



Republic of the Philippines
Supreme Court
 Manila

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Wilfredo V. Lapitan
 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 SEP 14 2017

THIRD DIVISION

**LAND BANK OF THE
 PHILIPPINES,**

G.R. No. 196412

Petitioner,

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 JARDELEZA,
 TIJAM, and
 REYES, JR., JJ.

MIGUEL OMENGAN,
 Respondent.

Promulgated:

July 19, 2017

Wilfredo V. Lapitan

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DECISION

TIJAM, J.:

Petitioner Land Bank of the Philippines¹ (LBP) challenges through this Petition for Review² under Rule 45 the Decision³ dated January 6, 2011 and Resolution⁴ dated April 7, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 110387, which affirmed with modification the Decision⁵ dated January 6, 2009 of the Regional Trial Court (RTC) of Bulanao, Tabuk City, Kalinga, Branch 25, sitting as Special Agrarian Court (RTC-SAC).

In its assailed decision and resolution, the CA upheld the RTC-SAC's valuation of just compensation but reduced the interest thereon from twelve percent (12%) to six percent (6%) *per annum*.

¹A government financial institution organized and existing by virtue of Republic Act No. 3844 or the Agricultural Land Reform Code and is the financial intermediary for the Comprehensive Agrarian Reform Program.

²*Rollo*, pp. 9-49.

³Penned by Associate Justice Antonio L. Villamor, concurred in by Associate Justices Jose C. Reyes, Jr. and Franchito N. Diamante; *id.* at 53-64.

⁴*Id.* at 67-68.

⁵Penned by Judge Marcelino K. Wacas; *id.* at 121-126.

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The Facts and Antecedent Proceedings

Respondent Miguel Omengan was the registered owner of a parcel of land located at Ileb, Nambaran, Tabuk City, Kalinga with an area of 10.001 hectares and covered by Transfer Certificate of Title (TCT) No. T-10172.⁶

On March 20, 2000, respondent received a notice of coverage from the Department of Agrarian Reform (DAR) placing the subject property under the Comprehensive Agrarian Reform Program (CARP).⁷ Field investigation was then conducted and the property was initially valued by petitioner at Php 219,524.98, computed as follows:

For Unirrigated Riceland

$$\begin{aligned}
 \text{Area} &= 6.001 \text{ has.} \\
 \text{CNI} &= \text{P}36,020.83/\text{ha.} \\
 \text{MV} &= \text{P}22,086.63/\text{ha.} \\
 \\
 \text{ULV/ha.} &= (\text{CNI} \times .90) + (\text{MV} \times .10) \\
 &= (\text{P}36,020.83 \times .90) + (\text{P}22,076.63 \times .10) \\
 &= \text{P}32,418.74 + \text{P}2,208.66 \\
 &= \text{P}34,627.40 \\
 \\
 \text{LV} &= \text{ULV/ha} \times \text{area} \\
 &= \text{P}34,627.40 \times 6.0001 \text{ has.} \\
 &= \text{P}207,767.86
 \end{aligned}$$

For Idle Land

$$\begin{aligned}
 \text{Area} &= 4.000 \text{ has.} \\
 \text{MV} &= \text{P}1,469.64/\text{ha.} \\
 \\
 \text{ULV/ha.} &= \text{MV} \times 2 \\
 &= \text{P}1,469.64 \times 2 \\
 &= \text{P}2,939.28 \\
 \\
 \text{LV} &= \text{ULV/ha.} \times \text{area} \\
 &= \text{P}2,939.28 \times 4.000 \text{ has.} \\
 &= \text{P}11,757.12
 \end{aligned}$$

$$\begin{aligned}
 \text{Total: P}207,767.86 \\
 \underline{\quad \quad \quad \text{P}11,757.12} \\
 \text{P}219,524.98^8
 \end{aligned}$$

The Claim Folder and Processing Form were prepared and on October 18, 2000, payment for the property was approved and DAR accordingly made an offer to respondent.⁹

⁶ Id. at 121, 173.

⁷ Id. at 224.

⁸ Id. at 15.

⁹ Id.

