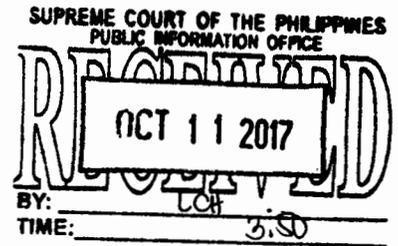




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

REPUBLIC OF THE PHILIPPINES, represented by the DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS,
 Petitioner,

G.R. No. 204530

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

- versus -

POTENCIANO A. LARRAZABAL, SR., VICTORIA LARRAZABAL LOCSIN and BETTY LARRAZABAL MACATUAL,
 Respondents.

Promulgated:

JUL 26 2017

X-----X

DECISION

CAGUIOA, J.:

The Case

This is petition for review on *certiorari*¹ of the Decision² and Resolution³ dated October 19, 2011 and November 12, 2012, respectively, of the Court of Appeals (CA) in CA-G.R. CEB-CV No. 00810. The CA affirmed the Decision⁴ dated December 5, 2003 of the Regional Trial Court (RTC) of Ormoc City, Branch 12 in Civil Case No. 3734-0 which fixed the just compensation for the lot of respondent Potenciano A. Larrazabal (Potenciano) at ₱10,000.00 per square meter, the improvements therein at ₱1,000,000.00; and for the lots of respondents Victoria Larrazabal Locsin (Victoria) and Betty Larrazabal Macatual (Betty) at ₱4,000.00 per square meter.

¹ *Rollo*, pp. 24-57.

² *Id.* at 60-69. Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes concurring.

³ *Id.* at 71-72. Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Edgardo L. Delos Santos and Carmelita Salandanan-Manahan concurring.

⁴ *Id.* at 95-99. Penned by Presiding Judge Francisco C. Gedorio, Jr.

The Facts

Sometime in November 1991, heavy rains in Ormoc City caused the Malbasag River to overflow resulting in a flashflood throughout the city.⁵ To avoid a similar tragedy, the petitioner, through the Department of Public Works and Highways, undertook a massive flood mitigation project at the Malbasag River, which required a right of way.⁶

On September 15, 1999, petitioner filed a Complaint⁷ with the RTC for expropriation of portions of three parcels of land that respondents Potenciano, Victoria, and Betty owned.

Respondent Potenciano's commercial property is Lot No. 844 located at Poblacion, Municipality of Ormoc, Leyte, covered by Transfer Certificate of Title (TCT) No. 28 with a total area of 2,629 square meters.⁸ Respondents Victoria's and Betty's residential properties are Lot No. 1 located at Barangay Can-adieng, Ormoc City, Leyte, covered by TCT No. 16337, and with a total area of 5,682 square meters, and Lot No. 2 in the same barangay, covered by TCT No. 16518, with a total area of 5,683 square meters, respectively.⁹ Petitioner sought to expropriate 1,027 square meters of respondent Potenciano's property, 575 square meters of respondent Victoria's property, and 4,638 square meters of respondent Betty's property.¹⁰ Based on Resolution No. 8-98, Series of 1998,¹¹ of the Ormoc City Appraisal Committee (Resolution No. 8-98), the properties were appraised at ₱1,000.00 per square meter for commercial lots and ₱800.00 for residential lots.¹²

After the filing of the Complaint, petitioner was allowed to enter the properties, demolish the improvements thereon, and to deposit the amounts corresponding to the provisional payments for the properties.¹³ Subsequently, respondents filed their Answer where they prayed that the just compensation for respondent Potenciano's property be fixed at ₱25,000.00 per square meter, and ₱15,000.00 per square meter for respondents Victoria's and Betty's properties.¹⁴

On December 16, 1999, the RTC directed the release of the cash that petitioner deposited in the amount of ₱5,745,520.00, divided as follows: ₱1,575,120.00 to respondent Potenciano; ₱460,000.00 to respondent Victoria, and ₱3,710,400.00 to respondent Betty.¹⁵ And on February 18,

⁵ Id. at 61.

⁶ Id. at 61-62.

⁷ Id. at 73-80.

