



Republic of the Philippines  
**Supreme Court**  
**Manila**

CERTIFIED TRUE COPY  
*Wilfredo V. Lapidan*  
**WILFREDO V. LAPIDAN**  
 Division Clerk of Court  
 Third Division  
 AUG 02 2017

**THIRD DIVISION**

**REPUBLIC OF THE PHILIPPINES, represented by the NATIONAL IRRIGATION ADMINISTRATION,**

**G.R. No. 206702**

Petitioner,

Present:

- versus -

**VELASCO, JR., J.,**  
*Chairperson,*

\***PERALTA,**  
**BERSAMIN,**  
**REYES, and**  
**TIJAM, JJ.**

**ROLANDO C. CEBUAN, RUBEN C. CEBUAN, ERIC C. CEBUAN, SAMUEL C. BARING, BEATRICE A. LOW, LEONORE L. DE LA SERNA and HEIRS OF LORENZO UMBAAD,**

Respondents.

Promulgated:  
**June 7, 2017**

*Wilfredo V. Lapidan*

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**DECISION**

**TIJAM, J.:**

Challenged *via* this Petition for Review<sup>1</sup> under Rule 45 are the Decision<sup>2</sup> dated July 13, 2012 and Resolution<sup>3</sup> dated February 6, 2013 of the Court of Appeals<sup>4</sup> (CA) in CA-G.R. CV No. 02263 which affirmed the

\* Designated additional Member as per Raffle dated February 22, 2017.

<sup>1</sup> *Rollo*, pp. 10-39.

<sup>2</sup> *Id.* at 45-58.

<sup>3</sup> *Id.* at 60-61.

<sup>4</sup> Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Maria Elisa Sempio Diy and Jhosep Y. Lopez.

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ruling of the RTC<sup>5</sup> adopting the Board of Commissioners' recommendation on the computation of just compensation but deleted the additional award for unrealized income. However, on the observation that herein respondents have not been fully paid for the improvements on their respective properties, the CA remanded the case to the RTC for the final determination of just compensation.

### **The Antecedent Facts**

For its Lower Agusan Development Project – Irrigation Component at Barangays Basag, Ampayon and Kinamlutan, all situated in Butuan City, the National Irrigation Administration (NIA) identified several parcels of land as suitable locations for the construction of irrigation canals. Portions of the parcels of land identified were those located in (1) Barangay Basag owned by respondents Rolando Cebuan (652 sq.m.); Ruben Cebuan (503 sq. m.); Eric Cebuan (1,244 sq. m. and 1,754 sq. m.); and Samuel Baring (776 sq. m. and 836 sq. m.); (2) Barangay Ampayon owned by respondent Beatrice Low (2,412 sq. m. and 1,550 sq. m.); and, (3) Barangay Kinamlutan owned by respondents Leonore Dela Serna (1,440 sq. m.) and the Heirs of Lorenzo Umbaad (590 sq. m.)

NIA initiated expropriation proceedings after the failure of the negotiated sale.<sup>6</sup> In its Complaint<sup>7</sup>, NIA based the values of the properties on BIR Zonal Valuations as specified in Department Order No. 16-2000<sup>8</sup> and arrived at an aggregate amount of PhP60,094.50 for the entire 11,737 sq. m. sought to be expropriated. In their Answer<sup>9</sup>, respondents Cebuans, Baring and the heirs of Umbaad expressed their agreement to the expropriation provided that the properties be valued at least PhP300 per square meter. Likewise, respondents Dela Serna and Low agreed to the expropriation but valued at PhP300 per square meter.<sup>10</sup>

Nevertheless, in the years 2002 and 2003, the Cebuans and Baring executed in favor of NIA a Permit to Enter<sup>11</sup> and corresponding payments for damages caused to the rice plants, other various plants and trees thereon were made. Likewise, the heirs of Umbaad received in 2004 payment for damages caused on their property. On the other hand, Beatrice Low and

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<sup>5</sup> *Partial Judgment and Clarificatory and Final Judgment* penned by Judge Augustus L. Calo, Regional Trial Court of Agusan Del Norte and Butuan City, 10<sup>th</sup> Judicial Region, Branch 5 in Butuan City.

<sup>6</sup> *Rollo*, pp. 62-73.

<sup>7</sup> Dated December 3, 2003 and filed on December 9, 2003; *Id.* at 62-73.

