

CRISTITU BAUTISTA AND 155 OTHERS, PETITIONERS, VS. THE AUDITOR GENERAL, RESPONDENT.

G.R. No. L-6799. June 29, 1955

Ponente: PADILLA, J.

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PADILLA, J.:

On 27 March 1950, for and in consideration of P516,715.00, the Department of Public Works and Communications awarded a contract for the construction of a bridge^[1] across the Agno River at 202.36 km. in the province of Pangasinan to the International Construction and Engineering Co., a domestic corporation, hereafter referred to as contractor. As provided by Act No. 3688, the contractor was required to furnish, as it did furnish, a penal bond in the sum of P103,343 to guarantee the full and faithful performance of the contract within 300 working days, the Philippine Surety and Insurance Co. binding itself as surety to pay the amount of the bond thus furnished if the contractor should fail to perform the contract. Cristitu Bautista and 155 laborers were engaged by the contractor to work or perform labor on the construction from 13 April to 1 December 1950. On 27 October 1950 the District Engineer of Pangasinan, through the Director of Public Works, recommended to the Secretary of Public Works and Communications that due to the slow progress of the work, 5.22% of the work having been accomplished as of 16 October 1950 ^[2] in 187 days out of 300 days, the construction contract be resolved and that the Bureau of Public Works take over to complete the construction of the bridge. On 25 November, the Undersecretary of Public Works and Communications ordered the contract resolved and the Bureau of Public Works took over the construction of the bridge. The contractor and its surety were duly notified of this action taken by the Undersecretary of Public Works and Communications as well as of the right of the Government to recover damages arising from its failure to perform its part of the contract. On 30 June 1952 the bridge was finally completed by the Poblete Construction Co. which had taken over the work from the Bureau of Public Works. The total sum spent for the construction of the bridge is P947,858.62, or P530,806.41 in excess of the contract price. On 15 December 1952 the Director of Public Works advised the contractor and its surety of their liability to the Government arising from the contractor's failure to perform its part of the contract and demanded the payment of P103,343, the amount of the penal bond, from the surety and the balance from the contractor.

Cristitu Bautista and 155 laborers brought an action in the Court of First Instance of Pangasinan against the International Construction and Engineering Co. to collect their unpaid wages. As the defendant admitted its liability in the sum of P25,390.29, the Court rendered judgment ordering the defendant to pay to the plaintiffs the sum sought to be collected with lawful interest from 15 August 1951, the date of the filing of the complaint. Judgment having become final a writ of execution was issued but only P2,825.77 was realized and satisfied out of the contractor's leviable assets.

On 23 March 1953 the laborers filed a money claim with the Auditor General under the provisions of Com. Act No. 827 for labor rendered in the project. On 22 May, the Auditor General denied the petitioners' claim. From the order of the Auditor General denying their claim the petitioners have appealed under Rule 45 of the Rules of

Court

The petitioners invoke the provisions of article 1707 of the new Civil Code which provides: "The laborer's wages shall be a lien on the goods manufactured or the work done," and article 2241 of the same code which in part provides: "With reference to specific movable property of the debtor, the following claims or liens shall be preferred: * * * (6) Claims for laborers' wages, on the goods manufactured or the work done; * * *." The lien referred to in the first article is on the goods manufactured or work done. Article 1707 of the new Civil Code seems to contemplate chattels and not immovable property as confirmed by article 2241 also invoked by the petitioners. But even if the provision of the article be applied to immovable property, it does not appear what particular part of the bridge the petitioners had worked on, done or manufactured. There is nothing in the record brought to this Court which would show on what part of the bridge they had worked except that they had been engaged by the contractor from 13 April to 1 December 1950 to work on the project. At that stage of the bridge construction it may be inferred that there was still no superstructure. Neither does it appear whether they had worked on the abutments or in the piers. For the payment of the laborer's wages, article 1707 creates a lien on the goods manufactured or work done, if the laborer be engaged by the owner of the goods to be manufactured or work to be done. However, where there is a contractor the first article invoked does not seem to apply, because article 1729 provides: "Those who put their labor upon or furnish materials for a piece of work undertaken by the contractor have an action against the owner up to the amount owing from the latter to the contractor at the time the claim is made. * * *."

Doubt may be entertained as regards the applicability of the new Civil Code to the contracts entered into for the prosecution and completion of any public work, because Act No. 3688 provides:

Any person, * * * or corporation entering into a formal contract with the Government of the Philippine Islands for * * * the prosecution and completion of any public work, * * * shall be required, before commencing such work, to execute the usual penal bond, with good and sufficient sureties, with the additional obligation that such contractor or his or its sub-contractors shall promptly make payments to all persons supplying him or them with labor and materials in the prosecution of the work provided for in such contract; and any person, company or corporation who has furnished labor or materials used in the construction * * * of any * * * public work, and payment for which has not been made, shall have the right to intervene and be made a party to any action instituted by the Government of the Philippine Islands on the bond of the contractor, and to have their rights and claims adjudicated in such action and judgment rendered thereon, subject, however, to the priority of the claim and judgment of the Government of the Philippine Islands. If the full amount of the liability of the surety of said bond is insufficient to pay the full amount of said claims and demands, then, after paying the full amount due the government, the remainder shall be distributed pro rata among said intervenors. * * *. (Italics supplied.)

As the penal bond furnished by the contractor and the surety in the sum of P103,343 is not sufficient to reimburse the Government for expenses incurred in the prosecution and completion of the bridge, it is obvious that the petitioners have no right to ask for payment of their wages from the Government. That is an exclusive liability of the contractor.

The petitioners' contention that the sum of P432,197.25, which represents the "total contract value, based on final statement of work accomplished duly approved by the U. S. Bureau of Public Roads," is due the contractor for the work done, is not well taken. In 187 days the contractor was able to perform 5.22 percent of the whole work estimated or valued at P27,912.42 only. The sum of P432,197.25 represents what would have been due the contractor had it done the work or performed its part of the contract. As the claim of the Government under Act No. 3688 enjoys priority over other claims and there is no amount due the contractor from the Government upon which the money claim of the petitioners may be drawn, the denial by the Auditor General of the claim filed by

the petitioners is in accordance with law.

The order of the Auditor General denying the petitioners' claim is affirmed, without costs.

Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

[1] By resolution No. 123 of the Provincial Board of Pangasinan adopted 26 March 1952 it was named "Dr. Nicanor Padilla Bridge."

[2] The construction must have started on or before 12 April 1950.

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