Respondent rejected the offer. DAR requested petitioner to deposit in the respondent's name the amount of the initial valuation. Thus, on December 12, 2000, petitioner deposited the sum of Php 219,524.98 in cash and agrarian reform bonds.¹⁰

On March 10, 2005, DAR, through its Provincial Agrarian Reform Officer (PARO), requested the Office of Provincial Agrarian Reform Adjudicator (PARAD) for Kalinga for preliminary determination of just compensation.¹¹

In a Decision¹² dated July 14, 2005, the PARAD noted that since the property was taken in 2000, the unit market value (UMV) for the year 2000 which is Php 18,940/ha as certified by the Municipal Assessor of Tabuk, Kalinga should have been applied instead of the 1994 Schedule of Base UMV of Php 15,780/ha used by petitioner.¹³ The PARAD further noted that the selling price of palay per kilo in 2000 as certified by the National Food Authority (NFA) in the amount of Php 10 should have been used in the computation of the Capitalized Net Income (CNI) and not petitioner's baseless valuation of Php 6.50/k.¹⁴ Finally, the PARAD sustained petitioner's valuation of the idle portion of four has, the same not having been contested by respondent.¹⁵

In disposal, the PARAD held:

WHEREFORE, premises considered, the valuation of the subject property by the LBP is hereby MODIFIED. Subject landholding's valuation should be increased to Php326,918.20 plus legal interests.

SO ORDERED.¹⁶

However, on motion for reconsideration (MR), the PARAD in a Resolution¹⁷ dated September 12, 2005 reversed the Decision dated July 14, 2005 and instead adopted petitioner's valuation of Php 264,458.74.

This prompted petitioner to file on August 12, 2005 a petition for judicial determination of just compensation before the RTC-SAC.¹⁸

¹⁰ Id. at 16.

¹¹ Id. at 174.

¹² Issued by Adjudicator Marivic C. Casabar; id. at 174-183.

¹³ Id. at 182.

¹⁴ Id.

¹⁵ Id. at 182-183.

¹⁶ Id. at 183.

¹⁷ Id. at 167; computation not extant on records.

¹⁸ Id. at 168.

The Ruling of the RTC-SAC

The RTC-SAC pegged the average harvest per ha of the subject property at 90 cavans considering respondent's testimony that he is harvesting more or less 80 to 100 cavans per ha.¹⁹ The RTC-SAC then used the selling price of Php 9.50 per k based on the NFA's certification that the price per k of palay during dry season is Php 10, while the price is Php 9 during wet season.²⁰ Hence, for the six has of unirrigated riceland, the RTC-SAC arrived at the amount of Php 256,500 as CNI. The market value (MV) on the other hand was based on the BIR zonal valuation for unirrigated riceland for the years 1999 to 2000 which was Php 6 per square meter to arrive at an MV of Php 360,000.²¹

For the remaining four has of idle land which was planted with fruit-bearing trees, bananas, cassava and camote, the RTC-SAC valued its harvest per ha at Php 10,000. Thus, for the four has of idle land, the CNI is Php 40,000.²² The MV was likewise based on the BIR zonal valuation of cogon land for the years 1999 to 2000 which was Php 1 per sq m or a total of Php 40,000.²³

In computing the amount of just compensation, the RTC-SAC referred to the following formula:

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

and computed the land valuation of the six has and the four has as follows:

Applying the formula for the 6 hectares:

$$\begin{aligned} P256,500.00 \times 0.9 &= P230,850.00 \\ + P360,000.00 \times 0.1 &= P36,000.00 \end{aligned}$$

Therefore, the land valuation is P266,850.00

Applying the formula for the 4 hectares:

$$\begin{aligned} P40,000.00 \times 0.9 &= P36,000.00 \\ + P40,000.00 \times 0.1 &= P4,000.00 \end{aligned}$$

The land valuation then is P40,000.00.²⁴

¹⁹ Id. at 124.

²⁰ Id. at 123.

²¹ Id. at 124.

²² Id. at 125.

²³ Id.

²⁴ Id. at 126.

However, on the ground that the subject property is considered as one of Tabuk City's potential growth area for urban expansion, the RTC-SAC granted an additional valuation of Php 40,000 per ha or an additional MV of Php 400,000, for a total just compensation of Php706,850 for the 10.001 has.