<sup>8</sup> Dated August 21, 1998; *Id.* at 104-107.

<sup>9</sup> *Id.* at 108-111.

<sup>10</sup> *Id.* at 114-116.

<sup>11</sup> Rolando executed a *Permit to Enter* on February 21, 2002 while Ruben, Eric and Samuel executed their respective *Permits to Enter* on May 7, 2003.



Leonore dela Serna did not receive any payment as they allegedly had no improvements on their respective properties.<sup>12</sup>

Thereafter, NIA moved for the issuance of a writ of possession and upon deposit of the amount equivalent to 100% of the value of the properties involved based on the current BIR zonal value and submission of the certificate of availability of funds, the RTC granted the same and a Writ of Possession<sup>13</sup> dated April 21, 2004 was issued.

Only the Cebuans, Baring and the heirs of Umbaad moved for the deferment of the implementation of the Writ of Possession on the ground that they had not been fully paid of the improvements on their properties as they were allegedly deprived of the use of the same since 1999 but had been paid for two croppings only.<sup>14</sup>

Subsequently, as proposed by NIA, and as agreed upon by the parties, a Board of Commissioners<sup>15</sup> was created by the RTC to determine the fair market value of the properties sought to be expropriated.

On May 16, 2006, the Commissioners submitted their Report<sup>16</sup> assigning the fair market value of the properties of the Cebuans, Baring and the heirs of Umbaad at PhP45 per square meter and the property of Leonore dela Serna at PhP120 per square meter, while the consequential damages were assessed at 5% of the fair market value of the remaining portion of the properties and the consequential benefits were assessed at 3% thereof.

NIA filed its Comment<sup>17</sup> on the Report, arguing that the fair market value as fixed by the Commissioners was grossly excessive. Instead, NIA contended that the value of the properties should only be PhP0.90 per square meter which was the price of the properties when the same were bought by the respondents from the government.<sup>18</sup>

### **The Ruling of the RTC**

On December 18, 2006, the RTC rendered its Partial Judgment<sup>19</sup> adopting the Commissioners' Report and disregarding NIA's contention that the price should be at PhP0.90 per square meter for being unrealistic. The RTC further noted that a parcel of land similar to the properties in question

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<sup>12</sup> *Rollo*, p. 120.

<sup>13</sup> *Id.* at 112-113.

<sup>14</sup> *Id.* at 117-118.

<sup>15</sup> Composed of Angelito Carbonilla of Land Bank of the Philippines and Augusto Torralba of RTC (Branch 3) as members, and Atty. Glodelito Jayma of RTC (Branch 4) as Chairperson.

<sup>16</sup> *Rollo*, pp. 179-191.

<sup>17</sup> *Id.* at 193-196.

<sup>18</sup> *Id.* at 194.

<sup>19</sup> *Id.* at 198-202.

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was bought by NIA at PhP160 per square meter, which allegation had not been refuted by NIA.

The RTC thus disposed:

**WHEREFORE**, foregoing premises considered, the National Irrigation Administration (NIA) is directed to pay to[:]

1. For the lands affected:

(a) Ruben C. Cebuan = P27,529.25

(b) Eric C. Cebuan = 158,219.73

(c) Samuel C. Baring = 93,988.80

2. For unrealized income (ricefield) based on a document approved by Gregorio y Pang, Jr., Project Manager, found on page 166, Record.

- (a) Ruben – 5,940 square meters  
 - 503 square meters taken by NIA  
 5,437 square meters = 51 cavans  
 = 2,550 kilos x 7.50  
 = P19,125.00 – 16% (Harvester's and Thresher's Share)  
 = P16,065 x 3 croppings (2003-2006)  
 = P48,195.00
- (b) Eric - 29,877 square meters  
 - 2,978 square meters (NIA)  
 26,899 square meters = 229.5 cavans  
 = 11,475 kilos x 7.50  
 = P86,062.50 – 16% (Harvester's and Thresher's Share)  
 = P72,292.5 x 3 croppings (2003-2006)  
 = P216,877.50
- (c) Samuel - 25,444 square meters  
 - 1,612 square meters (NIA)  
 23,832 square meters = 204 cavans  
 = 10,200 kilos x 7.50  
 = P76,500.00 – 16% (Harvester's and Thresher's Share)  
 = P64,260 x 3 croppings (2003-2006)  
 = P192,780.00

The amounts paid to them should be deducted from the above.

