



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**FIRST DIVISION**

**NATIONAL POWER CORPORATION,**

**G.R. No. 220367**

Petitioner,

Present:

- versus -

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 DEL CASTILLO,  
 CAGUIOA\*, and  
 TIJAM, JJ.

**APOLONIO V. MARASIGAN,  
 FRANCISCO V. MARASIGAN,  
 LILIA V. MARASIGAN, BENITO V.  
 MARASIGAN, JR., and ALICIA V.  
 MARASIGAN,**

Promulgated:

Respondents.

**NOV 20 2017**

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**DECISION**

**TIJAM, J.:**

This Petition for Review<sup>1</sup> on *Certiorari* under Rule 45 challenges the Decision<sup>2</sup> dated September 1, 2015 of the Court of Appeals (CA) in CA-G.R. CV No. 97640, which affirmed the Decision<sup>3</sup> dated December 20, 2010 of the Regional Trial Court (RTC) of Pili, Camarines Sur, in the expropriation case commenced by petitioner National Power Corporation (NPC) against respondents as registered owners of the subject properties.

\*Designated additional Member per Raffle dated March 29, 2017 *vice* Associate Justice Francis H. Jardeleza.

<sup>1</sup>Rollo, pp. 32-63

<sup>2</sup>Id. pp. 64-77; penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Ramon R. Garcia and Zenaida T. Galapate-Laguilles.

<sup>3</sup>Id. at 196-210.

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### The Antecedents

For purposes of constructing and maintaining its steel transmission lines and wooden electric poles for its Naga-Tiwi 230 KV (Single Bundle), Naga-Tiwi 230 KV (Double Bundle) and 69 KV Naga-Daraga Transmission Lines, NPC filed, on January 23, 2006, an expropriation complaint<sup>4</sup> against respondents as registered owners of the following four parcels of land located in Barangays Sagurong, San Agustin and San Jose, Pili, Camarines Sur:

Lot No.	OCT No.	Tax Dec. No.	Total Area	Area Affected
516-B	626 <sup>5</sup>	97-014-227 <sup>6</sup>	8,712 sq.m.	2,908 sq.m.
4237	627 <sup>7</sup>	97-014-394 <sup>8</sup>	861,163 sq.m.	33,196 sq.m.
2870	628 <sup>9</sup>	97-014-391 <sup>10</sup>	13,462 sq.m.	5,940 sq.m.
517-B	629 <sup>11</sup>	97-014-228 <sup>12</sup>	13,765 sq.m.	7,129 sq.m.
<b>Total Area:</b>				<b>49,173 sq.m.</b>

The total area over which NPC sought an easement of right of way covers 49,173 square meters of the subject properties.<sup>13</sup> Based on the tax declarations allegedly classifying the properties as agricultural and based on the corresponding Bureau of Internal Revenue's (BIR) zoning valuation therefor, NPC offered to pay PhP 299,550.50.<sup>14</sup>

While interposing no objection to the expropriation, respondents nevertheless opposed the classification of the properties as agricultural on the ground that the same were classified as industrial, commercial and residential since the year 1993 as shown by (1) Sangguniang Bayan Resolution No. 17; (2) Municipal Ordinance No. 7 dated February 1, 1993; (3) annotations on the memorandum of encumbrances of the titles; (4) DARCO Conversion Order No. 050301016014-(300)-00, Series of 2000 issued by the Department of Agrarian Reform; and (5) Certification issued by the Municipal Assessor of Pili, Camarines Sur.<sup>15</sup> Respondents thus claimed PhP 47,064,400 for the affected 49,173 square meters. By way of counterclaim, respondents sought payment of consequential damages for the areas left in between each transmission line, like the spaces underneath the

<sup>4</sup>Id. at 377-381.

<sup>5</sup>Id. at 384-386.

<sup>6</sup>Id. at 400-401.

<sup>7</sup>Id. at 387-392.

<sup>8</sup>Id. at 402-407.

<sup>9</sup>Id. at 393-395.

<sup>10</sup>Id. at 408-409.

<sup>11</sup>Id. at 396-399.

<sup>12</sup>Id. at 410-411.

<sup>13</sup>Id. at 78.

<sup>14</sup>Id. at 79.

