

NATIONAL POWER CORPORATION, PETITIONER, VS. HON. ROSE MARIE ALONZO-LEGASTO, AS PRESIDING JUDGE, RTC OF QUEZON CITY, BRANCH 99, JOSE MARTINEZ, DEPUTY SHERIFF, RTC OF QUEZON CITY,...

G.R. No. 148318. November 22, 2004

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TINGA, J.:

National Power Corporation (NPC) filed the instant Petition for Review[1] dated July 19, 2001, assailing the Decision[2] of the Court of Appeals dated May 28, 2001 which affirmed with modification the Order[3] and Writ of Execution[4] respectively dated May 22, 2000 and June 9, 2000 issued by the Regional Trial Court. In its assailed Decision, the appellate court declared respondent First United Constructors Corporation (FUCC) entitled to just compensation for blasting works it undertook in relation to a contract for the construction of power facilities it entered into with petitioner. The Court of Appeals, however, deleted the award for attorney's fees having found no basis therefor.

The facts culled from the Decision of the Court of Appeals are undisputed:

On April 14, 1992, NPC and FUCC entered into a contract for the construction of power facilities (civil works) – Schedule 1 – 1x20 MW Bacon-Manito II Modular Geothermal Power Plant (Cawayan area) and Schedule 1A – 1x20 MW Bacon-Manito II Modular Geothermal Power Plant (Botong area) in Bacon, Sorsogon (BACMAN II). The total contract price for the two schedules is P108,493,966.30, broken down as follows:

SCHEDULE

1 – Cawayan area P52,081,421.00

1A – Botong area P56,412,545.30

P108,493,966.30

Appended with the Contract is the contract price schedule which was submitted by the respondent FUCC during the bidding. The price for grading excavation was P76.00 per cubic meter.

Construction activities commenced in August 1992. In the latter part of September 1992 and after excavating 5.0 meters above the plant elevation, FUCC requested NPC that it be allowed to blast to the design grade of 495 meters above sea level as its dozers and rippers could no longer excavate. It further requested that it be paid P1,346.00 per cubic meter similar to the rate of NPC's project in Palinpinon.

While blasting commenced on October 6, 1992, NPC and FUCC were discussing the propriety of an extra work order and if such is in order, at what price should FUCC be paid.

Sometime in March 1993, NPC Vice President for Engineering Construction, Hector Campos, created a task force

to review FUCC's blasting works. The technical task force recommended that FUCC be paid P458.07 per cubic meter as such being the price agreed upon by FUCC.

The matter was further referred to the Department of Public [W]orks and Highways (DPWH), which in a letter dated May 19, 1993, recommended the price range of P500.00 to P600.00 per cubic meter as reasonable. It further opined that the price of P983.75 per cubic meter proposed by Lauro R. Umali, Project Manager of BACMAN II was high. A copy of the DPWH letter is attached as Annex "C", FUCC's Exhibit EEE-Arbitration.

In a letter dated June 28, 1993, FUCC formally informed NPC that it is accepting the proposed price of P458.07 per cubic meter. A copy of the said letter is attached as Annex "D", FUCC's Exhibit L Arbitration.

In the meantime, by March 1993, the works in Botong area were in considerable delay. By May 1993, civil works in Botong were kept at a minimum until on November 1, 1993, the entire operation in the area completely ceased and FUCC abandoned the project.

Several written and verbal warnings were given by NPC to FUCC. On March 14, 1994, NPC's Board of Directors passed Resolution No. 94-63 approving the recommendation of President Francisco L. Viray to take over the contract. President Viray's recommendation to take over the project was compelled by the need to stave-off huge pecuniary and non-monetary losses, namely:

(a)

Generation loss estimated to be at P26,546,400/month;

(b)

Payment of steam penalties to PNOC-EDC the amount estimated to be at P10,206,048.00/month;

(c)

Payment of liquidated damages due to the standby of electromechanical contractor;

(d)

Loss of guaranteed protection (warranties) of all delivered plant equipment and accessories as Mitsubishi Corporation, electromechanical contractor, will not be liable after six months of delivery.

