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[G.R. No. 181892, April 19, 2016]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO R. ERMITA, THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONERS, VS. HON. JESUS M. MUPAS, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 117, PASAY CITY, AND PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC., RESPONDENTS.

[G.R. NO. 209917]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONERS, VS. PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC., TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION, RESPONDENTS.

[G.R. NOS. 209696]

TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, AND PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC. RESPONDENTS.

[G.R. NO. 209731]

PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC. PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, AS REPRESENTED BY EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, TAKENAKA CORPORATION, AND ASAHIKOSAN CORPORATION, RESPONDENTS.

R E S O L U T I O N

BRION, J.:

Before the Court are the motion for reconsideration filed by the Republic of the Philippines (Department of Transportation and Communications) and the Manila International Airport Authority (*Republic* for brevity), and the respective partial motions for reconsideration of Philippine International Airport Terminals Co., Inc. (*PIATCO*) and of Takenaka Corporation (*Takenaka*) and Asahikosan Corporation (*Asahikosan*). In these motions, the parties assail the Court's Decision dated September 8, 2015 (*Decision*)[1]

I. The Factual Antecedents

A. The concession agreement between the Republic and PIATCO; PIATCO's subcontract agreements with Takenaka and Asahikosan

On July 12, 1997, the Republic executed a ***concession agreement*** with PIATCO for the construction, development, and operation of the Ninoy Aquino International Airport Passenger Terminal III *(NAIA-IPT III)* under a *build-operate-transfer scheme*. The parties subsequently amended their concession agreement and entered into several supplemental agreements (collectively referred to as the *PIATCO contracts*).[2]

In the PIATCO contracts, the Republic authorized PIATCO to build, operate, and maintain the NAIA-IPT III during the concession period of twenty-five (25) years.[3]

On March 31, 2000, ***PIATCO engaged the services of Takenaka for the construction of the NAIA-IPT III*** under an **Onshore Construction Contract.** On the same date, ***PIATCO*** also entered into an **Offshore Procurement Contract** with ***Asahikosan*** for the design, manufacture, purchase, test and delivery of the Plant in the NAIA-IPT III. Both contracts were supplemented by succeeding agreements.[4]

In May 2002, ***PIATCO failed to pay for the services rendered by Takenaka and Asahikosan***.[5]

B. The Agan v. PIATCO[6] case: the nullification of the PIATCO contracts

On May 5, 2003, the Court nullified the PIATCO contracts in ***Agan v. PIATCO***[7] on the grounds that: (a) the Paircargo Consortium (that later incorporated into PIATCO) was not a duly pre-qualified bidder; and (b) the PIATCO contracts contained provisions that substantially departed from the draft Concession Agreement.[8]

On **January 21, 2004**, the Court issued a resolution (*2004 Agan Resolution*), denying PIATCO, et al.'s motion for reconsideration.[9] Significantly, we stated in the resolution that the ***Republic should first pay PIATCO before it could take over the NAIA-IPTHI***. We further ruled that "*the compensation must be just and in accordance with law and equity for the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors*."[10]

C. ***The expropriation case before the RTC***

On **December 21, 2004**, the Republic filed a **complaint for the expropriation** of the NAIA-IPT III before the Regional Trial Court (*RTC*) of Pasay, Branch 117, docketed as Civil Case No. 04-0876. Notably, the property to be expropriated only involves the NAIA-IPT III structure and did not include the land which the Republic already owns.[11]

On the same day, the RTC issued a **writ of possession** in favor of the Republic **pursuant to Rule 67** of the Rules of Court (*Rule 67*). The writ was issued based on the Republic's manifestation that it had deposited with the Land Bank of the Philippines (*Land Bank*) the amount of P3,002,125,000.00, representing the NAIA-IPT Ill's **assessed value**.[12]

On **January 4, 2005**, the RTC **supplemented its December 21, 2004 order**. The RTC applied Republic Act (*RA*) No. 8974 instead of Rule 67 as basis for the effectivity of the writ of possession. The RTC ruled, among others, that the Land Bank should immediately release to PIATCO the amount of **US$62,343,175.77**,[13] to be deducted eventually from the just compensation.[14]

In the course of the RTC expropriation proceedings, the RTC allowed Takenaka and Asahikosan to intervene in the case. Takenaka and Asahikosan based their intervention on

the foreign judgments issued in their favor in the two collection cases that they filed against PIATCO {London awards). Takenaka and Asahikosan asked the RTC to: (a) hold in abeyance the release of just compensation to PIATCO until the London awards are recognized and enforced in the Philippines; and (b) order that the just compensation be deposited with the RTC for the benefit of PIATCO's creditors.[15]

The Republic questioned the **January 4, 2005** RTC order and two other RTC orders[16] before this Court in the case entitled ***Republic v. Gingoyon***.[17]

On January 14, 2005, we issued a temporary restraining order and preliminary injunction against the implementation of the assailed RTC orders, including the January 4, 2005 RTC order.[18]

D. Developments pending the expropriation case: the Republic v. Gingoyon case

In *Gingoyon*, the Court partly granted the Republic's petition on December 19, 2005.

We adopted the 2004 *Agan* Resolution in ruling that the Republic is barred from taking over the NAIA-IPT III until just compensation is paid to PIATCO as the builder and owner of the structure.

We also ruled that RA No. 8974 applies insofar as it: (a) provides **valuation standards** in determining the amount of just compensation; and (b) requires the Republic to ***immediately pay*** PIATCO at least the **proffered value** of the NAIA-IPT III for purposes of ***determining the effectivity of the writ of possession.***

We also held that ***Rule 67*** shall apply ***to the procedural matters*** of the expropriation proceedings insofar as it is consistent with RA 8974 and its implementing rules and regulations (*IRR*), and Agan.

Applying RA No. 8974, ***we held in abeyance the implementation of the writ of possession*** until the Republic **directly** pays PIATCO the **proffered value** of P3 billion. We also authorized the Republic to **perform acts essential to the operation of the NAIA-IPT III once the writ of possession becomes *effective*.**

For purposes of computing just compensation, we held that PIATCO should only be paid the **value of the improvements and/or structures** using the **replacement cost method** under Section 10 of RA 8974 IRR.[19] We added, however, that the replacement cost method is only one of the factors to be considered in determining just compensation; **equity** should also be considered.

On February 1, 2006, we denied the Republic, et al.'s motion for partial reconsideration. Citing procedural errors, we also denied the motions for intervention of Asahikosan, Takenaka, and Rep. Salacnib F. Baterina.[20]

E. The continuation of the expropriation proceedings after the finality of the Gingoyon case; the present cases before the Court

Pursuant to our mandate in *Gingoyon*, the RTC proceeded to determine the amount of just compensation.

In compliance with the RTC's order, the Republic tendered to PIATCO the P3 billion proffered value on **September 11, 2006**. ***On the same day***, **the RTC *reinstated the writ of possession* in favor of the Republic**.[21]

In compliance with the RTC order dated August 5, 2010, the parties and the BOC submitted their appraisal reports on NAIA-IPT III, as follows: (1) the Republic's appraisal was US$149,448,037.00; (2) PIATCO's appraisal was US$905,867,549.47; (3) Takenaka and Asahikosan's appraisal was US$360,969,790.82; and (4) the BOC's appraisal was US$376,149,742.56, plus interest and commissioner's fees.[22]

In the RTC's decision dated May 23, 2011, the RTC computed just compensation at US$116,348,641.10. The RTC further directed the Republic and the team of Takenaka and Asahikosan to pay their respective shares in the BOC expenses.[23]

On appeal with the CA, docketed as CA-G.R. CV No. 98029, the CA issued its amended decision, computing the just compensation at US$371,426,688.24 as of July 31, 2013 plus 6% *per annum* on the amount due from finality of judgment until fully paid. The CA further held that Takenaka and Asahikosan are both liable to share in the BOC expenses. [24]

The RTC rulings and CA decision in the expropriation cases led to the present consolidated cases before us, specifically:

G.R. No. 181892 was filed by the Republic to question the RTC's orders: (1) appointing DG Jones and Partners as independent appraiser; (2) directing the Republic to submit a Certificate of Availability of Funds to cover DG Jones and Partners' US$1.9 Million appraisal fee; and (3) sustaining the appointment of DG Jones and Partners as an independent appraiser.[25]

G.R. Nos. 209917, 209731, and ***209696*** were filed by the Republic, PIATCO, and Takenaka and Asahikosan, respectively questioning the CA's decision.[26]

II. Our ruling dated September 8, 2015 in G.R. Nos. 181892, 209917, 209696, 209731

In our **Decision dated September 8, 2015**, we applied the standards laid down under Section 7, RA 8974 and Section 10 of RA 8974 IRR. We likewise applied equity pursuant to *Gingoyon*.

We ruled that PIATCO, as the owner of the NAIA-IPT III, is the **sole recipient** of the just compensation even though Takenaka and Asahikosan actually built the NAIA-IPT III.

We did not grant Takenaka and Asahikosan's prayer to set aside a portion of just compensation to secure their claims, as we would be preempting the Court's ruling in the enforcement case, specifically, G.R. No. 202166, which is still pending before the Court.

We ruled that the Republic shall only have ownership of the NAIA-IPT III **after** it **fully** pays PIATCO the just compensation due. However, the determination of whether the NAIA-IPT III shall be burdened by liens and mortgages even after the full payment of just compensation is still premature.

In **computing the just compensation**, we applied the **depreciated replacement cost method** consistent with Section 10 of RA 8974 IRR and the principle that the property owner of the expropriated property shall be compensated for his ***actual loss***. We therefore agreed with the Gleeds' deduction of depreciation and deterioration from the construction cost.

We adopted Gleeds' construction cost at US$300,206,693.00 as the base value at December 2002. We also rejected the Republic's argument that the amounts pertaining to the *unnecessary areas, structural defect,* and *costs for rectification for contract compliance* should be excluded from the base value. We likewise did not add attendant costs as it already formed part of the Gleeds' computation of construction cost.

Applying equity, we adjusted the replacement cost computed at December 2002 to December 2004 values using the Consumer Price Index.

We likewise imposed interest on the unpaid amount of just compensation, reckoned from September 11, 2006 when the writ of possession was reinstated in favor of the Republic.

In summary, we computed the just compensation as of December 21, 2004 at US$326,932,221.26. We deducted from this sum the proffered value of US$59,438,604.00. We ruled that the resulting difference of US$267,493,617.26 shall earn a straight interest of 12% per annum from September 11, 2006 until June 30, 2013, and a straight interest of 6% per annum from July 1, 2013, until full payment.[27]

Finally, we reversed the CA's ruling that Takenaka and Asahikosan were liable to share in the BOC expenses. We ruled that the Republic shall solely bear these expenses as part of the costs of expropriation. We however ruled that PIATCO, which voluntarily paid a portion of the BOC expenses and did not question the rulings ordering it to pay, is deemed to have waived its right not to share in these expenses.