In disposal, the RTC-SAC held:

IN THE LIGHT OF THE FOREGOING PREMISES, the just compensation of the 10.001 hectares of agricultural land situated at Nambaran, Tabuk, Kalinga and embraced under Transfer Certificate of Title No. T-10172 issued in the registered name of Miguel Omengan is P706,850.00 plus legal interest of 12% from the date of compensable taking until full payment is made.

SO ORDERED.²⁵

Petitioner's MR²⁶ was similarly denied by the RTC-SAC in its Resolution²⁷ dated July 31, 2009. Undaunted, petitioner elevated the case to the CA arguing that the RTC-SAC failed to comply with the mandatory formula prescribed under Section 17 of Republic Act (R.A.) No. 6657²⁸ and DAR Administrative Order (A.O.) No. 5,²⁹ Series of 1998.³⁰ Petitioner also disputed the imposition of 12% interest in the absence of delay.³¹

The Ruling of the CA

The CA adopted the RTC-SAC's award of just compensation.³² The CA held that the formula prescribed in DAR A.O. No. 6³³ is mandatory and found that the RTC-SAC utilized "each and every"³⁴ factor prescribed in said formula in arriving at the just compensation. Nevertheless, the CA modified the interest rate from twelve percent (12%) to six percent (6%) *per annum* in accordance with DAR A.O. No. 13, Series of 1994.³⁵

Accordingly, the CA disposed:

WHEREFORE, based on the foregoing, the Petition for Review is **GRANTED**. The Decision, dated January 6, 2009, and Resolution dated July 31, 2009, issued by the Regional Trial Court of Bulanao, Tabuk City, Kalinga, Branch 25 in Agrarian Case No. 13 is **AFFIRMED with modification** reducing the interest rate from 12% to 6%.

²⁵ Id.

²⁶ Id. at 131-147.

²⁷ Id. at 127-130.

²⁸ Otherwise known as the Comprehensive Agrarian Reform Law of 1998.

²⁹ Revised Rules And Procedures Governing The Acquisition Of Agricultural Lands Subject Of Voluntary Offer To Sell And Compulsorily Acquisition Pursuant To Republic Act No. 6657.

³⁰ Id. at 104.

³¹ Id. at 106.

³² Id. at 53-64.

³³ As amended by DAR A.O. No. 5, Series of 1998.

³⁴ *Rollo*, p. 58.

³⁵ Id. at 62-63.

SO ORDERED.³⁶

Petitioner's MR³⁷ was similarly rebuked by the CA, in its Resolution³⁸ dated April 7, 2011. Hence, resort to the instant petition.

The Issues

Petitioner imputes error on the part of the CA when it affirmed the valuation made by the RTC-SAC despite the latter's alleged failure to strictly adhere to the mandatory formula prescribed under DAR A.O. No. 5-98. Petitioner advances the view that just compensation in the implementation of agrarian reform is absolutely different from ordinary expropriation proceedings.³⁹

Petitioner further questions the CA's imposition of six percent (6%) interest as DAR A.O. No. 13-94 applies only to lands covered by Presidential Decree (P.D.) No. 27 and Executive Order (E.O) No. 228 and not under R.A. No. 6657. In any event, petitioner argues that no interest can be imposed as there was no delay in the payment of just compensation.

Hence, for resolution are: (1) whether the formula for determining just compensation prescribed under DAR A.O. No. 5-98 was complied with; and (2) whether the CA correctly imposed a six percent (6%) interest on the amount of just compensation pursuant to DAR A.O. No. 13-94.

The Ruling of this Court

There is merit in the petition.

Determination of Just Compensation is Essentially a Judicial Function to be Exercised within the Purview of R.A. 6657 and DAR A.O. No. 5-98; Deviation from the Prescribed Formula is Allowed Provided the Reason for such Deviation is Clearly Explained

Petitioner anchors its position that the RTC-SAC should have strictly complied with DAR A.O. No. 5-98 on the premise that just compensation in agrarian reform cases is different from ordinary expropriation proceedings.

³⁶ Id. at 63.

³⁷ Id. at 268-279.

³⁸ Id. at 67-68.

³⁹ Id. at 33.



On the contrary, We find no reason to treat differently the determination of just compensation for expropriation proceedings undertaken for purposes of agrarian reform. This must be so considering that the taking of property under R.A. No. 6657 has been consistently characterized as the State's exercise of the power of eminent domain.

