

**POSADAS-MOYA AND ASSOCIATES CONSTRUCTION CO., INC.,
PETITIONER, VS. GREENFIELD DEVELOPMENT CORPORATION,
JARDINE LAND, INC. AND CASTLETON PROPERTY DEVELOPMENT
CORPORATION, RESPON...**

G.R. No. 141115. June 10, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Dismissals based on pure technicalities should be avoided when the parties have substantially complied with the Rules. When a petition presents prima facie allegations of errors committed by a lower tribunal, the reviewing court should, as much as practicable, endeavor to decide the case on its merits.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the October 29, 1999 Resolution[2] of the Court of Appeals (CA) in CA-GR SP No. 55051. The assailed Resolution reads:

"This Court resolved to DISMISS the above-entitled petition for failure on the part of the petitioner to attach thereto all pleadings (such as the complaint) and other material portions of the record as would support the allegations therein, a requirement under Section 2, Rule 42 of the 1997 Rules of Civil Procedure." [3]

The Facts

On March 23, 1999, Petitioner Posadas-Moya & Associates Construction Co., Inc. (hereinafter "Posadas-Moya") filed with the Construction Industry Arbitration Commission (CIAC) a Request for Adjudication,[4] through arbitration proceedings, of its formal Complaint against respondent corporations:[5] Jardine Land, Inc. ("JLI"); Greenfield Development Corporation ("GDC"); and United Laboratories, Inc. ("ULI"). The case was docketed as CIAC Case No. 08-99. In their Answer with Counterclaim[6] dated April 23, 1999, respondents interposed both negative and affirmative defenses. Petitioner then filed its Reply[7] on May 19, 1999.

On June 29, 1999, all the parties appeared for a preliminary conference to finalize the draft Terms of Reference (TOR),[8] a copy of which had earlier been furnished them. Like a pretrial order, a TOR limits the issues to be tried to those formulated therein and otherwise controls the course of arbitration proceedings. After lengthy discussions leading to the incorporation of suggestions for modifications of the TOR, the parties and their respective counsels, along with the Arbitral Tribunal,[9] signed it on the same date.

In the same preliminary conference, the parties were informed that in arbitration proceedings, a witness' testimony on direct examination should be in the form of an affidavit. A list of the pieces of documentary evidence — each containing the exhibit marking, the description and the purpose for submission — should also be prepared and attached to the affidavit wherein they were mentioned. The affidavit should be personally served on opposing counsel at least three days before the hearing. Cross-examination would then be undertaken by the opposing counsel on the basis thereof.

The parties then agreed to a hearing on August 4, 1999. During the scheduled hearing, Posadas-Moya presented its president, Januario P. Posadas, as its lone witness. He was subjected to an extensive cross-examination by the counsel of respondents. The following day, August 5, 1999, they presented their witnesses: 1) Bob C. Zulueta, vice-president of JLI; 2) Zaldy Masarate, head of GDC's Construction Management Department and Construction Management Services; 3) Glenn Gaid, resident engineer of GDC; 4) Josephine de la Rosa, engineering assistant of GDC's Technical Services Division; and 5) Juan del Rosario, head of GDC's Technical Services Division. They executed a Joint Affidavit, whereupon they were cross-examined by petitioner's counsel.

At the close of the hearing, the parties were given until August 31, 1999 to submit their respective draft decisions. They did so on the said date, upon which the case was deemed submitted for resolution. On September 10, 1999, the CIAC rendered its 59-page Decision,[10] the dispositive portion of which reads:

"AWARD

"WHEREFORE, judgment is hereby rendered and award is made on the monetary claims made by the parties as follows:

I. FOR THE CLAIMANT-CONTRACTOR PMACCI:

P1,052,233.78—

for its work accomplishment for the period from 01-15 September 1998 to be paid separately, as follows:

P137,138.50 — for GDC

610,298.28 — for JLI

304,797.00 — for CPDC

P191,373[.19] — for the total net additive costs to be paid separately, as follows:

[P]47,302.69 — for the net additive claim uncontested by JLI

143,615.66 — GDC

454.84 — CPDC

P1,311,900.17 — for the value of construction materials left at project site. Said obligation shall be jointly and severally paid to the Claimant by the Respondents.

