



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

NATIONAL TRANSMISSION  
CORPORATION,

Petitioner,

G.R. No. 266880

Present:

-versus-

LEONEN, SAJ.,\*  
LAZARO-JAVIER,  
Acting Chairperson\*\*  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JJ.

CLEMENTE P. UNTIVEROS,  
SPOUSES JOSE V.  
PAGCALIWAGAN AND TEODORA  
M. PAGCALIWAGAN, LUCILA M.  
PLATA, HEIRS OF JUAN TORRES  
AND GERONIMA A. TORRES,  
SPOUSES LEONISA M. LOPEZ AND  
NATALIO B. LOPEZ, AND SPOUSES  
BERNARDO B. PAGCALIWAGAN &  
ANITA C. PAGCALIWAGAN, all  
represented by FREDDIE M.  
ARGUELLES,

Respondents.

Promulgated:

MAY 15 2024

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DECISION

LOPEZ, J., J.:

This Court resolves the Petition for Review on *Certiorari*<sup>1</sup> filed by the National Transmission Corporation (TRANSCO) challenging the Resolution<sup>2</sup> of the Court of Appeals (CA), which dismissed TRANSCO's Petition for

\* On official business.

\*\* Per Special Order No. 3088, May 10, 2024.

<sup>1</sup> *Rollo*, pp. 10-29.

<sup>2</sup> *Id.* at 30-33. The June 16, 2022 Resolution in CA-G.R. SP No. 171508 was penned by Associate Justice Michael P. Ong and concurred in by Associate Justices Marlene B. Gonzales-Sison and Gabriel T. Robeniol of the Seventh Division, Court of Appeals, Manila.

*Certiorari* solely on procedural grounds, and the Resolution<sup>3</sup> which denied its Motion for Reconsideration. The prior Petition sought to reverse the Resolution<sup>4</sup> of the Regional Trial Court (RTC) denying TRANSCO's Motion to Archive and Motion for Leave to Implead Indispensable Party, as well as its Resolution denying its Motion for Reconsideration.

The present controversy arose from a Complaint<sup>5</sup> filed by Clemente P. Untiveros, spouses Jose and Teodora Pagcaliwagan, Lucila M. Plata, the heirs of Juan and Geronima Torres, spouses Leonisa and Natalio Lopez, spouses Bernardo and Anita Pagcaliwagan (collectively, Untiveros et al.), along with the heirs of Rosario P. Plata, for inverse condemnation under Rule 67 of the Rules of Court, in connection with Republic Act No. 10752,<sup>6</sup> against TRANSCO before the RTC. They claimed to be the registered owners of seven parcels of land located in Barangay Bucal, Batangas City (subject properties) which were affected by the Batangas-Makban 230KV Transmission Line owned by TRANSCO.<sup>7</sup>

TRANSCO is a government-owned and controlled corporation created under Republic Act No. 9136,<sup>8</sup> tasked with the operation and maintenance of the nationwide power transmission system. Significantly, these functions were turned over to the National Grid Corporation of the Philippines (NGCP) on January 15, 2009, following the enactment of Republic Act No. 9511<sup>9</sup> and the execution of the Concession Agreement<sup>10</sup> among the Power Sector Assets and Liabilities Management Corporation (PSALM), TRANSCO, and NGCP.

In early 2017, TRANSCO allegedly encroached upon the subject properties and removed the existing structures and trees, claiming that these were prohibited within a 40-meter range of the transmission line. It likewise asserted ownership over the properties, contending that such acquisition was necessary for the improvement of the electricity transmission system.<sup>11</sup>

Consequently, the property owners resorted to filing the Complaint to compel TRANSCO to exercise its power of eminent domain and to pay just

<sup>3</sup> *Id.* at 34–37. The March 16, 2023 Resolution in CA-G.R. SP No. 171508 was penned by Associate Justice Michael P. Ong and concurred in by Associate Justices Marlene B. Gonzales-Sison and Gabriel T. Robeniol of the Former Seventh Division, Court of Appeals, Manila.

