SUPREME COURT
SECOND DIVISION

ESTATE OF SALUD JIMENEZ,
***Petitioner*,**

-versus-

G.R. No. 137285
January 16, 2001

PHILIPPINE EXPORT PROCESSING ZONE,
***Respondent*.**
x----------x

D E C I S I O N

DE LEON, JR., *J.*:

Before us is a Petition for Review on *Certiorari* of the Decision[1] and the Resolution[2] of the Court of Appeals[3] dated March 25, 1998 and January 14, 1999, respectively, which ordered the Presiding Judge of the Regional Trial Court of Cavite City, Branch 17, to proceed with the hearing of the expropriation proceedings regarding the determination of just compensation for Lot 1406-B while setting aside the Orders dated August 4, 1997[4] and November 3, 1997 of the said Regional Trial Court which ordered the peaceful turnover to petitioner Estate of Salud Jimenez of said Lot 1406-B.

The facts are as follows:

On May 15, 1981, private respondent Philippine Export Processing Zone (PEZA), then called as the Export Processing Zone Authority (EPZA), initiated before the Regional Trial Court of Cavite expropriation proceedings[5] on three (3) parcels of irrigated riceland in Rosario, Cavite. One of the lots, Lot 1406 (A and B) of the San Francisco de Malabon Estate, with an approximate area of 29,008 square meters, is registered in the name of Salud Jimenez under TCT No. T-113498 of the Registry of Deeds of Cavite.

More than ten (10) years later[6] the said trial court in an Order[7] dated July 11, 1991 upheld the right of private respondent PEZA to expropriate, among others, Lot 1406 (A and B). Reconsideration of the said order was sought by petitioner contending that said lot would only be transferred to a private corporation, Philippine Vinyl Corp., and hence would not be utilized for a public purpose.

In an Order 8 dated October 25, 1991, the trial court reconsidered the Order dated July 11, 1991 and released Lot 1406-A from expropriation while the expropriation of Lot 1406-B was maintained. Finding the said order unacceptable, private respondent PEZA interposed an appeal to the Court of Appeals.

Meanwhile, petitioner wrote a letter to private respondent offering two (2) proposals, namely:

1. Withdrawal of private respondent's appeal with respect to Lot 1406-A in consideration of the waiver of claim for damages and loss of income for the possession of said lot by private respondent.

2. The swap of Lot 1406-B with Lot 434 covered by TCT No. T-14772 since private respondent has no money yet to pay for the lot.

Private respondent's Board approved the "proposal" and the compromise agreement was signed by private respondent through its then administrator Tagumpay Jardiniano assisted by Government Corporate Counsel Oscar I. Garcia. Said compromise agreement[9] dated January 4, 1993 is quoted hereunder:

1. That plaintiff agrees to withdraw its appeal from the Order of the Honorable Court dated October 25, 1991 which released lot 1406-A from the expropriation proceedings. On the other hand, defendant Estate of Salud Jimenez agrees to waive, quitclaim and forfeit its claim for damages and loss of income which it sustained by reason of the possession of said lot by plaintiff from 1981 up to the present.

2. That the parties agree that defendant Estate of Salud Jimenez shall transfer lot 1406-B with an area of 13,118 square meters which forms part of the lot registered under TCT No. 113498 of the Registry of Deeds of Cavite to the name of the plaintiff and the same shall be swapped and exchanged with lot 434 with an area of 14,167 square meters and covered by Transfer Certificate of Title No. 14772 of the Registry of Deeds of Cavite which lot will be transferred to the name of Estate of Salud Jimenez.

3. That the swap arrangement recognizes the fact that the lot 1406-B covered by TCT No. T-113498 of the estate of defendant Salud Jimenez is considered expropriated in favor of the government based on Order of the Honorable Court dated July 11, 1991. However, instead of being paid the just compensation for said lot, the estate of said defendant shall be paid with lot 434 covered by TCT No. T-14772.

4. That the parties agree that they will abide by the terms of the foregoing agreement in good faith and the Decision to be rendered based on this Compromise Agreement is immediately final and executory.

The Court of Appeals remanded the case to the trial court for the approval of the said compromise agreement entered into between the parties, consequent with the withdrawal of the appeal with the Court of Appeals. In the Order[10] dated August 23, 1993, the trial court approved the compromise agreement.