The foregoing excludes the incremental interest computed per annum in accordance with existing jurisprudence which is 6% to be counted from May 2003 when NIA was given the Permit To Enter by the Cebuan and Samuel C. Baring up to the time when the amounts adjudged will be fully paid.

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Rolando Cebuan is excluded in this partial judgment as he submitted a Manifestation, No. 3 of which states[:]

“3. Moreover, the Plaintiff, National Irrigation Administration, has already prepared and processed all documents to effect payment thereof. Thus, defendant Rolando C. Cebuan hereby waives any action or suit, criminal, civil or any other kind, against the National Irrigation Administration x x x.” (Record, pp. 198-199)

The lands of Leonore [dela] Serna and that of the Heirs of Lorenzo Umbaad though included in the Commissioners’ Report cannot yet be acted upon as the Court has no way of knowing its classification, i.e., idle land or cultivated and devoted to what kind of crop/plants.

Beatrice Low’s land cannot as well be acted upon for lack of basis as it was not included in the Commissioners’ Report, hence, the Board of Commissioners’ [sic] is directed to do what is incumbent upon them [to] finish their job.

SO ORDERED.<sup>20</sup>

Upon Motion for Clarificatory Judgment<sup>21</sup> filed by the heirs of Umbaad, the RTC rendered its Clarificatory and Final Judgment<sup>22</sup> additionally directing the NIA to pay Leonore dela Cerna, the heirs of Umbaad and Beatrice Low just compensation and unrealized income as follows:

The National Irrigation Administration (NIA) is directed to pay:

I.) For lands affected: Just Compensation (JC=FMV+CD-CB; where FMV means Fair Market Value, CD means Consequential Damages, and CB means Consequential Benefits.)

**a.) LEONORE DELA CERNA**

Area: 17,301 sq.m. (uncultivated)

- 1,440 sq.m. – area taken by NIA at Php 120.00/sq. meter  
(per Commissioners’ Report, Records, p. 214)

15,861 sq. m. – total remaining area

JC = Php172,800 + Php95,166 – Php57,996

**JC = Php209,970 (Records, p. 219)**

**b.) HEIRS OF LORENZO UMBAAD**

Area: 37,665 sq. m.

- 590 sq. m. – area taken by NIA at Php 45.00/sq.m.  
(Commissioners’ Report, p[.] 214)

<sup>20</sup> Id. at 200-202.

<sup>21</sup> As cited in the *Clarificatory and Final Judgment* of the RTC.

<sup>22</sup> Id. at 203-206.

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37,075 sq. m. – or 3.7075 has. – total remaining area

$$JC = \text{Php}26,550 + \text{Php}50,051.25 - \text{Php}33,367.75$$

$$JC = \text{Php}43,234.25 \text{ (Records, p. 219)}$$

**c.) BEATRICE LOW** (The Fair Market Value is computed at Php120.00/sq.m. based on Commissioners' computation of Leonore dela Cerna's property considering that both properties are similarly situated, being both located at Ampayon, Butuan City; Records, 214)

Area: Lot 12- 13,939 sq. m.

- 2,412 sq. m. – area taken by NIA at Php 120.00/sq.m.

11,527 sq. m. – total remaining area

Lot 17- 17,302 sq. m.

- 1,550 sq. m. – area taken by NIA at Php 120.00/sq. m.

15,752 sq. m. – remaining area

Total area taken: 3,962 sq. m.

Total remaining area: 27,279 sq. m. or 2.7279 has.

$$JC = \text{Php}475,440 + \text{Php}163,674 - \text{Php}98,204$$

$$JC = \text{Php}540,910$$

## II.) For unrealized income

### a.) Heirs of Lorenzo Umbaad

Lot area: 37,665 sq.m.

Area taken: 590 sq.m.

Remaining Area: 37,075 sq.m. or 3.7075 has.

