



Republic of the Philippines  
**Supreme Court**  
 Manila

**SPECIAL SECOND DIVISION**

**DEPARTMENT OF AGRARIAN REFORM, represented by HON. NASSER C. PANGANDAMAN, in his capacity as DAR-OIC Secretary,**  
*Petitioner,*

**G.R. No. 171836**

- versus -

**SUSIE IRENE GALLE,**  
*Respondent.*

X-----X

**LAND BANK OF THE PHILIPPINES,**  
*Petitioner,*

**G.R. No. 195213**

- versus -

**SUSIE IRENE GALLE, substituted by her heirs, namely HANS PETER, CARL OTTO, FRITZ WALTER, and GEORGE ALAN, all surnamed RIETH,**  
*Respondents.*

Present:

CARPIO, *Chairperson,*  
 VELASCO, JR.,\*  
 DEL CASTILLO,  
 PERLAS-BERNABE, *and*  
 TIJAM,\*\* *JJ.*

Promulgated:

**02 OCT 2017**

X-----X *del castillo*

**RESOLUTION**

**DEL CASTILLO, J.:**

On August 11, 2014, the Court issued a Decision<sup>1</sup> in the instant case, decreeing as follows:

WHEREFORE, the Court resolves as follows:

1. The Petition in G.R. No. 171836 is DENIED. The assailed September 23, 2004 Decision and February 22, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 80678 are AFFIRMED;

\* Designated additional member per raffle dated February 8, 2017 vice Ret. Justice Jose Portugal Perez.  
 \*\* Designated additional member pursuant to A.M. No. 17-03-03-SC dated March 14, 2017.  
<sup>1</sup> *Rollo*, G.R. No. 195213, pp. 1131-1172.

2. The Petition in G.R. No. 195213 is GRANTED IN PART. The assailed July 27, 2010 Consolidated Decision and January 19, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 00761-MIN and CA-G.R. SP No. 00778-MIN are REVERSED and SET ASIDE;

3. Civil Case No. 4436-2K3 is REMANDED to the Court of Appeals, which is directed to receive evidence and immediately determine the just compensation due to Susie Irene Galle's estate/heirs – including all applicable damages, attorney's fees and costs, if any – in accordance with this Decision, taking into consideration Section 17 of Republic Act No. 6657, the applicable Department of Agrarian Reform Administrative Orders, including Administrative Order No. 6, Series of 1992, as amended by Administrative Order No. 11, Series of 1994, and prevailing jurisprudence. The Court of Appeals is further directed to conclude the proceedings and submit to this Court a report on its findings and recommendations within 90 days from notice of this Decision; and

4. The petitioner Land Bank of the Philippines is ORDERED to PAY Susie Irene Galle's estate or heirs – herein respondents – the amount of SEVEN MILLION FIVE HUNDRED THIRTY FOUR THOUSAND SIXTY THREE AND 91/100 PESOS (₱7,534,063.91), in cash, immediately upon receipt of this Decision.

SO ORDERED.<sup>2</sup>

On September 22, 2014, petitioner Land Bank of the Philippines (LBP) filed a Motion for Reconsideration<sup>3</sup> arguing that it was improper for this Court to declare null and void the October 15, 1996 Decision in DARAB Case No. JC-RIX-ZAMBO-0011-CO, which fixed just compensation on the basis of outdated 1991 data instead of valuation criteria as of 1993, the time of taking of the subject property; that said October 15, 1996 DARAB Decision is already final and executory and thus beyond judicial review, even by this Court; and that even if it were to be assumed that said DARAB Decision is null and void, it nonetheless cannot be the subject of a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Petitioner Department of Agrarian Reform (DAR) likewise filed a Motion for Reconsideration<sup>4</sup> insisting that the October 15, 1996 DARAB Decision is correct; that the 1991 valuation is accurate since the actual taking of Galle's property for purposes of fixing just compensation may be said to have occurred at that time when the Notice of Coverage was served upon Galle; that a property valuation discrepancy of three years is not significant in the determination of just compensation due to the owner of expropriated property; and that the October 15, 1996 DARAB Decision, being correct and having attained finality, shall prevail as regards the

<sup>2</sup> Id. at 1170.

<sup>3</sup> Id. at 1173-1186.

<sup>4</sup> Id. at 1192-1203.



amount of just compensation to be paid for Galle's expropriated property.

On September 15, 2015, the Court of Appeals (CA) submitted its Report and Recommendation,<sup>5</sup> stating as follows:

Simply put, in the crucial choice of the applicable formula for determination of the land value of the subject properties, We need to ascertain whether the three (3) factors are present, relevant, and applicable.

