

**HERITAGE PARK MANAGEMENT CORPORATION, PETITIONER, VS.
CONSTRUCTION INDUSTRY ARBITRATION COMMISSION AND
ELPIDIO UY, DOING BUSINESS UNDER NAME AND STYLE OF EDISON
DEVELOPMENT AND ...***G.R. No. 148133. October 08, 2008*

Ponente: VELASCO JR., J.

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In the disposition of judicial controversies, reasonable and justifiable liberality in the application of the rules on pleading and practice should be the guiding norm. But in those times when the Court allowed the relaxation or even suspended the application of procedural rules, even *pro hac vice*, it did so only for the most persuasive of reasons. The imperatives of a speedy and orderly administration of justice also require adherence to procedural laws, particularly those fixing periods within which certain acts must be done. Else, through negligence or indolence, not to mention malice, suits may be unduly prolonged, and needless delays tolerated, thereby giving veracity to that odious situation of justice delayed, justice denied.

The Case

This Petition for Review on Certiorari under Rule 45 seeks the reversal of the November 29, 2000 Decision[1] and May 7, 2001 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 58124, entitled *Heritage Park Management Corporation v. Construction Industry Arbitration Commission and Elpidio Dy doing business under the name and style of Edison Development and Construction*. The appealed decision, as effectively reiterated in the equally appealed resolution, denied the petition dated April 4, 2000 for the CA to declare that the Construction Industry Arbitration Commission (CIAC) has no jurisdiction over the case docketed with it as CIAC Case No. 02-2000 entitled *Elpidio S. Uy, doing business under the name and style of Edison Development and Construction v. Public Estates Authority and/or Carlos P. Doble*, and that the CIAC and Edison Development and Construction (EDC) be permanently enjoined from further proceeding with the case.

The Facts

The antecedent facts of the case are set forth in the Court's decision in *Public Estates Authority v. Uy*. [3] In that case, the petitioner, Public Estates Authority (PEA), was designated by the Bases Conversion Development Authority to develop the first class memorial park known as the Heritage Park, located in Fort Bonifacio, Taguig, Metro Manila. Relative thereto, PEA engaged the services of herein private respondent Elpidio S. Uy, doing business under the name and style of EDC, under a Landscaping and Construction Agreement dated November 20, 1996 (Agreement). In the Agreement, EDC undertook to perform all landscaping works on the 105-hectare Heritage Park, to be completed within 450 days, commencing within 14 days from EDC's receipt from PEA of a written notice to proceed. Due to delays, the contract period was extended to 693 days. Among the causes of delay was PEA's inability to deliver to EDC 45 hectares of the property landscaping due to the existence of squatters and a public cemetery.

Thus, EDC instituted a Complaint dated January 12, 2000 with the CIAC, docketed as CIAC Case No. 02-2000, seeking to collect from PEA damages arising from its delay in the delivery of the entire property for landscaping. EDC alleged that it incurred additional rental costs for equipment which were kept on standby and labor costs for idle manpower. Likewise, the delay incurred by PEA caused the topsoil of the original supplier to be depleted, thereby incurring added costs. EDC also claimed incurring additional costs to mobilize water trucks for the plants and trees which had already been delivered at the site. Finally, EDC claimed that it was necessary to construct a nursery shade to protect and preserve the young plants and trees prior to actual transplanting at the landscaped area.

Sometime in March 2000, PEA executed a Deed of Assignment in favor of herein petitioner Heritage Park Management Corporation (Heritage), whereby PEA and Heritage agreed as follows:

- That the ASSIGNOR hereby transfers, cedes and assigns the development contracts hereinbefore enumerated in favor of the ASSIGNEE, including all rights, interests, causes of action, and its corresponding obligations under said contracts.
- That the ASSIGNEE hereby accepts the assignment of all contracts herein before listed, which were entered into and executed by ASSIGNOR as Project Manager of the Heritage Park Project, approved and confirmed by the HPP Execom, and shall assume ASSIGNOR's rights, interests and responsibilities, obligations, undertakings and liabilities arising from the said contracts including judgment awards, costs or expenses relative to the said contracts, particularly the terrasoleum 1B & 4 and the Landscaping contract, which are now subject of litigation pending before various courts in Parañaque, and the Construction Industry Arbitration Commission.

Thereafter, on April 5, 2000, Heritage filed a petition dated April 4, 2000[4] with the CA for prohibition/injunction with prayer for preliminary injunction and temporary restraining order (TRO) against the CIAC and EDC, docketed as CA-G.R. SP No. 58124. In the petition, Heritage prayed that a TRO and then a preliminary injunction issue, enjoining respondents from further proceeding with, resolving, and rendering an award in CIAC Case No. 02-2000. Heritage further prayed that a permanent injunction be finally issued.

