

Title:

Thunder Security and Investigation Agency/ Lourdes M. Lasala vs. National Food Authority (Region I) and NFA Regional Bids and Awards Committee (Region I)

Facts:

In September 2002, Thunder Security and Investigation Agency (Thunder), owned by Lourdes M. Lasala, entered into a one-year contract for security services with the National Food Authority (NFA) Region I, effective from September 15, 2002, to September 15, 2003. During the contract period, Republic Act (R.A.) No. 9184 was enacted on January 10, 2003, taking effect on January 26, 2003, repealing Executive Order (E.O.) No. 40, which previously guided the bidding procedures for government service contracts.

As the contract expiration date of September 15, 2003, approached, the NFA published invitations for new bids for security services on May 11 and May 18, 2003. Thunder paid the bidding fee on May 21, 2003, signaling its intent to participate. However, on June 9, 2003, Thunder was requested to submit various documents by June 19, 2003, to qualify for the bidding. Upon failure to submit the required documents, on June 26, 2003, Thunder was notified of its disqualification.

Thunder protested through a letter on July 10, 2003, citing the need for the Implementing Rules and Regulations (IRR) of R.A. No. 9184 before any bidding could be held. Despite this, bids proceeded, citing then NFA Administrator Arthur C. Yap's instruction to use E.O. No. 40 in its absence.

Subsequently, Thunder filed a Petition for Prohibition and Preliminary Injunction in the Regional Trial Court (RTC) of San Fernando City, La Union, to prevent the NFA from awarding the contract to another bidder. The RTC issued a Temporary Restraining Order (TRO) on August 8, 2003, and later a writ of preliminary injunction on August 27, 2003, suspending further action on the contract until the court's final decision.

Respondents moved for reconsideration, informing the RTC of three independent observers during the bidding process, but the RTC denied the motion and upheld its decision on December 1, 2005.

Respondents then sought relief from the Court of Appeals (CA) via certiorari under Rule 65, asserting grave abuse of discretion by the RTC.

On July 18, 2007, the CA overturned the RTC's orders, highlighting the approved presence

of observers during the bidding process and the applicability of IRR-A of R.A. No. 9184, effective October 8, 2003. The CA addressed the improper grant of preliminary injunction by the RTC as it extended the expired contract without legal basis. Thunder's motion for reconsideration was also denied by the CA on March 5, 2008.

Issues:

1. **Whether the CA committed reversible error in holding that respondents did not err in applying E.O. 40 during the bidding.**
2. **Whether the CA committed reversible error in determining no irregularities occurred in the bidding process.**
3. **Whether the CA erred in reversing the RTC's orders granting injunctive relief to Thunder.**

Court's Decision:

Issue 1: Applicability of E.O. 40 versus R.A. 9184

- The Supreme Court held that the CA did not err in concluding that the reliance on E.O. No. 40 was valid given the authorized temporary use specified in Section 77 of IRR-A pending the full implementation of R.A. 9184's IRR. The adjudged applicability of E.O. No. 40 does not conflict with the legislative framework provided within Section 77.

Issue 2: Presence of Observers and Alleged Irregularity

- The CA's findings were underscored by confirmed evidence of three observers' presence, contradicting the RTC's conclusion. The Supreme Court upheld the CA's decision, noting that substantial evidence provided by the respondents sufficed to legitimize the bidding process's transparency, negating any accusations of procedural irregularity.

Issue 3: Injunctive Relief Improvidence

- The Supreme Court emphasized that granting injunctive relief requires a clear, unmistakable legal right. Given the expiration of the service contract on September 15, 2003, Thunder had no actionable right meriting judicial protection. The writ's issuance inadvertently extended the contract, contravening standard judicial mandates and jurisprudence. Thus, the CA correctly voided the RTC's injunctive relief orders for lack of compelling legal grounds.

Doctrine:

- **Preliminary Injunction Requirements:** A preliminary injunction can only be issued if there is a clear and unmistakable right, substantial invasion of that right, an urgent need to

prevent irreparable injury, and no other adequate remedy.

- **Expired Contracts**: Courts may not renew or extend expired contracts through preliminary injunctions without the mutual consent of the parties involved.
- **Transitory Clause in Procurement Law**: Pending implementation of new IRR, prior procurement rules (E.O. No. 40) may temporarily govern procurement procedures.

Class Notes:

- **Key Elements for Preliminary Injunction**:

1. Clear right in esse.
2. Substantial invasion of this right.
3. Urgency for the writ to prevent irreparable harm.
4. No other adequate remedy available.

- **Precedent References**:

- **Philippine Ports Authority v. Cipres Stevedoring & Arrastre, Inc.**: Reinforces strict standards for issuing preliminary injunctions.
- **Manila International Airport Authority v. Olongapo Maintenance Services, Inc.**: Established that courts cannot extend contracts through injunctions.
- **R.A. No. 9184 and E.O. No. 40**: Legislative framework governing government bidding procedures during transitional regulatory phases.

Historical Background:

- **Enactment of R.A. No. 9184 (2003)**: Introduced to modernize and standardize government procurement processes, effectively replacing older procurement rules like those in E.O. No. 40.
- **Procurement Law Transition**: The introduction of R.A. No. 9184 marks a shift towards more rigorous and unified procurement regulations, improving transparency and efficiency in government contracts. This reflects broader efforts to combat corruption and promote fair competition in public service procurement.