However, private respondent failed to transfer the title of Lot 434 to petitioner inasmuch as it was not the registered owner of the covering TCT No. T-14772 but Progressive Realty Estate, Inc. Thus, on March

13, 1997, petitioner Estate filed a "Motion to Partially Annul the Order dated August 23, 1993."[11]

In the Order[12] dated August 4, 1997, the trial court annulled the said compromise agreement entered into between the parties and directed private respondent to peacefully turn over Lot 1406-A to the petitioner. Disagreeing with the said Order of the trial court, respondent PEZA moved[13] for its reconsideration. The same proved futile since the trial court denied reconsideration in its Order[14] dated November 3, 1997.

On December 4, 1997, the trial court, at the instance[15] of petitioner, corrected the Orders dated August 4, 1997 and November 3, 1997 by declaring that it is Lot 1406-B and not Lot 1406-A that should be surrendered and returned to petitioner.

On November 27, 1997, respondent interposed before the Court of Appeals a petition for *certiorari* and prohibition[16] seeking to nullify the Orders dated August 4, 1997 and November 3, 1997 of the trial court. Petitioner filed its Comment[17] on January 16, 1998. IDSEAH

Acting on the petition, the Court of Appeals in a Decision[18] dated March 25, 1998 upheld the rescission of the compromise agreement, ratiocinating thus:

A judicial compromise may be enforced by a writ of execution, and if a party fails or refuses to abide by the compromise, the other party may regard it as rescinded and insist upon his original demand. This is in accordance with Article 2041 of the Civil Code which provides:

> "If one of the parties fails or refuses to abide by the compromise, the other party may either enforce the compromise or regard it as rescinded and insist upon his original demand."

The Supreme Court had the occasion to explain this provision of law in the case of Leonor vs. Sycip (1 SCRA 1215). It ruled that the language of the abovementioned provision denotes that no action for rescission is required and that the aggrieved party by the breach of

compromise agreement, may regard the compromise agreement already rescinded, to wit:

> It is worthy of notice, in this connection, that, unlike Article 2039 of the same Code, which speaks of "a cause of annulment or rescission of the compromise" and provides that "the compromise may be annulled or rescinded" for the cause therein specified, thus suggesting an action for annulment or rescission, said Article 2041 confers upon the party concerned not a "cause" for rescission, or the right to "demand" rescission, of a compromise, but the authority, not only to "regard it as rescinded," but, also, to "insist upon his original demand." The language of this Article 2041, particularly when contrasted with that of Article 2039, denotes that no action for rescission is required in said Article 2041, and that the party aggrieved by the breach of a compromise agreement may, if he chooses, bring the suit contemplated or involved in his original demand, as if there had never been any compromise agreement, without bringing an action for rescission thereof. He need not seek a judicial declaration of rescission, for he may "regard" the compromise agreement already, "rescinded".

Nonetheless, it held that:

> Having upheld the rescission of the compromise agreement, what is then the status of the expropriation proceedings? As succinctly discussed in the case of Leonor vs. Sycip, the aggrieved part may insist on his original demand as if there had never been any compromise agreement. This means that the situation of the parties will revert back to status before the execution of the compromise agreement, that is, the second stage of the expropriation proceedings which is the determination of the just compensation.[19]

x x x

Thus, the appellate court partially granted the petition by setting aside the order of the trial court regarding "the peaceful turn over to the Estate of Salud Jimenez of Lot No. 1406-B" and instead ordered the trial judge to "proceed with the hearing of the expropriation

proceedings regarding the determination of just compensation over Lot 1406-B."[20]

Petitioner sought[21] reconsideration of the Decision dated March 25, 1998. However, public respondent in a Resolution[22] dated January 14, 1999 denied petitioner's motion for reconsideration.

Hence, this petition anchored on the following assignment of errors, to wit:

I

THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR IN GIVING DUE COURSE TO THE SPECIAL CIVIL ACTION FILED BY RESPONDENT PEZA IN CA-G.R. SP. NO. 46112 WHEN IT WAS MADE A SUBSTITUTE FOR LOST APPEAL IN CLEAR CONTRAVENTION OF THE HONORABLE COURT'S RULING IN SEMPIO VS. COURT OF APPEALS (263 SCRA 617) AND ONGSITCO VS. COURT OF APPEALS (255 SCRA 703) AND DESPITE THE FACT THAT THE ORDER OF THE CAVITE REGIONAL TRIAL COURT IS ALREADY FINAL AND EXECUTORY.