<sup>4</sup> *Id.* at 62–65. The July 26, 2021 Resolution in CIVIL CASE NO. 19-10634 was penned by Acting Presiding Judge Catherine R. Mariño-Monsod of Branch 8, Regional Trial Court, Batangas City.

<sup>5</sup> *Id.* at 39–48.

<sup>6</sup> The Right-of-Way Act (2016).

<sup>7</sup> *Rollo*, pp. 40–43, 72.

<sup>8</sup> Electric Power Industry Reform Act (EPIRA) (2001).

<sup>9</sup> (2008), An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes.

<sup>10</sup> *Rollo*, pp. 101–177.

<sup>11</sup> *Id.* at 44.

compensation over the subject properties.<sup>12</sup> In response, TRANSCO filed its Answer with Special and Affirmative Defenses and Counterclaim<sup>13</sup> seeking the dismissal of the Complaint for lack of merit.

Following this, the property owners filed a Motion to Require Defendant to Comply with Republic Act No. 10752. They averred that TRANSCO should be ordered to deposit to the court a provisional amount equivalent to the current zonal valuation of the subject properties from the Bureau of Internal Revenue (BIR). TRANSCO then filed its Comment/Opposition alleging that the Complaint was not covered by Republic Act No. 10752. Assuming that the law would be applicable, TRANSCO argued that the requirement of depositing 100% of the value of the property should be based on its value at the time of taking.<sup>14</sup>

Meanwhile, a Motion for Partial Withdrawal of Complaint was filed by the heirs of Rosario P. Plata, which the RTC later granted in its October 12, 2020 Order.<sup>15</sup>

In its October 13, 2020 Resolution,<sup>16</sup> the RTC granted the Motion to Require Defendant to Comply with Republic Act No. 10752 and ordered TRANSCO to deposit to the Clerk of Court, an amount equivalent to 100% of the subject properties' value based on the current relevant zonal valuation of the BIR, in the amount of PHP 138,448,000.00. TRANSCO moved for reconsideration but was denied by the RTC.<sup>17</sup>

Afterwards, TRANSCO filed a Manifestation with Motion to Archive and, later, a Motion for Leave to Implead Indispensable Party. In both Motions, TRANSCO prayed that NGCP be impleaded as an indispensable party and requested that the case be archived pending NGCP's inclusion.<sup>18</sup>

In its July 26, 2021 Resolution,<sup>19</sup> the RTC denied both Motions for lack of merit, viz.:

**WHEREFORE**, premises considered, the defendant's Motion to Archive and Motion for Leave to Implead Indispensable Party are hereby **DENIED** for lack of merit. Accordingly, let the initial presentation of plaintiffs' evidence be set on **August 20, 2021 at 10:00 in the morning** before the Hearing Commissioner, Atty. Roy Mikhail V. Galvez.

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<sup>12</sup> *Id.* at 46.

<sup>13</sup> *Id.* at 49–56.

<sup>14</sup> *Id.* at 12–13.

<sup>15</sup> *Id.* at 13.

<sup>16</sup> *Id.* at 57–61.

<sup>17</sup> *Id.* at 13.

<sup>18</sup> *Id.* at 14.

<sup>19</sup> *Id.* at 62–65.

**SO ORDERED.**<sup>20</sup> (Emphasis in the original)

The RTC found that despite Republic Act No. 9511 granting NGCP the right of eminent domain, this did not *ipso facto* qualify NGCP as an indispensable party in this case. It ruled that impleading NGCP is unnecessary, as a definitive judgment could be rendered with TRANSCO, being the owner of the transmission lines. Further, the RTC held that the exclusion of an indispensable party is not listed among the grounds for the archiving of civil cases. Hence, it denied both Motions.<sup>21</sup> In its October 11, 2021 Order, the RTC likewise denied TRANSCO's Motion for Reconsideration.<sup>22</sup>

Untiveros et al. then filed a Motion for Issuance of Cease and Desist Order<sup>23</sup> to prevent TRANSCO from entering and using the subject properties until the issuance of a writ of possession, which the RTC shortly granted.<sup>24</sup>

Aggrieved, TRANSCO filed a Petition for *Certiorari*<sup>25</sup> before the CA assailing the October 11, 2021 Order of the RTC. However, in its Resolution,<sup>26</sup> the CA dismissed the Petition due to various jurisdictional and formal defects, specifically: (1) the belated filing of the Petition; (2) the failure to timely pay the docket fees in full; (3) the omission to serve copies of the Petition to the adverse party; and (4) the failure to attach the duplicate original or certified true copy of the pertinent Resolution of the RTC.