#### The Capitalized Net Income (CNI) factor

This refers to the difference between the gross sales (AGP x SP) and total cost of operations (CO) capitalized at 12%, expressed in the following equation form:

$$\text{CNI} = \frac{(\text{AGP} \times \text{SP}) - \text{CO}}{.12}$$

Before proceeding to the computation proper, We noted the following significant circumstances:

- 1) There was non-compliance by the DAR with the rules prescribed by Section 16 of RA 6657, to wit: a) failure of the DAR, after having identified the land, the landowners and the beneficiaries, *to send out a notice to acquire the land* to the owners by personal delivery or registered mail and post the same in the municipal building and barangay hall of the place where the property is located; b) lack of actual inspection by LBP and DAR;
- 2) LBP, in its Petition for Review on Certiorari dated March 7, 2011 filed before the Supreme Court docketed as G.R. No. 195213, declared that in November 1995, a re-evaluation of the Galle property was made by LBP taking into consideration the factors under DAR Administrative Order (AO) No. 06, series of 1992 as amended by AO No. 11, series of 1994 where the valuation was Php7,534,063.91;
- 3) In its Petition for Review dated December 29, 2005 before this Court docketed as CA-G.R. SP No. 00761, LBP made the same declaration that the just compensation for Galle must be computed in accordance in [sic] AO 6, Series of 1992, as amended.
- 4) In this final stage of the case, however, particularly in their Memorandum filed before this Court, LBP would now insist that the applicable Administrative Order is AO 2 Series of 2009, claiming that the basic formula of AO 6, as amended, and AO 2 are the same. No explanation was given by LBP for

<sup>5</sup> Id. at 1230-1248; penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Henri Jean Paul B. Inting and Rafael Antonio M. Santos.

their sudden shift to AO 2 instead of AO 6 in their determination of just compensation. This change of theory of the case results in undue surprise to the opposite party, and offends the basic rules of fair play, justice, and due process.

DAR Administrative Order 02-09 pertains to Rules and Procedures Governing the Acquisition and Distribution of Agricultural Lands under Republic Act No. 6657, as amended by Republic Act No. 9700. It seeks to strengthen the comprehensive reform program and provides for the continuing acquisition and distribution of agricultural lands covered under the Comprehensive Agrarian Reform Program (CARP) for a period of five (5) years under various phases, and the simultaneous provision of support services and the delivery of agrarian justice to Agrarian Reform Beneficiaries (ARBs).

x x x x

Obviously out of that coverage are Galle's properties which had already been taken as far back as 1993. This fact, to Our mind, effectively rules out LBP's suggestion that DAR AO 2-09 should control the computation of just compensation. In short, in determining the just compensation due to Galle, AO 02-09 did not have the effect of changing the basic formula to be used in the valuation: it continues to be governed by AO 6, as amended, as LBP itself had always insisted all throughout this litigation, until its recent change of tune.

Now back to Administrative Order No. 6 which computes AGP as *the latest available 12 month's gross production immediately preceding the date of offer in case of VOS or date of notice of coverage in case of CA while SP is reckoned as the average of the latest available 12 month's selling prices prior to the date of receipt of the claimfolder by LBP for processing*. It should be particularly noted that the *date of receipt* of the claimfolder by LBP from DAR is mandated to mean the very date when the claimfolder is officially determined by LBP to be *complete*, that is, with all the required documents and valuation inputs duly verified and validated and ready *for computation and processing*.

As a matter of record, Galle's properties were compulsorily acquired (CA). Yet, the date of coverage of her properties has remained uncertain. Nowhere in the records is it shown that Galle had been notified pursuant to Section 16(a) of RA 6657. This omission had remained unexplained, even as it had remained undisputed by DAR and LBP. Surprisingly, a Notice of Coverage was submitted by LBP. A notice of land valuation dated August 25, 1992 in the amount of ₱6,083,545.26 was allegedly offered and it further states that the Notice of Acquisition is dated January 21, 1991 or 19 months earlier, contrary to the law's mandate that the Notice of Acquisition should state the specific offer of compensation. In the notice of land valuation, mention was made of a notice of acquisition dated January 22, 1991, which actually was a postdate, a date that was yet to come more than a year into the future. Such a gross failure of the government agency concerned to notify Galle pursuant to Section 16 of RA 6657 had rendered computation of the AGP uncertain, speculative, and unreliable – especially when made to depend on the basis of the date submitted by LBP, considering that the date of



notice of coverage is uncertain to begin with. AGP is the one year's Average [G]ross Production *immediately preceding the date of offer in case of Voluntary [O]ffer to [S]ell (VOS) or date of notice of coverage in case of compulsory acquisition (CA)*. We therefore opine that the failure of DAR to notify [the] landowner as mandated by law had effectively and unduly prevented the [landowner] from submitting the required statement of income and other proofs to show the clear financial condition of the estate. Securing and unduly relying on indirect, tangential, and largely secondary information definitely create a significant impact on the CNI factor and its reliability and fairness.