Found in the various provisions of the fundamental law⁴⁰ is the uniform treatment of the payment of just compensation as a limitation to the State's exercise of eminent domain. The concept of 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.⁴¹

There is therefore no cause to treat differently the manner and the method by which just compensation is determined only because it is to be paid in implementation of the agrarian reform law.

It is likewise jurisprudentially-settled that the valuation of property or determination of just compensation in eminent domain proceedings is essentially a judicial function which is vested with the courts and not with administrative agencies.⁴² By law,⁴³ the RTC-SAC enjoys original and exclusive jurisdiction in determining just compensation for lands acquired for purposes of agrarian reform.

⁴⁰**Article III. Bill of Rights**

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

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)

⁴¹*National Power Corporation v. Spouses Zabala*, G.R. No. 173520, January 30, 2013, citing *Republic v. Rural Bank of Kabacan, Inc.*, G.R. No. 185124, January 25, 2012, 664 SCRA 233, 244; *National Power Corporation v. Mamubay Agro-Industrial Development Corporation*, 480 Phil. 470, 479 (2004).

⁴²*LBP v. Montalvan*, G.R. No. 190336, June 27, 2012, citing *LBP v. Court of Appeals*, 376 Phil. 252 (1999); and *LBP v. Celada*, 515 Phil. 467 (2006).

⁴³Section 57 of R.A. No. 6657 pertinently provides:

Sec. 57. Special Jurisdiction. — The Special Agrarian Courts shall have original and exclusive jurisdiction over all petitions for the determination of just compensation to landowners, and the prosecution of all criminal offenses under this Act. The Rules of Court shall apply to all proceedings before the Special Agrarian Courts, unless modified by this Act.

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Nevertheless, in the exercise of its judicial function to determine just compensation, the RTC-SAC takes into consideration the factors enumerated under Section 17 of R.A. No. 6657. DAR, on the other hand, is empowered under R.A. No. 6657 to promulgate rules for its implementation. Hence, pursuant to its rule-making power, DAR issued A.O. No. 5-98 which translated the factors listed under R.A. No. 6657 into a basic and alternative formulae.⁴⁴

This brings Us to petitioner's postulate that the RTC-SAC ought to strictly abide by the provisions of DAR A.O. No. 5-98, describing the latter as mandatory.

We emphasize that in determining just compensation, the RTC-SAC necessarily works within the parameters set by law and as such, should take into account the formulae provided by DAR.⁴⁵ Be that as it may, when acting within the parameters set by the law itself, the RTC-SACs, are not strictly bound to apply the DAR formulae to its minute detail⁴⁶ when the situation does not warrant the formula's strict application. The RTC, in the exercise of its judicial function of determining just compensation, cannot be restrained or delimited in the performance of its judicial function of determining just compensation as to do so would amount to a derogation of its judicial prerogative.

In *LBP v. Heirs of Maximo Puyat*,⁴⁷ the Court explains:

[T]he determination of just compensation is a judicial function; hence, courts cannot be unduly restricted in their determination thereof. To do so would deprive the courts of their judicial prerogatives and reduce them to the bureaucratic function of inputting data and arriving at the valuation. While the courts should be mindful of the different formulae created by the DAR in arriving at just compensation, they are not strictly bound to adhere thereto if the situations before them do not warrant it. x x x:

x x x [T]he basic formula and its alternatives – administratively determined (as it is not found in Republic Act No. 6657, but merely set forth in DAR AO No. 5, Series of 1998) – although referred to and even applied by the courts in certain instances, does not and cannot strictly bind the courts. To insist that the formula must be applied with utmost rigidity whereby the valuation is drawn following a strict mathematical computation goes beyond the intent and spirit of the law. The suggested interpretation is strained and would render the law inutile. Statutory construction should not kill but give life to the law. As we have established in earlier jurisprudence, the valuation of property in eminent domain is essentially a judicial function which is vested in the regional trial court acting as a SAC, and not in administrative agencies. The SAC,

⁴⁴ *LBP v. Yatco Agricultural Enterprises*, G.R. No. 172551, January 15, 2014.

⁴⁵ *Id.* See also *LBP v. Sps. Banal*, 478 Phil 701, 709-710 (2004); *LBP v. Celada*, 515 Phil 467, 477 (2006); *LBP v. Lim*, G.R. No. 171941, August 2, 2007, 529 SCRA 129, 134-136; *LBP v. Luciano*, G.R. No. 165428, November 25, 2009, 605 SCRA 426, 434-436; *LBP v. Colarina*, G.R. No. 176410, September 1, 2010, 629 SCRA 614, 624-632.