TRANSCO filed a Motion for Reconsideration,<sup>27</sup> which was later denied by the CA in its Resolution.<sup>28</sup> While the CA found that there was substantial compliance with the proof of service requirement, it nevertheless found no sufficient justification for the late filing of the Petition, the belated and incomplete payment of docket fees, and the nonattachment of a duplicate original or certified true copy of the pertinent Resolution of the RTC.<sup>29</sup>

Hence, this Petition.

TRANSCO essentially argues that the CA erred in strictly applying the procedural rules in dismissing its initial Petition, and asks for leniency in the application of these rules. TRANSCO insists that the certified true copies of

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<sup>20</sup> *Id.* at 65.

<sup>21</sup> *Id.* at 63–64.

<sup>22</sup> *Id.* at 14–15, 30.

<sup>23</sup> *Id.* at 66–70.

<sup>24</sup> *Id.* at 15.

<sup>25</sup> *Id.* at 76–87.

<sup>26</sup> *Id.* at 30–33.

<sup>27</sup> *Id.* at 88–94.

<sup>28</sup> *Id.* at 34–37.

<sup>29</sup> *Id.* at 36–37.

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the pertinent RTC Resolution were included in its Petition, evidenced by the marking “certified true copy” on the electronic copy of the Petition.<sup>30</sup>

Further, TRANSCO concedes to filing the Petition a day late, attributing this delay to the disruptions caused by the COVID-19 pandemic. During that period, the National Capital Region was under Alert Level 2, as per the Inter-Agency Task Force for the Management of Emerging Infectious Diseases 151-C Series of 2021. This led to a skeletal work arrangement for both TRANSCO and the Office of the Government Corporate Counsel. Under these circumstances, their sole messenger failed to file the Petition on time due to the considerable number of cases. Upon realizing his mistake, the messenger promptly filed the Petition through LBC, a private courier service, on the same day.<sup>31</sup>

Furthermore, regarding the docket fees, TRANSCO manifests that there was no intent to defraud the court, pointing out that the mistake stemmed from its sole messenger’s misguided reliance on Administrative Matter (A.M.) No. 17-12-09-SC,<sup>32</sup> resulting in an underpayment of PHP 700.00.<sup>33</sup>

Lastly, TRANSCO highlights the significant merit of its Petition, arguing that it would be unfairly made to pay provisional just compensation to Untiveros et al. if NGCP is not impleaded as an indispensable party. It posits that under the terms of the Concession Agreement, NGCP assumed the operation and maintenance of the transmission system as though it were the owner of these assets. Thus, TRANSCO concludes that NGCP’s involvement in the inverse condemnation proceedings is essential for the proper resolution of the case.<sup>34</sup>

In their Comment to the Petition,<sup>35</sup> Untiveros et al. maintained that the CA correctly dismissed the case due to TRANSCO’s failure to comply with the procedural rules. They assert that the explanations provided do not warrant the relaxation of the rules. Thus, it prayed for the denial of the Petition.<sup>36</sup>

Accordingly, the issue for this Court’s resolution is whether the CA erred in strictly applying the procedural rules in dismissing the Petition.

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<sup>30</sup> *Id.* at 16–18.

<sup>31</sup> *Id.* at 18–20.

<sup>32</sup> January 10, 2018, Re: Initial Recommendation on Administrative Adjustments from the Judiciary-Wide Committee on Legal Fees.

<sup>33</sup> *Id.* at 20.

<sup>34</sup> *Id.* at 20–23.

<sup>35</sup> *Id.* at 183–186.

<sup>36</sup> *Id.* at 184–186.

### This Court's Ruling

We find merit in this Petition.