⁸ Id. at 61.

⁹ Id.

¹⁰ Id. at 62.

¹¹ Id. at 94.

¹² Id. at 62.

¹³ Id.

¹⁴ Id. at 63.

¹⁵ Id. at 97.

2000, the RTC appointed a set of Commissioners composed of Atty. Bibiano C. Reforzado, Clerk of Court of the RTC, as Chairman, Atty. Arturo P. Suarez, Register of Deeds of Ormoc City, and Alfredo P. Pantino, resident of Fatima Village, Cogon, Ormoc City, to evaluate and recommend the amount of just compensation for the properties.¹⁶

On November 20, 2001, the Commissioners submitted their Report¹⁷ with the following estimated fair market values of the properties: ₱10,000.00 per square meter for respondent Potenciano's property, or a total of ₱12,620,000.00; and ₱4,000.00 per square meter for respondents Victoria's and Betty's properties, or a total of ₱2,300,000.00 and ₱18,552,000.00, respectively.¹⁸

The Commissioners considered the three properties as commercial lots¹⁹ and found that one real estate transaction — sale of the property of William Gothong and Aboitiz where the lot was sold at ₱30,000.00 per square meter — nearly reflected the fair market value of commercial lots in Ormoc City.²⁰ The Commissioners' Report states:

2. Finding the Buyer's Market – that is how much really the buyer paid for the property is quite hard to produce. It is widely practiced in real estate transactions that the documented deed of sale is very much undervalued or reduced to evade capital gains and Documentary taxes. There is one real estate transaction which nearly reflects the average FMV of commercial lots in Ormoc City. Last November 14, 1997, William Gothong and Aboitiz sold commercial lot located at Corner Bonifacio and Burgos Sts., Ormoc City for P30,000.00 per square meter on the documented deed of sale (Annex 3). This could be much higher considering its location which is a choice lot (highly commercial). Please take note that the authority given to the undersigned broker ranges from P25,000.00 to P30,000.00 per square meter which we can safely presume that it is the FMV of highly commercial lots in the city.²¹

The Commissioners found that the estimated fair market value of Potenciano's property was ₱10,000.00 per square meter, and ₱4,000.00 per square meter for Betty's and Victoria's properties, thus:

- A. POTENCIANO LARRAZABAL, SR. – Lot No. 844 with an area of 2,629 sq. m. is located along the banks of Malbasag River. On the Northern side, it is facing Lot 829 and 841 likewise also owned by Mr. Larrazabal. Lot 829 & 841 is facing Aviles St. According to some information, there were some bodega building inside the perimeter which were demolished but we could not give some appraisals because at the time of inspection they were already leveled-off and new perimeter CHB walling were already installed

¹⁶ Id. at 63. See CA Decision note 11.

¹⁷ Records, pp. 140-145.

¹⁸ *Rollo*, p. 64; see records, p. 144.

¹⁹ Records, p. 142.

²⁰ Id. at 143.

²¹ Id. at 143-144.

along the boundary of the expropriated land and other remaining areas.

LAND = 1,262 sq. meters [at] P10,000.[00] = P12,620,000.00

- B. BETTY L. MACATUAL – Property of Mrs. Betty Macatual (Lot 2) is also located along Malbasag [R]iver. It has no improvement that were affected by the JICA Project. Its location is in Brgy. Canadieng, Ormoc City. This area is classified as commercial/residential and class C.

LAND = 4,638 sq. meters at P4,000.00 = P18,552,000.00

- C. VICTORIA L. LOCSIN – Property of Mrs. Locsin is located beside that of Mrs. Betty Macatual. This area is also classified as Commercial C.