P5,400,735.25 — as refund of retention moneys to be paid separately as follows:

JLI — P2,708,356.05

GDC — 1,395,780.56

CPDC — 1,296,599.12

Total — P5,400.735.25 -

P7,956,242.39 — GRAND TOTAL DUE TO THE CLAIMANT BROKEN DOWN AS FOLLOWS:

P1,676,534.72 — from GDC

3,35,957.02[11] — from JLI

1,601,850.96 — from CPDC

1,311,900.17 — from all collectively

P7,956,242.39 — GRAND TOTAL

II. FOR THE RESPONDENTS:

GREENFIELD DEVELOPMENT CORPORATION

P8,800.00 — for the value of 100 bags of Portland Cement borrowed by the Claimant

P55,200.00 — for rental of construction equipment used by the Claimant in the works

P2,466,546.57 — for the refund of the unrecouped downpayment

P259,780.13 — for reimbursement of the amount paid for utilities

P74,455.58 — for liquidated damages on the SDUs

P2,864,782.28 — Total due to GDC

CASTLETON PROPERTIES & DEVELOPMENT CORP.

P1,847,254.47 — for the refund of the unrecouped downpayment

274,156.34 — for liquidated damages on the SDUs

P2,121,410.81 — Total due to CPDC

JARDINE LAND, INC.

[P]3,432,163.86 — for the refund of the unrecouped downpayment

675,044.89 — for liquidated damages on the SDUs

P4,107,208.75 — Total due to JLI

ALL RESPONDENTS COLLECTIVELY

P65,268.45 —

reimbursement of amounts advanced for occupancy permit fee, inspection fee, certificate of electrical inspection, miscellaneous fee and city ordinance contractors' tax

P623,094.58 — as liquidated damages on the amenities contract

P1,041,727.92 — Total due to all Respondents collectively

P10,135,129.76 — GRAND TOTAL DUE TO RESPONDENTS

"Claimant is hereby further required to turn over to the Respondents the original of the building permits for the project and the project logbook.

"OFFSETTING the grand total amounts due to the Claimant-Contractor and the Respondents, respectively, a balance of P2,178,887.37 remains in favor of the Respondent-Owners. Claimant-Contractor POSADAS-MOYA AND ASSOCIATES CONSTRUCTION CO., INC. (PMACCI) is accordingly directed to pay said balance of P2,178,887.37 to the Respondents collectively. Interests on the foregoing amount shall be paid at the rate of 6% per annum from the date of this Decision. After finality of this Decision, interest at the rate of 12% per annum shall be paid thereon until full payment of the awarded amount shall have been made, `this interim period being deemed to be at that time already a forbearance of credit.'"[12]

Petitioner received a copy of the foregoing Decision on September 16, 1999. On September 24, 1999, it filed a Motion for Extension of Time to File Petition for Review[13] before the CA, which received it on October 13, 1999. Petitioner had annexed the following documents to its Petition:

1. Annex "A" — Decision of the CIAC
2. Annex "B" — Request for Adjudication (Narrative Facts & Figures - An Arbitral Presentation)
3. Annex "C" — Respondents' Answer with Counterclaims
4. Annex "D" — petitioner's Reply to Respondents' Answer with Counterclaims
5. Annex "E" — Terms of Reference, which was signed by the parties, their counsels and the Arbitral Tribunal

Respondents averred that they had filed their own Petition for Partial Review on Certiorari under Rule 43 of the Revised Rules of Civil Procedure on October 18, 1999.[14] This Petition, docketed as CA-GR No. 55185, was raffled to and is pending before the Ninth Division of the CA.[15]

Ruling of the Court of Appeals

In dismissing the appeal of Posadas-Moya, the CA ruled that the Petition had no attached pleadings — such as the Complaint and other material portions of the record — that would support the allegations therein.[16] The court a quo based its dismissal on the requirements of Section 2 of Rule 42 of the 1997 Rules of Court.[17]

Hence, this Petition.[18]

The Issues

In its Memorandum,[19] petitioner submits the following issues for our consideration:

"I

Whether or not the Honorable Court of Appeals erred in dismissing the petition dated October 11, 1999, and docketed as CA-G.R. No. SP 55051, on the supposed ground that petitioner failed to attach a copy of the 'complaint,' inasmuch as petitioner indeed attached such copy as Annex 'B' to the CA petition.