III. The parties' motion for reconsideration and motions for partial reconsideration of our September 8, 2015 Decision

The parties assail our Decision. The Republic filed its motion for reconsideration while PIATCO and Takenaka and Asahikosan filed their respective partial motions for reconsideration.

A. The Republic's motion for reconsideration

The Republic argues as follows:

First, the Court should declare that, upon payment of just compensation, full ownership shall be vested in the Republic, *free from liens and encumbrances*.[28]

Second, the just compensation *should not earn interest*. The Republic prays for the deletion of US$242,810,918.54 awarded to PIATCO by way of interest.

According to the Republic, the present case is *sui generis* as the expropriation resulted from the nullification of the concession agreement; hence, the traditional notion of "just compensation" is inapplicable.[29]

The Republic cites our rulings in *Agan* and *Gingoyon* that the *principle of unjust enrichment or solutio indebiti* is the standard in fixing just compensation in the present case. According to the Republic, this principle results in the application of the doctrine of restitution which arose as a consequence of Agon's nullification of the concession agreements.[30] The Republic referred to Justice Panganiban's concurring opinion in *Agan* that the *quantum meruit* principle should be applied.[31]

The Republic further argues that the award of interest is unjustifiable because: (*a*) PIATCO has no "income-generating capacity" from the expropriated structures due to the nullification of the concession agreements; and (*b*) the Republic should not be made liable to pay interest as the delay in the prompt payment of just compensation was due to the deliberate refusal of PIATCO, Takenaka and Asahikosan to submit the valuation of the NAIA-IPT III.[32]

The Republic concludes that the Court's award of interest in the present case is contrary to *Agan* and *Gingoyon* and would result in PIATCO "profiting" from its own misdeed that caused the nullification of the concession agreements.[33]

Third, the Court erred in not deducting from the computed just compensation the *amounts pertaining to structural defects, unnecessary areas,* and *rectification* for contract compliance.[34]

The Republic asserts that the amounts pertaining to NAIA-IPT Ill's **structural defects** should be excluded from the computation of just compensation. According to the Republic, the equiponderance of evidence rule is inapplicable because it had proven by overwhelming evidence that the NAIA-IPT III suffered from massive structural defects. PIATCO allegedly admitted this fact in the Scott Wilson Report.[35]

The Republic also points to the structural remediation programs that MIAA conducted prior to the NAIA-IPT Ill's operation, showing that it was structurally defective. PIATCO also failed to refute the findings of TGCI, one of the Republic's engineering experts, that the NAIA-IPT III would not have been damaged by the 2008 Pangasinan earthquake if it had been structurally sound.

The Republic posits that it was forced to expropriate a structure that does not conform with the design intended to serve its purpose; worse, the design contains facilities that are not essential for an airport (such as the retail mall and excess retail concession space). PIATCO should not be compensated for these structures as the Republic had to spend for the rectification expenses.

B. PIATCO's partial motion for reconsideration

PIATCO seeks the partial reconsideration of our decision under the following arguments:

First, the Court erred in applying the *depreciated replacement cost method in computing just compensation*.[36]

RA 8974 and its IRR never used the terms "depreciated replacement cost," "deterioration,"

or any other type of adjustment to the replacement cost.[37]

Second, the financial concept of *depreciation is inapplicable* in the determination of just compensation in expropriation cases. *An asset may still be valuable and yet appear as fully depreciated in financial statements.*[38]

Third, assuming the accounting concept of "depreciation" is relevant, *depreciation of an asset begins when it is available for use*. The Republic should therefore bear the cost of depreciation since the NAIA-IPT III was available for use only in December 21, 2004 when the Republic operated it.[39]

PIATCO further argues that Gleeds, which first visited NAIA-IPT III only on May 2006, could not have possibly evaluated deterioration in the structure that supposedly occurred between 2002 and 2004.[40]

Fourth, PIATCO argues that the Court erred in *excluding* PIATCO's computation of *attendant costs.*

According to PIATCO, the photocopied documents evidencing its attendant costs are admissible and have probative value. These documents were accompanied by the affidavit dated December 14, 2010 of PIATCO's VP for Legal and Corporate Affairs, Atty. Moises S. Tolentino, Jr. (*Atty. Tolentino*). In his affidavit, he identified the documents and affirmed that these photocopies were certified true copies and/or faithful reproductions of the originals in his possession.[41]

PIATCO further argues that these documents were submitted in a summary and informal proceeding before the BOC. The parties' failure to object to the offered evidence rendered the photocopy documents admissible.[42]

Furthermore, PIATCO points out that the construction cost in the Gleeds report, which the Court had adopted in the present case, excluded attendant costs, financing costs, and other associated costs as confirmed by the Scott Wilson Report. *Even Gleeds admitted that the attendant costs reflected in its report excluded the financing cost* in the amount of US$26,602,890.00.[43] As such, at the very least, PIATCO should be awarded financing costs on top of the construction cost as supported by documents submitted to the lower court.

PIATCO further avers that the Court has misquoted item 3.1.17 of the Scott Wilson Report in page 99 of our Decision. The quote in our Decision states that PIATCO has paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC,

and this appears "**not reasonable**." PIATCO alleged that the correct provision of clause 3.1.17 in the Scott Wilson Report states that these PIATCO payments appear "**not unreasonable**."[44]

The Court should award PIATCO's attendant costs in view of Scott Wilson's findings that the paid fees under clause 3.1.17 are **reasonable**. [45]

Fifth, PIATCO argues that the Court erred in reckoning the period for the interest payment only on September 11, 2006. PIATCO avers that the Court is **mistaken** in its impression that the *Republic took possession of NAIA-IPT III only on September 11, 2006*.[46]

PIATCO insists that the interest should be computed from the date of the actual taking or on December 21, 2004 when the Republic filed the expropriation complaint and **actually** took physical possession of NAIA-IPT III. According to PIATCO, the RTC order dated January 7, 2005 confirms this fact.[47]

PIATCO also argues that the Republic stubbornly refused to pay the proffered value, thus resulting in the delay of the reinstatement of the writ of possession.[48]

In the computation of interest, PIATCO further argues that the Court should consider the leap years, specifically years 2008 and 2012, with 366 days instead of just 365 days as stated in our Decision.[49]

PIATCO likewise brings to the Court's attention the *discrepancy on the dates mentioned in the Decision.* PIATCO notes the Court's statement on page 41 of the Decision that the CA reckoned the period for the computation of interest *on September 11, 2006.* However, page 42 of our Decision shows in tabular form that the CA computed the interest from December 21, 2004.[50]

According to PIATCO, the abovementioned date of "September 11, 2006" in page 41 of the Decision might have been a typographical error since the other statements in the Decision were consistent that the CA computed interest from December 21, 2004. In any case, PIATCO reiterates its position that the interest rate of 12% *per annum* should be computed from December 21, 2004.[51]

Sixth, PIATCO argues that it should *not be held liable to share the BOC expenses* in view of the Court's Decision that the Republic should solely bear the cost of expropriation. PIATCO disagrees with the Court's statement that PIATCO's voluntary payment served as a waiver of its right not to share in the BOC expenses.

According to PIATCO, its payment was out of faithful compliance with the RTC's order dated March 11, 2011, directing the Republic, PIATCO and Takenaka and Asahikosan to proportionately share in the BOC's mobilization fund.[52] Consequently, PIATCO invokes the principle of *solutio indebiti* and equity in arguing that it should be refunded the P2.550 million that it had mistakenly paid as its share in the BOC expenses.[53]

Seventh, PIATCO argues that the Bureau of Internal Revenue's (*BIR*) present and future tax assessments against PIATCO in relation to the supply for and construction of the NAIA-IPT III should be added to the just compensation. This approach is consistent with the definition of "replacement cost" under Section 10 of RA 8974 1RR. PIATCO manifested that the BIR had intensified its harassment on PIATCO since the promulgation of our Decision.[54]

C. Asahikosan and Takenaka's motion for partial reconsideration

Takenaka and Asahikosan argue that the Court misconstrued their prayers in the petition. They clarified that they are not asking the Court to order that any part of the just compensation be paid directly to them. They are also not asserting any form of title to the NAIA-IPT III or enforcing any liens that they may have thereto.[55]

They are only asking the Court to partially reconsider its decision insofar as it ordered the direct payment to PIATCO of the computed just compensation. Takenaka and Asahikosan, as the unpaid builders and largest contractors, pray that the Court also apply equity in their favor by ordering that a portion of the just compensation in the amount of at least US$85.7 million be ***set aside in escrow*** to cover for their claims in the enforcement case.[56]

IV. Comments

The Republic's Consolidated Comment

The Republic maintains that the Court correctly applied the depreciated replacement cost method in determining just compensation; that RA 8974 is not the sole basis for such determination as *Agan* held that compensation must be in accordance with ***law and equity***.[57]

The Republic insists that the award of interest is unwarranted and reiterates its arguments that PIATCO is not an innocent property owner; that the award of interest detracts from *Agan* and *Gingoyon*, which predicated compensation on "unjust enrichment."[58] The award of interest would allow PIATCO to profit from its own wrong.[59]

The Republic likewise argues that PIATCO is not entitled to be compensated for loss of its income-generating potential because the concession agreements were nullified.[60]

The Republic further resists the payment of interests, by stressing that the delay is not attributable to it.[61] Rather, the delay was caused by: (a) the private parties' deliberate refusal to provide valuation and (b) the protracted court proceedings (*i.e.*, numerous interventions, the appointment and replacements of commissioners, the appointment of appraisers, the death of Judge Gingoyon, and the appeals).[62] To place the entire weight of delay solely on the Republic by imposing interest of $242,810,918.54 (more than half of the awarded just compensation) is neither just nor equitable.[63]

The Republic maintains that the depreciation and deterioration were properly excluded from the total amount of just compensation. NAIA-IPT III did not have the full economic and functional utility of a brand new airport.[64]

The Republic agrees that the Court correctly denied PIATCO's claim for attendant costs.[65] The Republic echoes the Court's discussion on PIATCO's secondary evidence[66] and contends that Atty. Tolentino's affidavit and the photocopied documents are hearsay evidence even if no one objected to their admissibility.[67] Moreover, the computation of the construction cost valuation already included the attendant costs.[68]