To prevent NPC from taking over the project, on March 28, 1994, FUCC filed an action for Specific Performance and Damages with Preliminary Injunction and Temporary Restraining Order before Branch 99, Regional Trial Court, Quezon City.

Under paragraph 19 of its Complaint, FUCC admitted that it agreed to pay the price of P458.07 per cubic meter.

On April 5, 1994, Judge de Guzman issued a temporary restraining order and on April 21, 1994, the trial court resolved to grant the application for issuance of a writ of preliminary injunction.

On July 7, 1994, NPC filed a Petition for Certiorari with Prayer for Temporary Restraining Order and Preliminary Injunction before the First Division of the Court of Appeals asserting that no injunction may issue against any government projects pursuant to Presidential Decree 1818.

On July 8, 1994, the Court of Appeals through then Associate Justice Bernardo Pardo issued a temporary restraining order and on October 20, 1994, the said court rendered a Decision granting NPC's Petition for Certiorari and setting aside the lower court's Order dated April 21, 1994 and the Writ of Preliminary Injunction dated May 5, 1994.

However, notwithstanding the dissolution by the Court of Appeals of the said injunction, on July 15, 1995, FUCC filed a Complaint before the Office of the Ombudsman against several NPC employees for alleged violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Together with the complaint was an Urgent Ex-Parte Motion for the issuance of a cease and [d]esist [o]rder to restrain NPC and other NPC officials involved in the BACMAN II project from canceling and/or from taking over FUCC's contract for civil works of said project.

Then on November 16, 1994, FUCC filed before the Supreme Court a Petition for Review assailing the Decision of the Court of [A]ppeals dated October 20, 1994. In its Comment, NPC raised the issue that FUCC resorted to forum shopping as it applied for a cease and desist order before the National Ombudsman despite the dissolution of the injunction by the Court of Appeals.

Pending the petition filed by FUCC before the Supreme Court, on April 20, 1995 the NPC and FUCC entered into a Compromise Agreement.

Under the Compromise Agreement, the parties agreed on the following:

- Defendant shall process and pay the undisputed unpaid billings of Plaintiff in connection with the entire project fifteen (15) days after a reconciliation of accounts by both Plaintiff and Defendant or thirty (30) days from the date of approval of this Compromise Agreement by the Court whichever comes first. Both parties agree to submit and include those accounts which could not be reconciled among the issues to be arbitrated as hereunder provided;
- Plaintiff accepts and acknowledges that Defendant shall have the right to proceed with the works by re-bidding or negotiating the project immediately upon the signing of herein Compromise Agreement;
- This Compromise Agreement shall serve as the Supplemental Agreement for payment of plaintiff's blasting works at the Botong site;
- Upon approval of this Compromise Agreement by the Court or Plaintiff's receipt of payment of this undisputed unpaid billings from Defendant whichever comes first, the parties shall immediately file a Joint Manifestation and Motion for the withdrawal of the following Plaintiff's petition from the Supreme Court, Plaintiff's Complaint from the National Ombudsman, the Complaint and Amended Complaint from the RTC, Br. 99 of Quezon City;
- Upon final resolution of the Arbitration, as hereunder prescribed, the parties shall immediately execute the proper documents mutually terminating Plaintiff's contract for the civil works of the BACMAN II Project (Contract No. Sp90DLM-918 (I & A));
- Such mutual termination of Plaintiff's contract shall have the following effects and/or consequences: (a) the construction works of Plaintiff at the Kawayan and Bolong sites, at its present stage of completion, shall be accepted and/or deemed to have been accepted by defendant; (b) Plaintiff shall have no more obligation to Defendant in respect of the BACMAN II Project except as provided in clause (e) below; (c) Defendant shall release all retention moneys of plaintiff within a maximum period of thirty (30) days from the date of final Resolution of the Arbitration; (d) no retention money shall thenceforth be withheld by Defendant in its payment to Plaintiff under this Compromise Agreement, and (e) Plaintiff shall put up a one-year guaranty bond for its completed civil works at the Kawayan site, retroactive to the date of actual use of the plant by defendant;
- Plaintiff's blasting works claims and other unresolved claims, as well as the claims of damages of both parties shall be settled through a two stage process to wit:

STAGE 1

7.1

Plaintiff and Defendant shall execute and sign this Compromise Agreement which they will submit for approval by this Court. Under this Compromise Agreement both parties agree that:

XXX XXX

STAGE 2

7.1

The parties shall submit for arbitration to settle: (a) the price of blasting, (b) both parties' claims for damages, delays, interests, and (c) all other unresolved claims of both parties, including the exact volume of blasted rocks;

7.2

The arbitration shall be through a three-member commission to be appointed by the Honorable Court. Each party shall nominate one member. The Chairman of the Arbitration Board shall be [a] person mutually acceptable to both parties, preferably from the academe;

7.3

The parties shall likewise agree upon the terms under which the arbitrable issues shall be referred to the Arbitration Board. The terms of reference shall form part of the Compromise Agreement and shall be submitted by the parties to the Honorable Court within a period of seven (7) days from the signing of the Compromise Agreement;

7.4

The Arbitration Board shall have a non-extendible period of three (3) months within which to complete the arbitration process and submit its Decision to the Honorable Court;

7.5

The parties agree that the Decision of the Arbitration Board shall be final and executory;

7.6

By virtue of this Compromise Agreement, except as herein provided, the parties shall mutually waive, forgo and dismiss all of their other claims and/or counterclaim in this case. Plaintiff and defendant warrant that after approval by the Court of this Compromise Agreement neither party shall file Criminal or Administrative cases or suits against each other or its Board or member of its officials on grounds arising from the case.

The Compromise Agreement was subsequently approved by the Court on May 24, 1995.

The case was subsequently referred by the parties to the arbitration board pursuant to their Compromise Agreement. On December 9, 1999 the Arbitration Board rendered its ruling the dispositive portion of which states:

WHEREFORE, claimant is hereby declared entitled to an award of P118,681,328.28 as just compensation for blasting works, plus ten percent (10%) thereof for attorney's fees and expenses of litigation.

Considering that payment in the total amount of P36,550,000.00 had previously been made, respondent is hereby ordered to pay claimant the remaining sum of P82,131,328.28 for attorney's fees and expenses of

litigation.

Pursuant to the Compromise Agreement approved by this Honorable Court, the parties have agreed that the decision of the Arbitration Board shall be final and executory.

SO ORDERED.

On December 10, 1999 plaintiff FUCC filed a Motion for Execution while defendant NPC filed a Motion to Vacate Award by the Arbitration Board on December 20, 1999.

On May 22, 2000 Presiding Judge Rose Marie Alonzo Legasto issued an order the dispositive portion of which states:

“WHEREFORE, the Arbitration Award issued by the Arbitration Board is hereby APPROVED and the Motion for Execution filed by plaintiff hereby GRANTED. The Motion to Vacate Award filed by defendant is hereby DENIED for lack of merit.

Accordingly, let a writ of execution be issued to enforce the Arbitration Award.

SO ORDERED.”[5] (Bracketed words supplied)

NPC went to the Court of Appeals on the lone issue of whether respondent judge acted with grave abuse of discretion in issuing the Order dated May 22, 2000 and directing the issuance of a Writ of Execution.

In its assailed Decision, the appellate court declared that the court a quo did not commit grave abuse of discretion considering that the Arbitration Board acted pursuant to its powers under the Compromise Agreement and that its award has factual and legal bases.

The Court of Appeals gave primacy to the court-approved Compromise Agreement entered into by the parties and concluded that they intended the decision of the arbitration panel to be final and executory. Said the court:

For one, what the price agreed to be submitted for arbitration are pure issues of fact (i.e., the price of blasting; both parties’ claims for damages, delay, interests and all other unresolved claims of both parties, including the exact volume of blasted rocks). Also, the manner by which the Arbitration Board was formed and the terms under which the arbitrable issues were referred to said Board are specified in the agreement. Clearly, the parties had left to the Arbitration Board the final adjudication of their remaining claims and waived their right to question said Decision of the Board. Hence, they agreed in clear and unequivocal terms in the Compromise Agreement that said Decision would be immediately final and executory. Plaintiff relied upon this stipulation in complying with its various obligations under the agreement. To allow defendant to now go back on its word and start questioning the Decision would be grossly unfair considering that the latter was also a party to the Compromise Agreement entered into part of which dealt with the creation of the Arbitration Board.[6]

The appellate court likewise held that petitioner failed to present evidence to prove its claim of bias and partiality on the part of the Chairman of the Arbitration Board, Mr. Carmelo V. Sison (Mr. Sison).