<sup>15</sup>Id. at 198.

infrastructure, commonly known as “dangling” portions in the total area of 41,869 square meters.<sup>16</sup>

After the pre-trial, the RTC issued an Order of Expropriation and further fixed the provisional value of the properties at PhP 47,064,400, which amount was eventually deposited by NPC with Landbank of the Philippines.<sup>17</sup> Accordingly, in an Omnibus Order dated May 23, 2006, the RTC issued a writ of possession in favor of NPC and ordered the LBP to release to respondents the amount deposited.<sup>18</sup> Meanwhile, an appraisal committee was formed by the RTC for purposes of determining just compensation,<sup>19</sup> which thereafter submitted a Consolidated Report dated August 10, 2006.<sup>20</sup> A reversed trial thereafter ensued.

Respondents presented the Chairman<sup>21</sup> of the appraisal committee who testified that the appraisal committee recommended<sup>22</sup> the total valuation of PhP 49,064,400 based on the assessor's data and the BIR zonal valuations as indicated on the 1997 tax declarations.<sup>23</sup> Also presented was the succeeding Chairman<sup>24</sup> of the appraisal committee who testified that the properties suffered consequential damages which the appraisal committee recommended to be computed at 50% of the BIR zonal value per square meter or for a total amount of PhP 22,227,800.<sup>25</sup> On ocular inspection, the appraisal committee found that the existence of the transmission lines hampered the properties' potential use such that while the areas before and after the transmission lines could still be used, the areas in between could no longer be utilized. The appraisal committee also noted that the transmission lines produced considerable noise making the area unsuitable for residential purposes.<sup>26</sup>

NPC, on the other hand, presented its right-of-way officers whose testimonies sought to establish that the lots being claimed by respondents as “dangling” areas were classified as agricultural under the tax declarations and that NPC negotiated with respondents for purposes of installing the transmission lines in 1996<sup>27</sup> and that NPC took the subject properties in between the years 1996 to 1998.<sup>28</sup> The right-of-way officer further testified that the “dangling” areas could still be used for agricultural purposes but

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<sup>16</sup>Id. at 197-198.

<sup>17</sup>Id. at 198.

<sup>18</sup>Id. at 200.

<sup>19</sup>Id.

<sup>20</sup>Id.

<sup>21</sup>Atty. Eli Posugac, Clerk of Court VI, OCC of RTC, Pili, Camarines Sur.

<sup>22</sup>Consolidated Report dated August 9, 2006.

<sup>23</sup>Id. at 200-201.

<sup>24</sup>Atty. Rizza E. Ballebar, Branch Clerk of Court V.

<sup>25</sup>Id. at 204.

<sup>26</sup>Id.

<sup>27</sup>Id.

<sup>28</sup>Id.



nevertheless agreed that the presence of the transmission lines may endanger the people and animals therein if in case they fell.<sup>29</sup> On cross-examination, the right of way officer admitted that the properties were classified as agro-industrial as stated in the 1998 tax declarations. He admitted that the classification of the properties as agricultural which was used as basis for computing its value was erroneous.<sup>30</sup>

The RTC rendered its Decision dated December 20, 2010 affirming the recommendation of the appraisal committee for the payment of just compensation and fixed the amount of PhP 47,064,400 for the 49,173 square meters based on the BIR zonal valuation of the properties classified as residential, commercial and industrial as of the time of the filing of the complaint on January 23, 2006. The RTC rejected NPC's claim that it took possession of the property in 1972 and 1974 when respondents allegedly allowed NPC to construct the transmission lines for lack of proof. In addition, the RTC held that had the properties been taken on said years, such taking was without color of legal authority. The RTC likewise adopted the recommendation of the appraisal committee for the payment of PhP 22,227,800 as consequential damages for the 41,867 square meters portion of the properties which were rendered useless or no longer fit for its intended use due to the construction of the transmission lines.<sup>31</sup>

In disposal, the RTC held:

Wherefore, judgment is hereby rendered:

1. Approving and adopting the Commissioner's Report dated August 9, 2006 and November 24, 2008;
2. The payment of the provisional value (on May 19, 2006 when plaintiff made the deposit) of P47,064,400.00 as just compensation for the 49,173 square meters area directly affected by the transmission lines is the payment for the just compensation with 12% interest *per annum* (*Marina Z. Reyes, et al. vs. National Housing Authority*, G.R. No. 147511, January 20, 2003), from the date of filing of this case until paid;
3. Condemning plaintiff to pay defendants the amount of P22,227,800.00 as consequential damages with interest at 12% per annum from January 23, 2006 until fully paid;
4. To pay P20,000.00 attorney's fees.