Assuming *arguendo* that LBP received the claimfolder of Galle from DAR on October 4, 1991, then We cannot help agreeing with the respondents' position that it does not necessarily mean that the claimfolder was already complete with the essential requirements and ready for processing. DAR AO No. 11, series of 1994, clearly provides that:

For purposes of this Administrative Order, the date of receipt of claimfolder by LBP from DAR shall mean *the date when the claimfolder is determined by the LBP to be complete with all the required documents and valuation inputs duly verified and validated, and is ready for final computation/processing.*

LBP secured a certification from PCA on selling prices of copra on July 21[,] 1995, thus it is fair to assume that [on] October 4, 1991 date of receipt, the claimfolder was yet to be completed. It was not at all complete and ready for processing.

In sum, considering that the [date] of the notice of coverage and the date of receipt of the claimfolder by LBP cannot be determined with certainty, it is now impossible to arrive at the *relevant average gross production* and selling prices as well as the cost of operations. [This is] because respondents had been prevented from submitting – as and when pertinent data and statistics were still fresh and available – an accurate and realistic statement of income. And all these, because of the unexplained and unjustifiable failure or omission of DAR to notify the [landowner] of the subject land acquisition as expressly mandated by law. The so-called industry figure used by LBP as the cost of operations in lieu of a statement of net income which Galle allegedly failed to submit could not be appreciated against the innocent [landowner] Galle, and in favor of the erring state agency. Because of want of reliable data, through no fault of the [landowner], CNI could not be accurately ascertained.

Considering that CNI factor is not present, We find it proper to use the following formula in AO 6, as amended, in computing just compensation for Galle:

When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

Respondents Galle presented Resolutions of the City Government



of Zamboanga City showing the payment for properties expropriated by the City as determined by the City Appraisal Committee fixing the value of private lands for its acquisitions or expropriations for governmental purposes. These were resolutions between years 2000 and 2003. Respondents brought down the values of the properties to the year 1993 using the appreciation and conversely depreciation rate factor of 5% employed by bank appraisers. The barangays mentioned in the resolutions are near barangay Patalon, where Galle's properties [are] located and taken in 1993.

(Summary of the 5 Resolutions issued by the City Government of Zamboanga)

YEAR	PATALON	TALISAYAN	TALISAYAN	SINUBUNG	TALISAYAN
2003	152.52				
2002	144.89				
2001	137.65	200.00	200.00		
2000	130.77	200.00	200.00	200.00	200.00
1999	124.23	190.00	190.00	190.00	190.00
1998	118.02	180.50	180.50	180.50	180.50
1997	112.12	171.48	171.48	171.48	171.48
1996	106.51	162.90	162.90	162.90	162.90
1995	101.19	154.76	154.76	154.76	154.76
1994	96.13	147.02	147.02	147.02	147.02
1993	91.32	139.67	139.67	139.67	139.67

We opted to use the 3 Resolutions instead of 5 since the Talisayan area had the same appraised value.

YEAR	PATALON	TALISAYAN	SINUBUNG
2003	152.52		
2002	144.89		
2001	137.65	200.00	
2000	130.77	200.00	200.00
1999	124.23	190.00	190.00
1998	118.02	180.50	180.50
1997	112.12	171.48	171.48
1996	106.51	162.90	162.90
1995	101.19	154.76	154.76
1994	96.13	147.02	147.02
1993	91.32	139.67	139.67

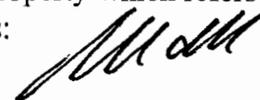
Taking into consideration that the questioned property is a fully developed land with a heavy extraction of sand and gravel on the river that abounds Galle's property, the comparable contemporaneous sales transactions of nearby places (Patalon, Talisayan, Sinubung) the *average of the CS factor* should be:

$$\frac{91.32 \text{ (Patalon)} + 139.67 \text{ (Talisayan)} + 139.67 \text{ (Sinubung)}}{3}$$

= **123.55** per square meter x 3,568,257 square meters (356.8257 hectares)