II

GRANTING IN GRATIA ARGUMENTI THAT THE SPECIAL CIVIL ACTION OF *CERTIORARI* IS PROPER, THE COURT OF APPEALS NEVERTHELESS WRONGLY INTERPRETED THE PHRASE "ORIGINAL DEMAND" CONTAINED IN ARTICLE 2041 OF THE CIVIL CODE. THE ORIGINAL DEMAND OF PETITIONER ESTATE IS THE RETURN OF THE SUBJECT LOT (LOT 1406-B) WHICH IS SOUGHT TO BE EXPROPRIATED AND NOT THE DETERMINATION OF JUST COMPENSATION FOR THE LOT. FURTHERMORE, EVEN IF THE INTERPRETATION OF THE COURT OF APPEALS OR THE IMPORT OF THE PHRASE IN QUESTION IS CORRECT, IT IS ARTICLE 2039 OF THE CIVIL CODE AND NOT ARTICLE 2041 WHICH IS APPLICABLE TO COMPROMISE AGREEMENTS APPROVED BY THE COURTS.[23]

We rule in favor of the respondent.

Petitioner contends that the Court of Appeals erred in entertaining the petition for *certiorari* filed by respondent under Rule 65 of the Rules of Court, the same being actually a substitute for lost appeal. It appeared that on August 11, 1997, respondent received the Order of the trial court dated August 4, 1997 annulling the compromise agreement. On August 26, 1997, the last day for the filing of a notice of appeal, respondent filed instead a motion for reconsideration. The Order of the trial court denying the motion for reconsideration was received by respondent on November 23, 1997. The reglementary period to appeal therefore lapsed on November 24, 1997. On November 27, 1997, however, respondent filed with the Court of Appeals a petition for *certiorari* docketed as CA-G.R. SP. No. 46112. Petitioner claims that appeal is the proper remedy inasmuch as the Order dated August 4, 1997 of the Regional Trial Court is a final order that completely disposes of the case. Besides, according to petitioner, respondent is stopped in asserting that *certiorari* is the proper remedy inasmuch as it invoked the fifteen (15) day reglementary period for appeal when it filed a motion for reconsideration on August 26, 1997 and not the sixty (60) day period for filing a petition for *certiorari* under Rule 65 of the Rules of Court.

The Court of Appeals did not err in entertaining the petition for *certiorari* under Rule 65 of The Rules of Court. A petition for *certiorari* is the proper remedy when any tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal, nor any plain, speedy, and adequate remedy at law.[24] Grave abuse of discretion is defined as the capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. An error of judgment committed in the exercise of its legitimate jurisdiction is not the same as "grave abuse of discretion." An abuse of discretion is not sufficient by itself to justify the issuance of a writ of *certiorari*. The abuse must be grave and patent, and it must be shown that the discretion was exercised arbitrarily and despotically.[25]

As a general rule, a petition for *certiorari* will not lie if an appeal is the proper remedy thereto such as when an error of judgment as well

as of procedure are involved. As long as a court acts within its jurisdiction and does not gravely abuse its discretion in the exercise thereof, any supposed error committed by it will amount to nothing more than an error of judgment reviewable by a timely appeal and not assailable by a special civil action of *certiorari*. However, in certain exceptional cases, where the rigid application of such rule will result in a manifest failure or miscarriage of justice, the provisions of the Rules of Court which are technical rules may be relaxed. *Certiorari* has been deemed to be justified, for instance, in order to prevent irreparable damage and injury to a party where the trial judge has capriciously and whimsically exercised his judgment, or where there may be danger of clear failure of justice, or where an ordinary appeal would simply be inadequate to relieve a party from the injurious effects of the judgment complained of.[26]

Expropriation proceedings involve two (2) phases. The first phase ends either with an order of expropriation (where the right of plaintiff to take the land and the public purpose to which they are to be devoted are upheld) or an order of dismissal. Either order would be a final one since it finally disposes of the case. The second phase concerns the determination of just compensation to be ascertained by three (3) commissioners. It ends with an order fixing the amount to be paid to the defendant. Inasmuch as it leaves nothing more to be done, this order finally disposes of the second stage. To both orders the remedy therefrom is an appeal.[27]

In the case at bar, the first phase was terminated when the July 11, 1991 order of expropriation became final and the parties subsequently entered into a compromise agreement regarding the mode of payment of just compensation. When respondent failed to abide by the terms of the compromise agreement, petitioner filed an action to partially rescind the same. Obviously, the trial could only validly order the rescission of the compromise agreement anent the payment of just compensation inasmuch as that was the subject of the compromise. However, on August 4, 1991, the trial court gravely abused its discretion when it ordered the return of Lot 1406-B. It, in effect, annulled the Order of Expropriation dated July 11, 1991 which was already final and executory.