"II

Whether or not the Honorable Court of Appeals erred in not exercising its jurisdiction to correct the grave error of law by the CIAC when the latter declared that, as of September 15, 1998, petitioner was 'in delay' in the completion of the Project, despite the undisputed facts on record.

"III

Whether or not the Honorable Court of Appeals erred in not exercising its jurisdiction to strike down the CIAC's holding that respondents' termination of the construction contract is legal.

"IV

Whether or not the Honorable Court of Appeals erred in sustaining, by its inaction, the illegal award of liquidated damages by the CIAC, and the latter's denial of petitioner's claim for unrealized income."[20]

Simply stated, the issues are as follows: (1) whether the CA erred in dismissing Posadas-Moya's Petition for Review; and, (2) if so, whether this Court can immediately take cognizance of the appeal without necessarily remanding the case to the CA.

The Court's Ruling

The Petition is partly meritorious.

First Issue:

Propriety of the Dismissal of Petitioner's Appeal

Petitioner faults the CA for dismissing its Petition on the basis of the requirements of Rule 42 of the Rules of Court, when its appeal was based on Rule 43. Furthermore, the CA allegedly erred in ruling that the original Complaint had not been attached to the Petition. Petitioner explains that "[w]hat probably misled that Court into concluding otherwise was the caption used by petitioner in denominating that complaint. For, instead of 'complaint,' petitioner captioned it as 'Narrative Facts and Figures — An Arbitral Presentation.'"[21]

According to petitioner, nobody questioned the caption at the CIAC level. In fact, there was absolutely no uncertainty that, to all intents and purposes, it was an initiatory pleading. Petitioner contends that respondents filed their Answer with Counterclaim and the CIAC rendered its Decision based on the pleading.

We agree with petitioner. It should be clear that the Petition filed by Posadas-Moya was governed by Rule 43, not Rule 42, of the Revised Rules of Court. Petitioner was appealing from a Decision of the CIAC. Rule 42 governs appeals from a decision of the regional trial court rendered in the exercise of its appellate jurisdiction,[22] whereas Rule 43 governs appeals from quasi-judicial agencies to the CA.

Section 1 of Rule 43 provides:

"SECTION 1. Scope. — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National

Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law." [23] (Emphasis supplied)

As to what should be the contents of the Petition for Review filed by Posadas-Moya is governed by Section 6 of Rule 43, which reads:

"SECTION. 6. Contents of the petition. — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such materials portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein." [24]

Respondents argue that petitioner failed to meet this requirement. Specifically, the latter allegedly failed to attach "all material portions of the record referred to" in the petition for review and all other supporting papers." [25] According to them, since petitioner was raising factual issues, it should have attached certified true copies of the following:

1. The Affidavit of petitioner's sole witness, Mr. Januario Posadas
2. The Joint Affidavit of private respondents' five witnesses
3. The Supplemental Affidavit of Engineer Gaid
4. The Transcript of Stenographic Notes (TSNs) of the hearings held on August 4 and 5, 1999
5. Petitioner's Draft Decision
6. Private respondents' Draft Decision

Respondents' argument clearly shows that the CA was indeed mistaken in ruling that petitioner had failed to attach the Complaint to its Petition. Obviously, even respondents accept that the "Narrative Facts and Figures - An Arbitral Presentation" was truly the Complaint of petitioner in the CIAC. If they honestly believed that there was no such attachment, then they should have included the Complaint in the above list.