**CS = Php440,858,152.35**

On the other hand, the market value of the property which refers to the market value per Tax Declaration, are as follows:



Tax Declaration No. 016000017	=	₱ 4,395,622.00
Tax Declaration No. 016000018	=	₱ 4,687,580.00
<b>TOTAL (MV FACTOR)</b>	=	<b>₱ 9,083,202.00</b>

Applying the formula  $LV = (CS \times 0.9) + (MV \times 0.1)$ , the value of the property would be:

$$\begin{aligned}
 LV &= 440,858,152.35 (.90) + 9,083,202.00 (.10) \\
 &= 396,772,337.115 + 908,320.20 \\
 LV &= \mathbf{397,680,657.315}
 \end{aligned}$$

In summary, this Court recommends that the just compensation due to Galle be set at Php397,680,657.315. Such valuation, it is respectfully submitted, is fair, reasonable, and consistent with the letter and spirit of the law and applicable DAR regulations on the fixing of just compensation, specifically AO 6, as amended.

The Supreme Court consistently defined just compensation as ‘the full and fair equivalent of the property taken from its owner by the expropriator,’ and that the gauge for computation is not the taker’s gain but the owner’s loss. In order to be ‘just’, the payment must be real, substantial, full, and ample. The concept of just compensation embraces not only the correct determination of the amount to be paid to the owner of the land, but also the payment of the land within a ‘reasonable time’ from the taking of the property.

Without prompt payment, compensation cannot be considered ‘just’ inasmuch as the property owner is made to suffer the consequences of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his or her loss.

In this case, the DAR literally took respondent’s land without her knowledge and participation, and without paying her just compensation. Worse, from the time of the taking of respondent’s land in 1993 to the time this case reached the Supreme Court until it was decided on 11 August 2014, LBP has not compensated respondent although DAR has already distributed the lands to the farmer beneficiaries for more than twenty-one (21) years ago. Justice and equity require that the unreasonable, even oppressive, delay in the payment of just compensation be appropriately remedied by the award of legal interest in respondent’s favor. Legal interest is the measure of damages arising from delay (*mora solvendi*) under the Civil Code. We thus RECOMMEND 12% interest per annum, computed from November 17, 1993 to June 30, 2013 and 6% per annum from July 1, 2013 until their full satisfaction in the nature of damages for the delay in payment.

We also RECOMMEND an award of attorney’s fees. The general rule is that attorney’s fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. If at all granted, attorney’s fees must be reasonable, just, and equitable. It is necessary for the court to make findings of fact and law to justify the grant of such award. It must be clearly explained and justified by the trial court

in the body of its decision.

In this case, We deem it proper that an award of attorney's fees be allowed at the suggested rate of 5% of the total amount payable in this suit. It is needful to note that although the main case appears at surface to be merely for determination of just compensation with damages, that complaint had, in reality, spawned several incidents in the close to twenty-two (22) years that this case has gone thorough litigation. Earlier, the DAR elevated the case to this Court seeking relief from the denial of their motion to dismiss. Then, after the SAC had constituted the Board of Commissioners, respondent had to wiggle her way through in presenting and defending her claim for just compensation and damages. Then, respondent had to contend with the separate petitions for review filed by DAR and LBP before this Court, which were later elevated to the Supreme Court. And now, respondent still has to deal with the remand of these cases for determination of just compensation. It is noteworthy that respondent's land had been actually taken from her and distributed to the farmer beneficiaries as far back as 1993. Yet LBP has not compensated at all. That is twenty-one long years of downright delay (*mora solvendi*). It is even sad to note that the original respondent had already passed to the great beyond without seeing the fruition of her toils and efforts, all because of the prolonged process of determination of what is due her in compensation. In fine, taking into account the over-all factual milieu in which this case has proceeded, We find it just and equitable to award attorney's fees equivalent to 5% of the total just compensation payable in this suit.

FOR THESE REASONS, this Court RECOMMENDS the amount of Php397,680,657.315 as just compensation for the Galle properties, which shall earn legal interest of 12% interest per annum, computed from November 17, 1993 to June 30, 2013 and 6% per annum from July 1, 2013 until the entire obligation is fully paid, minus whatever amount may have been already paid in accordance with the Decision of the Supreme Court dated 11 August 2014. In addition, LBP is adjudged liable to pay respondent Susie Irene Galle or her Heirs attorney's fees equivalent to 5% of the total amount of just compensation adjudged in this suit. No costs.