The Republic refutes PIATCO's claim for the refund of the amount it paid for the BOC expenses.[69] *First, solutio indebiti* does not apply because PIATCO voluntarily paid.[70] It cannot claim that it paid the BOC's expenses "through a misapprehension of fact."[71] *Second*, even assuming that *solutio indebiti* applies, PIATCO's claim for refund has prescribed. A quasi-contract claim must be made within six (6) years from the date of payment. In the present case, PIATCO first paid the BOC expenses in 2006; thus, the claim has prescribed.[72]

Anent PIATCO's deficiency tax liability, the Republic argues that it cannot form part of just compensation.[73] PIATCO's liability arose from its filing of false returns.[74] Moreover, PIATCO failed to present proof that its deficiency tax liability is part of the replacement cost of NAIA-IPT III facilities.[75]

Finally, the Republic submits that Takenaka and Asahikosan's plea that the Court set aside a portion of the just compensation in the amount of at least US$85.7 million to cover the London Awards lacks legal basis. Besides, their claims as unpaid credits are still premature

given the pendency of the enforcement case in G.R. No. 202166.[76]

PIATCO 's Comment to the Republic's Motion for Reconsideration

PIATCO asserts that the Republic is not the victim in this case; that the Republic was not forced to award the NAIA-IPT III project to PIATCO; and that the Republic acted deliberately and voluntarily.[77] PIATCO insists that there is no finding in *Agan* that supports the notion that PIATCO is the "guilty party," while the Republic is the "innocent party."[78] PIATCO also stresses that the Republic voluntarily expropriated NAIA-IPT III.[79]

PIATCO refutes the Republic's reliance on the concept of *solutio indebiti*, unjust enrichment, and *quantum meruit* as standards in the computation of just compensation. Rather, and as held by the Court in *Gingoyon*, the substantive law applicable is RA 8974 and its IRR.[80]

PIATCO underscores that the principle of unjust enrichment does not apply because PIATCO has not received anything from the Republic that the latter believes is not owed. Instead, it is the Republic that has taken and benefited from NAIA-IPT III, and that has withheld the just compensation due to PIATCO.[81] Thus, just compensation determined as of the time of taking correctly earns interest from the time of taking until fully paid to the property owner.[82]

Finally, PIATCO maintains that the Republic failed to establish that NAIA-IPT III was structurally defective.[83] And since the Republic is expropriating the entire terminal, then it shall also pay for the value of the "unnecessary areas."[84]

PIATCO's Comment to Takenaka and Asahikosan 's Partial Motion for Recons ideration

PIATCO argues that Takenaka and Asahikosan's prayer for the Court to set aside a certain portion of the just compensation to cover the London awards lacks legal basis. Section 4(a) of RA 8974 (i.e., direct payment to the property owner) applies when the issue of ownership of the expropriated property is not disputed as in the present case.[85]

On this point, PIATCO invokes the Court's Decision where it held that "in Philippine jurisdiction, the person who is solely entitled to just compensation is the owner of the property at the time of taking. The test of who shall receive just compensation is not who

built the terminal but rather who its true owner is."[86] The Court has consistently recognized that PIATCO is the owner of NAIA-IPT III. Takenaka and Asahikosan have not shown that they possess legal title to the NAIA-IPT III.[87]

PIATCO further claims that, contrary to Takenaka and Asahikosan's claim, there is no "secured valid money judgments" against it, considering that the enforcement of the London awards is still pending with the Court in G.R.No. 202166.[88]

Takenaka and Asahikosan's Comment to the Republic's Motion for Reconsideration

Takenaka and Asahikosan urge the Court to set aside, in an escrow account, a portion of the just compensation. They argue that this method would relieve the NAIA-IPT III of the biggest possible lien that could be asserted against it.[89]

While Takenaka and Asahikosan admit that the enforcement of the London awards is still awaiting decision, they propose that the Court opt for either of two actions: (1) set aside the amount of US$87.5Million; or (2) await the decision of the Second Division in the enforcement case (G.R. No. 202166).[90]

Takenaka and Asahikosan maintain that the design of the NAIA-IPT III is, and always has been, structurally sound. They insist that the Republic failed to prove its claim that the NAIA-IPT III was structurally defective.[91]

We note Takenaka and Asahikosan's *Reply*[92] reiterating their position that they are not asking to be directly paid a portion of the just compensation, but merely for the Court to set aside the amount corresponding to the London awards. They posit that if the Court does not set aside the said amount and they eventually prevail in the enforcement case, there is a danger that they would not be paid if PIATCO chooses to ignore their claim and absconds with the money.

V. Our Ruling

We **partly grant** the Republic's motion for reconsideration and **deny** the partial motions for reconsideration of PIATCO and Takenaka and Asahikosan.

A. On the application of the depreciated replacement cost method in computing just

compensation in the present case

We disagree with PIATCO's arguments that the application of the depreciated replacement cost method is not allowed under RA 8974.

The payment for property in expropriation cases is enshrined in Section 9, Article III of the 1987 Constitution, which mandates that no private property shall be taken for public use without payment of just compensation.[93] The measure of just compensation is **not the taker's gain, but the owner's loss.**[94] We have ruled that just compensation **must not extend beyond the property owner's loss or injury**. This is the only way for the compensation paid to be truly just, not only to the individual whose property is taken, but also to the public who shoulders the cost of expropriation. Even as undervaluation would deprive the owner of his property without due process, so too would its overvaluation unduly favor him to the prejudice of the public.[95]

To this end, statutes such as RA 8974 have been enacted, laying down guiding principles to facilitate the expropriation of private property and payment of just compensation.[96]

However, we must bear in mind that the determination of just compensation is primarily a judicial function that may not be usurped by any other branch or official of the Republic. In *National Power Corporation v. Bagui*,[97] this Court ruled that any valuation for just compensation laid down in the statutes may serve **only as a guiding principle** or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount. In fact, in *National Power Corporation v. Purefoods Corporation,*[98] we held that just compensation standards derived from statutes such as RA 8974, are not binding on this Court.

The nature of the provisions in RA 8974 as mere guidelines to this Court, as opposed to being mandatory rules, cannot be denied. *First*, while Section 10, RA 8974 IRR uses the word "shall" in referring to the use of the replacement cost method in determining valuation of the improvements and/or structures on the land to be expropriated, connoting that such use is mandatory, the directive/mandate is *addressed, not to this Court, but to the Implementing Agency*[99] or the department, bureau, office, commission, authority, or agency of the national government, including any government-owned and -controlled corporation or state college or university, concerned and authorized by law or its respective charter to undertake national government projects.[100] *Second,* Section 13, RA 8974 IRR explicitly states that the court *shall* determine the just compensation to be paid to the owner of the property, *considering* the standards set out in Sections 8, 9, and 10 thereof.[101] Clearly, the Court may consider the guidelines set, but it cannot be bound by these

guidelines.

At best, any finding on just compensation using the methods set forth in the statute is merely a preliminary determination by the Implementing Agency, subject to the final review and determination by the Court. While we may be guided by the replacement cost of the property, just compensation will be ultimately based on the payment due to the private property owner for his actual loss - the fundamental measure of just compensation compliant with the Constitution.[102]

Further, when acting within the parameters set by the law itself, courts are not strictly bound to apply the formula to its minutest detail, particularly when faced with situations that do not warrant the formula's strict application. The courts may, in the exercise of their discretion, relax the formula's application to fit the factual situations before them.[103]

In the present case, we adopted the depreciated replacement cost method as a guideline in the computation of just compensation; at the same time, we reconciled this method with our duty to award just compensation as a constitutional mandate to compensate the owner with his *actual loss.*[104]

In our Decision, we compared the different replacement cost methods,[105] such as the **replacement cost new method** and the **depreciated replacement cost method**. Notably, these are recognized methods in appraising properties.

As we clearly explained, we did not adopt the *new replacement cost method* because in doing so, PIATCO would be compensated for m*ore than it actually lost.*[106] We emphasize our ruling that "*[i]njustice would result if we award PIATCO just compensation based on the new replacement cost of the NAIA-IPT III, and disregard the fact that the Republic expropriated a terminal that is not brand new; the NAIA-IPT III simply does not have the full economic and functional utility of a brand new airport*."[107]

We therefore ruled that PIATCO would be compensated for its **actual** loss if we adopt the ***depreciated replacement cost approach***.[108] It is defined as a "method of valuation which provides the current cost of replacing an asset with its modern equivalent asset *less deductions for all physical deterioration and all relevant forms of obsolescence and optima[z]ation."*[109]

Adjustments for depreciation should be made to reflect the differences between the modern equivalent asset and the actual asset or the NAIA-IPT III. The reason is that depreciation involves the loss of value caused by the property's reduced utility as a result of damage, advancement of technology, current trends and tastes, or environmental changes.[110]

PIATCO, however, argues that depreciation begins when the asset is available for use and continues until the asset is derecognized and, as such, NAIA -IPT III could be subject to depreciation only in the hand of the Republic after the Republic operated it, which took place after the taking on December 21, 2004.[111]

In our Decision, we clarified the difference between "depreciation" in the contexts of valuation and financial accounting. In financial accounting, depreciation is a process of allocating[112] the cost of a plant asset over its useful (service) life.[113] The need exists to determine when an asset is available for use in order to identify the periods within which cost must be allocated.

Depreciation in valuation/appraisal, on the other hand, is the "reduction or writing down of the cost of a modern equivalent asset to reflect the obsolescence and relative disabilities affecting the actual asset" or "loss in any value from any cause."[114] Hence, for purposes of appraisal, an asset may not yet be available for use within the context of financial accounting, but its value has nevertheless depreciated due to factors affecting its intended use and function.

In sum, even *assuming* PIATCO's claim that an asset only begins to depreciate when it is available for use (that is, the NAIA-IPT IIII only began to depreciate when the Republic filed the expropriation complaint on December 21, 2004, not on December 2002 when construction was suspended), is *accurate,* we are not precluded from adopting a method that is more in line with the settled jurisprudence that the measure of the award of just compensation is the owner's *actual loss and not the taker's gain.*

In these lights, we maintain our ruling that **the depreciated replacement cost applies** in computing just compensation in the present case. In applying this method, the owner is compensated for his actual loss at the date of taking of the expropriated property. Consequently, the deduction from the construction cost of the deterioration and depreciation items is permissible under RA 8974.

B. PIATCO's arguments against the deeds' computation of the deterioration items

We also disagree with PIATCO's argument that Gleeds could not have correctly computed the deterioration items of the NAIA-1PT III structure from December 2002 to December 2004 because Gleeds first visited NAIA-IPT III only in May 2006. PIATCO adds that Gleeds failed to show how the sums for deterioration were derived, and Scott Wilson stated that Gleeds' computation did not **seem** fair and reasonable.