Time and again, this Court has underscored that the right to file a special civil action of *certiorari* is neither a natural right nor a fundamental aspect of due process.<sup>37</sup> It is a prerogative writ, never demandable as a matter of right, but is issued solely based on judicial discretion.<sup>38</sup> Hence, an individual who seeks a writ of *certiorari* must strictly adhere to the provisions of the Rules and the law.<sup>39</sup> Undoubtedly, the observance of these procedural rules is paramount, as these were designed to facilitate the adjudication of cases and to address the issue of delays in the administration of justice.<sup>40</sup>

Nevertheless, if strict adherence to the rules of procedure would hinder rather than aid in the administration of justice, especially in instances where the circumstances of the case underscore the need for substantive justice, this Court may relax the application of these procedural rules in the exercise of its equity jurisdiction.<sup>41</sup> To put it simply, this Court has the discretion to relax the application of procedural rules for compelling reasons to alleviate a litigant from an injustice that is disproportionate to their procedural lapses.<sup>42</sup>

After a perusal of the records, it is evident that petitioner failed to comply with certain procedural requirements in its Petition before the CA, particularly Rule 46, Section 3<sup>43</sup> in relation to Section 2,<sup>44</sup> and Rule 65,

<sup>37</sup> *Tower Industrial Sales v. Court of Appeals*, 521 Phil. 667, 670 (2006) [Per J. Chico-Nazario, First Division].

<sup>38</sup> *Nuque v. Aquino*, 763 Phil. 362, 370 (2015) [Per J. Peralta, Third Division].

<sup>39</sup> *Cervantes v. Court of Appeals*, 512 Phil. 210, 217 (2005) [Per J. Ynares-Santiago, First Division].

<sup>40</sup> *Curammeng v. People*, 799 Phil. 575, 581 (2016) [Per J. Perlas-Bernabe, First Division].

<sup>41</sup> *CMTC International Marketing Corp. v. Bhagis International Trading Corp.*, 700 Phil. 575, 582 (2012) [Per J. Peralta, Third Division].

<sup>42</sup> *Asia United Bank v. Goodland Co., Inc.*, 650 Phil. 174, 185 (2010) [Per J. Nachura, Second Division].

<sup>43</sup> SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* —

.....  
It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and *shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof*, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

.....  
The petitioner *shall pay the corresponding docket and other lawful fees* to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

*The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.* (Emphasis supplied)

<sup>44</sup> SEC. 2. *To what actions applicable.* — This Rule shall apply to original actions for *certiorari*, prohibition mandamus and quo warranto. (Emphasis supplied)

Section 4<sup>45</sup> of the Rules of Court. However, considering the exceptional circumstances brought about by the pandemic, along with the substantial merits of the case, this Court deems it proper to relax the rules and proceed to resolve the case on its merits.

At the crux of this controversy is whether the RTC committed grave abuse of discretion in denying petitioner's Motion to Archive and the Motion for Leave to Implead Indispensable Party.

Turning Our attention first to the denial of the Motion to Archive, it is relevant to revisit Office of the Court Administrator (OCA) Circular No. 89-2004,<sup>46</sup> which echoed the guidelines in OCA Circular No. 7-A-92<sup>47</sup> regarding the archiving of cases, thus:

## II. CIVIL CASES

In civil cases, the court may, *motu proprio* or upon motion, order that a civil case be archived only in the following instances:

(a) When the parties are in the process of settlement, in which case the proceedings may be suspended and the case archived for a period not exceeding ninety (90) days. The case shall be included in the trial calendar on the day immediately following the lapse of the suspension period.

(b) When an interlocutory order or incident in the civil case is elevated to and is pending resolution/decision for an indefinite period before a higher court which has issued a temporary restraining order or writ of preliminary injunction.

(c) When defendant without fault or neglect of plaintiff, can not be served with summons within six (6) months from issuance of original summons.

From the foregoing, We concur with the keen observations of the RTC that the ground raised by petitioner, i.e., the pending inclusion of an indispensable party is not among those instances that would warrant the

<sup>45</sup> SEC. 4. *Where petition filed.* — The petition may be filed *not later than sixty (60) days from notice* of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals. (Emphasis supplied)

<sup>46</sup> Dated August 12, 2004, Reiteration of the Guidelines in the Archiving of Cases. <https://oca.judiciary.gov.ph/wp-content/uploads/2014/05/OCA-Circular-No.-89-2004.pdf> <last accessed on April 15, 2024>.