RESPECTFULLY SUBMITTED.<sup>6</sup>

In an October 5, 2015 Resolution,<sup>7</sup> this Court resolved to await the *en banc* ruling in the case of *Alfonso v. Land Bank of the Philippines*,<sup>8</sup> the resolution of which would settle long-standing issues surrounding the computation of just compensation for lands placed within the coverage of the government's Comprehensive Agrarian Reform Program. This was reiterated in the Court's subsequent April 20, 2016 and October 19, 2016 Resolutions.<sup>9</sup>



<sup>6</sup> Id. at 1240-1248.

<sup>7</sup> Id. at 1258.

<sup>8</sup> G.R. Nos. 181912 and 183347, November 29, 2016.

<sup>9</sup> *Rollo*, G.R. No. 195213, pp. 1259-1260.

On November 29, 2016, the Court *en banc* issued its ruling in the *Alfonso* case. It held, relevantly:

For example, the Cuervo Report cited a number of ‘comparable sales’ for purposes of its market data analysis. Aside from lack of proof of fact of said sales, the Report likewise failed to explain how these purported ‘comparable’ sales met the guidelines provided under DAR AO No. 5 (1998). The relevant portion of DAR AO No.5 (1998) reads:

II. C.2 The criteria in the selection of the comparable sales transaction (ST) shall be as follows:

- a. When the required number of STs is not available at the barangay level, additional STs may be secured from the municipality where the land being offered/covered is situated to complete the required three comparable STs. In case there are more STs available than what is required at the municipal level, the most recent transactions shall be considered. The same rule shall apply at the provincial level when no STs are available at the municipal level. In all cases, the combination of STs sourced from the barangay, municipality and province shall not exceed three transactions.
- b. The land subject of acquisition as well as those subject of comparable sales transactions should be similar in topography, land use, i.e., planted to the same crop. Furthermore, in case of permanent crops, the subject properties should be more or less comparable in terms of their stages of productivity and plant density.
- c. **The comparable sales transactions should have been executed within the period January 1, 1985 to June 15, 1988, and registered within the period January 1, 1985, to September 13, 1988.**
- d. STs shall be grossed up from the date of registration up to the date of receipt of CF by LBP from DAR for processing, in accordance with Item II.A.9. (Emphasis and underscoring supplied.)

To this Court’s mind, a reasoned explanation from the SAC to justify its deviation from the foregoing guidelines is especially important considering that both the DAR and the LBP were unable to find sales of comparable nature.

**Worse, further examination of the cited sales would show that the same far from complies with the guidelines as to the cut-off dates provided under the DAR AO No. 5 (1998). The purported sales were dated between November 28, 1989 (at the earliest) to March 12, 2002 (at the latest), whereas DAR AO No. 5 (1998) had already and previously set the cut-off between June to September of 1988. We also note that these purported sales involve much smaller parcels of land (the**



smallest involving only 100 square meters). We can hardly see how these sales can be considered 'comparable' for purposes of determining just compensation for the subject land. (Emphasis supplied)

### The Court's Resolution

#### *Motions for Reconsideration*

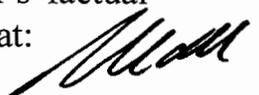
LBP and DAR argue in their respective Motions for Reconsideration that it was improper for the Court to nullify the DARAB's October 15, 1996 Decision, which is already final and executory and thus beyond judicial review. If only the DARAB Decision were correct, this proposition would apply. However, far from it, the DARAB Decision goes against the law; at the same time, it is unfair, unjust, and oppressive, for the reason that the just compensation decreed therein is grossly erroneous. Galle's properties were grossly undervalued, and the DAR committed serious lapses in the process of expropriating the same. Undervaluation results in denial of due process of law. This Court has repeatedly held that –

Just compensation is defined as the full and fair equivalent of the property sought to be expropriated. The measure is not the taker's gain but the owner's loss. The compensation, to be just, must be fair not only to the owner but also to the taker. Even as **undervaluation would deprive the owner of his property without due process**, so too would its overvaluation unduly favor him to the prejudice of the public.<sup>10</sup> (Emphasis supplied)

In *Land Bank of the Philippines v. Lajom*,<sup>11</sup> the Court made the following pronouncement as well:

As a final word, the Court would like to emphasize that while the agrarian reform program was undertaken primarily for the benefit of our landless farmers, this undertaking should, however, not result in the oppression of landowners by pegging the cheapest value for their lands. Indeed, although the taking of properties for agrarian reform purposes is a revolutionary kind of expropriation, it should not be carried out at the undue expense of landowners who are also entitled to protection under the Constitution and agrarian reform laws.