SO ORDERED.<sup>32</sup>

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<sup>29</sup>Id. at 205-206.

<sup>30</sup>Id. at 206.

<sup>31</sup>Id. at 208-209.

<sup>32</sup>Id. at 209-210.

NPC's motion for reconsideration was denied by the RTC in its Order dated May 2, 2011.<sup>33</sup> However, the RTC modified the imposition of interest as follows:

Wherefore, judgment is hereby rendered:

1. Approving and adopting the Commissioner's Report dated August 9, 2006 and November 24, 2008;
2. The payment of the provisional value (on May 19, 2006 when plaintiff made the deposit) of P47,064,400.00 as just compensation for the 49,173 square meters area directly affected by the transmission lines is the payment for the just compensation with interest at 6% per annum from the date of filing of the case until full payment less the interest collected by the defendants from the bank deposit;
3. Condemning plaintiff to pay defendants the amount of P22,227,800.00 as consequential damages with interest at 6% per annum from January 23, 2006 and at 12% per annum from the date of finality of this decision until fully paid;
5. To pay P20,000.00 attorney's fees.

SO ORDERED.<sup>34</sup>

Consequently, NPC interposed its appeal before the CA raising as issues the alleged erroneous award of just compensation and consequential damages. Specifically, NPC argued that the award was based on the premise that it sought to acquire ownership over the properties when it merely seeks to acquire a right-of-way thus necessitating the payment of a mere easement fee equivalent to 10% of the market value of the properties. Further, it argued that the award is contrary to the zonal valuation of the property classified as agricultural and erroneously reckoned as of the time of the filing of the complaint instead as of the time of taking.

On the other hand, respondents moved for the execution of the award pending appeal which the RTC granted.<sup>35</sup> A writ of execution and a notice of garnishment were thereafter issued.<sup>36</sup>

On September 1, 2015, the CA rendered its Decision denying NPC's appeal. Contrary to NPC's claim, the CA held that the just compensation to be paid for an easement of a right-of-way over lands that would be traversed by high-powered transmission lines should be the full value of the subject property.<sup>37</sup>

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<sup>33</sup>Id. at 68.

<sup>34</sup>Id.

<sup>35</sup>Id. at 69.

<sup>36</sup>Id.

<sup>37</sup>Id. at 71.

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The CA likewise found no merit in NPC's argument that the fair market value of the properties should have been based on the BIR zonal valuation at the time of its supposed taking of the property in the 1970s and on the basis of its classification as agricultural land as stated in the tax declarations. The CA reasoned that NPC failed to allege the issue of taking in its complaint nor was such raised during pre-trial or proven during trial. The CA also held that to base the fair market value of the property during the alleged actual taking in the 1970s is to compound the injustice caused to respondents as the expropriation complaint was filed more than 30 years after NPC allegedly took respondents' properties.<sup>38</sup> As regards to the proper classification of the properties, the CA noted that these were already reclassified as residential, commercial and industrial by the municipality of Pili, Camarines Sur even prior to the filing of the expropriation complaint.<sup>39</sup>

Finally, the CA found no reason to disturb the RTC's award of consequential damages as testimony to that effect was presented by respondents while NPC, on the other hand, failed to prove the alleged consequential benefits.

The CA thus disposed:

**WHEREFORE**, the foregoing considered, the appeal is hereby **DENIED** and the decision of the trial court [dated] December 20, 2010, as modified by its Order dated May 2, 2011, is **AFFIRMED in toto**.

**SO ORDERED.**<sup>40</sup>

Upon denial of its motion for reconsideration, NPC filed the present petition.

### **The Issues**

Reiterating its arguments before the lower courts, NPC interposes the following issues for resolution: (1.) should the value of the property be reckoned at the time of the taking in the 1970s; (2.) should the amount of just compensation be based on the properties' BIR zonal valuation corresponding to its classification as agricultural in the tax declarations; and (3.) is the award of consequential damages for the "dangling" area proper.<sup>41</sup>

Essentially, NPC contests the amount of just compensation and the award of consequential damages.

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<sup>38</sup>Id. at 73.

<sup>39</sup>Id. at 75.

<sup>40</sup>Id. at 77.