Respondents harp on the alleged failure of petitioner to submit the foregoing list of documents, which they deem essential to prevent an outright dismissal of the Petition. They cite, as basis for dismissing the Petition, Section 7 of Rule 43, which reads:

"SEC. 7. Effect of failure to comply with requirements. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof." [26]

We disagree. As we have previously observed, the Petition for Review filed before the CA had a certified true copy of the Decision of the CIAC, [27] from which the appeal had been made. Properly appended to the Petition were the allegations of petitioner contained in its "Narrative Facts and Figures — An Arbitral Presentation" and the counter-allegations of respondents in their Answer with Counterclaims. Also annexed to the Petition was the TOR, which was agreed upon by all the parties, and which contained all the admitted facts.

The TOR even confirms that all of petitioner's positions are stated in the Request for Adjudication (which is the same as the "Narrative Facts and Figures"), while those of respondents are in their Answer with Counterclaims. This fact clearly shows that the allegations of both petitioner and respondents are contained in those documents. It is therefore erroneous for respondents and for the appellate court to look for other documents on which to base the disposition of this case.

In dismissing the Petition, the court a quo clearly put a premium on technicalities at the expense of a just resolution of the case. The crucial issue we must now consider is whether the documents accompanying the Petition before the CA sufficiently supported the allegations therein.[28]

Without a doubt, the CA had sufficient basis to actually and completely dispose of the case. The other documents that respondents insist should have been appended to the Petition will not necessarily determine whether the CA can properly decide the case. Besides, these documents were already part of the records of this case and could have easily been referred to by the appellate court if necessary.

Time and time again, this Court has reiterated the doctrine that the rules of procedure are mere tools intended to facilitate rather than to frustrate the attainment of justice. A strict and rigid application of the rules must always be eschewed if it would subvert their primary objective of enhancing fair trials and expediting justice. Technicalities should never be used to defeat the substantive rights of the other party. Parties or litigants must be accorded the amplest opportunity for the proper and just determination of their causes, free from the constraints of technicalities.[29]

In denying due course to the Petition, the appellate court gave premium to form and failed to consider the important rights of the parties. At the very least, petitioner substantially complied with the procedural requirements of Section 6 of Rule 43 of the Rules of Court.

We must stress that cases should be determined on the merits, after all parties have been given full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections.[30] In that way, the ends of justice would be served better. Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court.[31] A strict and rigid application of rules, resulting in technicalities that tend to frustrate rather than promote substantial justice, must be avoided.[32] In fact, Section 6 of Rule 1 states that the Rules shall be liberally construed in order to promote their objective of ensuring the just, speedy and inexpensive disposition of every action and proceeding.[33]

Second Issue:

Remand to the CA

Petitioner then asks this Court to decide its appeal on the merits without need of remanding the case to the CA.

We cannot grant the prayer. The issues raised by petitioner on the merits of its appeal are questions that should be addressed to the CA. It is the appellate court that has jurisdiction over the case pursuant to Rule 43. Section 3 thereof provides:

"SECTION. 3. Where to appeal. An appeal under this Rule [Rule 43] may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law." [34]

In the present case, the determination of the rights of petitioner and respondents involves questions of both fact and law.

A question of law exists when there is doubt or controversy on what the law is on a certain state of facts. There is a question of fact when the doubt or difference arises from the truth or the falsity of the allegations of facts.[35]

Explained the Court:

"A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation." [36]

Clearly, an examination of the evidence presented is required in the determination of the scope, the extent and the effects of the construction projects, contracts and agreements of petitioner and respondents. Such examination will also determine the liability of the parties between and among them. Hence, we cannot grant the prayer of petitioner that the substantive issues of the case be decided by this Court, since the CA has not yet passed upon the factual issues raised by the parties. [37]

Furthermore, respondents' appeal is also pending in the CA. It is thus best that, as much as possible, petitioner's cause should also be decided in the same proceedings where respondents' appeal is lodged.

WHEREFORE, the Petition is PARTLY GRANTED. The assailed CA Resolution, dated October 29, 1999 dismissing petitioner's appeal is REVERSED and SET ASIDE. The case is REMANDED to the CA for decision on the merits. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 10-42.

