, 2018, citing *National Power Corp. v. Heirs of Ramoran*, 787 Phil. 77, 85 (2018).

³² *Supra* note 30, at 1070-1071.

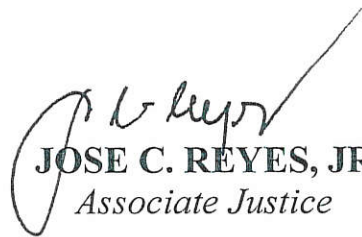
³³ 758 Phil. 604, 639 (2015).

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cases. Accordingly, the applicable legal interest is 6% per annum from July 1, 2013 until the finality of this resolution.³⁴ Thereafter, the total amount due shall earn legal interest of 6% per annum. from finality of the Court's resolution until full payment.³⁵

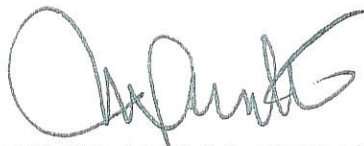
WHEREFORE, the Decision dated October 29, 2014 and Resolution dated April 8, 2016 of the Court of Appeals-Cebu City in CA-G.R. CV No. 04256 are **AFFIRMED subject to the MODIFICATION** imposing legal interest at the rate of 12% per annum on the difference between the total amount of just compensation and the initial deposit, which is PhP 18,661,113.75, computed from August 3, 1999 until June 30, 2013. Thereafter, the remaining balance of the just compensation shall earn legal interest of 6% per annum from July 1, 2013 until the finality of this resolution. Moreover, the total amount of just compensation shall earn legal interest of 6% per annum from the finality of this resolution until full payment.

SO ORDERED.

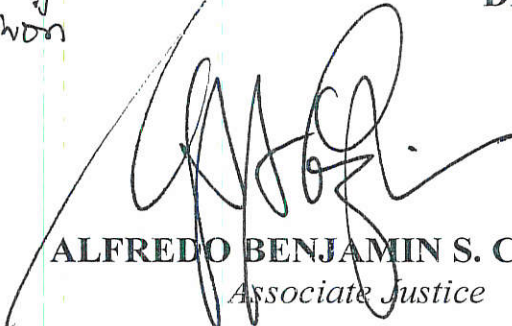

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

*See Separate
Opinion*



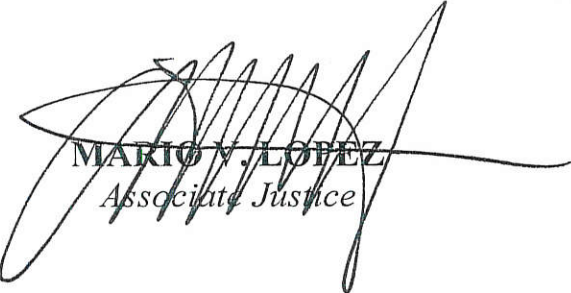
DIOSDADO M. PERALTA
*Chief Justice
Chairperson*



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

³⁴ Id.

³⁵ Supra note 33, at 640-642, citing *Nacar v. Gallery Frames* 716 Phil. 267, 282 (2013).

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

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