On the matter of serious lapses committed by DAR in the expropriation of Galle's property, the Court agrees with the CA's factual findings in its September 15, 2015 Report and Recommendation that:



<sup>10</sup> *B.H. Berkenkotter & Co. v. Court of Appeals*, 290-A Phil. 371, 374 (1992).

<sup>11</sup> 741 Phil. 655, 669 (2014).

x x x Nowhere in the records is it shown that Galle had been notified pursuant to Section 16(a) of RA 6657. This omission had remained unexplained, [and] undisputed by DAR and LBP. x x x Such a gross failure of the government agency concerned to notify Galle pursuant to Section 16 of RA 6657 had rendered computation of the AGP uncertain, speculative, and unreliable – especially when made to depend on the basis of the date submitted by LBP, considering that the date of notice of coverage is uncertain to begin with. x x x We therefore opine that the failure of DAR to notify landowner as mandated by law had effectively and unduly prevented the [landowner] from submitting the required statement of income and other proofs to show the clear financial condition of the estate. Securing and unduly relying on indirect, tangential, and largely secondary information definitely create a significant impact on the CNI factor and its reliability and fairness.

x x x x

In sum, considering that the dates of the notice of coverage and the date of receipt of the claimfolder by LBP cannot be determined with certainty, it is now impossible to arrive at the *relevant average gross production* and selling prices as well as the cost of operations. These because respondents had been prevented from submitting – as and when pertinent data and statistics were still fresh and available – an accurate and realistic statement of income. And all these, because of the unexplained and unjustifiable failure or omission of DAR to notify the [landowner] of the subject land acquisition as expressly mandated by law. The so-called industry figure used by LBP as the cost of operations in lieu of a statement of net income which Galle allegedly failed to submit could not be appreciated against the innocent [landowner] Galle, and in favor of the erring state agency. Because of want of reliable data, through no fault of the [landowner], CNI could not be accurately ascertained.<sup>12</sup>

Eminent domain is an indispensable attribute of sovereignty and inherent in government. However, such power is not boundless; it is circumscribed by two constitutional requirements: “first, that there must be just compensation, and second, that no person shall be deprived of life, liberty or property without due process of law.”<sup>13</sup>

Since the exercise of the power of eminent domain affects an individual’s right to private property, a constitutionally-protected right necessary for the preservation and enhancement of personal dignity and intimately connected with the rights to life and liberty, the need for its circumspect operation cannot be overemphasized. In *City of Manila vs. Chinese Community of Manila* we said:

The exercise of the right of eminent domain, whether directly by the State, or by its authorized agents, is necessarily in derogation of private rights, and the rule in



<sup>12</sup> Rollo, G.R. No. 195213, pp. 1242-1243.

<sup>13</sup> *Metropolitan Cebu Water District (MCWD) v. J. King and Sons Company, Inc.*, 603 Phil. 471, 480 (2009), citing *Barangay Sindalan, San Fernando, Pampanga, rep. by Brgy. Capt. Gutierrez v. Court of Appeals*, 547 Phil. 542, 551 (2007).

that case is that the authority must be strictly construed. No species of property is held by individuals with greater tenacity, and none is guarded by the constitution and the laws more sedulously, than the right to the freehold of inhabitants. When the legislature interferes with that right, and, for greater public purposes, appropriates the land of an individual without his consent, the plain meaning of the law should not be enlarged by doubt[ful] interpretation. (*Bensley vs. Mountainlake Water Co.*, 13 Cal., 306 and cases cited [73 Am. Dec. 576].)

The statutory power of taking property from the owner without his consent is one of the most delicate exercise of governmental authority. It is to be watched with jealous scrutiny. Important as the power may be to the government, the inviolable sanctity which all free constitutions attach to the right of property of the citizens, constrains the strict observance of the substantial provisions of the law which are prescribed as modes of the exercise of the power, and to protect it from abuse. ...(*Dillon on Municipal Corporations* [5th Ed.], Sec. 1040, and cases cited; *Tenorio vs. Manila Railroad Co.*, 22 Phil., 411.)<sup>14</sup> (Citations omitted)

For the foregoing reasons, the DARAB's October 15, 1996 Decision is null and void. It cannot therefore acquire finality.

Thus, a void judgment is no judgment at all. It cannot be the source of any right nor of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void: x x x it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head.<sup>15</sup>

Being a void judgment, the DARAB Decision "may be resisted in any action or proceeding whenever it is involved. It is not even necessary to take any steps to vacate or avoid a void judgment or final order; it may simply be ignored."<sup>16</sup>

### ***Just Compensation***

Under DAR AO No. 5 (1998), issued on April 15, 1998:

II. The following rules and regulations are hereby promulgated to govern

<sup>14</sup> *Heirs of Alberto Suguitan v. City of Mandaluyong*, 384 Phil. 676, 688-689 (2000).