Further, the Court of Appeals found that blasting is not part of the unit price for grading and structural excavation provided for in the contract for the BACMAN II Project, and that there was no perfected contract between the parties for an extra work order for blasting. Nonetheless, since FUCC relied on the representation of petitioner’s officials that the extra work order would be submitted to its Board of Directors for approval and that the blasting works would be paid, the Court of Appeals ruled that FUCC is entitled to just compensation on grounds of equity and promissory estoppel.

Anent the issue of just compensation, the appellate court took into account the estimate prepared by a certain Mr. Lauro R. Umali (Mr. Umali), Project Manager of the BACMAN II Project, which itemized the various costs

involved in blasting works and came up with P1,310.82 per cubic meter, consisting of the direct cost for drilling, blasting excavation, stockpiling and hauling, and a 30% mark up for overhead, contractor's tax and contingencies. This estimate was later changed to P983.75 per cubic meter to which FUCC agreed. The Court of Appeals, however, held that just compensation should cover only the direct costs plus 10% for overhead expenses. Thus, it declared that the amount of P763.00[7] per cubic meter is sufficient. Since the total volume of blasted rocks as computed by Dr. Benjamin Buensuceso, Jr.[8] of the U.P. College of Engineering is 97,032.16 cubic meters, FUCC is entitled to the amount of P74,035,503.50 as just compensation.

Although the Court of Appeals adjudged FUCC entitled to interest,[9] the dispositive portion of the assailed Decision[10] did not provide for the payment of interest. Moreover, the award of attorney's fees was deleted as there was no legal and factual ground for its imposition.

Petitioner, represented by the Office of the Solicitor General in the instant Petition, rehashes its submissions before the Court of Appeals. It claims that the appellate court failed to pass upon the following issues:

- The Chairman of the Arbitration Board showed extreme bias in prejudging the case.
- The Chairman of the Arbitration Board greatly exceeded his powers when he mediated for settlement in the court of arbitration proceedings.
- The Chairman of the Arbitration Board committed serious irregularity in hastily convening the Board in two days, which thereafter released its report.
- The Arbitration Board Committed manifest injustice prejudicial to petitioner based on the following:
 - It rendered an award based on equity despite the mandatory provision of the law.
 - The Board's decision to justify that equity applies herein despite the fact that FUCC never submitted its own actual costs for blasting and PHESCO, INC., the succeeding contractor, did not employ blasting but used ordinary excavation method at P75.59 per cubic meter which is approximately the same unit price of plaintiff (FUCC).
 - It gravely erred when the Board claimed that an award of just compensation must be given to respondent FUCC for what it has actually spent and yet instead of using as basis P458.07 which is the price agreed upon by FUCC, it chose an estimate made by an NPC employee.
 - It gravely erred when it relied heavily on the purported letter of NPC Project Manager Lauro R. Umali, when the same has not been identified nor were the handwritten entries in Annex ii established to be made by him.
 - The Arbitration Board gravely erred in computing interest at 12% and from the time of plaintiff's extrajudicial claim despite the fact that herein case is an action for specific performance and not for payment of loan or forbearance of money, and despite the fact that it has resolved that there was no perfected contract and there was no bad faith on the part of defendant.
- On June 25, 2000, NPC discovered the Sub-Contract Agreement of FUCC with a unit price of only P430/per cubic meter.[11] [Emphasis in the original]

Specifically, petitioner asserts that Mr. Sison exhibited bias and prejudgment when he exhorted it to pay FUCC for the blasting works after concluding that the latter was allowed to blast. Moreover, Mr. Sison allegedly attempted to mediate the conflict between the parties in violation of Section 20,[12] paragraph 2 of Republic Act No. 876 (R.A. 876) otherwise known as the Arbitration Law. Petitioner also questions the abrupt manner by which the decision of the Arbitration Board was released.