<sup>47</sup> Dated June 21, 1993, Guidelines in the Archiving of Cases. <https://oca.judiciary.gov.ph/wp-content/uploads/2014/05/OCA-Circular-No.-89-2004.pdf> <last accessed on April 15, 2024>.

archiving of civil cases. Given this fact, this Court affirms the RTC's denial of the Motion to Archive.

Next, to address the matter regarding the denial of the Motion for Leave to Implead Indispensable Party, it becomes imperative to ascertain if NGCP is an indispensable party in the subject case for inverse condemnation.

Pertinently, Rule 3, Section 7 of the Rules of Court provides:

SEC. 7. *Compulsory joinder of indispensable parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

In *Heirs of Dela Corta, Sr. v. Alag-Pitogo*,<sup>48</sup> this Court aptly elucidated the concept of indispensable parties, as follows:

Indispensable parties are parties whose legal presence in the proceeding is so necessary that “the action cannot be finally determined” without them because their interests in the matter and in the relief “are so bound up with that of the other parties.” Thus:

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them. Also, a person is not an indispensable party if his presence would merely permit complete relief between him and those already parties to the action, or if he has no interest in the subject matter of the action. It is not a sufficient reason to declare a person to be an indispensable party that his presence will avoid multiple litigation.<sup>49</sup> (Citation omitted)

<sup>48</sup> 871 Phil. 356 (2020) [Per J. Inting, Second Division].

<sup>49</sup> *Id.* at 378–369.



Additionally, in *Florete, Jr. v. Florete*,<sup>50</sup> this Court expounded on the ramifications of the failure to implead an indispensable party, underscoring that such failure invalidates any judgment or subsequent actions by the lower court for want of jurisdiction:

There are two consequences of a finding on appeal that indispensable parties have not been joined. First, all subsequent actions of the lower courts are null and void for lack of jurisdiction. Second, the case should be remanded to the trial court for the inclusion of indispensable parties. It is only upon the plaintiff's refusal to comply with an order to join indispensable parties that the case may be dismissed.

All subsequent actions of lower courts are void as to both the absent and present parties. To reiterate, the inclusion of an indispensable party is a *jurisdictional* requirement:

While the failure to implead an indispensable party is not *per se* a ground for the dismissal of an action, considering that said party may still be added by order of the court, on motion of the party or on its own initiative at any stage of the action and/or such times as are just, it remains essential — as it is jurisdictional — that any indispensable party be impleaded in the proceedings before the court renders judgment. This is because the absence of such indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.<sup>51</sup> (Citations omitted)

This Court likewise had the opportunity to explain the concept of inverse condemnation in *National Power Corporation v. Heirs of Macabangkit Sangkay*,<sup>52</sup> viz.:

*The action to recover just compensation from the State or its expropriating agency differs from the action for damages. The former, also known as inverse condemnation, has the objective to recover the value of property taken in fact by the governmental defendant, even though no formal exercise of the power of eminent domain has been attempted by the taking agency. Just compensation is 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 intensify the meaning of the word compensation in order to convey the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample. On the other hand, the latter action seeks to vindicate a legal wrong through damages, which may be actual, moral, nominal, temperate, liquidated, or exemplary. When a right is exercised in a manner not conformable with the norms enshrined in Article 19 and like provisions on human relations in the Civil Code, and the exercise results to*

<sup>50</sup> 778 Phil. 614 (2016) [Per J. Leonen, Second Division].

<sup>51</sup> *Id.* at 652–653.

<sup>52</sup> 671 Phil. 569 (2011) [Per J. Bersamin, First Division].

the damage of another, a legal wrong is committed and the wrongdoer is held responsible.

