

1974 Present : **Tennekoon, C.J., Udalagama, J. and
Weeraratne, J.**

B. SOMASIRI DE SILVA, Appellant, and **THE NUWARA ELIYA
TEA ESTATES CO. LTD.**, Respondent

S. C. 1/73—Land Acquisition, N.E. 56

*Land Acquisition Act—Award of compensation by Board of Review—
Right of appeal therefrom—Scope.*

The Supreme Court will not interfere with a decision of the Land
Acquisition Board of Review awarding compensation except upon
a question of law.

APPEAL from a decision of the Land Acquisition Board of
Review.

S. Sivarasa, State Counsel, with *C. Sithambarapillai*, State
Counsel, for the appellant.

H. W. Jayewardene, with *J. C. Ratwatte*, for the respondent.

May 15, 1974. TENNEKOON, C.J.—

This is an appeal from a decision of the Land Acquisition Board
of Review awarding compensation in respect of five lots of land
which are depicted as lots 1, 2, 4, 5 and 6 in preliminary plan
No. 180 marked A2 containing an extent of 68 acres 1 rood and
33.4 perches.

In regard to the Board's decision regarding compensation in
respect of lots 5 and 6, both situated within the Nuwara Eliya
Municipal area, it was strongly urged by Counsel for the
appellant that the Board had failed to have regard to certain
sales which the expert witness for the acquiring officer Mr.
Seniveratne had said were comparable sales. The Board in its
order has regarded as comparable only the sales in regard to
two pieces of land referred to in the proceedings as sale B in
location sketch A2 and sale 2 in location sketch A2.

Counsel for the appellant relied on the judgment of H. N. G.
Fernando, C.J. in the case of *Public Trustee v. Rajaratnam*¹ 75
N.L.R. 391 in which the Supreme Court set aside the decision
of the Land Acquisition Board of Review on the ground that it

¹ 75 N.L.R. 391.

had ignored the one sale which afforded the best standard of comparison for the valuation for that portion of the appellant's land that was being acquired.

We do not find in this case that the Board has made any error of that kind. No doubt the Government Valuer had testified that there were certain other sales which were comparable viz. sales Nos. 1, 2, 3 and 4 in location sketch R2. We do not think that the Board of Review erred in law in deciding to adopt the two sales mentioned earlier viz. sale B and sale 2 in location sketch A2 as giving better guidance on valuation for lots 5 and 6. Sale B relates to a land situated in the heart of lots 5 and 6 and sale 2 to a land in close proximity to these two lots.

A further point made by Counsel for the appellant was that in valuing lots 5 and 6 the Board had accepted as a basis for valuation a Scheme of Development which had been testified to by the valuer Mr. Nadarajah called by the claimants. We cannot find any question of law arising on this point. There was evidence before the Board on the basis of which it could reasonably conclude that having regard to circumstances prevailing at the relevant date the land could be put to profitable use in the manner contemplated in the Scheme of development and that a higher value on that account was a reasonable probability. It cannot be said that the Board was indulging in "idle speculation" or "impractical imagination".

In regard to valuation of lot 1 there was a great disparity between the valuation placed on this lot by the Government Valuer on the one hand and the claimant's valuer on the other. The Board of Review rejected the valuation placed on this lot by the claimant's valuer as being "fantastic" and "totally unrealistic". The Board also found that it was unable to accept the valuation placed by the Government Valuer as the latter had paid no regard to its possible uses. The Government Valuer had applied only the test of comparable sales and the only sales he utilised were certain sales of land 30-40 miles away from where the land acquired is situated.

There was, however, evidence before the Board that although the land was Patna and Deniya and therefore not as fertile as other land, its soil was as good as any in the Kandapola area for the cultivation of vegetables. The Board accordingly valued the land at Rs. 1,250 per acre in respect of Patna land and Rs. 750 per acre in respect of the Deniya land.

We are unable to agree with the submission that any question of law arises on this appeal. The appeal must be accordingly dismissed.

We confirm the valuation placed on the land by the Board of Review. The respondent will be entitled to costs of appeal.

UDALAGAMA, J.—I agree.

WEERARATNE, J.—I agree.

Appeal dismissed.