[2] Annex "A" of the Petition; rollo, p. 45. Tenth Division. Penned by Justice Ramon Mabutas Jr. (Division chairman) and concurred in by Justices Hilarion L. Aquino and Wenceslao I. Agnir Jr. (members).

[3] Rollo, p. 45.

[4] Annex "B" of the Petition; rollo, pp. 48-69. This is entitled "Lexington Housing Project/Lexington Amenities Project: Narrative Facts & Figures — An Arbitral Presentation."

[5] The corporate interests of ULI were later assigned to Castleton Properties & Development Corp. ("CPDC").

[6] Annex "C" of the Petition; rollo, pp. 70-116.

[7] Annex "D" of the Petition; id., pp. 117-135.

[8] Annex "E" of the Petition; id., pp. 136-144.

[9] Composed of Alfredo F. Tadiar (chairman), Nicasio A. de Venecia and Ernesto S. de Castro (members).

[10] Annex "F" of the Petition; rollo, pp. 145-204.

[11] The Court notes that the addends do not yield a grand total of P7,956,242.39, because the figure from JLI is patently erroneous.

[12] CIAC Decision, pp. 55-58; id., pp. 199-202; citations omitted.

[13] CA rollo, pp. 2-5.

[14] Respondents' Memorandum, p. 5; rollo, p. 333.

[15] Ibid.

[16] CA Resolution, rollo, p. 45.

[17] Ibid.

[18] The case was deemed submitted for resolution on August 3, 2001, upon this Court's receipt of petitioner's Reply Memorandum. The Reply Memorandum was allowed by the Court in its June 18, 2001 Resolution. Earlier, on April 2, 2001, the Court received petitioner's Memorandum which was signed by Atty. Ponciano H. Gupit. Private respondents' Memorandum, on the other hand, was received on April 5, 2001. It was signed by Attys. Gilbert Raymund T. Reyes and Norielle C. Oquendo of Poblador Bautista & Reyes.

[19] Rollo, pp. 301-328.

[20] Petitioner's Memorandum, pp. 13-14; rollo, pp. 313-314.

[21] Id., pp. 15 & 315.

[22] §1 of Rule 42 of the 1997 Rules of Court.

[23] §1 of Rule 43 of the 1997 Rules of Court.

[24] §6 of Rule 43 of the 1997 Rules of Court.

[25] Respondents' Memorandum, p. 18; rollo, p. 346.

[26] §7 of Rule 43 of the 1997 Rules of Court.

[27] CA rollo, pp. 32-91.

[28] *Piglas-Kamao v. NLRC*, 357 SCRA 640, May 9, 2001; *Atillo v. Bombay*, 351 SCRA 361, February 7, 2001.

[29] *DBP v. CA*, 411 Phil. 121, June 6, 2001.

[30] *Jaro v. CA*, GR No. 127536, February 19, 2002; *Parasv. Baldado*, 354 SCRA 141, March 8, 2001; *Cusi-Hernandez v. Diaz*, 336 SCRA 113, July 18, 2000; *Republic v. CA*, 354 Phil. 252, July 9, 1998.

[31] *Jaro v. CA*, supra; *Cusi-Hernandez v. Diaz*, supra.

[32] *Cusi-Hernandez v. Diaz*, supra; *Malonzo v. Zamora*, 311 SCRA 224, July 27, 1999; *Fortich v. Corona*, 289 SCRA 624, April 24, 1998.

[33] §6 of Rule 1 of the 1997 Rules of Court.

[34] §3 of Rule 43 of the 1997 Rules of Court.

[35] Regalado, Remedial Law Compendium, 1997, 6[th] revised edition, Vol. I, p. 541.

[36] *Republic v. Sandiganbayan*, GR No. 102508, January 30, 2002, per Davide, CJ.

[37] *Abraham v. NLRC*, 353 SCRA 739, March 6, 2001; *Veluz v. CA*, 345 SCRA 756, November 23, 2000.

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