<sup>41</sup>Id. at 44.

### The Ruling

We deny the petition.

#### *Reckoning point of the market value of the properties*

The circumstances surrounding the “taking” of property in the context of the State's exercise of the power of eminent domain has been jurisprudentially listed in the seminal case of *Republic v. Vda. De Castellvi*,<sup>42</sup> thus:

*First*, the expropriator must enter a private property. x x x

*Second*, the entrance into private property must be for more than a momentary period. x x x

x x x x

*Fourth*, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected. x x x

*Fifth*, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property. x x x<sup>43</sup>

That there was taking of the subject properties for purposes of expropriation is beyond contest. What plagues the court and the parties is the date when such taking is to be reckoned because this will, in turn, be determinative of the value of the subject properties from which the amount of just compensation will be based.

Sec. 4,<sup>44</sup> Rule 67 lays down the basic rule that the value of the just compensation is to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

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<sup>42</sup>157 Phil. 329, 345-347 (1974).

<sup>43</sup>Id. at 345-346.

<sup>44</sup>SEC. 4. Order of Expropriation. - If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

A final order sustaining the right to expropriate the property may be appealed by any party aggrieved thereby. Such appeal, however, shall not prevent the court from determining the just compensation to be paid.

After the rendition of such an order, the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court deems just and equitable.

The case of *National Transmission Corporation v. Oroville Development Corporation*,<sup>45</sup> settles that just compensation should be reckoned from the date of actual taking when such preceded the filing of the complaint for expropriation. In *Oroville*, the Court explains that the State is only obliged to make good the loss sustained by the landowner and considering the circumstances availing at the time the property was taken. Deviation from this general rule was permitted in the cases of *National Power Corporation v. Heirs of Macabangkit Sangkay*<sup>46</sup> and *National Power Corporation v. Spouses Saludares*<sup>47</sup> due to special circumstances<sup>48</sup> therein obtaining which necessitated a valuation of just compensation at the time the landowners initiated inverse condemnation proceedings notwithstanding that taking of the properties occurred first.

The peculiarity of the instant case is that NPC insists that it took the subject properties in the 1970s despite having initiated the expropriation complaint only on January 23, 2006. Following the general rule, NPC thus reasons that the value of the properties should be reckoned in the 1970s. However, NPC's expropriation complaint and the very testimonial evidence it offered strongly militate against such proposition.

NPC's expropriation complaint filed on January 23, 2006 clearly sought "to acquire an easement of right-of-way over portions of the [subject properties]"<sup>49</sup> to enable it "to construct and maintain its steel transmission lines and wooden electric poles for its Naga-Tiwi 230 KV (Single Bundle), Naga-Tiwi 230 KV (Double Bundle) and 69 KV Naga-Daraga Transmission

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<sup>45</sup>G.R. No. 223366, August 1, 2017.

<sup>46</sup>671 Phil 569 (2011).

<sup>47</sup>686 Phil. 967 (2012).

<sup>48</sup>As cited in *National Transmission Corporation v. Oroville*, these special circumstances are as follows:

In *Macabangkit Sangkay*:

"Compensation that is reckoned on the market value prevailing at the time either when NPC entered or when it completed the tunnel, as NPC submits, would not be just, for it would compound the gross unfairness already caused to the owners by NPC's entering without the intention of formally expropriating the land, and without the prior knowledge and consent of the Heirs of Macabangkit. NPC's entry denied elementary due process of law to the owners since then until the owners commenced the inverse condemnation proceedings. The Court is more concerned with the necessity to prevent NPC from unjustly profiting from its deliberate acts of denying due process of law to the owners. As a measure of simple justice and ordinary fairness to them, therefore, reckoning just compensation on the value at the time the owners commenced these inverse condemnation proceedings is entirely warranted.

In *Saludares*:

"xxx To reiterate, NAPOCOR should have instituted eminent domain proceedings before it occupied respondent spouses' property. Because it failed to comply with this duty, respondent spouses were constrained to file the instant Complaint for just compensation before the trial court. From the 1970s until the present, they were deprived of just compensation, while NAPOCOR continuously burdened their property with its transmission lines. This Court cannot allow petitioner to profit from its failure to comply with the mandate of the law. We therefore rule that, to adequately compensate respondent spouses from the decades of burden on their property, NAPOCOR should be made to pay the value of the property at the time of the filing of the instant Complaint when respondent spouses made a judicial demand for just compensation."