We affirm the appellate court's reliance on the cases of Aguilar vs. Tan[28] and Bautista vs. Sarmiento[29] wherein it was ruled that the remedies of *certiorari* and appeal are not mutually exclusive remedies in certain exceptional cases, such as when there is grave abuse of discretion, or when public welfare so requires. The trial court gravely abused its discretion by setting aside the order of expropriation which has long become final and executory and by ordering the return of Lot 1406-B to the petitioner. Its action was clearly beyond its jurisdiction for it cannot modify a final and executory order. A final and executory order can only be annulled by a petition to annul the same on the ground of extrinsic fraud and lack of jurisdiction[30] or a petition for relief from a final order or judgment under Rule 38 of the Rules of Court. However, no petition to that effect was filed. Hence, though an order completely and finally disposes of the case, if appeal is not a plain, speedy and adequate remedy at law or the interest of substantial justice requires, a petition for *certiorari* may be availed of upon showing of lack or excess of jurisdiction or grave abuse of discretion on the part of the trial court.

According to petitioner the rule that a petition for *certiorari* can be availed of despite the fact that the proper remedy is an appeal only applies in cases where the petition is filed within the reglementary period for appeal. Inasmuch as the petition in the case at bar was filed after the fifteen (15) day regulatory period to appeal, said exceptional rule as enshrined in the cases of Aguilar vs. Tan[31] and Bautista vs. Sarmiento[32] is not applicable. We find this interpretation too restrictive. The said cases do not set as a condition sine qua non the filing of a petition for *certiorari* within the fifteen (15) day period to appeal in order for the said petition to be entertained by the court. To espouse petitioner's contention would render inutile the sixty (60) day period to file a petition for *certiorari* under Rule 65. In Republic vs. Court of Appeals,[33] which also involved an expropriation case where the parties entered into a compromise agreement on just compensation, this Court entertained the petition for *certiorari* despite the existence of an appeal and despite its being filed after the lapse of the fifteen (15) day period to appeal the same. We ruled that the Court has not too infrequently given due course to a petition for *certiorari*, even when the proper remedy would have been an appeal, where valid and compelling considerations would warrant such a recourse.[34] If compelled to return the subject parcel of land, the

respondent would divert its budget already allocated for economic development in order to pay petitioner the rental payments from the lessee banks. Re-adjusting its budget would hamper and disrupt the operation of the economic zone. We believe that the grave abuse of discretion committed by the trial court and the consequent disruption in the operation of the economic zone constitutes valid and compelling reasons to entertain the petition.

Petitioner next argues that the instances cited under Section 1 of Rule 41 of the Rules of Court[35] whereby an appeal is not allowed are exclusive grounds for a petition for *certiorari*. Inasmuch as the August 4, 1997 Order rescinding the compromise agreement does not fall under any of the instances enumerated therein, a petition for *certiorari* will not prosper. This reasoning is severely flawed. The said section is not phrased to make the instances mentioned therein the sole grounds for a petition for *certiorari*. It only states that Rule 65 may be availed of under the grounds mentioned therein, but it never intended said enumeration to be exclusive. It must be remembered that a wide breadth of discretion is granted a court of justice in *certiorari* proceedings.[36]

In the second assignment of error, petitioner assails the interpretation by the Court of Appeals of the phrase "original demand" in Article 2041 of the New Civil Code vis-a-vis the case at bar. Article 2041 provides that, "If one of the parties fails or refuses to abide by the compromise, the other party may either enforce the compromise or regard it as rescinded and insist upon his original demand." According to petitioner, the appellate court erred in interpreting "original demand" as the fixing of just compensation. Petitioner claims that the original demand is the return of Lot 1406-B as stated in petitioner's motion to dismiss[37] the complaint for expropriation inasmuch as the incorporation of the expropriation order in the compromise agreement subjected the said order to rescission. Since the order of expropriation was rescinded, the authority of respondent to expropriate and the purpose of expropriation have again become subject to dispute.

Petitioner cites cases[38] which provide that upon the failure to pay by the lessee, the lessor can ask for the return of the lot and the ejectment of the former, this being the lessor's original demand in the

complaint. We find said cases to be inapplicable to this instant case for the reason that the case at bar is not a simple ejectment case. This is an expropriation case which involves two (2) orders: an expropriation order and an order fixing just compensation. Once the first order becomes final and no appeal thereto is taken, the authority to expropriate and its public use cannot anymore be questioned.