<sup>15</sup> *Nazareno v. Court of Appeals*, 428 Phil. 32, 42 (2002), citing *Arcelona v. Court of Appeals*, 345 Phil. 250, 287 (1997) and *Leonor v. Court of Appeals*, 326 Phil. 74, 88 (1996).

<sup>16</sup> *Imperial v. Armes*, G.R. Nos. 178842 & 195509, January 30, 2017, citing *Yu v. Judge Reyes-Carpio*, 667 Phil. 474 (2011).



the valuation of lands subject of acquisition whether under voluntary offer to sell (VOS) or compulsory acquisition (CA).

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where:

<b>LV</b>	=	<b>Land Value</b>
<b>CNI</b>	=	<b>Capitalized Net Income</b>
<b>CS</b>	=	<b>Comparable Sales</b>
<b>MV</b>	=	<b>Market Value per Tax Declaration</b>

The above formula shall be used if all the three factors are present, relevant and applicable.

x x x x

**A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:**

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

(Emphasis supplied)

The CA was correct in utilizing the above formula, in the absence of a CNI factor, which could not be determined based on the extant data. In the same manner, it correctly applied the property values determined by the Zamboanga City Government and its Appraisal Committee as contained in the former's Resolutions; this Court declares so in the absence of official data on comparative sales and in the face of DAR's gross mishandling of Galle's case and the multiple irregularities committed by it, which resulted in inordinate delay and wrongful determination and payment of just compensation to the landowner who passed away before she could receive and enjoy what was due her. Meanwhile, the agrarian beneficiaries of her land have profited and benefited from the use thereof, considering the period that has elapsed (20 years), the location thereof, the rise in land prices, and commercialization of the area,<sup>17</sup> in which case it may be said that the nature of the property has been altered considerably during the interregnum.

The Court validates the CA's use of data relative to property values in three *barangays* within Zamboanga City, which is authorized under AO No. 5, particularly AO No. 5 (II)(C.2)(a) which states:

- a. **When the required number of STs is not available at the barangay level, additional STs may be secured from the municipality where the land being offered/covered is**

<sup>17</sup> The subject property is situated near the Zamboanga City Special Economic Zone Authority and the Ayala de Zamboanga Industrial Estate, which were established as early as in 1997.

**situated to complete the required three comparable STs.**

In case there are more STs available than what is required at the municipal level, the most recent transactions shall be considered. **The same rule shall apply at the provincial level when no STs are available at the municipal level. In all cases, the combination of STs sourced from the barangay, municipality and province shall not exceed three transactions.** (Emphasis and underscoring supplied)

For the same reason, the Court finds nothing wrong with using the appreciation and depreciation rate factor of 5% employed by bank appraisers, in the absence of official DAR data/evidence or any other reliable method, and given the DAR's incompetence in handling Galle's case and the unjust consequences that resulted from such inefficiency and neglect. After all, Republic Act No. 6657 or the Comprehensive Agrarian Reform Law of 1988 (CARL) provides that –

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

It would appear that the CA should have depreciated the property to its 1988 level, given the directive in DAR Administrative Order No. 5 (II)(C.2)(c), to the effect that **the comparable sales transactions that may be considered in computing Comparable Sales (CS) should be those sales transactions that were executed within the period January 1, 1985 to June 15, 1988, and registered within the period January 1, 1985, to September 13, 1988.** This found reiteration in the *Alfonso* case, and later in *Land Bank of the Philippines v. Heirs of Tañada*.<sup>18</sup> However, a serious legal issue in this regard would necessarily arise: Galle's property was taken only in 1993, and the settled principle is that **just compensation shall be**

<sup>18</sup> G.R. No. 170506, January 11, 2017, where the Court held:

Notably, in *Alfonso*, we recognized that comparable sales is one of the factors that may be considered in determining the just compensation that may be paid to the landowner. However, **there must still be proof that such comparable sales met the guidelines set forth in DAR AO No. 5 (1998), which included among others, that such sales should have been executed within the period January 1, 1985 to June 15, 1988 and registered within the period January 1, 1985 to September 13, 1988.** (Emphasis supplied)

**determined as of the time of taking.**

In *Land Bank of the Philippines v. Heirs of Salvador Encinas*, this Court reiterated this long-established principle, thus:

**The ‘taking of private lands under the agrarian reform program partakes of the nature of an expropriation proceeding.’ In computing the just compensation for expropriation proceedings, the RTC should take into consideration the ‘value of the land at the time of the taking, not at the time of the rendition of judgment.’ ‘The time of taking is the time when the landowner was deprived of the use and benefit of his property, such as when title is transferred to the Republic.’<sup>19</sup> (Emphasis supplied; citations omitted)**

In *Alfonso*, the Court reiterated the settled doctrine that **the ultimate determination of just compensation in expropriation proceedings remains a judicial prerogative**, stating thus:

For the guidance of the bench, the bar, and the public, we reiterate the rule: Out of regard for the DAR’s expertise as the concerned implementing agency, courts should henceforth consider the factors stated in Section 17 of RA 6657, as amended, as translated into the applicable DAR formulas in their determination of just compensation for the properties covered by the said law. **If, in the exercise of their judicial discretion, courts find that a strict application of said formulas is not warranted under the specific circumstances of the case before them, they may deviate or depart therefrom**, provided that this departure or deviation is supported by a reasoned explanation grounded on the evidence on record. In other words, **courts of law possess the power to make a final determination of just compensation.** (Emphasis supplied)

Taking the cue from *Alfonso*, therefore, the Court finds no merit in applying the rule laid out in DAR Administrative Order No. 5 (II)(C.2)(c), as it goes against the fundamental principle in eminent domain that just compensation shall be determined as of the time of taking. The reason behind DAR Administrative Order No. 5 (II)(C.2)(c) is evident: it sets a cap on the expropriation value of properties placed under the agrarian reform program in order that these properties may be acquired as cheaply as possible and at little cost to government; understandably, it is aimed at preventing the dissipation of the state’s coffers. But this goes against the mandate of the Constitution; the great cost to private landowners occasioned by an unwarranted undervaluation of their properties cannot be ignored. If DAR Administrative Order No. 5 (II)(C.2)(c) were to be applied in the present case, there would be an unjust taking, a clear violation of due process.

<sup>19</sup> *Land Bank of the Philippines v. Peralta*, 734 Phil. 219, 234 (2014).

For the above reasons, the Court finds the CA's computation of just compensation in the amount of ₱397,680,657.31 to be proper and in order, having based the same on property values and comparative sales/values of properties within the Patalon, Talisayan, and Sinubung areas in 1993, when Galle's properties were taken, that is, when the Zamboanga City Registry of Deeds cancelled Galle's titles and transferred the entire property to the State, in whose favor TCT Nos. T-110,927 and T-110,928 were issued.

The Court likewise agrees with the CA findings on the matter of attorney's fees. However, instead of the rate imposed by the CA, *i.e.* 5% of the just compensation adjudged herein, we deem the amount of ₱100,000.00 realistic, reasonable, commensurate, and just under the circumstances.

The recommendation for the imposition of interest is also well taken. Thus, legal interest shall be adjudged and pegged at the rate of 12% per annum from November 17, 1993 until June 30, 2013; and thereafter, or beginning July 1, 2013, until fully paid, just compensation shall earn interest at the legal rate of 6% per annum, conformably with the modification on the rules respecting interest rates introduced by *Bangko Sentral ng Pilipinas* Monetary Board Circular No. 799, Series of 2013.<sup>20</sup>

**WHEREFORE**, the Court adopts the September 15, 2015 Report and Recommendation of the Court of Appeals with modification as to the amount of attorney's fees. Petitioner Land Bank of the Philippines is **ORDERED** to **PAY** Susie Irene Galle's estate or heirs, herein respondents:

- 1) The amount of **THREE HUNDRED NINETY SEVEN MILLION SIX HUNDRED EIGHTY THOUSAND SIX HUNDRED FIFTY SEVEN AND 31/100 PESOS (₱397,680,657.31)** as just compensation for the expropriation of her estate, the herein subject properties;
- 2) **ATTORNEY'S FEES** in the amount of **ONE HUNDRED THOUSAND PESOS (₱100,000.00)**; and
- 3) **INTEREST** at the rate of 12% per annum from November 17, 1993 until June 30, 2013; and thereafter, or beginning July 1, 2013, the total award shall earn interest at the legal rate of 6% per annum until the same is fully paid.
- 4) No costs. 

<sup>20</sup> *Land Bank of the Philippines v. Lajom*, supra note 11.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

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

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

### ATTESTATION

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



**ANTONIO T. CARPIO**

*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 Resolution 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*