<sup>49</sup>See paragraph 5 of the Complaint; *rollo*, p. 378.

Lines”.<sup>50</sup> NPC's action relative to the acquisition of an easement of right-of-way made prior to the filing of its expropriation complaint was limited only to the conduct of negotiations with respondents. Even then, such negotiations pertained to the construction of HVDC 350 KV transmission lines which was not among the transmission lines subject of the expropriation complaint. This, as much, was alleged by NPC itself in its expropriation complaint<sup>51</sup> and was testified to by NPC's right-of-way officer who conducted the negotiations in 1996.<sup>52</sup> The lower courts were thus correct in disregarding NPC's claim of actual taking in the 1970s as such was not alleged in the expropriation complaint nor was it successfully proven during the trial.

There being no sufficient proof that NPC actually took the subject properties at a date preceding the filing of the expropriation complaint, the time of the taking should be taken to mean as coinciding with the commencement of the expropriation proceedings on January 23, 2006. Hence, the value at the time of the filing of the complaint should be the basis for the determination of the value when the taking of the property involved coincides with or is subsequent to the commencement of the proceedings.<sup>53</sup>

#### *Amount of just compensation*

To begin with, factual issues pertaining to the value of an expropriated property is beyond the scope of judicial review under a petition filed *via* Rule 45.<sup>54</sup> As such, factual findings of the trial and appellate courts will not be disturbed by this Court unless any of the recognized exceptions is present.<sup>55</sup> No such exception obtains in the instant case.

The various provisions of the Constitution<sup>56</sup> uniformly treat the

<sup>50</sup>Id.

<sup>51</sup>See paragraph 7 of the Complaint; *id.* at 379.

<sup>52</sup>*Supra* note 27.

<sup>53</sup>*Municipality of La Carlota v. Spouses Gan*, 150-A Phil. 588, 594 (1972).

<sup>54</sup>*National Power Corporation v. Spouses Asoque*, G.R. No. 172507, September 14, 2016.

<sup>55</sup>In *Westmong Investment Corp. v. Francia, Jr.*, 678 Phil. 180, 191, the Court reiterates the following exceptions:

“While it goes without saying that only questions of law can be raised in a petition for review on *certiorari* under Rule 45, the same admits of exceptions, namely: (1) when the findings are grounded entirely on speculations, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.”

<sup>56</sup> **Article III. Bill of Rights**

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

payment of just compensation as a limitation to the State's exercise of eminent domain. Just compensation likewise bears the consistent and settled meaning 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 qualify the meaning of the word "compensation" and to convey thereby the idea that the amount to be tendered for the property to be taken shall be real, substantial, full and ample.<sup>57</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>58</sup> As such, 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>59</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>60</sup> reflects

**Article XII. National Economy and Patrimony**

**Section 18.** The State may, in the interest of national welfare or defense, establish and operate vital industries and, **upon payment of just compensation**, transfer to public ownership utilities and other private enterprises to be operated by the Government.

**Article XIII. Social Justice and Human Rights**

**Section 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 supplied)

<sup>57</sup> *National Power Corporation v. Spouses Zabala*, 702 Phil. 491 (2013), citing *Republic v. Rural Bank of Kabacan, Inc.*, 680 Phil. 247 (2012), 664 SCRA 233, 244; *National Power Corporation v. Manubay Agro-Industrial Development Corporation*, 480 Phil. 470, 479 (2004).

<sup>58</sup> *National Power Corporation v. Tuazon*, 668 Phil. 301 (2011).

<sup>59</sup> *Supra*, note 57.

<sup>60</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

the non-exclusive, permissive and discretionary character thereof.<sup>61</sup>

Here, NPC assails the valuation assigned to the subject properties for being contrary to its alleged classification as agricultural as appearing on the tax declarations attached to its expropriation complaint.