We find that the Gleeds Report contains sufficient explanation on the methodology that Gleeds followed in arriving at its conclusion on deterioration since the suspension of the NAIA-IPT Ill's construction in December 2002.

At pages 2 and 28 of Gleeds Report dated November 15, 2010, Tim Lunt stated that:[115]

> 1.1 Instructions
>
> xxxx
>
> 1.1.2
>
> - With the help of the Republic's airport architectural and engineering experts, determine the cost to remedy the deterioration in the Terminal 3 facility stemming from the suspension of work in early 2002 xxx.
>
> **Deterioration**
>
> xxxx
>
> 3.2.7 The Arup Site Observation Report identifies a number of items which have deteriorated since suspension of the construction of Terminal 3 in December 2002.
>
> 3.2.8 A provisional value has been assessed against the items identified in the Arup report at $1,738,318. The deterioration items have been costed with a base date of 2009. Calculation of this amount is contained in Appendix 'E.' Further examination and costing of each of the identified items are required and, therefore, the costs of these items will require adjustment based on the actual date when the rectification works are carried out.

At pages 26-27 of the Scott Wilson Report dated December 1, 2010,116 Scott Wilson replied to the above Gleeds findings. Scott Wilson commented that the sum arrived at had no documentary support. Thus:

> 3.6.1 Gleeds have deducted from the Base Value CCV deterioration items made up as follows xxx.

> 3.6.2 The major deduction is for the baggage system but the Gleeds document does not show how any of these sums are derived.
>
> 3.6.3 It is noted the baggage system requirements was to handle 8000 bags per hour. According to section 8.3 of the Arup March 2007 report that following 9/11 that significant changes were made to the Employers Requirements to incorporates (sic) alternative screening technology, requiring a reduced capacity of 6500 bags per hour (Section 8.3.3.4 Arup March 2007 Report) and testing showed it handling between 6250 to 6500 bags per hour.
>
> 3.6.4 Of the 80 items listed against the baggage system in Volume 2, Section K of the Arup March 2007 none are noted as Non Code Compliant, 10 fall under the "Not Best Practice" headings. There are none in the "Does Not Confirm to Technical Requirements."
>
> 3.6.5 **We therefore do not understand how the above reduction of US$1.13 million has been derived and it does not seem fair and reasonable**. (emphasis supplied)

PIATCO relies on the above statement of Scott Wilson that Gleeds' computation of deterioration "does not seem fair and reasonable."

PIATCO's reliance on the Scott Wilson's findings was misplaced. Scott Wilson's statement on the unreasonableness of Gleeds' computation only pertains to the baggage handling item out of the seven (7) deterioration items.

At any rate, Gleeds sufficiently showed how it arrived at the amount of deterioration. We quote Gleeds' answer in page 16 of its Reply dated December 22, 2010[117] to the Scott Wilson Report, as follows:

> 54. The cost associated with deterioration are (sic) set out in Appendix E, Part 1 of the CCV. The detailed calculation of the amounts for deterioration was included in the Appendices to the CCVs. **Scott Wilson does not appear to have been provided with the relevant appendices to my CCV**. The cost of deterioration to the baggage handling system is shown in the detailed calculation. The total deduction from the CCV associated with deterioration is US$1,738,318.

We therefore maintain our ruling applying the depreciated replacement cost method to

serve the purpose of just compensation, which is to compensate the owner for his actual loss.

C. The arguments of the Republic and PIATCO on the imposition of interest

Before we separately address the Republic and PIATCO's arguments, we first expound on the reason for the imposition of interest in case of delay in the payment of just compensation. While we have exhaustively discussed in our Decision the legal and jurisprudential bases for the imposition of interest,[118] we find it helpful to review the basic facts of the case and highlight key legal concepts that can illuminate our ruling.

We stress that the Republic **chose** to expropriate the NAIA-IPT III, and was fully cognizant of the legal and practical effects of filing an expropriation complaint. After choosing this legal remedy, the Republic cannot now disclaim knowledge or feign ignorance of the implications of this choice in an attempt to evade paying interest.

The Republic owes PIATCO a specific sum of money.

We remind the Republic that PIATCO, through its subcontractors, built the NAIA-IPT III.

The Republic later took over the NAIA-IPT III in the exercise of its power of eminent domain. By so doing, the Republic became legally obliged to pay PIATCO the value of the property taken. This obligation arises from the constitutional mandate that private property shall not be taken for public use without just compensation.[119]

Subsequently, the Court determined the monetary value of the NAIA-IPT III, which sum the Republic now owes PIATCO as payment for the NAIA-IPT III. In short, it is currently *indebted* to PIATCO for the monetary value of the NAIA-IPT III less the proffered value.

The Republic has not yet fully paid its debt.

The Republic took over the NAIA-IPT III on September 11, 2006 upon payment of the proffered value. The Republic's possession of the NAIA-IPT III had twin effects: (1) PIATCO was effectively deprived of the possession of the property; and (2) PIATCO's right to the payment of the just compensation accrued as a matter of right.

Applying Section 10 of Rule 67, we held in our Decision that the condemnor incurs delay if it does not pay the property owner the full amount of just compensation on the date of taking.[120] This rule requires the Republic to perform two essential acts in order *not* to incur delay: (1) pay the full amount of just compensation and (2) pay the full amount of

just compensation on time, *i.e.,* on the date of taking.

Upon its failure to pay, the Republic has been in *continuing delay*, which delay carries legal consequences.

As a consequence of the Republic's continuing delay in paying the full amount of just compensation, it is legally obliged to pay interest.

As explained in our Decision, "the interest in eminent domain cases runs as a *matter of law* and follows as a *matter of course* from the right of the [owner] to be placed in as good a position as money can accomplish, *as of the date of taking.*"[121]

We also recognized that the just compensation due to the property owner is effectively a *forbearance of money*.[122] Forbearance of money refers to "arrangements other than loan agreements, where a person acquiesces to the temporary use of his money, goods or credits pending happening of certain events or fulfillment of certain conditions."[123]

In such arrangements, "the [*creditors*] are entitled not only to the return of the principal amount paid, but also to compensation for the use of their money. And the compensation for the use of their money, absent any stipulation, should be the same rate of legal interest applicable to a loan since the use or *deprivation of funds is similar to a loan*"[124]

Applying these concepts in the present case,- it can readily be seen that PIATCO "*acquiesced" to the temporary use of its money* (the monetary value of NAIA-IPT III) *by the Republic while the expropriation case was pending*. We note that during the pendency of the expropriation case, PIATCO had already been dispossessed of NAIA-IPT III but had not yet received the monetary equivalent of the property taken from it.

Plainly, PIATCO is entitled to the award of interest as compensation for the use of *its money,* computed from the time of taking of the NAIA-IPT III until full payment of the just compensation.

As we also noted in the Decision, Central Bank Circular No. 905, later amended by BSP Circular No. 799, provides for the rate of legal interest for forbearance of money (*i.e.*, from 12% per annum to 6% per annum, effective July 1, 2013).

In sum, **the Republic owes PIATCO the unpaid portion of the just compensation and the interest on that unpaid portion, which interest runs from the date of taking (September 11, 2006) until full payment of the just compensation**. Thus, any argument that wholly or partly assails this legal conclusion must fail.

C.I. On the Republic's argument that PIATCO is not entitled to the interest award on the unpaid portion of the just compensation because the traditional notion of expropriation is inapplicable.

The Republic alleges that the traditional notion of expropriation is inapplicable in the present case and that the principles of restitution and unjust enrichment should apply, supposedly pursuant to *Agan* and *Gingoyon*.

The Republic's contention lacks merit.

In our 2004 *Agan* Resolution, we held that "*[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures. The compensation must be just and in accordance with law and equity for the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors*."[125]

The statement in our 2004 Agan Resolution that the "*Republic cannot unjustly enrich itself at the expense of PIATCO and its investors*" should be understood in a way consistent with its preceding statement that "*[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures*." We would read too much in the above Agan pronouncement if we adopt the Republic's view that the Court had already envisioned the applicability of the principles of restitution and unjust enrichment on the yet unfiled expropriation case.

We should remember that the core of *Agan* was **merely** the nullification of the concession agreements. The Republic had not yet taken any legal step at that point to acquire the NAIA-IPT III; hence, the Court could not have validly and finally ruled in Agan on the applicable laws in relation to the Republic's acquisition of the NAIA-IPT III. The statement in **Agan** merely instructs that the Republic cannot take over the NAIA-IPT III without paying PIATCO compensation for the structure to avoid the Republic's unjust enrichment at the expense of PIATCO and its investors.

It is undisputed that **the Republic subsequently chose to acquire the NAIA-IPT III by exercising its power of eminent domain** when it filed its expropriation complaint on December 21, 2004. The RTC's several early rulings in this expropriation case led to *Gingoyon*.

We ruled in Gingoyon that "*[i]n addition to Rep. Act No. 8974, the 2004 Resolution in Agan also mandated that the payment of just compensation should be in **accordance with equity as well**. Thus, in ascertaining the ultimate amount of just compensation, the duty of*

the trial court is to ensure that such amount conforms not only to the law, such as Rep. Act No. 8974, but to principles of equity as well."[126]

In our Decision now on reconsideration, *we simply pursued the above directive in Gingoyon*. Specifically, we applied the law, RA 8974, and equity in: (1) adopting the depreciated replacement cost method in computing just compensation; and (2) adjusting the computed 2002 replacement cost of NAIA-IPT III to its 2004 value.

By adopting the depreciated replacement cost method, we took into consideration that the Republic did not expropriate a brand new airport at the time of taking on December 21, 2004.[127] Similarly, we considered that PIATCO should be compensated for the 2004 value of the airport by adjusting the 2002 computed construction cost to its 2004 value by using the consumer price index.[128]

In applying RA 8974 and equity in our computation of just compensation, **we** *thus complied with the mandate of Agan* that the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors. We did this by ordering the Republic to pay just compensation, *in the context of expropriation, which the Republic itself filed to acquire the NAIA-IPT III.*

In applying *Agan* and *Gingoyon*, we also fulfilled our duty to award compensation that is fair and just both to the Republic and PIATCO.

Consequently, we cannot adopt Justice Panganiban's concurring opinion in Agan prescribing the application of the principle of *quantum meruit*; his opinion - it should be noted - had never been made a part of the majority decision.

In these lights, we deny the Republic's argument that we should not impose interest on the just compensation award to PIATCO.

C.2. On the Republic's argument that PIATCO is not entitled to the interest award in view of PIATCO's bad faith, leading to the nullification of the concession agreement.