⁴⁶ *Supra* note 40.

⁴⁷ G.R. No. 175055, June 27, 2012, 675 SCRA 233.

therefore, must still be able to reasonably exercise its judicial discretion in the evaluation of the factors for just compensation, which cannot be arbitrarily restricted by a formula dictated by the DAR, an administrative agency. Surely, DAR AO No. 5 did not intend to straightjacket the hands of the court in the computation of the land valuation. While it provides a formula, it could not have been its intention to shackle the courts into applying the formula in every instance. The court shall apply the formula after an evaluation of the three factors, or it may proceed to make its own computation based on the extended list in Section 17 of Republic Act No. 6657, which includes other factors.⁴⁸

The above pronouncement is but a reflection of the Court's unwavering sentiment as enunciated in the seminal case of *EPZA v. Dulay, et al.*,⁴⁹ that the determination of just compensation is, and remains, a judicial function.

In fact, the question as to whether or not the RTC-SACs are mandated to strictly adhere to DAR A.O. No. 5-98 is not entirely novel. In the recent case of *Spouses Nilo and Erlinda Mercado v. LBP*,⁵⁰ the Court harmonized and summarized its pronouncements as to the determination of just compensation *vis-à-vis* the application of the prescribed formulae under DAR A.O. No. 5-98 as follows:

In the recent cases of *Land Bank of the Philippines v. Yatco Agricultural Enterprises*, *Land Bank of the Philippines v. Peralta*, and *Department of Agrarian Reform v. Spouses Diosdado Sta. Romana and Resurreccion O. Ramos*, the Court has made declarations as to the determination of just compensation.

In *Yatco*, the Court stated that the determination of just compensation is a judicial function and the RTC, acting as SAC, has the original and exclusive power to determine just compensation. It was also emphasized therein that in the exercise of its function, the RTC must be guided by the valuation factors under Section 17 of RA 6657, translated into a basic formula embodied in DAR A.O. No. 5. The factors under RA 6657 and the formula under DAR A.O. No. 5 serve as guarantees that the compensation arrived at would not be absurd, baseless, arbitrary or contradictory to the objectives of the agrarian reform laws. However, the Court clarified that the RTC may relax the application of the DAR formula, if warranted by the circumstances of the case and provided the RTC explains its deviation from the factors or formula above mentioned.

In *Peralta*, the Court confirmed the mandatory character of the guidelines under Section 17 of RA 6657 and restated that the valuation factors under RA 6657 had been translated by the DAR into a basic formula as outlined in DAR A.O. No. 5.

In *Sta. Romana*, it was held that the RTC is not strictly bound by the formula created by the DAR, if the situations before it do not warrant its application. The RTC cannot be arbitrarily restricted by the formula

⁴⁸ Id.

⁴⁹ G.R. No. L-59603, April 29, 1987.

⁵⁰ G.R. No. 196707, June 17, 2015.



outlined by the DAR. While the DAR provides a formula, "it could not have been its intention to shackle the courts into applying the formula in every instance."

Summarizing the pronouncements in the above-cited cases, the rule is that the RTC must consider the guidelines set forth in Section 17 of RA 6657 and as translated into a formula embodied in DAR A.O. No. 5. However, it may deviate from these factors/formula if the circumstances warrant or, as stated in *Sta. Romana*, "if the situations before it do not warrant its application." In such a case, the RTC, as held in *Yatco*, must clearly explain the reason for deviating from the aforesaid factors or formula.⁵¹ (Emphasis ours and citations omitted)

Emphatically, the Court *En Banc* held in the case of *Ramon M. Alfonso v. LBP and Department of Agrarian Reform*,⁵² and also in *LBP, et al. v. Heirs of Lorenzo Tanada and Expedita Ebarle*,⁵³ that:

For clarity, we restate the body of rules as follows: **The factors listed under Section 17 of RA 6657 and its resulting formulas provide a uniform framework or structure for the computation of just compensation which ensures that the amounts to be paid to affected landowners are not arbitrary, absurd or even contradictory to the objectives of agrarian reform. Until and unless declared invalid in a proper case, the DAR formulas partake of the nature of statutes, which under the 2009 amendment became law itself, and thus have in their favor the presumption of legality, such that courts shall consider, and not disregard, these formulas in the determination of just compensation for properties covered by the CARP. When faced with situations which do not warrant the formula's strict application, courts may, in the exercise of their judicial discretion, relax the formula's application to fit the factual situations before them, subject only to the condition that they clearly explain in their Decision their reasons (as borne by the evidence on record) for the deviation undertaken. It is thus entirely allowable for a court to allow a landowner's claim for an amount higher than what would otherwise have been offered (based on an application of the formula) for as long as there is evidence on record sufficient to support the award.⁵⁴ (Emphasis in the original)**

It is therefore inaccurate to argue that the RTC-SAC is mandated to strictly follow the formula, when the RTC-SAC, in the exercise of an essentially judicial function and discretion, can deviate therefrom subject to the jurisprudential limitation that the factual situation calls for it and that the RTC-SAC clearly explains the reason for such deviation.⁵⁵

⁵¹ *Id.*

⁵² G.R. Nos. 181912 & 183347, November 29, 2016.

⁵³ G.R. No. 170506, January 11, 2017.

⁵⁴ *Id.*

⁵⁵ In *LBP v. Castro*, G.R. No. 189125, August 28, 2013, the Court found that the RTC-SAC erred because of, among others, the "unexplained disregard for the guide administrative formula, neglecting such factors as capitalized net income, comparable sales, and market value per tax declaration."



The RTC-SAC Incompletely Applied the Basic Formula Provided under DAR A.O. No. 5-98; Reason for Deviation not Clearly Explained

Having settled that the determination of just compensation is a judicial function that must nevertheless be exercised within the parameters of DAR A.O. No. 5-98 as the guide administrative formula, the point of query is whether the RTC-SAC, in so computing the amount of just compensation, indeed considered the prescribed computation. And, in case of deviation, the further question to be asked is whether such deviation was clearly explained to be permissible.

The factors which the RTC-SAC should consider in determining just compensation is spelled under Section 17 of R.A. No. 6657 as follows:

Sec. 17. *Determination of Just Compensation.* — In determining just compensation, the cost of acquisition of the land, the current value of the 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.

As translated into formula, the pertinent provisions of DAR A.O. No. 5-98 provides:

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:

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

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

A1. When the CS factor is not present and CNI and MV are applicable, the formula shall be:

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

A2. When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

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

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A3. When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

In no case shall the value of idle land using the formula $MV \times 2$ exceed the lowest value of land within the same estate under consideration or within the same barangay or municipality (in that order) approved by LBP within one (1) year from receipt of claim folder. (Emphasis supplied)

Considering that no Comparable Sales (CS) was reported,⁵⁶ the RTC-SAC ostensibly used the basic formula prescribed in paragraph A1 of DAR A.O. No. 5-98, *i.e.*, $LV = (CNI \times 0.9) + (MV \times 0.1)$.

The Capitalized Net Income (CNI) factor in the above formula is the difference between the gross sales and total cost of operations capitalized at 12%.⁵⁷ The CNI is expressed in equation form as $CNI = (AGP \times SP) - CO/capitalization\ rate$.⁵⁸ Where:

AGP= Average Gross Production corresponding to the latest available 12 months' gross production immediately preceding the date of FI (field investigation)

SP= Selling Price (the average of the latest available 12 months selling prices prior to the date of receipt of the CF (claim folder) by LBP for processing, such prices to be secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. If possible, SP data shall be gathered for the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

CO = Cost of Operations

Whenever the cost of operations could not be obtained or verified, an assumed net income rate (NIR) of 20% shall be used. Landholdings planted to coconut which are productive at the time of FI shall continue to use the assumed NIR of 70 %. DAR and LBP shall continue to conduct joint industry studies to establish the applicable NIR for each crop covered under CARP.

0.12 = Capitalization rate⁵⁹

Petitioner argues that the RTC-SAC erred in computing the CNI as the Average Gross Production (AGP) was not based on the latest available 12 months' gross production immediately preceding the date of field investigation. Per petitioner's computation, the AGP of the six has of unirrigated riceland is 3,325 k only or 66.5 cavans.⁶⁰ However, the basis of such figure was not shown by petitioner and was even disproved by

⁵⁶ See Field Investigation Report; *rollo*, p. 200.