Contrary to petitioner's contention, the incorporation of the expropriation order in the compromise agreement did not subject said order to rescission but instead constituted an admission by petitioner of respondent's authority to expropriate the subject parcel of land and the public purpose for which it was expropriated. This is evident from paragraph three (3) of the compromise agreement which states that the "swap arrangement recognizes the fact that Lot 1406-B covered by TCT No. T-113498 of the estate of defendant Salud Jimenez is considered expropriated in favor of the government based on the Order of the Honorable Court dated July 11, 1991." It is crystal clear from the contents of the agreement that the parties limited the compromise agreement to the matter of just compensation to petitioner. Said expropriation order is not closely intertwined with the issue of payment such that failure to pay by respondent will also nullify the right of respondent to expropriate. No statement to this effect was mentioned in the agreement. The Order was mentioned in the agreement only to clarify what was subject to payment.

This Court therefore finds that the Court of Appeals did not err in interpreting "original demand" to mean the fixing of just compensation. The authority of respondent and the nature of the purpose thereof have been put to rest when the Expropriation Order dated July 11, 1991 became final and was duly admitted by petitioner in the compromise agreement. The only issue for consideration is the manner and amount of payment due to petitioner. In fact, aside from the withdrawal of private respondent's appeal to the Court of Appeals concerning Lot 1406-A, the matter of payment of just compensation was the only subject of the compromise agreement dated January 4, 1993. Under the compromise agreement, petitioner was supposed to receive respondent's Lot No. 434 in exchange for Lot 1406-B. When respondent failed to fulfill its obligation to deliver Lot 434, petitioner can again demand for the payment but not the return of the

expropriated Lot 1406-B. This interpretation by the Court of Appeals is in accordance with Sections 4 to 8, Rule 67 of the Rules of Court.

We also find as inapplicable the ruling in Gatchalian vs. Arlegui[39] a case cited by petitioner, where we held that even a final judgment can still be compromised so long as it is not fully satisfied. As already stated, the expropriation order was not the subject of the compromise agreement. It was only the mode of payment which was the subject of the compromise agreement. Hence, the Order of Expropriation dated July 11, 1991 can no longer be annulled.

After having invoked the provisions of Article 2041, petitioner inconsistently contends that said article does not apply to the case at bar inasmuch as it is only applicable to cases where a compromise has not been approved by a court. In the case at bar, the trial court approved the compromise agreement. Petitioner insists that Articles 2038, 2039 and 1330 of the New Civil Code should apply. Said articles provide that:

> ARTICLE 2038. A compromise in which there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents, is subject to the provisions of Article 1330 of this Code.
>
> However, one of the parties cannot set up a mistake of fact as against the other if the latter, by virtue of the compromise, has withdrawn from a litigation already commenced.
>
> ARTICLE 2039. When the parties compromise generally on all differences which they might have with each other, the discovery of documents referring to one or more but not to all of the questions settled shall not itself be a cause for annulment or rescission of the compromise, unless said documents have been concealed by one of the parties.
>
> But the compromise may be annulled or rescinded if it refers only to one thing to which one of the parties has no right, as shown by the newly discovered documents.(n)”

> ARTICLE 1330. A contract where consent is given through mistake, violence, intimidation, undue influence, or fraud is voidable.[40]

The applicability of the above-quoted legal provisions will not change the outcome of the subject of the rescission. Since the compromise agreement was only about the mode of payment by swapping of lots and not about the right and purpose to expropriate the subject Lot 1406-B, only the originally agreed form of compensation that is by cash payment, was rescinded.

This Court holds that respondent has the legal authority to expropriate the subject Lot 1406-B and that the same was for a valid public purpose. In Sumulong vs. Guerrero[41] this Court has ruled that,

the "public use" requirement for a valid exercise of the power of eminent domain is a flexible and evolving concept influenced by changing conditions. In this jurisdiction, the statutory and judicial trend has been summarized as follows:

> This Court has ruled that the taking to be valid must be for public use. There was a time when it was felt that a literal meaning should be attached to such a requirement. Whatever project is undertaken must be for the public to enjoy, as in the case of streets or parks. Otherwise expropriation is not allowable. It is not anymore. As long as the purpose of the taking is public, then the power of eminent domain comes into play. It is accurate to state then that at present whatever may be beneficially employed for the general welfare satisfies the requirement of public use. [Heirs of Juancho Ardona vs. Reyes, 125 SCRA 220 (1983) at 234-235 quoting E. Fernando, the Constitution of the Philippines 523-4(2nd Ed. 1977)

The term "public use" has acquired a more comprehensive coverage. To the literal import of the term signifying strict use or employment by the public has been added the broader notion of indirect public benefit or advantage.