Approximate Income per hectare: 85 cavans/ha. at 50 kilos per cavan at Php 7.50 per kilo (based on a document approved by Gregorio Y. Pang, NIA's Project Manager; Records, p. 166)

$$\begin{aligned} \text{Unrealized Income} &= 3.7075 \text{ has.} \times 85 \text{ cavans/ha} \\ &= 315.1375 \text{ cavans} \times 50 \text{ kls./cavan} \\ &= 15,756.875 \text{ kls.} \times \text{Php}7.50/\text{kilo} \\ &= \text{Php}118,176.56 \times 6 \text{ years (2003-2009 at 1} \\ &\quad \text{cropping/year)} \\ &= \text{Php}709,059.38 - 16\% \text{ or } \text{Php}113,449.50 \\ &\quad \text{(harvester['s] and treshe's} \\ &\quad \text{[sic] shares)} \\ &= \text{Php}595,609.88 \end{aligned}$$

### b.) BEATRICE LOW:

Total Area: 31,241 sq.m.

Total area taken: 3,962 sq. m.

Total remaining area: 27,279 sq.m. or 2.7279 has.

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Finally, the CA observed that some of the respondents were not paid for the improvements on their properties. As such, the CA remanded the case to the RTC for the reception of additional evidence pertaining thereto and thereafter, to compute payment thereof.

In disposal, the CA pronounced:

**WHEREFORE**, the appeal is partly GRANTED. The case is thus REMANDED to the court *a quo* for further proceedings for the final determination of just compensation. The court *a quo* is DIRECTED to resolve this issue with reasonable dispatch.

**SO ORDERED.**<sup>28</sup>

NIA's motion for reconsideration was similarly rebuffed by the CA. Hence, resorted to the present petition.

### **The Issues**

The issues posed by NIA for resolution are : 1.) whether the CA erred in affirming the RTC's ruling on just compensation; and 2.) whether there is justification for the CA's remand of the case to the RTC.

### **The Ruling of this Court**

NIA reiterates its arguments that the value of the properties should be as that reflected in the tax declarations and in the BIR zonal valuations and that the assessment of the consequential damages and benefits lacked basis. Additionally, NIA argue that the remand of the case to the RTC is unnecessary as full payment for the damages caused to the improvements on the properties can be ascertained from the records.

The petition is partly meritorious.

#### *No error in the Assessment of Value of Land*

In expropriation proceedings, just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word compensation and to convey

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<sup>28</sup> Id. at 58.



thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full and ample.<sup>29</sup>

The constitutional limitation of just compensation is considered to be a sum equivalent to the market value of the property, broadly defined as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition; or the fair value of the property; as between one who receives and one who desires to sell it, fixed at the time of the actual taking by the government.<sup>30</sup>

Further, the determination of just compensation in expropriation cases is a function addressed to the discretion of the courts owing to the constitutional mandate that no private property shall be taken for public use without payment of just compensation.<sup>31</sup> That being said, 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. As such, they are not binding on courts and are treated as mere guidelines in ascertaining the amount of just compensation.<sup>32</sup> Even the enumeration of the standards for the assessment of the value of the land for purposes of expropriation under Section 5 of Republic Act No. 8974<sup>33</sup> reflects the non-exclusive, permissive and discretionary character thereof.<sup>34</sup> The insistence then of NIA to fix the amount of just compensation based on the zonal valuation of the land and on

<sup>29</sup> *Republic v. Asia Pacific Integrated Steel Corporation*, G.R. No. 192100, March 12, 2014, 719 SCRA 50.

<sup>30</sup> *Republic v. Rural Bank of Kabacan, Inc., et al.*, G.R. No. 185124, January 25, 2012.

<sup>31</sup> *National Power Corporation v. Tuazon*, 668 Phil. 301 (2011).

<sup>32</sup> *National Power Corporation v. Spouses Zabala*, G.R. No. 173520, January 30, 2013, 689 SCRA 554, 555-556.

<sup>33</sup> Section 5 of Republic Act No. 8974 otherwise known as An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and Other Purposes, enumerates the standards that assist in the determination of just compensation, as follows:

SEC. 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
- (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. (emphasis supplied)

<sup>34</sup> *Republic of the Philippines, represented by the Toll Regulatory Board v. C.C. Unson, Company, Inc.*, G.R. No. 215107, February 24, 2016, citing *Republic v. Spouses Bautista*, G.R. No. 181218, January 28, 2013, 689 SCRA 349.

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the tax declaration is utterly misplaced as these factors are only two of the several which the court may consider to facilitate the determination of just compensation.