We remind the Republic that what it filed before the RTC was an action for expropriation. Hence, there is no reason to doubt that the Republic was fully aware of the *legal realities* (*i.e.*, the law, rules and prevailing jurisprudence governing expropriation cases) attendant to such filing. We thus reject any opposition to the imposition of interest that has no relation to the settled rules on expropriation, such as PIATCO's alleged bad faith.

In expropriation cases, our jurisprudence has established that interest should be paid on the computed just compensation due when delay in payment takes place, *i.e, regardless* of PIATCO's *alleged* bad faith in contracting with the Republic.

We have consistently ruled that just compensation does not only refer to the full and fair equivalent of the property taken; it also means, equally if not more than anything else, payment in full without delay.[129] The basis for the imposition of interest in cases of delay is none other than our Constitution which commands the condemnor to pay the property owner the *full and fair equivalent* of the property *from the date of taking*. This provision likewise presupposes that the condemnor incurs delay if it does not pay the property owner the *full amount of just compensation on the date of taking.*[130]

In other words, interest on the unpaid compensation becomes due as compliance with the constitutional mandate on eminent domain and as a basic measure of fairness.[131] The owners' loss is not only his property but also its income-generating potential.[132]

We disagree with the Republic's position that PIATCO's bad faith in the nullified concession agreements should negate any award of interest in its favor. We disagree, too, with the Republic's argument that PIATCO has no income-generating capacity as it no longer has the right to operate the NAIA-IPT III under the nullified concession agreements.

In advancing these arguments, the Republic confuses its *right of action arising from the nullification of the concession agreement and its right of action arising from the exercise of its power of eminent domain.* These two rights of action are totally distinct from each other, giving rise to distinct rights and obligations among the parties to the case, and prescribing distinct proceedings before the courts.

At the risk of repetition, we stress that *the Republic availed of the remedy of expropriation* rather than a case arising from the nullification of contract. Thus, issues such as PIATCO's bad faith resulting in the nullification of the concession agreements may not be properly considered in the present case.

Since the Republic *chose* to file the present expropriation case to acquire NAIA-ITP III, we are bound to follow the appropriate expropriation proceeding, the settled jurisprudence in expropriation case, and use the applicable expropriation laws and rules as guiding principles.

For these reasons, we maintain our ruling imposing interest on the computed just compensation (less the proffered value).

C.3. On the Republic's argument that PIATCO is not entitled to the interest award as it caused the delay in the computation of just compensation.

We now resolve the Republic's argument that PIATCO is not entitled to interest, as it is guilty of delay in the expropriation proceedings for the computation of just compensation.

In pursuing this argument, the Republic forgets that the *delay* in the *payment* of just compensation, *and not the delay in the proceedings for its computation*, is the legal basis for the imposition of interest on the unpaid just compensation.

m our Decision, we imposed the interest on the unpaid just compensation starting September 11, 2006 when the writ of possession granted in favor of the Republic became effective. We ruled that, in view of the effectivity of the writ of possession on September 11, 2006, *the Republic effectively deprived PIATCO of the ordinary use of the NAIA-IPT III as of this date*[133] and PIATCO could no longer exercise all the attributes of ownership over NAIA-IPT III, particularly the right of possession.

In expropriation cases, the State must pay for the shortfall in the earning potential immediately lost due to the taking, and the absence of a replacement property from which income can be derived. We established this rule in order to comply with the constitutional mandate that the owner of the expropriated property must be compensated for his actual loss; the income-generating potential is part of this loss and should therefore be fully taken into account.[134]

Clearly, the concept of delay for purposes of the imposition of interest on the unpaid just compensation is based on the *effect on the owner's rights* of the Republic's non-payment of the full amount of just compensation at the date the possession and effective taking of the expropriated property took place.

While the delay in the computation of just compensation (because of the protracted proceeding) may also delay the payment of just compensation, we note that, in this case, the delay was *not* entirely attributable to any particular party, *i.e.*, to PIATCO and/or Takenaka and Asahikosan, as the Republic contends. The "delay" arose because all the parties to the case had *taken procedurally permissible steps* in order to protect their respective interests; the complexity, too, of appraising a specialized property like the NAIA-IPT III cannot likewise be discounted.

We remind the Republic that the computation of just compensation is not always a simple affair and may take time, particularly in the case of a specialized property like the NAIA-IPT III. Delay should not be imputed on the owner alone unless it delayed the proceedings

purposely and unreasonably. The facts of the present case do not show that neither PIATCO nor Takenaka and Asahikosan purposely and unreasonably acted to cause delay. The more tenable view is that all the parties took remedial measures, within legitimate and reasonable limits, to protect their respective claims, thus, the belated determination of the just compensation.

For all these reasons, the Republic would have to pay the amount of just compensation computed as of the date of the effective taking (December 21, 2004) plus the interest which runs from the date it took possession and *actually* took over the property (September 11, 2006), regardless of the perceived delay in the determination of just compensation.

C.4 PIATCO's arguments on the reckoning period of the interest award from September 11, 2006

We now address PIATCO's arguments on the imposition of interest on the unpaid just compensation awarded to it.

PIATCO first questions the reckoning period of the interest.that we imposed on the unpaid just compensation. PIATCO argues that since the Republic *actually* took possession of NAIA-IPT III on December 21, 2004 (the date of filing of the complaint for expropriation), then it should be the reckoning period of the interest payment and *not* on September 11, 2006 when the writ of possession was reinstated. Furthermore, the delay in the payment of the proffered value on September 11, 2006 was due to the Republic's fault, which should not prejudice PIATCO.

We do not find PIATCO's arguments persuasive.

PIATCO's unsupported claim that the Republic *actually* took possession of the NAIA-IPT III on December 21, 2004 cannot be a valid basis for us to reckon the accrual of the interest on that date.

We cannot also accord merit to PIATCO's reliance on the RTC's order dated January 7, 2005 where it stated that the Republic actually took possession of NAIA-IPT III on December 21, 2004.

We note that the RTC issued its January 7, 2005 order *without motion and hearing*[135] from which it could properly infer its factual statement on the Republic's actual possession of the NAIA-IPT III on December 21, 2004.

Significantly, *Gingoyon* noted that this January 7, 2005 order was issued without prior consultation with either the Republic or PIATCO.[136] Furthermore, we note that the

Republic's alleged possession was not the issue resolved in the RTC order; the crux of the order was the RTC's appointment of commissioners.

Gingoyon is the case that settled the basis and standards for the *effectivity of the writ of possession in favor of the Republic.* In ruling, therefore, that the interest should be reckoned from September 11, 2006, our basis was our final and executory ruling in Gingoyon, which is undisputably applicable in the present case.

To recall, the writ of possession was the subject of two (2) conflicting RTC orders - the first was the December 21, 2004 order based on Rule 67; the second was the January 4, 2005 order based on RA 8974 instead of Rule 67.

The January 4, 2005 order ***supplemented*** the December 21, 2004 order and effectively imposed more stringent requirements as conditions for the effectivity of the December 21 writ of possession. Notably, the Republic, pending *Gingoyon*, did not have to comply with the conditions in the January 4, 2005 order as we had issued in its favor a temporary restraining order and preliminary injunction against its implementation. The effectivity of the writ of possession was therefore *still then* at issue in *Gingoyon*.

In *Gingoyon*, we reconciled *Agan*, RA 8974 and Rule 67 in: (1) resolving the *effectivity of the writ of possession* issued in favor of the Republic; and (2) determining the standards in computing just compensation. We pointed out that the RTC erroneously relied on Rule 67 in issuing the December 21, 2004 writ of possession; we also ruled on the RTC's misapplication of RA 8974 in issuing the January 4, 2005 order.

On the pre-requisites for the effectivity of the writ of possession, we ruled that FLA 8974 guarantees compliance with the Agan requirement that just compensation be first paid to PIATCO before the Republic could takeover the NAIA-IPT III. Specifically, RA 8974 assures the private property owner the payment of, *at the very least*, the proffered value of the property to be seized. We also ruled that *the payment of the proffered value to the owner, followed by the issuance of the writ of possession* in favor of the Republic, is precisely the scheme under RA 8974, one that facially complied with the prescription laid down in the 2004 Agan Resolution.

Consequently, in *Gingoyon, we held in abeyance the writ of possession dated December 21, 2004* pending proof of the Republic's actual payment to PIATCO of the proffered value of the NAIA-IPT III of F3,002,125,000.00. *We expressly ruled that the Republic would be entitled to the writ of possession only once it pays PIATCO the amount of the proffered value.*

On the effects of an effective writ of possession, we also held in Gingoyon that upon the effectivity of the writ of possession, the Republic is authorized to perform the acts that are

essential to the operation of the NAIA-IPT III as an international airport terminal. These acts include the repair, reconditioning, and improvement of the complex, maintenance of the existing facilities and equipment, installation of new facilities and equipment, provision for services and facilities pertaining to the facilitation of air traffic and transport, and other services that are integral to a modern-day international airport.[137]

It is undisputed that **the Republic tendered to PIATCO the proffered value on September 11, 2006, *leading to the reinstatement of the writ of possession in favor of the Republic on the same day***.[138]

Thus, applying *Gingoyon*, we ruled in our Decision now under challenge, that *the reinstatement of the writ of possession on September 11, 2006 empowered the Republic to take the property for public use, and to effectively deprive PIATCO of the ordinary use of the NAIA-IPT III*.[139]

Based on these considerations, we maintain our ruling that the interest on the just compensation (less proffered value) should accrue only from September 11, 2006 when the Republic effectively deprived PIATCO of the ordinary use of the NAIA-IPT III.

C.5 On PIATCO's arguments that it should not be prejudiced by the Republic's delay in paying the proffered value

We disagree with PIATCO that the Republic deliberately refused to pay the proffered value, resulting in the delay of its payment.

We find that the Republic's filing of the *Gingoyon* case was a reasonable legal move in view of the two (2) RTC orders relative to the effectivity of the writ of possession. These two orders contained different bases, amounts, and modes for payment for purposes of the effectivity of the writ of possession. Furthermore, we note that in *Gingoyon*, we issued a temporary restraining order and preliminary injunction against the RTC order dated January 4, 2005 and only lifted the TRO in our decision dated December 19,2005.