Heritage alleged in the petition that the CIAC has no jurisdiction over the subject funds against which any award against PEA, a party-defendant in the CIAC case, would be enforced. Allegedly, Heritage has complete control, custody, and authority over the Heritage Park Project funds and has never submitted itself and the funds to the CIAC's arbitral jurisdiction.

Subsequently, the CA, by Resolution dated April 7, 2000, issued the TRO Heritage prayed for. The CIAC received a copy of the Resolution on the same day.

Previously, however, the CIAC already finished the hearing of the case and the same was already submitted for decision as of April 4, 2000 or one day before the filing of the petition in CA-G.R. SP No. 58124 with the CA.

Thereafter, the Decision in CIAC Case No. 02-2000 was promulgated on May 16, 2000 in favor of EDC. PEA and EDC both appealed to the CA. The cases were consolidated. The CA then issued a Joint Decision dated September 25, 2000, denying due course to the petitions. In a Joint Resolution dated April 25, 2001, the CA affirmed its Joint Decision.

Thus, PEA filed an appeal with this Court docketed as G.R. Nos. 147933-34 entitled Public Estates Authority v. Uy. The Court affirmed the CA's Joint Decision and Resolution, dismissing PEA's appeal.

Meanwhile, on May 12, 2000, herein private respondent filed a Comment to the Petition dated April 4, 2000 before the CA. Heritage filed a Reply to the Comment on May 23, 2000. On June 2, 2000, this was followed by a

Rejoinder to the Reply. On June 30, 2000, Heritage filed a Sur-Rejoinder.[5]

On June 7, 2000, the CA issued a Certification, upon the request of private respondent, stating that no Writ of Preliminary Injunction had been issued by the Court as of June 7, 2000 and that the TRO issued in a Resolution dated April 7, 2000 had already lapsed.[6]

Thus, private respondent filed with the CIAC a Motion Ex-Parte to Promulgate Decision, arguing that the 60-day period of effectivity of the TRO had already lapsed.

Acting on the Motion, the CIAC issued a Notice of Award dated June 8, 2000 attaching thereto a copy of the Decision promulgated on May 16, 2000.[7]

It is against the foregoing factual backdrop that the CA issued the assailed decision dated November 29, 2000, denying and accordingly dismissing the petition dated April 4, 2000.[8]

In said decision, the CA reasoned that considering the petition prayed that the CIAC be prohibited from further acting on the case and that the CIAC had rendered a Decision thereon, the petition had become moot and academic, there being nothing more to prohibit or enjoin.

The CA further ruled that the CIAC cannot be held in contempt inasmuch as when the Decision of the CIAC was issued on June 8, 2000, the TRO had already lapsed.[9]

From such Decision, Heritage filed a Motion for Reconsideration dated December 22, 2000. The CA denied the Motion for Reconsideration in the assailed Resolution dated May 7, 2001.

Thus, before the Court is this petition.

The Issues

- The issue of jurisdiction raised by petitioner in the Court of Appeals was not rendered moot and academic by the promulgation of an invalid and illegal decision.
- The Court of Appeals should have resolved the fundamental issue of jurisdiction despite the promulgation by the CIAC of its questionable decision.
- A decision that was rendered in violation of an injunctive order is null and void and cannot have any legal effect.
- Even assuming that respondent CIAC allegedly concluded the proceedings by the rendition of the assailed decision, the petition for prohibition should have been considered as a petition for certiorari as said petition raises issues directly assailing the jurisdiction of respondent CIAC.
- The proceedings before respondent CIAC having been conducted and resolved without impleading an indispensable party, the decision rendered in said proceeding is null and void and of no legal effect.
- Respondent CIAC did not have jurisdiction over the actual subject matter of the claim of respondent EDC.
- Respondent CIAC cannot assume jurisdiction over a dispute without the agreement or consent of the petitioner to submit the dispute for arbitration before respondent CIAC.
- The act of respondent EDC in filing a case that involves a construction dispute with the regional trial court constitutes a waiver of its right to file an arbitration complaint with respondent CIAC.
- The filing by respondent EDC before respondent CIAC of a claim that forms part and parcel of cause of action in the injunction case pending before RTC-Parañaque City constitutes forum-shopping

- The proceedings before respondent CIAC and the eventual issuance of a decision therein constitutes a blatant violation of the constitutional right of the petitioner to due process of law.[10]

Restated, the issues are: (1) Did the "promulgation" of the CIAC Decision on May 16, 2000 violate the TRO issued by the CA? (2) Did the issuance of the CIAC Decision render the petition filed before the CA moot and academic? (3) Can the petition before the CA be considered as a petition for certiorari? (4) Is Heritage an indispensable party to the CIAC case? Did the non-inclusion of Heritage in the proceedings before the CIAC violate its right to due process? and (5) Is EDC guilty of forum-shopping?