⁵⁷ Item II-B of DAR A.O. No. 5-98.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ at 1 cavan = 50 k

respondent's testimony that the property produces 80 to 100 cavans per ha. The RTC-SAC's determination of the AGP to be 90 cavans or 4,500 k per year is thus reasonable.

The selling price (SP) was, in turn, based by the RTC-SAC on the certification issued by the NFA that the buying price of palay per k in the year 2000 is Php 10 during summer and Php 9 during wet season. Taking the average, the RTC-SAC arrived at Php 9.50 per k as SP. As between the certification issued by the NFA and the unfounded SP of Php 6.50 used by petitioner, we lend more credence to the former and as such, affirm the SP of Php 9.50 fixed by the RTC-SAC.

However, to arrive at the value of the CNI, the RTC-SAC simply multiplied the AGP by the SP and then further multiplied the product thereof to six has, without considering the 20% Net Income Rate (NIR) and the 12% capitalization rate. The RTC-SAC's application of the basic formula is therefore incomplete and its disregard of the NIR and the capitalization rate factors was not clearly explained.

Instead, if the 20% NIR and the 12% capitalization rate were taken into account, the CNI per ha of the unirrigated riceland should be Php 71,250.⁶¹

Further, the MV factor is understood to be the MV per tax declaration material to the time of taking. Petitioner pegged the UMV at Php 15,780 per ha for the unirrigated riceland. However, as observed by the PARAD, petitioner used the 1994 Schedule of Base UMV, instead of the market value as of 2000. Hence, the RTC-SAC correctly used the BIR zonal valuation of real property located at Nambaran, Tabuk, Kalinga for the years 1999 to 2000 which is Php 6 per sq m or Php 60,000 per ha for riceland without irrigation and Php1 per sq m or Php 10,000 per ha for cogon land.⁶²

Applying the above values to the basic formula, the unit land value (ULV) per ha of the unirrigated riceland should be:

$$\begin{aligned} \text{ULV} &= [\text{Php}71,250 (.90)] + [\text{Php}60,000 (.10)] \\ &= \text{Php}64,125 + \text{Php}6,000 \\ &= \mathbf{\text{Php}70,125} \end{aligned}$$

$$\begin{aligned} \text{LV} &= \text{Php}70,125(6.001) \\ &= \mathbf{\underline{\text{Php}420,820.125}} \end{aligned}$$

⁶¹ $\text{Php } 71,250 = (4,500 \times \text{Php } 9.50) \times .20 / .12$

⁶² *Rollo*, p. 174.

With respect to the remaining four has, the parties agree that the same is cogonal. While respondent testified that it is also planted with fruit-bearing trees, bananas, cassava, and camote, he failed to establish the aggregate value of the crops produced. Thus, we cannot adopt the RTC-SAC's valuation of the cogon land as Php 10,000 per ha for obvious lack of factual support. Moreover, the RTC-SAC could not have arrived at the CNI of the idle land (which it computed at Php 40,000) considering that the AGP and SP factors are not present.

There being no CNI and CS, and only the MV is available, the RTC-SAC should have applied the formula prescribed under paragraph A3 of DAR A.O. No. 5-98, *i.e.*, $LV = MV \times 2$.

Thus, the ULV of the four has idle land should be:

$$\begin{aligned} \text{ULV} &= \text{Php}10,000 \times 2 \\ &= \text{Php}20,000 \end{aligned}$$

$$\begin{aligned} \text{LV} &= \text{Php}20,000(4.000) \\ &= \text{Php}80,000 \end{aligned}$$

We also note that, in addition to the foregoing, the RTC-SAC granted an MV of Php 40,000 per ha for the *entire* area or an additional Php 400,000 to be paid as just compensation because it took into consideration the property's *potential* to be an area ideal for urban expansion. Such additional valuation cannot be sustained as the measure of the value of the property should be at the time when the loss resulted, *i.e.*, as of the time of taking in March 2000. What is more, such additional valuation cannot be considered "just" for lack of reliable and actual data to support the same. Trial courts are reminded, time and again, to be circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds.⁶³

For prompt resolution of the instance case and considering that the relevant factors have already been judicially determined, the final just compensation, by mathematical computation, should be **Php 500,820.125** for the 10.001 has.