We further note that we resolved the motion for reconsideration in Gingoyon on February 1, 2006. Thereafter, supervening events occurred that delayed the payment of the P3 billion proffered value. Thus:

- On April 11, 2006, the RTC ordered the BOC to resume its duties.
- On April 26, 2006, the Republic asked the RTC to stop the payment of P3 billion

proffered value in view of an alleged supervening event - the collapse of the ceiling of the arrival lobby section of the north side of the NAIA-IPT III on March 27, 2006. The Republic informed the Court that the MIAA requested the Association of Structural Engineers of the Philippines (ASEP) to investigate the cause of the collapse.[140]

- On June 20, 2006, the RTC ordered Land Bank to immediately release the amount of P3 billion to PIATCO. The RTC ruled that the collapse of a portion of the NAIA-IPT III was not a supervening event that would hinder the payment of the proffered value to PIATCO. *In compliance with this order, the Republic tendered to PIATCO a P3 billion check on September 11, 2006. On the same day, the RTC reinstated the writ of possession in favor of the Republic.*[141]

In view of these RTC proceedings prior to the payment of the P3 billion proffered value on September 11, 2006, we cannot agree with PIATCO that the Republic *deliberately refused to pay* this amount. The supervening events leading to the Republic's filing of cases and motions before the RTC and the lapse of less than three (3) months from the RTC's order to release the P3 billion proffered value until its payment are reasonable developments in the case that could not be taken against the Republic.

C.6 On PIATCO's arguments that the computation of interest should consider leap years 2008 and 2012

We now resolve PIATCO's argument that the interest awarded to it should include leap years. According to PIATCO, the Court may have failed to consider the leap years, specifically years 2008 and 2012, where there were supposed to be 366 days instead of just 365 days as stated in the Decision.

We disagree with PIATCO's contention.

We compute interest rates of 12% or 6% *per annum* on a yearly basis, as the term suggests, without distinguishing whether it is a leap year or not. While our computation on pages 123-124 of our Decision indicated that 2008 and 2012 had 365 days, we computed the 12% per *annum* interest equivalent to one whole year of interest for these years.

Notably, Article 13 of the New Civil Code states that "*when the laws speak of years, it shall be understood that years are of three hundred sixty-five days each.* " Since our interest rate is applied on a per *annum* basis or per **year** basis, we apply the general rule that the imposition of interest rate per *annum* means the imposition of the *whole interest rate for one whole* **year**, regardless if it is composed of 365 or 366 days.

Nevertheless, we correct pages 123-124 of the Decision to reflect the proper number of days in years 2008 and 2012, which is 366 days.

C.7 On PIATCO's reference to the typographical errors in our Decision on the CA 's ruling on interest

We agree with PIATCO's observation that the correct CA's ruling was its computation of interest starting December 21, 2004 as reflected at page 42 of our decision. Hence, we correct page 41 of our decision to read as follows:

> **Interest**. The CA further held that interest shall be added to just compensation as of December 21, 2004. xxx

Nevertheless, for reasons already explained above, we maintain our ruling that the reckoning period for the computation of interest on the just compensation is September 11, 2006.

D. PIATCO's arguments on the attendant costs

We disagree with PIATCO's argument that the Court should have considered the photocopies of PIATCO's documents supporting attendant costs.

PIATCO cannot rely on the affidavit of Atty. Tolentino who allegedly identified the photocopied documents supporting attendant costs. The Court observed that *the alleged affidavit of Atty. Tolentino does not have any signal are above his name as the affiant*.[142] Hence, his affidavit cannot be said to have at least substantially complied with the requirements laid down in Sections 3(a), (b), and/or (d) of Rule 130 of the Rules of Court for the admissibility of photocopies as secondary evidence.

We therefore maintain our ruling that PIATCO's documents allegedly supporting the attendant costs are hearsay evidence.[143]

With respect to the effect of the alleged non-objection of the parties to the presentation of these photocopy documents, we have ruled in *PNOC Shipping and Transport Corporation v. CA et al.*[144] that a hearsay evidence has no probative value and should be disregarded whether objected to or not.

> **The courts differ as to the weight to be given to hearsay evidence admitted without objection.** Some hold that when hearsay has been admitted without objection, the same may be considered as any other properly admitted testimony. **Others maintain that it is entitled to no more consideration than if it had been excluded**.
>
> **The rule prevailing in this jurisdiction is the latter one**. Our Supreme Court held that although the question of admissibility of evidence cannot be raised for the first time on appeal, yet **if the evidence is hearsay it has no probative value and should be disregarded whether objected to or not.** "If no objection is made" — quoting Jones on Evidence — "it (hearsay) becomes evidence by reason of the want of such objection even though its admission does not confer upon it any new attribute in point of weight. **Its nature and quality remain the same, so far as its intrinsic weakness and incompetency to satisfy the mind are concerned, and as opposed to direct primary evidence, the latter always prevails.**
>
> The failure of the defense counsel to object to the presentation of incompetent evidence, like hearsay evidence or evidence that violates the rules of *res inter alios acta,* or his failure to ask for the striking out of the same does not give such evidence any probative value. But admissibility of evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not has no probative value. (Emphasis supplied)

Notably, the BOC, the RTC, and the CA unanimously disregarded PIATCO's documents in considering the attendant costs in their respective computations of the just compensation. The BOC and the RTC awarded the attendant costs based only on industry practice because PIATCO failed to substantiate its claimed attendant costs.

More importantly, we reiterate that we cannot give weight to the summary prepared by Reyes, Tacandong & Co. for being double hearsay. Aside from failing to state that it examined the original documents allegedly proving attendant costs, it also stated that it did not "express any assurance on the attendant costs."[145] Thus, our ruling on attendant costs remains.

D.I On PIATCO's statement that the Court misquoted item 3.1.17 of the Scott Wilson Report on attendant costs

We now address PIATCO's averment that the Court should revisit its ruling on the

attendant costs as we misquoted item 3.1.17 of the Scott Wilson Report at page 99 of our Decision.

The quote in our Decision states that PIATCO paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC, and these payments appear "**not reasonable.**" PIATCO pointed out that the correct phrase is "**not unreasonable**." Hence, we should award the attendant costs on the basis of the Scott Wilson's finding that these are **reasonable.**

We disagree with PIATCO's reasoning.

While it is true that there had been a misquote of item 3.1.17 of the Scott Wilson Report, our findings in disregarding the attendant cost did not rise and fall on this quoted item of the report. The relevance of this quote, as is obvious in the Decision, was merely to compare the Scott Wilson Report and the Gleeds report on attendant cost. We did not grant PIATCO's claimed attendant costs, as it *failed* to substantiate its claim.

Nevertheless, we correct page 99 of the Decision to reflect the correct quote of item 3.1.17 of the Scott Wilson Report, as follows:

> 3.1.17 On the basis of a construction cost valuation of the order of US$322 million we would expect the cost of construction supervision to be a minimum of US$9.5 million. It is understood that PIATCO have paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC and this therefore appears not unreasonable.

E. On the Republic's arguments on structural defect, unnecessary areas, and rectification for contract compliance

We deny the Republic's argument that the amount pertaining to structural defects should be deducted from the construction cost.

The Republic's arguments on the *structural defects* of the NAIA IPT-III were sufficiently discussed in our Decision. Although the Scott Wilson Report admitted that retrofit works needed to be done, the Republic failed to submit documents before the lower courts supporting the retrofit project. Furthermore, we noted that the retrofit bid took place in 2012, or after the promulgation of the RTC's ruling.[146]

In view of the equally persuasive arguments of the Republic on the one hand, and PIATCO, Takenaka and Asahikosan, on the other, the equiponderance rule applies against the Republic.

Similarly, we sufficiently explained in our Decision our ruling on the Republic's arguments pertaining to the unnecessary areas and the rectification for contract compliance.

In computing the just compensation in the present case, we have included the amount allegedly pertaining to the *unnecessary areas*, such as the excess concession space and the four-level retail complex. We ruled that since the Republic would expropriate the *entire* NAIA-IPT III, the Republic should pay for these structures.

We reiterate that the present case stemmed from an expropriation case. Hence, the standards and parameters for computing just compensation should be in line with the nature of the action before us.[147]

Notably, just compensation in expropriation cases is defined "*as the full and fair equivalent of the property taken from its owner by the expropriator.* The Court repeatedly stressed that the true measure is not the taker's gain but the owner's loss. The word 'just' is used to modify the meaning of the word 'compensation' to convey the idea that *the equivalent to be given for the property to be taken shall be real, substantial, full and ample.*[148]

We therefore consider the NAIA-IPT III structure as a whole for purposes of computing just compensation.

On the issue of *rectification for contract compliance*, we maintain our ruling that this should not be excluded from the computation of just compensation. We ruled that there could not be rectification works to comply with a void contract.[149]

We have succinctly ruled that *"the [Republic] cannot complain of contract noncompliance in an eminent domain case, whose cause of action is not based on a breach of contract, but on the peremptory power of the State to take private property for public use.*"[150]

Additionally, we referred to Scott Wilson's observation that the non-compliant items, except for the moving walkway, are "functional."[151] It is therefore proper that these form part of the just compensation in order to serve its purpose to fully compensate the owner for its actual loss.

We noted in our Decision that should the Republic decide to construct the moving walkway, the amount spent therefore cannot be determined in the present expropriation case as we are merely tasked to determine the value of NA[A-IPT III at the time of taking.

[152]

We therefore deny the Republic's arguments in its motion for reconsideration with respect to the structural defects, unnecessary areas, and rectification for contract compliance.

F. On PIATCO's arguments that it should be refunded of the amount it paid for the BOC expense

We disagree with PIATCO's argument that the Court erred in ruling that PIATCO had waived its right not to share in the BOC expenses.

In resolving this issue, it is necessary to trace the proceedings relating to the parties' sharing of the BOC expenses.

On June 15, 2006, the BOC filed a request for the release of a mobilization fund of P1,600,000.00.[153] The RTC approved the request and directed the **Republic** and **PIATCO** to equally share the BOC's expenses.[154] *The Republic and **PIATCO** complied with this order and tendered the sum of P1,600,000.00 to the BOC*.[155]

On December 7, 2010, the RTC directed PIATCO and the Republic to pay the amount of P5,250,000.00 on a fifty-fifty basis or for P2,625,000.00 each to defray the BOC expenses. *Aside from paying the amount ordered by the RTC, PIATCO did not question the RTC orders dated June 15, 2006 and December 7, 2010.* The Republic, on the other hand, filed a motion for partial reconsideration, on the grounds that the amount was excessive and arbitrary and that the Intervenors (Takenaka and Asahikosan) should likewise shoulder part of the BOC expenses.

The RTC issued an order on March 11, 2011, granting the Republic's prayer that the Intervenors Takenaka and Asahikosan should share in the BOC expenses but denied the Republic's argument that the expenses were excessive. The RTC thus ordered each party to pay P1,750,000.00. *PIATCO did not question the March 11, 2011 order; instead, PIATCO complied with this order and paid the amount of PI, 750,000.00 to the BOC*.[156]

Takenaka and Asahikosan filed a partial motion for reconsideration of the March 11, 2011 order on the ground that it has no legal basis.