The two actions are radically different in nature and purpose. The action to recover just compensation is based on the Constitution while the action for damages is predicated on statutory enactments. Indeed, *the former arises from the exercise by the State of its power of eminent domain against private property for public use*, but the latter emanates from the transgression of a right. The fact that the owner rather than the expropriator brings the former does not change the essential nature of the suit as an inverse condemnation, for the suit is not based on tort, but on the constitutional prohibition against the taking of property without just compensation. It would very well be contrary to the clear language of the Constitution to bar the recovery of just compensation for private property taken for a public use solely on the basis of statutory prescription.<sup>53</sup> (Citations omitted, emphasis supplied)

Verily, from this pronouncement, an action for inverse condemnation is a recourse aimed at recovering the value of the property effectively appropriated by the government or its agency without undergoing formal expropriation proceedings.<sup>54</sup> It is anchored on the constitutional principle that bars the taking of private property for public use without just compensation.<sup>55</sup> Implicit in this recourse is the necessity for the entity ultimately accountable for the property's taking to be the defendant in such proceedings, thus qualifying such defendant as an indispensable party.

At this juncture, it is imperative to recall that the dispute stemmed from the restrictions connected to the Batangas-Makban 230KV Transmission Line. To recap, respondents alleged in their Complaint that in early 2017, petitioner encroached on their properties, demolished structures and trees, as well as restricted the properties' usage to prevent tall vegetation and other hazardous structures within and around a 40-meter range from the transmission line. This was then followed by a declaration of ownership from petitioner over these properties, under the claim of improving the electricity transmission system.

It is crucial to point out that the scope of expropriation encompasses more than the mere acquisition of title and possession. It extends to the imposition of a right-of-way easement on private properties under certain conditions.<sup>56</sup> This principle was recognized in the case of *Republic v. Philippine Long Distance Telephone Company*,<sup>57</sup> thus:

Normally, of course, the power of eminent domain results in the taking or appropriation of title to, and possession of, the expropriated property; but

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<sup>53</sup> *Id.* at 591–593.

<sup>54</sup> *Id.* at 591.

<sup>55</sup> CONST., art. III, sec. 9.

<sup>56</sup> *National Power Corp. v. Spouses Asoque*, 795 Phil. 19, 42–43 (2016) [Per J. Leonen, Second Division].

<sup>57</sup> 136 Phil. 20 (1969) [Per J. J.B.L. Reyes, *En Banc*].

*no cogent reason appears why the said power may not be availed of to impose only a burden upon the owner of condemned property, without loss of title and possession. It is unquestionable that real property may, through expropriation, be subjected to an easement of right of way.*<sup>58</sup> (Emphasis supplied)

Indeed, the imposition of a right-of-way easement constitutes as taking under eminent domain when it substantially impairs the property's value or interferes with its conventional use for an indefinite period.<sup>59</sup> The encroachment must be so immediate and substantial that it compromises the owner's complete enjoyment and use of the property.<sup>60</sup> Consequently, the imposition of a right-of-way easement, such as one that restricts property rights due to the presence of transmission lines, as in this case, is included within the scope of expropriation.<sup>61</sup>

Equally significant is the fact that by virtue of Section 8 of Republic Act No. 9136, the electrical transmission function previously held by the National Power Corporation was conferred upon petitioner. This includes the authority and responsibility for the planning, construction, and centralized operation and maintenance of high-voltage transmission infrastructure, as well as grid interconnections and ancillary services. Consequently, this transfer explicitly granted petitioner the power to exercise eminent domain, subject to certain requirements:

SEC. 8. *Creation of the National Transmission Company.* — There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall *assume the electrical transmission functions* of the National Power Corporation (NPC), and have the *powers and functions hereinafter granted*. The TRANSCO shall *assume the authority and responsibility of NPC* for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities, including grid interconnections and ancillary services.

Within six (6) months from the effectivity of this Act, the transmission and subtransmission facilities of NPC and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, shall be transferred to the TRANSCO. The TRANSCO shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.)

The subtransmission functions and assets shall be segregated from the transmission functions, assets and liabilities for transparency and disposal: Provided, That the subtransmission assets shall be operated and

<sup>58</sup> *Id.* at 29–30.

<sup>59</sup> *Didipio Earth-Savers' Multi-Purpose Association, Inc. v. Sec. Gozun*, 520 Phil. 457, 480–481 (2006) [Per J. Chico-Nazario, First Division].