In Manosca vs. Court of Appeals, this Court has also held that what ultimately emerged is a concept of public use which is just as broad as "public welfare."[42]

Respondent PEZA expropriated the subject parcel of land pursuant to Proclamation No. 1980 dated May 30, 1980 issued by former President Ferdinand Marcos. Meanwhile, the power of eminent domain of respondent is contained in its original charter, Presidential Decree No. 66, which provides that:

> SECTION 23. Eminent Domain. — For the acquisition of rights of way, or of any property for the establishment of export processing zones, or of low-cost housing projects for the employees working in such zones, or for the protection of watershed areas, or for the construction of dams, reservoirs, wharves, piers, docks, quays, warehouses and other terminal facilities, structures and approaches thereto, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation proceedings. Should the authority elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority and it may proceed in the manner provided for by law. (Emphasis supplied)

Accordingly, subject Lot 1406-B was expropriated "for the construction of terminal facilities, structures and approaches thereto." The authority is broad enough to give the respondent substantial leeway in deciding for what public use the expropriated property would be utilized. Pursuant to this broad authority, respondent leased a portion of the lot to commercial banks while the rest was made a transportation terminal. Said public purposes were even reaffirmed by Republic Act No. 7916, a law amending respondent PEZA's original charter, which provides that:

> SECTION 7. ECOZONE to be a Decentralized Agro-Industrial, Industrial, Commercial/Trading, Tourist, Investment and Financial Community. Within the framework of the Constitution, the interest of national sovereignty and territorial integrity of the Republic, ECOZONE shall be developed, as much as possible, into a decentralized, self-reliant

> and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with minimum government intervention. Each ECOZONE shall be provided with transportation, telecommunications and other facilities needed to generate linkage with industries and employment opportunities for its own habitants and those of nearby towns and cities.
>
> The ECOZONE shall administer itself on economic, financial, industrial, tourism development and such other matters within the exclusive competence of the national government. (Emphasis supplied)

Among the powers of PEZA enumerated by the same law are:

> SECTION 12. Functions and Powers of PEZA Board. — The Philippine Economic Zone Authority (PEZA) Board shall have the following function and powers:
>
> (a) Set the general policies on the establishment and operations of the ECOZONE, Industrial estate, exports processing zones, free trade zones, and the like;
>
> x x x
>
> (c) Regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the ECOZONE, such as heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and fees thereof.[43]

In Manila Railroad Co. vs. Mitchel[44] this Court has ruled that in the exercise of eminent domain, only as much land can be taken as is necessary for the legitimate purpose of the condemnation. The term "necessary", in this connection, does not mean absolutely indispensable but requires only a reasonable necessity of the taking for the stated purpose, growth and future needs of the enterprise. The

respondent cannot attain a self-sustaining and viable ECOZONE if inevitable needs in the expansion in the surrounding areas are hampered by the mere refusal of the private landowners to part with their properties. The purpose of creating an ECOZONE and other facilities is better served if respondent directly owns the areas subject of the expansion program.

The contention of petitioner that the leasing of the subject lot to banks and building terminals was not expressly mentioned in the original charter of respondent PEZA and that it was only after PEZA devoted the lot to said purpose that Republic Act No. 7916 took effect, is not impressed with merit. It should be pointed out that Presidential Decree No. 66 created the respondent PEZA to be a viable commercial, industrial and investment area. According to the comprehensive wording of Presidential Decree No. 66, the said decree did not intend to limit respondent PEZA to the establishment of an export processing zone but it was also bestowed with authority to expropriate parcels of land "for the construction of terminal facilities, structures and approaches thereto." Republic Act No. 7916 simply particularized the broad language employed by Presidential Decree No. 66 by specifying the purposes for which PEZA shall devote the condemned lots, that is, for the construction and operation of an industrial estate, an export processing zone, free trade zones, and the like. The expropriation of Lot 1406-B for the purpose of being leased to banks and for the construction of a terminal has the purpose of making banking and transportation facilities easily accessible to the persons working at the industries located in PEZA. The expropriation of adjacent areas therefore comes as a matter of necessity to bring life to the purpose of the law. In such a manner, PEZA's goal of being a major force in the economic development of the country would be realized. Furthermore, this Court has already ruled that:

> The Legislature may directly determine the necessity for appropriating private property for a particular improvement for public use, and it may select the exact location of the improvement. In such a case, it is well-settled that the utility of the proposed improvement, the existence of the public necessity for its construction, the expediency of constructing it, the suitableness of the location selected, are all questions exclusively for the legislature to determine, and the courts have

> no power to interfere or to substitute their own views for those of the representatives of the people.
>
> In the absence of some constitutional or statutory provision to the contrary, the necessity and expediency of exercising the right of eminent domain are questions essentially political and not judicial in their character.[45]

Inasmuch as both Presidential Decree No. 66 and Republic Act No. 7916, bestow respondent with authority to develop terminal facilities and banking centers, this Court will not question the respondent's lease of certain portions of the expropriated lot to banks, as well as the construction of terminal facilities.

Petitioner contends that respondent is bound by the representations of its Chief Civil Engineer when the latter testified before the trial court that the lot was to be devoted for the construction of government offices. Anent this issue, suffice it to say that PEZA can vary the purpose for which a condemned lot will be devoted to, provided that the same is for public use. Petitioner cannot impose or dictate on the respondent what facilities to establish for as long as the same are for public purpose.

Lastly, petitioner appeals to the sense of justice and equity to this Court in restoring the said lot to its possession. From the time of the filing of the expropriation case in 1981 up to the present, respondent has not yet remunerated the petitioner although respondent has already received earnings from the rental payments by lessees of the subject property.

We have ruled that the concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also the payment of the land within a reasonable time from its taking. 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 loss.[46] Payment of just compensation should follow as a matter of right immediately after the order of expropriation is issued. Any delay in payment must be

counted from said order. However, the delay to constitute a violation of due process must be unreasonable and inexcusable; it must be deliberately done by a party in order to defeat the ends of justice.

We find that respondent capriciously evaded its duty of giving what is due to petitioner. In the case at bar, the expropriation order was issued by the trial court in 1991. The compromise agreement between the parties was approved by the trial court in 1993. However, from 1993 up to the present, respondent has failed in its obligation to pay petitioner to the prejudice of the latter. Respondent caused damage to petitioner in making the latter to expect that it had a good title to the property to be swapped with Lot 1406-B; and meanwhile, respondent has been reaping benefits from the lease or rental income of the said expropriated lot. We cannot tolerate this oppressive exercise of the power of eminent domain by respondent. As we have ruled in Cosculluela vs. Court of Appeals.[47]

In the present case, the irrigation project was completed and has been in operation since 1976. The project is benefiting the farmers specifically and the community in general. Obviously, the petitioner's land cannot be returned to him. However, it is high time that the petitioner be paid what was due him eleven years ago. It is arbitrary and capricious for a government agency to initiate expropriation proceedings, seize a person's property, allow the judgment of the court to become final and executory and then refuse to pay on the ground that there are no appropriations for the property earlier taken and profitably used. We condemn in the strongest possible terms the cavalier attitude of government officials who adopt such a despotic and irresponsible stance.

Though the respondent has committed a misdeed to petitioner, we cannot, however, grant the petitioner's prayer for the return of the expropriated Lot No. 1406-B. The Order of expropriation dated July 11, 1991, has long become final and executory. Petitioner cited Provincial Government of Sorsogon vs. Rosa E. Vda. De Villaroya[48] so support its contention that it is entitled to a return of the lot where this Court ruled that "under ordinary circumstances, immediate return to the owners of the unpaid property is the obvious remedy." However, the said statement was not the ruling in that case. As in other cases where there was no prompt payment by the government,

this Court declared in Sorsogon that "the Provincial Government of Sorsogon is expected to immediately pay as directed. Should any further delay be encountered, the trial court is directed to seize any patrimonial property or cash savings of the province in the amount necessary to implement this decision." However, this Court also stressed and declared in that case that "In cases where land is taken for public use, public interest, however, must be considered."

In view of all the foregoing, justice and equity dictate that this case be remanded to the trial court for hearing of the expropriation proceedings on the determination of just compensation for Lot 1406-B and for its prompt payment to the petitioner.

WHEREFORE, the instant Petition is hereby denied. The Regional Trial Court of Cavite City is hereby ordered to proceed with the hearing of the expropriation proceedings, docketed as Civil Case No. N-4029, regarding the determination of just compensation for Lot 1406-B, covered and described in TCT No. T-113498-Cavite, and to resolve the same with dispatch.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and Buena, *JJ.*, concur.