LAND = 575 sq. meters at P4,000.00 = P2,300,000.00²²

Petitioner then filed its Comment on the Commissioners' Report stating that the appraisal values as stated in Resolution No. 8-98 should be applied instead of the just compensation determined by the Commissioners.²³

Ruling of the RTC

In its Decision, the RTC approved the value of the properties as fixed by the Commissioners in their Report.²⁴ The RTC ruled that in eminent domain cases, the value of the property as of the date of the filing of the complaint is generally determinative of the just compensation.²⁵ The RTC further ruled that “sales so taken in the neighborhood of the same year of taking, have been considered fair enough as to reflect fair market value of the property.”²⁶

As basis for approving the value fixed by the Commissioners, the RTC relied on the sales of properties that were made on November 14, 1997 involving the property of William Gothong and Aboitiz and on July 10, 2000 involving the property of Mariano Tan, thus:

Applying now as basis the sales of the properties of William Gothong and Aboitiz located at Corner Bonifacio and Burgos Sts., Ormoc City sold at P30,000.00 per square meter on November 14, 1997 (Annex “3”); and that of Mariano Tan located at Real St., Ormoc City which was at P6,726.00 per square meter made on July 10, 2000 (Annex “5”), this Court hereby fixes just compensation on the property of defendant

²² Id. at 144.

²³ *Rollo*, p. 97.

²⁴ Id. at 99.

²⁵ Id. at 98.

²⁶ Id., citing *Republic v. Lichauco*, 122 Phil. 33 (1965).

Potenciano A. Larrazabal, Sr. at P10,000.00 per square meter and the properties of defendants Victoria Larrazabal Locsin and Betty Larrazabal Macatual at P4,000.00 per square meter thus approving the value fixed by the Commissioners in their Report dated November 20, 2001.²⁷

The dispositive portion of the RTC Decision states:

WHEREFORE, foregoing premises considered, judgment is hereby rendered directing plaintiff to pay the amount of just compensation for defendant Potenciano A. Larrazabal, Sr. for Lot No. 844 covered by TCT No. 288 with an expropriated area of 1,262 square meters at P10,000.00 per square meter, or an aggregate amount of P12,620,000.00 plus 1 Million pesos for the improvements, for defendant Victoria Larrazabal Locsin for Lot No. 1 covered by TCT No. 16337 with an expropriated area of 575 square meters at P4,000.00 per square meter, or an aggregate amount of P2,300,000.00; for defendant Betty Larrazabal Macatual for Lot No. 2 covered by TCT No. 16518 with an expropriated area of 4,638 square meters at P4,000.00 per square meter, or an aggregate amount of P18,552,000.00 plus twelve percent (12%) interest thereof per annum computed from the date of the filing of the present complaint on September 23, 1999 until fully paid. No pronouncement as to costs.

SO ORDERED.²⁸

Ruling of the Court of Appeals

The CA in its Decision and Resolution affirmed the RTC Decision. The CA made an extensive discussion on why the RTC correctly disregarded Republic Act (RA) No. 8974, entitled *An Act to Facilitate the Acquisition of Right-Of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes* and its Implementing Rules in determining the just compensation to be paid to respondents for their properties.²⁹

The CA ruled that RA No. 8974 was not applicable since it only applies prospectively. Since the Complaint was filed as early as September 15, 1999, RA No. 8974 was not applicable because it was signed into law on November 7, 2000 and became effective only on November 26, 2000.³⁰

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the assailed December 5, 2003 Decision of RTC, Branch 12, Ormoc City, in Civil Case No. 3734-0, is hereby **AFFIRMED**. No costs.

SO ORDERED.³¹

²⁷ Id. at 99.

²⁸ Id.

²⁹ Id. at 66-68.

³⁰ Id. at 66.

³¹ Id. at 69.

Petitioner moved for reconsideration,³² but the CA denied it in its Resolution.

Hence, this petition.

Issues

The issues in this petition have focused on whether RA No. 8974 is applicable to the determination of the just compensation to be paid to respondents for their properties, and whether the CA acted correctly in affirming the RTC Decision on the just compensation for the properties.

Ruling of the Court

The petition is **GRANTED** in part.

Petitioner, through the Office of the Solicitor General (OSG), posits that it was error for the CA, the RTC, and the Commissioners to disregard the standards set in RA 8974 on the argument that RA 8974 can and should be made to apply.³³ Petitioner is mistaken.