The Court's Ruling

The petition must be denied.

The Petition Has Become Moot and Academic

Judicial notice may be taken of the fact that the original parties to the CIAC case, PEA and EDC, both appealed the May 16, 2000 Decision of the CIAC to the CA raising substantive issues, with the case filed by the PEA docketed as CA-G.R. SP No. 59308 while the appeal filed by EDC docketed as CA-G.R. SP No. 59849. On September 25, 2000, the CA issued a Joint Decision dismissing the petitions, to wit:

WHEREFORE, premises considered, the petitions in CA-G.R. SP No. 59308, entitled "Public Estates Authority v. Elpidio Uy, doing business under the name and style of Edison Development & Construction," and CA-G.R. SP No. 59849, "Elpidio S. Uy, doing business under the name and style of Edison Development & Construction v. Public Estates Authority," are both hereby DENIED DUE COURSE and accordingly, DISMISSED, for lack of merit.

Consequently, the Award/Decision issued by the Construction Industry Arbitration Commission on May 16, 2000 in CIAC Case No. 02-2000, entitled "Elpidio S. Uy, doing business under the name and style of Edison Development & Construction v. Public Estates Authority," is hereby AFFIRMED in toto.

No pronouncement as to costs.

SO ORDERED.

Both parties filed their respective motions for reconsideration of the above Joint Decision. These motions were denied by the CA in a Joint Resolution dated April 25, 2001.

Subsequently, both parties appealed the CA Joint Decision and Joint Resolution to this Court with the petition of the PEA docketed as G.R. Nos. 147933-34 entitled Public Estates Authority v. Uy. On December 12, 2001, the Court issued a Decision where we stated:

We have carefully gone over the decision of the CIAC in CIAC Case No. 02-2000, and we have found that it contains an exhaustive discussion of all claims and counterclaims of respondent and petitioner, respectively. More importantly, its findings are well supported by evidence which are properly referred to in the record. In all, we have found no ground to disturb the decision of the CIAC, especially since it possesses the required expertise in the field of construction arbitration. It is well settled that findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect, but finality when affirmed by the Court of Appeals.

Thus, we affirm the factual findings and conclusions of the CIAC as regards the arbitral awards to respondent. The records clearly show that these are amply supported by substantial evidence.[11]

x x x x

WHEREFORE, in view of the foregoing, the petition for review is DENIED. The Motion to Consolidate this

petition with G.R. [Nos.] 147925-26 is also DENIED.

SO ORDERED.[12]

Thus, while the issuance of the CIAC Decision did not render CA-G.R. SP No. 59308 moot and academic, the Decision of this Court in G.R. Nos. 147933-34 did. The Court passed upon the merits of CIAC Case No. 02-2000 and upheld the Decision of the CIAC.

The Decision of this Court also binds Heritage despite the fact that it was not included therein as a transferee of the interests of PEA in the Project pendente lite.

Petitioner claims that it is an indispensable party to the proceedings before the CIAC as the assignee of the PEA of the latter's rights, interests, and obligations in the Heritage Park Project. Thus, its non-inclusion in the proceedings before the CIAC deprived the latter of jurisdiction over the case. Heritage argues that it is in possession and control over the funds of the Heritage Park Project which EDC is targeting with its complaint before the CIAC.

Such contention is bereft of merit.

It must be remembered that when the case was originally filed by EDC before the CIAC on January 12, 2000, PEA had not yet transferred its rights and obligations over the Project to Heritage, as evidenced by the Deed of Assignment dated March 2000. Thus, by impleading PEA as respondent, the CIAC had jurisdiction over the case at that time. Heritage, however, claims that when PEA transferred its rights and obligations over the Project to Heritage, the CIAC lost its jurisdiction. In other words, Heritage alleges that a court may lose jurisdiction over a case based on the subsequent actions of the parties. This is unacceptable.

The settled rule is that jurisdiction once acquired is not lost upon the instance of the parties but continues until the case is terminated.[13] Certainly, it would be the height of injustice to allow parties that disagree with the decision of a judicial tribunal to annul the same through the expedient of transferring their interests or rights involved in the case.

Moreover, Heritage is mistaken when it claims that it is an indispensable party to the case and that it was not included in the case before the CIAC. Being a transferee of the interests of PEA over the Project during the pendency of the case before the CIAC, it is bound by the proceedings in like manner as PEA. In *Jocson v. Court of Appeals*, this Court held the Bank of the Philippine Islands is bound by the decision of the trial court being the transferee pendente lite of the original defendant therein, despite the fact that it had not been substituted for the original defendant and had not been notified of the proceedings against it. We ruled that:

We hold that the respondent court erred when it declared that the decision rendered by the trial court was not binding on BPI because it had not been substituted for the original defendant and had not been notified of the proceedings against them.