The RTC rendered its decision on May 23, 2011 on the computation of just compensation and directed both the Republic and Takenaka and Asahikosan to pay their proportionate shares of the BOC expenses with dispatch.

The Republic, PIATCO, and Takenaka and Asahikosan filed their respective appeals with the CA, which are subject of the present case. *Takenaka and Asahikosan questioned the RTC's ruling directing them to pay their proportionate shares in the BOC expenses; PIATCO again did not question the RTC's decision on the BOC expenses.*

The CA denied Takenaka and Asahikosan's prayer to be exempt from paying the BOC expenses. Consequently, Takenaka and Asahikosan raised this issue in its appeal before the Court.

In the cases before the Court, *PIATCO never lifted a finger to question the rulings of the RTC and the CA; it likewise did not raise this issue in the pleadings before the Court except in the present partial motion for reconsideration.*

In view of PIATCO's failure to promptly and vigorously question the imposition of the BOC expenses, we confirm our ruling that PIATCO is deemed to have waived its right to question the rulings directing it to share in the BOC expenses. PIATCO's payment pursuant to the RTC rulings, which it did not assail, served as its conformity with these rulings, whose finality against PIATCO we cannot modify in the present case.

PIATCO should have questioned the rulings that are adverse to it; that it did not and even willingly complied means that it had accepted the ruling. It is well-settled, too, that the negligence and mistakes of counsel bind the client. Hence, the principle of unjust enrichment cannot be applied in the present case in favor of PIATCO.[157]

G. On the Republic's prayer for the Court to declare that, upon payment of just compensation, full ownership shall be vested in the Republic, free from any liens and encumbrances.

We **grant** the Republic's prayer that upon payment of just compensation, **full ownership shall fully vest with the Republic**; however, we deny its prayer **that this ownership shall be free from any Hens and encumbrances.**

We ruled in *Agan* that "*[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures*."

We however clarified in Gingoyon that, "*[t]he recognized rule is that title to the property expropriated shall pass from the owner to the expropriator only* ***upon full payment of the just compensation****. Jurisprudence on this settled principle is consistent both here and in other democratic jurisdictions. "*

In Association of *Small Landowners in the Philippines, Inc. et al., v. Secretary of Agrarian Reform,*[158] *we ruled that "ftjitle to property which is the subject of condemnation proceedings does not vest [with] the condemnor until the judgment fixing just compensation is entered and paid xxx title to the property taken remains in the owner until payment is actually made*. "

In view of these jurisprudential precedents, we grant the Republic's prayer that upon full payment of the just compensation finally adjudged in this decision, the title to the property shall be fully vested in the Republic.

However, **we cannot categorically rule in the present case that the Republic's ownership of NAIA-IPT III - after full payment of just compensation - shall be free from all liens and encumbrances.**

Before us are the narrow issues of an expropriation case. We cannot make an all-encompassing ruling that would cover cases and issues that had not been raised and resolved in the present case. To do so would not only be purely speculative but may also be reckless and highly improper.

H. On Takenaka andAsahikosan's claims

We cannot grant Takenaka and Asahikosan's argument that a portion of the just compensation be set aside to cover for their claims against PIATCO. Takenaka and Asahikosan's arguments are contrary to the constitutional and jurisprudential mandates on just compensation and our final and executory rulings in *Agan* and *Gingoyon.*

To reiterate, just compensation should be paid to the *owner and it should be real, substantial, full and ample*.[159] Therefore, the Republic must pay PIATCO the *full amount* of the just compensation computed in the present case.

Furthermore, if we set aside a portion of the just compensation to cover Takenaka and Asahikosan's claims, we would also be running against our final and executory rulings in *Agan* and *Gingoyon* mandating that just compensation should be *fully* paid to PIATCO as the *owner* of the NAIA-IPT III.

Stated differently, the mere setting aside of a definite portion of the just compensation to cover the claim of a *non-owner* (especially if the non-owner's claim is *not yet fixed or confirmed* by a final ruling) would defeat the constitutional mandate that *full payment* be made to the property owner. We thus cannot grant Takenaka and Asahikosan's plea even if we can later release to PIATCO the portion that is set aside (in the event that Takenaka and Asahikosan's claims turn out to be excessive or totally unjustified).

Takenaka and Asahikosan also conveniently ignore the adverse consequences of their request. They do not seem to realize that the Court would deprive PIATCO of the *uses of its money* during the *entire period* a portion of the just compensation is put in escrow.

Worse, if Takenaka and Asahikosan's claims are later *partially or wholly denied*, there is the matter of interest: who will pay the interest on the amount set aside? Will it be the Republic or will it be Takenaka and Asahikosan? Will they equally share the burden? These are the complications that Takenaka and Asahikosan avoided in their insistence to have a portion of the just compensation set aside to cover claims that have not even been judicially confirmed with finality in the Philippines.

Finally, we *clarify* our holding that if we grant Takenaka and Asahikosan's prayer to *merely* set aside a portion of the just compensation to secure their claims, we would thereby pre-empt the Court's ruling in the pending enforcement case (G.R. No. 202166).

In truth, we would not pre-empt the Court's ruling in the enforcement case ifwe set aside a portion of the just compensation in favor Takenaka and Asahikosan. *The Court would still have to apply the law to the unique facts of that case regardless of our holding in the present case.*

Nevertheless, there is simply no basis to set aside a portion of the just compensation in favor of a *non-owner*. As explained, setting aside Takenaka and Asahikosan's claim purportedly in the interest of "equity and justice" would defeat the essence of just compensation. We remind Takenaka and Asahikosan that the invocation of the Court's equity jurisdiction can never be used to violate the law and the Constitution.[160]

In light of the discussion above, we deny Takenaka and Asahikosan's arguments in its partial motion for reconsideration.

I. On PlATCO's argument that the tax assessments against it should be included as part of the just compensation

We deny PIATCO's argument that the tax assessments against it should be added to the just compensation in the present case.

The tax assessments should first go through the appropriate tax proceedings prescribed by law. The present case is neither the proper venue nor the forum to determine the validity of these alleged pending tax assessments or to declare its inclusion in the computation of just compensation inasmuch as these were not presented before the lower courts.

WHEREFORE, premises considered, we:

(1) **SUSTAIN** our September 8, 2015 Decision, thus:

a. The principal amount of just compensation is fixed at $326,932,221.26 as of December 21, 2004. Thereafter, the amount of $267,493,617.26, which is the difference between $326,932,221.26 and the proffered value of $59,438,604.00, shall earn a straight interest of 12% per annum from September 11, 2006 until June 30, 2013, and a straight interest of 6% per annum from July 1, 2013 until full payment;

b. The Republic is hereby ordered to make direct payment of the just compensation due to PIATCO; and

c. The Republic is hereby ordered to defray the expenses of the BOC in the sum of P3,500,000.00.

(2) **PARTLY GRANT** the Republic's motion for reconsideration by declaring that full ownership over the NAIA-IPT III shall be vested in the Republic upon full payment of the just compensation as computed in the immediately preceding paragraph;

(3) **DENY** PIATCO's motion for partial reconsideration;

(4) **DENY** Takenaka and Asahikosan's motion for partial reconsideration; and

(5) **RECTIFY THE FOLLOWING *TYPOGRAPHICAL ERRORS*** in our Decision dated September 8, 2015:

(a) The last paragraph of page 41 of our Decision should read as follows:

> **Interest**. The CA further held that interest shall be added to just compensation as of December 21, 2004. xxx

(b) Page 99 of the Decision should reflect the proper quote of item 3.1.17 of the Scott Wilson Report, as follows:

> 3.1.17 On the basis of a construction cost valuation of the order of US$322 million we would expect the cost of construction supervision to be a minimum of US$9.5 million. It is understood that PIATCO has paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC and this therefore appears not unreasonable.

(c) Pages 123-124 of the Decision should reflect the proper number of days in years 2008 and 2012, which is 366 days, and hence should be corrected as follows:

Period	Formula	Number of Days	Interest Rate	Principal Amount	Straight Interest
September 11, 2006 to December 31, 2006	principal*rate * (113/365)	113 days	12%	$267,493,617.26	$9,937,571.10
January 1, 2007 to December 31, 2007	principal *rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2008 to December 31, 2008	principal*rate	366 days	12%	$267,493,617.26	$32,099,234.07
January 1,2009 to December 31, 2009	principal *rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1,2010 to December 31, 2010	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2011 to December 31, 2011	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2012 to December 31, 2012	principal *rate	366 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2013 to June 30, 2013	principal *rate* (181/365)	181 days	12%	$267,493,617.26	$15,917,702.38
July 1, 2013 to December 31, 2013	principal *rate * (189/365)	189 days	6%	$267,493,617.26	$8,310,623.62
January 1, 2014 to	principal*rate	365 days	6%	$267,493,617.26	$16,049,617.04

December 31, 2014					
Total					$242,810,918.54

This Resolution is final and no further pleadings shall be entertained. Let judgment be entered in due course.

SO ORDERED.

Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen JJ.,* concur.
Sereno, C.J., Carpio, Del Castillo, Jardeleza, and *Caguioa, JJ*., no part.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on April 19, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on May 3, 2016 at 1:44 p.m.

Very truly yours,

(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[1] *Rollo*, Volume II, pp. 873-1037.

[2] Decision dated September 8, 2015, p. 8.

[3] *Id*.

[4] *Id*. at 8-9.

[5] *Id*. at 9.

[6] 450 Phil. 744-902 (2003).

[7] *Id.*

[8] *Supra* note 1, at 899-900.

[9] *Agan v. PIATCO*, 465 Phil. 545-586 (2004).

[10] *Id*. at 582.

[11] *Supra* note 1, at 900 and 905.

[12] *Id.* at 900.

[13] The MIAA held guaranty deposits in the sum of $62,343,175.77 with Land Bank for purposes of expropriating the NAIA-IPT III. See *rollo* in G.R. No. 209731, Volume I, pp. 380-382.

[14] *Supra* note 1, at 900-901.

[15] *Id.* at 901-903.

[16] RTC orders dated January 7, 2005 on the RTC's appointment of three commissioners and the January 10, 2005 order denying the motion for inhibition of the then RTC hearing judge, Judge Gingoyon-id. at 903-907.

[17] 514 Phil. 657-781 (2005).

[18] *Id.* at 681.

[19] *Id.* at 710.

[20] 517 Phil. 1-22(2006).

[21] Supra note 1, at 910.

[22] *Id*. at 913-922.