Be that as it may, unmoving still is the rule that the “just”-ness of the compensation can only be attained by using reliable and actual data. Accordingly, trial courts are reminded, time and again, to be circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds.<sup>35</sup>

Here, in valuing the land for purposes of fixing just compensation, the RTC took into consideration the Commissioners’ Report. The Commissioners, in turn, utilized the Market Data Approach wherein the sales, listings or appraisals—adjusted as to the time of sale, location and general characteristics of comparable lots in the area, where the subject properties were located—were used. Information was gathered from the appraisals of existing banking institutions, as well as on site inspections.<sup>36</sup> The fair market value of the properties were, thus, determined based on reliable and actual data.

As such, the Court sees no error when the trial court accepted the Commissioner’s Report and rendered judgment in accordance therewith as the same is sanctioned under Section 8<sup>37</sup>, Rule 67.

Further militating against the NIA’s position is the fact that the RTC’s assessment of the value of the land was affirmed by the appellate court on review. Accordingly, the trial court and the CA’s identical findings concerning the assessment of the value of the properties should be accorded the greatest respect, and are binding on the Court, absent proof that they committed error in establishing the facts and in drawing conclusions therefrom. There being no showing that the trial court and the CA committed any error, We, thus, accord due respect to their findings. Besides, the Court is not a trier of facts and the rule that petitions brought under Rule 45 may only raise questions of law equally applies to expropriation cases.<sup>38</sup>

### *Award for Consequential Damages Proper*

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<sup>35</sup> *National Power Corporation v. Spouses Zabala*, supra note 32, at 63.

<sup>36</sup> *Rollo*, pp. 184-185.

<sup>37</sup> Sec. 8. Action upon commissioners’ report. – Upon expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may re-commit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.

<sup>38</sup> *Republic v. Spouses Bautista*, G.R. No. 181218, January 28, 2013, 689 SCRA 349.

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NIA further questions the valuation of the consequential damages and consequential benefits on account of arbitrariness. NIA theorizes that the consequential damages and consequential benefits should be deemed equal to each other so as to offset the value of one against the other.

While as a general rule, just compensation, to which the owner of the property to be expropriated is entitled, is equivalent to the market value,<sup>39</sup> the rule is modified where only a part of a certain property is expropriated. In such a case, the owner is not restricted to compensation for the portion actually taken, he is also entitled to recover the consequential damage, if any, to the remaining part of the property.

The award of consequential damages is specifically enunciated under Section 6 of Rule 67 as follows:

Section 6. Proceedings by commissioners. — Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. Evidence may be introduced by either party before the commissioners who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties, to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case. **The commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken.** (Emphasis supplied)

Accordingly, if as a result of expropriation, the remaining portion of the property suffers from impairment or decrease in value, the award of consequential damages is proper.<sup>40</sup> On the other hand, if the expropriation resulted in benefits to the remaining lot, such consequential benefits may be deducted from the consequential damages or from the value of the expropriated property.<sup>41</sup> However, such consequential benefits refer to the actual benefits derived by the landowner which are the direct and proximate results of the improvements as a consequence of the expropriation and not to the general benefits which the landowner may receive in common with the

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<sup>39</sup> Market value is that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as a price to be paid by the buyer and received by the seller. *Republic of the Philippines, v. C.C. Unson*, supra note 34.

<sup>40</sup> *Republic v. Court of Appeals and Reyes*, G.R. No. 160379, August 14, 2009.

<sup>41</sup> *Id.*

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community.<sup>42</sup>

In arriving at 5% of the fair market value as consequential damages, the Commissioners took into consideration the diminution of the area of the subject properties which resulted in a decrease in the quantity of the harvest, while the 3% consequential benefits was arrived at by considering the benefits brought by the irrigation canals, greater accessibility to the roads and the appreciation in the market value of the lots. We find no reason to depart from the assessment of the Commissioners, as affirmed and adopted by the expropriation court.