The Court had already squarely ruled in *Spouses Arrastia v. National Power Corporation*³⁴ that RA No. 8974 applies only prospectively. In *Spouses Arrastia*, the complaint for eminent domain was filed on December 4, 1996. After the approval of RA No. 8974 on November 7, 2000, the petitioners therein moved for the RTC to require respondent National Power Corporation (NPC) to comply with the provisions of RA No. 8974 on payment of the amount equivalent to 100% of the current zonal value of the property upon filing of the complaint. The RTC granted the motion and ruled that RA No. 8974 was procedural in nature and could therefore be given retroactive effect.³⁵

This was set aside by the CA which ruled that RA No. 8974 cannot be applied retroactively because to do so would inflict substantial injury to a substantive right of the State. The CA further ruled that a retroactive application of RA No. 8974 would impose a greater burden on the State where none had existed before.³⁶

In the appeal before this Court, the OSG, representing respondent NPC, argued against the retroactive application of RA No. 8974³⁷ — a position that it is completely opposite to the position it now takes in this petition.

³² Id. at 122-135.

³³ See Petition, p. 30, id. at 53.

³⁴ 555 Phil. 263 (2007).

³⁵ Id. at 266 and 268.

³⁶ Id. at 269.

³⁷ Id. at 270.

In affirming the CA, the Court ruled that RA No. 8974 cannot be made to apply retroactively since it is a substantive law; there is nothing in RA No. 8974 which expressly provides for retroactive application; and retroactivity could not necessarily be implied from RA No. 8974 or in any of its provisions.³⁸ Thus, the Court ruled:

It is a well-entrenched principle that statutes, including administrative rules and regulations, operate prospectively unless the legislative intent to the contrary is manifest by express terms or by necessary implication because the retroactive application of a law usually divests rights that have already become vested. This is based on the Latin maxim: *Lex prospicit non respicit* (the law looks forward, not backward).

In the application of RA No. 8974, the Court finds no justification to depart from this rule. *First*, RA No. 8974 is a substantive law. *Second*, there is nothing in RA No. 8974 which expressly provides that it should have retroactive effect. *Third*, neither is retroactivity necessarily implied from RA No. 8974 or in any of its provisions. Unfortunately for the petitioners, the silence of RA No. 8974 and its Implementing Rules on the matter cannot give rise to the inference that it can be applied retroactively. In the two (2) cases wherein this Court applied the provisions of RA No. 8974, the complaints were filed at the time the law was already in full force and effect. Thus, these cases cannot serve as binding precedent to the case at bench.³⁹ (Citations omitted)

The Court follows the foregoing ruling, and reiterates here that RA No. 8974 can only be applied prospectively.

Here, since the complaint for eminent domain was filed on September 15, 1999, or prior to the effectivity of RA No. 8974 on November 26, 2000, then RA No. 8974 and the standards indicated therein are not applicable in determining the just compensation in the present case.

That said, as to the issue of whether the CA acted correctly in affirming the RTC Decision on the just compensation for the properties, the Court, for reasons given below, is constrained to reverse the CA and the RTC, and to order the remand of this case to the RTC for the proper determination of just compensation.

The RTC Decision — which was affirmed by the CA — had relied on the Commissioners' Report that, in turn, considered only the sale of the property of William Gothong and Aboitiz located at Bonifacio corner Burgos Streets, Ormoc City, sold at ₱30,000.00 per square meter on November 14, 1997⁴⁰ as the transaction that "x x x nearly reflects the average [fair market value] of commercial lots in Ormoc City."⁴¹ The RTC also mentioned the sale of the property of Mariano Tan located at Real

³⁸ Id. at 272.

³⁹ Id.

⁴⁰ *Rollo*, p. 99.

⁴¹ Records, p. 143.