<sup>60</sup> *National Power Corporation v. Spouses Asoque*, 795 Phil. 19, 43 (2016) [Per J. Leonen, Second Division].

<sup>61</sup> *National Power Corporation v. Gutierrez*, 271 Phil. 1, 7 (1991) [Per J. Bidin, Third Division].

maintained by TRANSCO until their disposal to qualified distribution utilities which are in a position to take over the responsibility for operating, maintaining, upgrading, and expanding said assets. All transmission and subtransmission related liabilities of NPC shall be transferred to and assumed by the PSALM Corp.

.....

The TRANSCO *may exercise the power of eminent domain* subject to the requirements of the Constitution and existing laws. Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities. (Emphasis supplied)

Subsequently, on February 8, 2008, as mandated by Section 21 of Republic Act No. 9136, PSALM, NGCP, and petitioner entered into a Concession Agreement. Under the terms of this agreement, NGCP, as the concessionaire, took over the operation and maintenance of the transmission assets held by petitioner on January 15, 2009.<sup>62</sup> This effectively meant that the management and responsibility over the power transmission system within the Philippines, including the transmission line at issue, was transferred to NGCP:

### 3. NATURE OF CONCESSION RIGHTS

3.01 Rights and Obligations. From the Commencement Date and subject to the terms of this Agreement, the Concessionaire *shall take over and operate the whole of TRANSCO's regulated transmission business* as a going concern and shall, as between TRANSCO and itself, be the sole representative of the Regulated Entity before the ERC. The Concessionaire may, but shall not be obliged to, carry on any Related Business, provided that the Concessionaire must assume and perform contracts for Related Business entered into by TRANSCO prior to the Commencement Date being those set out in the Disclosure Letters as defined in the Direct Agreement.

.....

#### 3.03 Nature of Concession Rights

.....

- (c) Notwithstanding and without limiting Subsection 3.03(a) above, the Concessionaire shall during the Concession Period *assume all of the responsibilities as if it is an owner of the Transmission Assets* (other than the Excluded Assets), Documented Property Rights and Intellectual Property Rights *including the obligation to pay license fees, Taxes, renewal fees and other charges payable that fall due for payment during the Concession Period*, and shall defend and indemnify PSALM and TRANSCO and hold them harmless against

<sup>62</sup> *Heirs of Dimao v. National Grid Corporation of the Philippines*, G.R. No. 254020, March 1, 2023 [Per J. Gaerlan, Third Division] at 2. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

any and all liabilities, claims, losses, costs and expenses (including attorneys' fees) that they may incur during the Concession Period unless they are incurred as a result of PSALM's or TRANSCO's breach of any of the Transaction Documents.<sup>63</sup> (Emphasis supplied)

By virtue of Republic Act No. 9511, Congress granted NGCP a franchise to operate, manage, maintain, and develop the national transmission system, as well as the authority to exercise the power of eminent domain subject to limitations:

SECTION 1. *Nature and Scope of Franchise.* — Subject to the provisions of the Constitution and applicable laws, rules and regulations, and subject to the terms and conditions of the concession agreement and other documents executed with the National Transmission Corporation (TransCo) and the Power Sector Assets and Liabilities Management Corporation (PSALM) pursuant to Section 21 of Republic Act No. 9136, which are not inconsistent herewith, there is hereby granted to the National Grid Corporation of the Philippines, hereunder referred to as the Grantee, its successors or assigns, a franchise *to operate, manage and maintain*, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and *to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system* of the Republic of the Philippines. The Grantee shall continue to operate and maintain the subtransmission systems which have not been disposed by TRANSCO. Likewise, the Grantee is authorized to engage in ancillary business and any related business which maximizes utilization of its assets such as, but not limited to, telecommunications system, pursuant to Section 20 of Republic Act No. 9136. The scope of the franchise shall be nationwide in accordance with the Transmission Development Plan, subject to amendments or modifications of the said Plan, as may be approved by the Department of Energy of the Republic of the Philippines.

....

