

Title: Hutchison Ports Philippines Limited vs. Subic Bay Metropolitan Authority, et al. (393 Phil. 843)

Facts:

- Invitation to Bid:** On February 12, 1996, Subic Bay Metropolitan Authority (SBMA) advertised for bids to develop and operate a marine container terminal within Subic Bay Freeport Zone.
- Qualified Bidders:** Out of seven respondents, three bidders were qualified: International Container Terminal Services, Inc. (ICTSI), Royal Port Services, Inc. (RPSI), and Hutchison Ports Philippines Limited (HPPL).
- Bid Submission:** Bidders submitted their formal bid packages by July 1, 1996.
- Evaluation Consultants:** SBMA hired international consultants for bid evaluation, who unanimously found HPPL's Business Plan superior.
- Protest:** Before financial bids were opened, RPSI protested that ICTSI was barred from operating a second port by executive and department orders — a protest joined by HPPL.
- Financial Bids:** Despite protests, financial bids were opened, revealing ICTSI bid US\$57.80 per TEU, HPPL bid US\$20.50 per TEU, and RPSI bid US\$15.08 per TEU.
- Rejection of ICTSI:** On August 15, 1996, SBMA rejected ICTSI's bid for non-compliance and awarded the bid to HPPL.
- Appeal by ICTSI:** ICTSI appealed to SBMA's Board of Directors, then to the Office of the President.
- Presidential Memorandum:** President Ramos directed SBMA to re-evaluate financial bids, including ICTSI, disregarding monopoly concerns and including COA's participation.
- Reaffirmation of HPPL:** On September 19, 1996, SBMA reaffirmed HPPL as the winning bidder.
- Office of the President's Action:** Despite this, the Executive Secretary recommended rebidding. President Ramos ordered SBMA to refrain from signing a contract with HPPL and conduct a rebidding.
- Legal Actions:** HPPL filed a complaint for specific performance, injunction, and damages against SBMA in the Olongapo RTC.
- RTC Proceedings:** During trial preliminaries, it was questioned if the Office of the President could override SBMA's award. HPPL requested maintaining the status quo, denied by trial court due to lack of jurisdictional authority to enjoin public infrastructure projects under RA 7227.
- Supreme Court Involvement:** HPPL filed a petition for prohibitory injunction with the

Supreme Court, which issued a temporary restraining order on December 3, 1997, preventing SBMA from rebidding.

****Issues:****

1. ****Finality and Enforceability of SBMA's Bid Award:**** Does declaring HPPL the winning bidder by SBMA's Board constitute a final and binding award?
2. ****Authority of the Office of the President:**** Can the President set aside SBMA's award and direct a rebidding?
3. ****Clear Right to Injunction:**** Does HPPL have a clear and unmistakable right justifying injunctive relief?
4. ****Foreign Corporation's Standing:**** Does HPPL, a foreign corporation without a Philippine business license, have the standing to sue in Philippine courts?

****Court's Decision:****

1. ****Authority of the President:**** The Supreme Court ruled that the President did have the authority to set aside SBMA's award and order a rebidding given the control vested by Letter of Instruction No. 620 in projects involving substantive government financial commitments.
2. ****Non-Finality of Award:**** The Court held that the SBMA's declaration of HPPL as the winning bidder was not final and binding as it required Presidential approval.
3. ****Injunction Denied:**** Since HPPL had no clear and unmistakable right to the final award, the Supreme Court found no basis for an injunction to prevent the rebidding.
4. ****Corporate Standing:**** The Court determined that HPPL's involvement in the bidding constituted "doing business," requiring a local license. Without such a license, HPPL lacks the capacity to sue in Philippine courts, leading to the dismissal of the petition.

****Doctrine:****

- ****Presidential Authority on Public Contracts:**** Presidential oversight under Letter of Instruction No. 620 includes prerogative to invalidate awards by government agencies, emphasizing executive control over significant public financial commitments.
- ****License Requirement for Foreign Corporations:**** Participation in bidding activities by foreign entities is considered "doing business," necessitating a Philippine business license to establish legal standing for litigation.

****Class Notes:****

- ****Elements for Injunctive Relief:**** Clear right, material invasion, urgent necessity.
- ****Business Licenses for Foreign Corporations:**** Requirement of local licensing to perform

business activities and possess legal standing.

- **Presidential Authority:** Executive power to oversee and void substantial public infrastructure project awards ensures checks within government operations.

Historical Background:

The case unfolds during a period marking major shifts towards privatization and modernization of infrastructure in the Philippines, reflecting the central role of strategic oversight and regulatory frameworks in the development and privatization of critical national assets. The involvement of prominent international players and executive oversight illustrates Philippine legal procedures and institutional checks in managing large-scale privatization.