Street, Ormoc City, which sold at ₱6,726.00 per square meter made on July 10, 2000.⁴² Although the sale of the property of Mariano Tan was attached to the Commissioners' Report, the Commissioners did not mention the sale of the property in arriving at the fair market value of the properties of Potenciano, Betty, and Victoria. Also attached to the Commissioners' Report was the sale of a property on December 28, 1995 between Spouses Emmanuel and Evelyn Antig and Marie Paz Kathryn Porciuncula of a 138-square meter property for ₱450,000.00.⁴³

The RTC's reliance on the sale of the properties of William Gothong and Mariano Tan deviated from the settled rule that just compensation should be determined as of the time of the taking. Thus, as ruled in *National Power Corporation v. Diato-Bernal*,⁴⁴ "[i]t is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint."⁴⁵

Since the Complaint in this case was filed on September 15, 1999, with petitioner being allowed entry to the property thereafter, the just compensation should therefore be reckoned as of the time of the filing of the Complaint. The two sales relied upon by the RTC were made on November 14, 1997 and July 10, 2000. These sales — the first being almost 2 years prior to, and the second, being 10 months after, the filing of the Complaint on September 15, 1999 — were not and could not have been proper bases for determining the just compensation for the properties. The same is true for the sale between Emmanuel Antig and Marie Paz Kathryn Porciuncula as the sale was made on December 28, 1995, or almost four years before the filing of the Complaint. Sales around the time of September 15, 1999, or the year 1999, are the proper bases for determining the just compensation for the properties, especially considering that no reasons can be found in the records as to why no such sales during this period were considered by the Commissioners or the RTC.

More than this, however, the error of the RTC was exacerbated by its reliance solely on comparative sales of other properties. As ruled in *National Power Corporation v. YCLA Sugar Development Corporation*,⁴⁶ factors such as acquisition cost, current market value of like properties, tax value of the properties of respondents, and the sizes, shapes, and locations of the properties, should have been considered,⁴⁷ thus:

[J]ust compensation cannot be arrived at arbitrarily; several factors must be considered such as, but not limited to, acquisition cost, current market

⁴² *Rollo*, p. 99.

⁴³ See Deed of Absolute Sale, records, pp. 152-153.

⁴⁴ 653 Phil. 345 (2010).

⁴⁵ *Id.* at 354, citing *B.H. Berkenkotter & Co. v. Court of Appeals*, 290-A Phil. 371, 375 (1992).

⁴⁶ 723 Phil. 616 (2013).

⁴⁷ *Id.* at 624.

value of like properties, tax value of the condemned property, its size, shape, and location. But before these factors can be considered and given weight, the same must be supported by documentary evidence. The amount of just compensation could only be attained by using reliable and actual data as bases for fixing the value of the condemned property. A commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.⁴⁸ (Citations omitted)

Here, the records reveal that the RTC's determination of just compensation did not consider any of the foregoing factors. The RTC Decision miserably failed to even explain how the amounts of ₱10,000.00 per square meter for respondent Potenciano's property, and ₱4,000.00 per square meter for respondents Victoria's and Betty's properties were arrived at. There was no consideration made of the acquisition cost, current market value of like properties, the tax value of the properties of respondents, and the size, shape and location of the properties. Clearly, in the absence of any actual and reliable data — and the abject failure to explain this absence — there can be no other conclusion that can be drawn except that the RTC's determination of just compensation was arbitrary.

In view of the foregoing, the Court is left with no option except to reverse and set aside the CA Decision and Resolution that affirmed the RTC Decision.

The Court, however, is not in a position to fix the amount of just compensation for indeed, a review of the records shows that there is no sufficient evidence to allow any determination of the proper just compensation. In this regard, the Court cannot also rely only on Resolution No. 8-98 as this cannot substitute for the judicial determination of just compensation, based on all the factors mentioned above as jurisprudentially mandated.

WHEREFORE, in consideration of the foregoing disquisitions, the instant petition is **PARTIALLY GRANTED**. The Decision dated October 19, 2011 of the Court of Appeals in CA-G.R. CEB-CV No. 00810 and the Decision dated December 5, 2003 of the Regional Trial Court of Ormoc City, Branch 12, in Civil Case No. 3734-0 are hereby **SET ASIDE**. This case is **REMANDED** to the trial court which is ordered to make, with utmost dispatch, the proper determination of just compensation, in conformity with this Decision.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴⁸ Id. at 624-625.

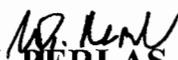
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
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.



MARIA LOURDES P. A. SERENO
Chief Justice