*Remand to the Expropriation Court  
for Determining Alleged Underpayment  
on the Value of Improvements Unnecessary*

The CA ordered the remand of the case to the RTC on its observation that the records are unclear as to whether the landowners had been duly paid for the improvements on the land. On the contrary, a perusal of the disbursement vouchers<sup>43</sup> clearly shows that payments for improvements had been made and duly received as follows:

Rolando Cebuan – P333,769.10<sup>44</sup>  
 Ruben Cebuan – P84,165.50<sup>45</sup>  
 Eric Cebuan – P224,207.40<sup>46</sup>  
 Samuel Baring – P87,597.73<sup>47</sup>  
 Heirs of Umbaad – P8,085.60<sup>48</sup>

Notably, the Cebuans, Baring and the heirs of Umbaad never contested the amount of the foregoing payments which they admit having received, without qualification, when they executed the Permit to Enter. It was only when they moved for reconsideration of the issuance of the Writ of Possession did the allegation on the underpayment of improvements arise.<sup>49</sup> However, the landowners failed to introduce evidence in relation thereto before the expropriation court apart from their bare allegations.

<sup>42</sup> Regalado, REMEDIAL LAW COMPENDIUM, Vol. 1, p. 746.

<sup>43</sup> Attached as Annexes E to Q to NIA's Comment to the landowners' Motion for Reconsideration of the expropriation court's issuance of a Writ of Possession; *Rollo*, pp. 127-139.

<sup>44</sup> Annexes E, F, G, H, and I showing that the value of the newly planted ricefield, rice plant, various plants and trees were paid.

<sup>45</sup> Annexes J and K showing that the value of the rice plant for two croppings and for various plants and trees were paid.

<sup>46</sup> Annexes L and M showing that the value of the rice plant for two croppings and for various plants and trees and one unit residential house were paid.

<sup>47</sup> Annexes O and P showing that the value of various plants and trees and rice plant were paid.

<sup>48</sup> Annex Q showing that the value of various plants and trees were paid.

<sup>49</sup> *Rollo*, pp. 117-118.

Even then, a perusal of the Cebuans and Baring's Sworn Statements<sup>50</sup> as to the alleged underpaid value of their improvements shows that what they were actually claiming was the value of the affected crops following NIA's entry into their properties. In other words, the unpaid improvements that they were claiming pertained to payment for unrealized harvests which is not allowed. R.A. 8974 requires the payment of the value of improvements on the property at the time of taking; hence, there is no basis to hold NIA liable for the payment of unrealized harvests. The measure of the value of the improvements should be at the time when the loss resulted, *i.e.*, as of the time of taking in 2003.

Notably also, the landowners' claim that they were deprived of their properties as early as 1999 is belied by the identical findings of the RTC and the CA that NIA was allowed to enter the subject properties in 2003 after due payment of the improvements thereon as of the date of taking.<sup>51</sup> Incidentally, such findings of fact were adopted by the Cebuans, Baring and Umbaad in their Comment<sup>52</sup> on the instant Petition.

Respondents Dela Serna and Low, on the other hand, did not contest NIA's representation that their respective lands were uncultivated. Neither did they refute such finding even in their Comment on the present Petition.

All these considered, We find no reason or necessity to remand the case to the RTC for further proceedings to resolve what appears to be a settled matter.

#### *Modification of Amount of Interest*

Nevertheless, We find it necessary to modify the imposition of 6% interest on the amounts of just compensation to be paid by NIA to respondents that the RTC reckoned from May 2003.

By recent jurisprudence<sup>53</sup>, it has been settled that the payment of just compensation for the expropriated property amounts to an effective forbearance on the part of the State, thus:

In other words, the just compensation due to the landowners amounts to an effective forbearance on the part of the state – a proper subject of interest computed from the time the property was taken until the full amount of just compensation is paid – in order to eradicate the issue of the constant variability of the value of the currency over time. In the Court's own words:

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<sup>50</sup> *Id.* at 149-152.

<sup>51</sup> *Id.* at 298.

<sup>52</sup> *Id.*

<sup>53</sup> *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, G.R. No. 179334, April 21, 2015 (Resolution on Motion for Reconsideration).

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The Bulacan trial court, in its 1979 decision, was correct in imposing interest[s] on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time....<sup>54</sup>(Citations and emphasis omitted)

In the instant case, the interest is to be imposed only on the balance of the final just compensation, *i.e.*, just compensation as computed by the RTC (*sans* the award for unrealized income) less the amount of the provisional compensation.<sup>55</sup> Since NIA's initial valuation had been contested, and it has been subsequently determined that the expropriated properties had been undervalued, an interest on the balance or the difference between the amount already paid and the just compensation as determined by the RTC, is proper.