Rule 3 of Section 20 (now Section 19, Rule 3) of the Rules of Court provides:

SEC. 20. Transfer of Interest. - In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

This Court has declared in a number of decisions that a transferee pendente lite stands in exactly the same position as its predecessor-in-interest, the original defendant, and is bound by the proceedings had in the case before the property was transferred to it. It is a proper but not an indispensable party as it would in any event be bound by the judgment against his predecessor. This would follow even if it is not formally included as a

defendant through an amendment of the complaint.[14] (Emphasis supplied.)

Verily, the non-inclusion of Heritage in the proceedings before the CIAC is of no moment as the Rules of Court specifically allows the proceedings to proceed with the original parties while binding the transferee.

The petition having become moot and academic, the other issues raised therein need no longer be discussed. If only to properly guide the CIAC in future situations similar herein, however, the issue of the alleged violation of the TRO issued by the CA shall be discussed.

The CIAC Violated the TRO Issued by the CA

Petitioner argues that the TRO enjoined the CIAC from further proceeding with the case until further orders of the CA. Such TRO was effective for 60 days from the service thereof on the CIAC on April 7, 2000, or until June 7, 2000. The CIAC "promulgated" its Decision on May 16, 2000, although it only served such Decision on the parties on June 9, 2000.

The CA stated in its April 7, 2000 Resolution that:

Meanwhile, in order that the issues raised in the petition may not become moot and academic pending receipt of the comment, a temporary restraining order is hereby issued enjoining the public respondent Construction Industry Arbitration Commission from further proceeding in CIAC Case No. 02-2000 entitled "Elpidio Uy, doing business under the name and style of Edison Construction and Development Corporation (EDC) vs. Public Estates Authority (PEA)", until further orders from this Court.

SO ORDERED.[15] (Emphasis supplied.)

The question therefore is: Did the CIAC violate the TRO with the "promulgation" of the Decision during the effectivity of the TRO?

We answer in the affirmative.

Promulgation is defined as "the delivery of the decision to the clerk of court for filing and publication." [16] It refers to the delivery of the decision to the clerk of court for filing in the book of entries and publication. [17]

The CIAC Decision bears the stamp May 16, 2000 as date of promulgation. The necessary conclusion is that the decision was delivered to the Secretariat of the CIAC for filing and publication, hence, promulgated on May 16, 2000.

The TRO enjoined the CIAC from further proceeding with the case. The CIAC promulgated its Decision after receipt of the April 7, 2000 Resolution and during the effectivity of the TRO. Certainly, the drafting and promulgation of the Decision would constitute further proceeding with the case which is a clear violation of the TRO. Evidently, the CIAC violated the TRO issued by the CA.

Such violation, however, was attended by good faith considering that the CIAC made sure that the Decision would only be released after the expiration of the TRO. Thus, no sanction will be meted out to the CIAC in this instance.

The CIAC is reminded that it must treat orders of the CA as well as the Court with utmost respect. The CIAC would do well to strictly follow to the letter lawful orders of superior tribunals. Let this pronouncement serve as a warning that further non-compliance with the clear directives of the CA or this Court will be met with more serious disciplinary action.

Nevertheless, as earlier stated, to remand the case back to the CIAC on this ground would serve no other purpose

but to delay the final resolution of the case, this Court having already passed upon its merits.

WHEREFORE, the instant petition is hereby DENIED on the ground that it has become moot.

Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Tinga, Chico-Nazario[*], and Brion, JJ., concur.

[*] Additional member as per September 17, 2008 Division Raffle.

[1] Rollo, pp. 55-60. Penned by Associate Justice Cancio C. Garcia (now a retired member of this Court) and concurred in by Associate Justices Romeo A. Brawner and Andres B. Reyes, Jr.

[2] Id. at 53.

[3] G.R. Nos. 147933-34, December 12, 2001, 372 SCRA 180.

[4] Rollo, pp. 96-122.

[5] Id. at 57.

[6] Id. at 57-58.

[7] Id. at 58.

[8] Id. at 59.

[9] Id.

[10] Id. at 24.

[11] Public Estates Authority, *supra* note 3, at 188.

[12] Id. at 192.

[13] *Abalos v. Philex Mining Corporation*, G.R. No. 140374, November 27, 2002, 393 SCRA 134, 141; citing *Delta Ventures Resources, Inc. v. Cabato*, G.R. No. 118216, March 9, 2000, 327 SCRA 521, 530; *Gimenez v. Nazareno*, No. L-37933, April 15, 1988, 160 SCRA 1, 5.

[14] G.R. No. 88297, March 22, 1990, 183 SCRA 589, 592.

[15] Rollo, pp. 124-125.

[16] *Neria v. Commissioner of Immigration*, No. L-24800, May 27, 1968, 23 SCRA 806, 812.

[17] Id. at 812-813.

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