Modification of Interest Rate

Petitioner assails the CA's imposition of six percent (6%) interest *per annum* on the ground that DAR A.O. No. 13-94 is inapplicable to expropriation under the agrarian reform program. In any case, petitioner argues that it cannot be held liable for interest in the absence of delay in the payment of just compensation.

⁶³ *Republic v. Asia Pacific Integrated Steel Corporation*, G.R. No. 192100, March 12, 2014, 719 SCRA 50.

There is no need to resolve whether DAR A.O. No. 13-94, which is specifically made applicable to lands covered by P.D. No. 27 and E.O. No. 228, also applies to lands covered by R.A. No. 6657 as case law⁶⁴ settles and instructs that the payment of just compensation for the expropriated property amounts to an effective forbearance on the part of the State, thus:

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

The Bulacan trial court, in its 1979 decision, was correct in imposing interest[s] on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time x x x.⁶⁵

In the instant case, the interest is to be imposed only on the balance of the final just compensation, *i.e.*, the final just compensation (Php 500,820.125) less the amount of the initial valuation (Php 219,524.98) or Php 281,295.145. Since petitioner's initial valuation had been contested, and it has been subsequently determined that the expropriated property had been undervalued, an interest on the balance or the difference between the amount already paid and the final just compensation is proper.

While the debt incurred by the government on account of the taking of the property subject of an expropriation constitutes a forbearance, nevertheless, in line with the recent circular of the Monetary Board of the Bangko Sentral ng Pilipinas No. 799, Series of 2013, effective July 1, 2013,⁶⁶ the prevailing rate of interest for loans or forbearance of money is six percent (6%) *per annum*, in the absence of an express contract as to such

⁶⁴ *Secretary of the Department of Public Works and Highways, et al. v. Spouses Tecson*, G.R. No. 179334, April 21, 2015 (Resolution on Motion for Reconsideration).

⁶⁵ *Id.*

⁶⁶ The pertinent portion of which reads:

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

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

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

This Circular shall take effect on 1 July 2013.

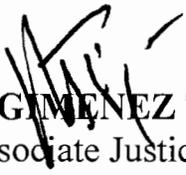


rate of interest. Accordingly, the interest rate of twelve percent (12%)⁶⁷ *per annum* should be imposed on the balance due from the date of the taking, or on March 20, 2000⁶⁸ until June 30, 2013 and the interest rate of six percent (6%) *per annum* is imposed from July 1, 2013 until fully paid.

WHEREFORE, the petition is **GRANTED**. The Decision dated January 6, 2011 and Resolution dated April 7, 2011 of the Court of Appeals in CA-G.R. SP No. 110387 are **REVERSED** and **SET ASIDE**.

Petitioner Land Bank of the Philippines is ordered to pay to respondent Miguel Omengan the amount of Php 281,295.145 as balance on the final just compensation for the 10.001 hectares of expropriated property. Interest at the rate of twelve percent (12%) *per annum* on the balance of final just compensation is imposed from March 20, 2000 until June 30, 2013 and an interest at the rate of six percent (6%) *per annum* is imposed from July 1, 2013 until fully paid.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

⁶⁷ 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.

⁶⁸ *Rollo*, p. 44.

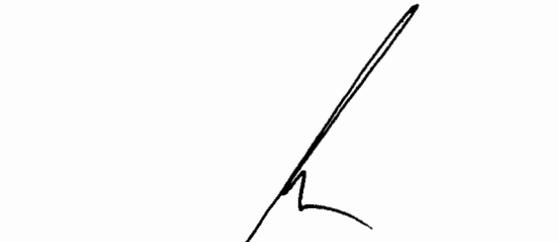

LUCAS P. BERSAMIN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice

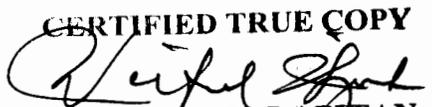
A T T E S T A T I O N

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


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

C E R T I F I C A T I O N

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

CERTIFIED TRUE COPY

WILFREDO V. LAPID
 Division Clerk of Court
 Third Division
 SEP 14 2017


MARIA LOURDES P.A. SERENO
 Chief Justice