[23] *Id*. at 923-924.

[24] *Id*. at 929-932.

[25] *Id.* at 935.

[26] *Id*. at 934-935.

[27] In view of BSP Circular No. 799's effectivity on July 1, 2013; the circular reduced the legal interest on loans and forbearance of money from 12% to 6% per annum.

[28] G.R. No. 209917, *rollo*, Volume IV, pp. 3114-3116.

[29] *Id.* at 3111.

[30] *Id*. at 3112 and 3117-3119.

[31] *Id*. at 3117-3119.

[32] *Id*. at 3119-3131.

[33] *Id*. at 3113.

[34] Id. at 3130, 3135.

[35] *Id*. at 3133.

[36] *Id.* at 3145.

[37] *Id.*

[38] *Id.* at 3147-3148.

[39] *Id.* at 3149.

[40] *Id.*

[41] *Id.* at 3150.

[42] *Id.* at 3151-3152.

[43] *Id.* at 3153-3154.

[44] *Id.* at 3154-3155.

[45] *Id.* at 3155.

[46] *Id.*

[47] *Id.* at 3156-3162.

[48] *Id.* at 3160-3161.

[49] *Id.* at 3161-3162.

[50] *Id.* at 3162-3163.

[51] *Id.*

[52] *Id.* at 3 163-3164.

[53] *Id.* at 3 164.

[54] *Id.* at 3164-3171.

[55] *Id.* at 3087-3093.

[56] *Id.* at 3094-3106.

[57] Supranote 1, at 1284-1286.

[58] *Id*. at 1302-1303.

[59] *Id*. at 1306.

[60] *Id*. at 1312.

[61] *Id*. at 1308 and 1313.

[62] *Id*. at 1316-1328.

[63] *Id.* at 1328.

[64] *Id*. at 1292.

[65] *Id*. at 1294.

[66] *Id*. at 1295-1298.[67] Id. at 1297.

[68] *Id.* at 1299.

[69] *Id.* at 1331.

[70] *Id*. at 1333-1334.

[71] *Id*. at 1336.

[72] *Id*. at 1337.

[73] *Id*.

[74] *Id* at 1340.

[75] *Id*. at 1344.

[76] *Id*. at 1346.

[77] *Id*. at 1227.

[78] *Id*. at 1228.

[79] *Id.* at 1229.

[80] *Id*. at 1230-1241.

[81] *Id*. at 1240.

[82] *Id.* at 1241-1252.

[83] *Id*. at 1252.

[84] *Id*. at 1253.

[85] *Id*. at 1213-1214.

[86] *Id*. at 1214.

[87] *Id*. at 1215-1216.

[88] *Id.* at 1217.

[89] *Id*. at 1203.

[90] *Id*. at 1205.

[91] *Id*. at 1205-1206.

[92] *Id.* at 1360-1366.

[93] *NPC v. Tuazon, et al*, 668 Phil. 301, 312 (2011).

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

[95] *B.H. Berkenkotter & Co. v. Court of Appeals,* G.R. No. 89980 December 14, 1992, 216 SCRA 584, 586.

[96] Also see RA 6657, otherwise known as the Comprehensive Agrarian Reform Program, and RA 6395, or the legislative charter of the National Power Corporation.

[97] 590 Phil. 424, 434-435 (2008), citing *Export Processing Zone Authority v. Dulay,* G.R. No. L-59603, April 29, 1987, 149 SCRA 305.

[98] 586 Phil. 587, 603 (2008), citing *Land Bank of the Philippines v. Celada*, 515 Phil. 467 (2006). This Court held, "While Section 3(a) of R.A. No. 6395, as amended, and the implementing rule of R.A. No. 8974 indeed state that only 10% of the market value of the property, is due to the owner of the property subject to an easement of right-of-way, said rule is not binding on the Court. Well-settled is the rule that the determination of just compensation in eminent domain cases is a judicial function."

[99] Section 10, RA 8974 IRR provides, "Pursuant to Section 7 of the Act, **the Implementing Agency shall** determine the valuation of the improvements and/or structures on the land to be acquired using the replacement cost method. The replacement cost of the improvements/structures is defined as the amount necessary to replace improvements/structures, based on the current market prices for materials, equipment, labor, contractor's profit and overhead, and all other attendant costs associated with the acquisition and installation in place of the affected improvements/structures. In the valuation of the affected improvements/structures, the Implementing Agency shall consider, among other things, the kinds and quantities of materials/equipment used, the location, configuration and other physical features of the properties, and prevailing construction prices." (Emphasis supplied)

[100] See Section 2(b), RA 8974 IRR.

[101] Section 13, RA 8974 IRR provides, "Payment of Compensation - Should the property owner concerned contest the proffered value of the Implementing Agency, the Court shall determine the just compensation to be paid by the owner within sixty (60) days from the date of filing of the expropriation case, **considering the standards set out in Sections 8, 9 and 10 hereof**, pursuant to Section 5 of the Act. When the decision of the Court becomes final and executory, the Implementing Agency shall pay the owner the difference between the amount already paid as provided in Section 8 (a) hereof and **the just compensation determined by the Court**, pursuant to Section 4 of the Act." (emphasis supplied)

[102] *Manansan v. Republic of the Philippines*, 530 Phil. 104, 117-118 (2006); *Eslaban, Jr. v. Vda. De Onorio*, 412 Phil. 667 (2001); *Bank of the Philippine Islands v. CA,* 484 Phil. 601 (2004); *National Power Corp. v. Manubay Agro-Industrial Development Corporation*, 480 Phil. 470 (2004), citing *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, 256 Phil. 777 (1989).

[103] *Land Bank of the Philippines v. Eusebio, Jr.*, G.R. No. 160143, July 2, 2014, 728 SCRA 447.

[104] *Supra* note 1, at 966.

[105] *Id*. at 960-963.

[106] *Id*. at 967.

[107] *Id.* at 966.

[108] *Id*. at 1031.

[109] *Id*. at 963. (emphasis added)

[110] *Id*. at 966-967.

[111] *Supra* note 39.

[112] *Supra* note 1, at 999.

[113] *Id.*

[114] *Id*.

[115] *Rollo*, G.R. No. 209917, Volume I, pp. 582, 607-608.

[116] *Rollo,* G.R. No. 209731. Volume II, pp. 1754-1755.

[117] *Id*., Volume I, p. 1113.

[118] *Supra* note 1, at 1006-1011.

[119] CONSTITUTION, Article 111, Section 9.

[120] *Supra* note 1, at 1007. See footnote 338 of the Decision.

[121] *Id.* at 1008. (citation omitted, emphasis supplied)

[122] *Id.* at 1010, citing *Republic v. Court of Appeals.*

[123] *Estores v. Spouses Supangan*, 686 Phil. 86, 97 (2012).

[124] *Id.* (emphasis supplied)

[125] *Supra* note 9.

[126] *Supra* note 17, at 696.

[127] *Supra* note 1, at. 966.

[128] *Id.* at 1005.

[129] *Secretary of the Department of Public Works and Highways v. Sps. Tecson*, G.R. No. 179334, April 21, 2015.

[130] RA 8974 is silent on the reckoning period of interests in the expropriation of property for national infrastructure projects. Pursuant to Section 14 of RA 8974 IRR, the Rules of Court suppletorily applies. In this respect, Section 10, Rule 67 of the Rules of Court provides:

> Section 10. Rights of plaintiff after judgment and payment. — Upon payment by the plaintiff to the defendant of the compensation fixed by the judgment, with legal interest thereon from the taking of the possession of the property, or after tender to him of the amount so fixed and payment of the costs, the plaintiff shall have the right to enter upon the property expropriated and to appropriate it for the public use or purpose defined in the judgment, or to retain it should he have taken immediate possession thereof under the provisions of section 2 hereof. If the defendant and his counsel absent themselves from the court, or decline to receive the amount tendered, the same shall be ordered to be deposited in court and such deposit shall have the same effect as actual payment

thereof to the defendant or the person ultimately adjudged entitled thereto. (10a) (underscoring supplied)

However, even without this provision, interest on just compensation will still accrue on the date of taking since the Section 9, Article III of the 1987 Constitution provides that just compensation must be paid on the date of taking.

[131] Id.

[132] *Apo Fruits Corporation v. Land Bank of the Philippines*, 647 Phil. 251, 276 (2010).

[133] *Supra* note 1, at 1028.

[134] *Id.* at 1007.

[135] *Supra* note 2, at 11.

[136] *Supra* note 17.

[137] *Id*. at 717.

[138] *Rollo*, G.R. No 209696, Volume 1, p. 331.

[139] Supra note 1, at 1028.

[140] *Id*.

[141] *Id*. at 910.

[142] *Rollo*, G.R No. 209731, Volume 1, p. 547.

[143] *Supra* note 1, at 994.

[114] 358 Phil. 38, 59-60(1998).

[145] *Supra* note 1, at 995.

[146] *Id*. at. 988.

[147] *Id.*

[148] *Supra* note 132, at 271.

[149] *Id.* at 1003-1004.

[150] *Id.* at 1003.

[151] *Id.*

[152] *Id*. at 1003-1004.

[153] RTC *rollo*, Volume XVII, pp. 11175-11181.

[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] *Building Care Corporation et al. v. Macaraeg*, G.R. No. 198357, 687 SCRA 643 December 10 2012.

[158] G.R. No. 78742 July 14, 1989, 175 SCRA 343.

[159] *Supra* note 1, at 1007.

[160] *See Reyes v. Lim*, 456 Phil. 1 (2003); *Arsenal v. IAC,* 227 Phil. 36 (1986); and *Sps. Alvendia v. Intermediate Appellate Court*, 260 Phil. 265 (1990).

CONCURRING OPINION

LEONEN, *J.*:

I concur, subject to the views I have expressed in the September 8, 2015 Decision of this Court En Bane. I also reiterate ray reservations in the computation of interest rates for delayed payments for expropriated properties, as explained in my Separate Opinions in Secretary of the Department of Public Works and Highways v. Spouses Tecson[1] and Heirs of Spouses Tria v. Land Bank of the Philippines.[2]

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[1] J. Leonen, Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Decision), G.R. No. 179334, July 1, 2013, 700 SCRA 243, 274-279 [Per J. Peralta, Third Division]; and J. Leonen, Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Resolution), G.R, No. 179334, April 21, 2015 http://scjudiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/179334_leonen.pdf> [Per J. Peralta, Third Division].

[2] J. Leonen., Separate Opinion in *Heirs of Spouses Tria v. Land Bank of the Philippines*, G.R, No. 170245, July 1, 2013, 700 SCRA 188, 200-209 [Per J. Peralta, Third Division].