However, the insistence of NPC to base the value of the properties solely on the tax declarations is misplaced considering that such is only one of the several factors which the court may consider to facilitate the determination of just compensation. Indeed, courts enjoy sufficient judicial discretion to determine the classification of lands, because such classification is one of the relevant standards for the assessment of the value of lands subject of expropriation proceedings. It bears to emphasize, however, that the court's discretion in classifying the expropriated land is only for the purpose of determining just compensation and is not meant to substitute that of the local government's power to reclassify and convert lands through local ordinance.<sup>62</sup>

The subject properties in this case had been reclassified as residential, commercial and industrial several years before the expropriation complaint was filed. If NPC contests the reclassification of the subject properties, the expropriation case is not the proper venue to do so. As such, the RTC and the CA did not err in abiding by the classification of the subject properties as residential, commercial and industrial as reclassified under Sangguniang Bayan Resolution No. 17 and Municipal Ordinance No. 7 dated February 1, 1993 and as certified to by the Municipal Assessor of Pili, Camarines Sur.

In any case, reliance on the tax declarations attached to NPC's expropriation complaint to classify the properties as purely agricultural is inaccurate as these very same tax declarations reveal that portions of the expropriated Lot No. 4237 and Lot No. 2870 are in fact classified as residential and commercial.<sup>63</sup>

#### *Award of consequential damages*

As a rule, just compensation, to which the owner of the property to be expropriated is entitled, is equivalent to the market value.<sup>64</sup> The rule is modi-

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(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>61</sup>*Republic of the Philippines, represented by the Toll Regulatory Board vs. C.C. Unson, Company, Inc.*, G.R. No. 215107, February 24, 2016 citing *Republic v. Spouses Bautista*, 702 Phil. 284 (2013).

<sup>62</sup>*Republic of the Philippines represented by the Department of Public Works and Highways v. Far East Enterprises, Inc.*, 613 Phil. 436 (2009).

<sup>63</sup>*Supra*, notes 8 and 10.

<sup>64</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

fied 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 damages, if any, to the remaining part of the property.

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)

Thus, 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>65</sup>

Respondents in this case claim consequential damages for the areas in between the transmission lines which were rendered unfit for use. “Dangling” areas, as defined under National Power Board Resolution No. 94-313, refer to those remaining small portions of the land not traversed by the transmission line project but which are nevertheless rendered useless in view of the presence of the transmission lines. The appraisal committee determined the total dangling area to be 41,867 square meters<sup>66</sup> and consequently recommended the payment of consequential damages equivalent to 50% of the BIR zonal value per square meter or for a total amount of PhP 22,227,800.

In arriving at its recommendation to pay consequential damages, the appraisal committee conducted an ocular inspection of the properties and observed that the areas before and behind the transmission lines could no longer be used either for commercial or residential purposes. Despite this determination, NPC insists that the affected areas cannot be considered as

the seller; *Republic of the Phils. v. BPI*, 717 Phil. 809, 821-822 (2013).

<sup>65</sup> *Republic v. Court of Appeals and Reyes*, 612 Phil. 965 (2009).

<sup>66</sup> *Rollo*, p. 204.

“dangling” as these may still be used for agricultural purposes.<sup>67</sup> In so arguing, NPC loses sight of the undisputed fact that the transmission lines conveying high-tension current posed danger to the lives and limbs of respondents and to potential farm workers, making the affected areas no longer suitable even for agricultural production. Thus, the Court finds no reason to depart from the assessment of the appraisal committee, as affirmed and adopted by the RTC.

NPC's contention that the consequential benefits should have canceled the consequential damages likewise deserve no merit. It is true that 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>68</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 community.<sup>69</sup> Here, it was not shown by NPC how the alleged “tremendous increase” in the value of the remaining portions of the properties could have been directly caused by the construction of the transmission lines.<sup>70</sup> If at all, any appreciation in the value of the properties is caused by the consequent increase in land value over time and not by the mere presence of the transmission lines.

### *Imposition of interest*

Notwithstanding the foregoing, We find the need to modify the imposition of interest.

The award of interest is imposed in the nature of damages for delay in payment which, in effect, makes the obligation on the part of the government one of forbearance to ensure prompt payment of the value of the land and limit the opportunity loss of the owner.<sup>71</sup> Thus, the imposition of interest is justified only in cases where delay has been sufficiently established.<sup>72</sup>

In this case, NPC deposited the provisional value of the subject properties in the amount of PhP 47,064,400 on May 19, 2006 which was days before the issuance of a writ of possession. Considering NPC's prompt pay-

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<sup>67</sup>Id. at 205.

<sup>68</sup> Id.

<sup>69</sup> Regalado, REMEDIAL LAW COMPENDIUM, Vol. 1, p. 746.

<sup>70</sup>Rollo, p. 54.