SEC. 4. *Right of Eminent Domain.* — Subject to the limitations and procedures prescribed by law, the Grantee is *authorized to exercise the right of eminent domain* insofar as it may be reasonably necessary for the construction, expansion, and efficient maintenance and operation of the transmission system and grid and the efficient operation and maintenance of the subtransmission systems which have not yet been disposed by TRANSCO. The Grantee may acquire such private property as is actually necessary for the realization of the purposes for which this franchise is granted: Provided, That the applicable law on eminent domain shall be observed, particularly, the prerequisites of taking of possession and the determination and payment of just compensation. (Emphasis supplied)

<sup>63</sup> Rollo, pp. 105–106.

However, it should be noted that NGCP's obligations concerning the transmission lines would only begin after the commencement date of the Concession Agreement, particularly on January 15, 2009. To put it another way, for NGCP to be accountable for any claims related to the transmission lines, the incidents or causes of action must arise after this date. This conclusion finds support in the Concession Agreement, which indicated petitioner's liability for claims relating to pre-existing rights of way before the commencement date, thus confining NGCP's accountability to incidents occurring after such date:

5.08 TRANSCO-Retained Obligations. TRANSCO shall be liable for the following:

....

(b) claims relating to existing rights of way *whose cause of action accrued prior to Commencement Date*, provided that should the Concessionaire through any act or omission cause any liability or claim to arise or be aggravated, it shall be liable for the incremental liability resulting from such act or omission[.]<sup>64</sup> (Emphasis supplied)

In the case at hand, since the encroachment on the subject properties took place in 2017, well after the commencement date, NGCP is unquestionably accountable for these claims. As a result, this Court finds that NGCP is an indispensable party to the subject case for inverse condemnation.

Once more, it bears emphasis that the joinder of an indispensable party is mandatory and is a prerequisite for the exercise of judicial power.<sup>65</sup> In fact, the absence of such party would render nugatory all rulings and subsequent judicial actions, affecting not just the absent parties but also those present.<sup>66</sup> Likewise, any judgment of the court would never attain finality.<sup>67</sup> Considering the foregoing, this Court finds it appropriate to remand the case to the court of origin for the inclusion of NGCP as an indispensable party.

**ACCORDINGLY**, the Petition is **GRANTED**. The Resolutions dated June 16, 2022 and March 16, 2023 of the Court of Appeals in CA-G.R. SP No. 171508 are **REVERSED**. Let the case be **REMANDED** to the court of origin for the inclusion of National Grid Corporation of the Philippines as an indispensable party, and to proceed with the case with dispatch.

**SO ORDERED.**

<sup>64</sup> *Id.* at 114.

<sup>65</sup> *Orbeta v. Sendiong*, 501 Phil. 478, 489-490 (2005) [Per J. Tinga, Second Division].

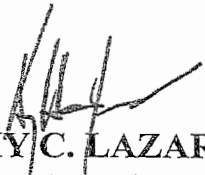
<sup>66</sup> *Moldes v. Villanueva*, 505 Phil. 767, 777 (2005) [Per J. Callejo, Sr., Second Division].

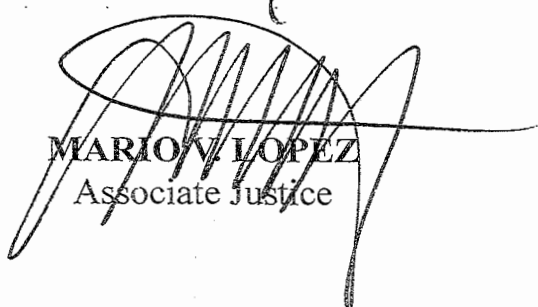
<sup>67</sup> *Lagunilla v. Velasco*, 607 Phil. 194, 207 [Per J. Nachura, Third Division].

  
**JHOSEPH Y. LOPEZ**  
Associate Justice

**WE CONCUR:**

*(On official business)*  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice  
Acting Chairperson

  
**MARION V. LOPEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

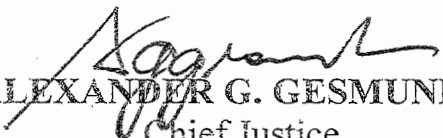
**ATTESTATION**

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.

  
**AMY C. LAZARO-JAVIER**  
Associate Justice  
Acting Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution and the Division Acting 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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