While the debt incurred by the government on account of the taking of the property subject of an expropriation constitutes a forbearance, nevertheless, in line with the recent circular of the Monetary Board of the Bangko Sentral ng Pilipinas (BSP-MB) No. 799, Series of 2013, effective July 1, 2013,<sup>56</sup> the prevailing rate of interest for loans or forbearance of money is six percent (6%) *per annum (p.a.)*, in the absence of an express contract as to such rate of interest. Accordingly, the interest rate of 12%<sup>57</sup> *p.a.* should be imposed on the balance due from the date of the taking, or on

<sup>54</sup> *Republic of the Philippines v. Court of Appeals*, 433 Phil. 106, 123 (2002).

<sup>55</sup> Provisional compensation under Sec. 4 of R.A. 8974 refers to the amount equivalent to 100% of the value of the property based on the current relevant zonal valuation by the Bureau of Internal Revenue and the value of any improvements or structure on a replacement cost method.

<sup>56</sup> The pertinent portion of which reads:

The Monetary Board, in its Resolution No. 796 dated 16 May 2013, approved the following revisions governing the rate of interest in the absence of stipulation in loan contracts, thereby amending Section 2 of Circular No. 905, Series of 1982:

Section 1. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum.

Section 2. In view of the above, Subsection X305.1 of the Manual of Regulations for Banks and Sections 4305Q.1, 4305S.3 and 4303P.1 of the Manual of Regulations for Non-Bank Financial Institutions are hereby amended accordingly.

This Circular shall take effect on 01 July 2013.

<sup>57</sup> CB Circular No. 905~~27~~ which took effect on December 22, 1982, particularly Section 2 thereof states:

Sec. 2. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall continue to be twelve per cent (12%) per annum.

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May 7, 2003 until June 30, 2013 and the interest rate of 6% p.a. is imposed from July 1, 2013 until fully paid.

**IN VIEW OF THE FOREGOING**, the Court **RESOLVES** to **PARTLY GRANT** the Petition such that:

The assailed Decision dated July 13, 2012 and Resolution dated February 6, 2013 of the Court of Appeals finding petitioner Republic of the Philippines, represented by the National Irrigation Authority, liable to pay just compensation in the amount computed by the Regional Trial Court *sans* the award for unrealized income are **AFFIRMED**.

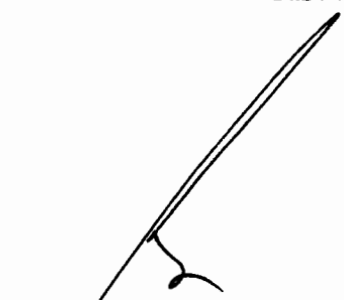
However, in conformity with the existing laws, rules, and jurisprudence, the amount of legal interest is **MODIFIED** such that the interest rate of twelve percent (12%) p.a. on the balance due from May 7, 2003 until June 30, 2013 and the interest rate of six percent (6%) p.a. from July 1, 2013 until fully paid are imposed.

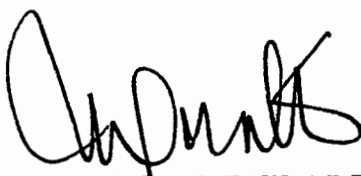
The order remanding the instant case to the Regional Trial Court for determination of alleged unpaid improvements on the affected properties is **DELETED**.

**SO ORDERED.**


  
**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

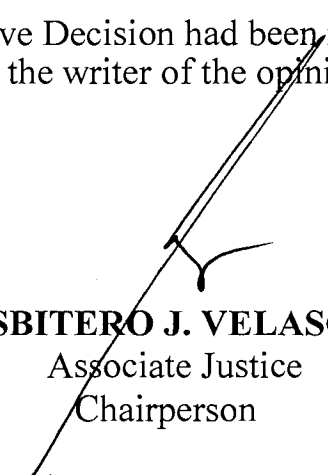
  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice

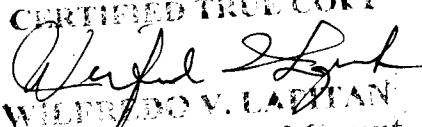
**ATTESTATION**


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. LADRÁN**  
 Division Clerk of Court  
 Third Division  
 AUG 07 2017

  
**MARIA LOURDES P.A. SERENO**  
 Chief Justice