<sup>71</sup>*Land Bank of the Philippines v. Rivera*, 705 Phil. 139 (2013), citing *Land Bank of the Philippines v. Celada*, 515 Phil. 467, 484 (2006), citing further *Land Bank of the Philippines v. Wycoco*, 464 Phil. 83, 100 (2004), citing *Reyes v. National Housing Authority*, 443 Phil. 603 (2003).

<sup>72</sup>*Land Bank of the Philippines v. Escandor*, 647 Phil. 20, 30 (2010), citing *Land Bank of the Philippines v. Celada*, 515 Phil. 467, 484 (2006); see also *Apo Fruits Corporation and Hijo Plantation, Inc. v. Court of Appeals and Land Bank of the Philippines*, 622 Phil. 215, 238 (2009).

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ment, the imposition of interest thereon is unjustified and should therefore be deleted.

However, interest should be imposed on the award of consequential damages as it is a component of just compensation. To emphasize, in order to determine just compensation, the trial court should first ascertain the market value of the property, to which should be added the consequential damages after deducting therefrom the consequential benefits which may arise from the expropriation. If the consequential benefits exceed the consequential damages, these items should be disregarded altogether as the basic value of the property should be paid in every case.<sup>73</sup> Here, when the RTC pegged the amount of PhP 47,064,400 for the expropriated 49,173 square meters, the consequential damages was not yet included. The total just compensation should therefore be the total of PhP 47,064,400 and PhP22,227,800. Considering that the amount of PhP 22,227,800 as consequential damages was not yet paid, such amount should earn interest at the rate of 12% *per annum* from January 23, 2006 until June 30, 2013<sup>74</sup> and the interest rate of 6% *per annum* is imposed from July 1, 2013 until fully paid.<sup>75</sup>

**WHEREFORE**, the Petition is **DENIED**. The Decision dated September 1, 2015 of the Court of Appeals, which affirmed the Decision dated December 20, 2010 of the Regional Trial Court of Pili, Camarines Sur, is **AFFIRMED with MODIFICATION** such that the interest imposed on the amount of PhP 47,064,400 is **DELETED** and that the award of consequential damages in the amount of PhP 22,227,800 shall earn interest at the rate of 12% *per annum* from January 23, 2006 until June 30, 2013 and the interest rate of 6% *per annum* is imposed from July 1, 2013 until fully paid.

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<sup>73</sup>*B.H. Berkenkotter & Co. v. Court of Appeals*, 290-A Phil. 371 (1992).

<sup>74</sup>CB Circular No. 905 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*.

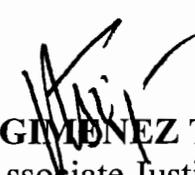
<sup>75</sup>In line with the recent circular of the Monetary Board of the Bangko Sentral ng Pilipinas (BSP-MB) No. 799, Series of 2013, effective July 1, 2013, the pertinent portion of which reads:

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*.

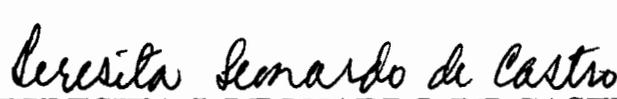
Section 2. In view of the above, Subsection X305.1 of the Manual of Regulations for Banks and Sections 4305Q.1, 4305S.3 and 4303P.1 of the Manual of Regulations for Non-Bank Financial Institutions are hereby amended accordingly.

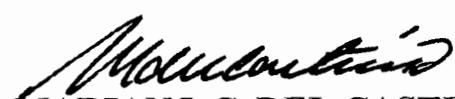
**SO ORDERED.**

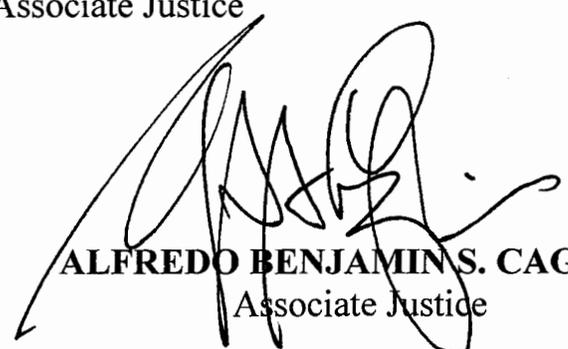
  
**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**

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

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ALFREDO BENJAMINS S. CAGUIOA**  
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