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[1] Penned by Associate Justice Quirino D. Abad Santos, Jr. and concurred in by Associate Justices Ruben T. Reyes and Hilarion L. Aquino, in CA-G.R SP. No. 46112, Rollo, pp. 61-70.
[2] Id., pp. 72-74.
[3] Tenth Division.
[4] The appellate court erroneously declared that it is the Order dated July 11, 1991 and not the Order dated August 4, 1997 which ordered the peaceful turn-over to the Estate of Salud Jimenez of Lot 1406-B.
[5] Entitled "EPZA vs. Jose Pulido, Vicenta Panganiban, et al.", docketed as Civil Case No. N-4079 assigned to Branch 17; Rollo, pp. 75-84.
[6] In a Motion to Dismiss filed on June 10, 1981, petitioner sought the dismissal of said expropriation case contending that the intended expropriation is not for a public purpose. On August 11, 1981, the trial court ordered the issuance of a writ of possession in favor of private respondent PEZA over Lot 1406. On August 13, 1981, Deputy Provincial Sheriff, in behalf of private respondent PEZA, took possession of Lot 1406 owned by petitioner.

[7] Rollo, pp. 88-92.
[8] Id., pp. 93-96.
[9] Id., pp. 97-99.
[10] Id., pp. 100-101
[11] Id., pp. 102-111.
[12] Id., pp. 112-116.
[13] Id., pp. 117-123.
[14] Id., pp. 124-126.
[15] Id., pp. 127-131.
[16] Id., pp. 132-164.
[17] Id., pp. 165-192.
[18] See Note No. 1, supra.
[19] Emphasis supplied.
[20] Rollo, p. 70.
[21] Id., pp. 193-207.
[22] See Note No. 2, supra.
[23] Rollo, pp. 17-18.
[24] Rules of Court, Rule 65, sec. 1.
[25] Miranda vs. Abaya, 311 SCRA 617, 631 (1999).
[26] BF Corporation vs. Court of Appeals, 288 SCRA 267 (1998).
[27] Municipality of Biñan vs. Garcia, 180 SCRA 576, 583-584 (1989).
[28] 31 SCRA 205 (1970).
[29] 138 SCRA 587 (1985).
[30] Rules of Court, Rule 47, sec. 2.
[31] See Note No. 20.
[32] See Note No. 29.
[33] Republic vs. Court of Appeals, 296 SCRA 171 (1998).
[34] Santo Tomas University Hospital vs. Surla, 294 SCRA 382 (1998).
[35] RULE 41. SECTION 1. Subject of Appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
No appeal may be taken from:
(a) An order denying a motion for new trial or reconsideration;
(b) An order denying a petition for relief or any similar motion seeking relief from judgment;
(c) An interlocutory order;
(d) An order disallowing or dismissing an appeal;
(e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
(f) An order of execution;
(g) A judgment or final order for or against one or more of several parties or in separate claims, counter-claims, cross claims and third party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
(h) An order dismissing an action without prejudice.

In all above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate civic action under Rule 65. (n)

[36] Gutib vs. Court of Appeals, 312 SCRA 365 (1999).

[37] The motion to dismiss asked for the return of Lot 1406-B inasmuch as respondent would not devote the lot to public use.

[38] Leonor vs. Sycip, 1 SCRA 1215 (1961); Tionson vs. Court of Appeals, 49 SCRA 429 (1973); Barreras, et. al. vs. Garcia, et. al, 169 SCRA 401 (1989).

[39] Gatchalian vs. Arlegui, 75 SCRA 234 (1977).

[40] Emphasis supplied.

[41] 154 SCRA 461, 467-468 (1987).

[42] 252 SCRA 412, 422 (1996), quoting Joaquin Bernas, The Constitution of the Republic of the Philippines, Vol. 1, 1987 ed., p. 282.

[43] Emphasis supplied.

[44] 50 Phil 832, 837-838 (1927).

[45] City of Manila vs. Chinese Community of Manila 40 Phil 349 (1919).

[46] Land Bank of the Philippines vs. Court of Appeals 258 SCRA 404, 408-409 (1996) quoting Municipality of Makati vs. Court of Appeals, 190 SCRA 207, 213 (1990).

[47] 164 SCRA 393, 401 (1988).

[48] 153 SCRA 291, 302 (1987).