Petitioner avers that FUCC's claim for blasting works was not approved by authorized officials in accordance

with Presidential Decree No. 1594 (P.D. 1594) and its implementing rules which specifically require the approval of the extra work by authorized officials before an extra work order may be issued in favor of the contractor. Thus, it should not be held liable for the claim. If at all, only the erring officials should be held liable. Further, FUCC did not present evidence to prove the actual expenses it incurred for the blasting works. What the Arbitration Board relied upon was the memorandum of Mr. Umali which was neither identified or authenticated during the arbitration proceedings nor marked as evidence for FUCC. Moreover, the figures indicated in Mr. Umali's memorandum were allegedly mere estimates and were recommendatory at most.

Petitioner likewise claims that its succeeding contractor, Phesco, Inc. (Phesco), was able to excavate the same rock formation without blasting.

Finally, it asserts that the award of P763.00 per cubic meter has no factual and legal basis as the sub-contract between FUCC and its blasting sub-contractor, Dynamic Blasting Specialists of the Philippines (Dynamic), was only P430.00 per cubic meter.

In its Comment[13] dated October 15, 2001, FUCC points out that petitioner's arguments are exactly the same as the ones it raised before the Arbitration Board, the trial court and the Court of Appeals. Moreover, in the Compromise Agreement between the parties, petitioner committed to abide by the decision of the Arbitration Board. It should not now be allowed to question the decision.

FUCC likewise notes that Atty. Jose G. Samonte (Atty. Samonte), one of the members of the Arbitration Board, was nominated by petitioner itself. If there was any irregularity in its proceedings such as the bias and prejudgment petitioner imputes upon Mr. Sison, Atty. Samonte would have complained. As it is, Atty. Samonte concurred in the decision of the Arbitration Board and dissented only as to the award of attorney's fees.

As regards the issue of interest, FUCC claims that the case involves forbearance of money and not a claim for damages for breach of an obligation in which case interest on the amount of damages awarded may be imposed at the rate of six percent (6%) per annum.

Finally, FUCC asserts that its sub-contract agreement with Dynamic is not newly-discovered evidence. Petitioner's lawyers allegedly had a copy of the sub-contract in their possession. In any event, the unit price of P430.00 per cubic meter appearing in the sub-contract represents only a fraction of the costs incurred by FUCC for the blasting works.

Petitioner filed a Reply[14] dated March 18, 2002 reiterating its earlier submissions.

The parties in the present case mutually agreed to submit to arbitration the settlement of the price of blasting, the parties' claims for damages, delay and interests and all other unresolved claims including the exact volume of blasted rocks.[15] They further mutually agreed that the decision of the Arbitration Board shall be final and immediately executory.[16]

A stipulation submitting an ongoing dispute to arbitration is valid. As a rule, the arbitrator's award cannot be set aside for mere errors of judgment either as to the law or as to the facts. Courts are generally without power to amend or overrule merely because of disagreement with matters of law or facts determined by the arbitrators. They will not review the findings of law and fact contained in an award, and will not undertake to substitute their judgment for that of the arbitrators. A contrary rule would make an arbitration award the commencement, not the end, of litigation. Errors of law and fact, or an erroneous decision on matters submitted to the judgment of the arbitrators, are insufficient to invalidate an award fairly and honestly made. Judicial review of an arbitration award is, thus, more limited than judicial review of a trial.[17]

However, an arbitration award is not absolute and without exceptions. Where the conditions described in Articles 2038, 2039 and 2040 of the Civil Code^[18] applicable to both compromises and arbitrations are obtaining, the arbitrators' award may be annulled or rescinded.^[19] Additionally, judicial review of an arbitration award is warranted when the complaining party has presented proof of the existence of any of the grounds for vacating, modifying or correcting an award outlined under Sections 24 and 25 of R.A. 876, viz:

Section 24. Grounds for vacating an award. — In any of the following cases, the court must make an order vacating the award upon the petition of any party to the controversy when such party proves affirmatively that in the arbitration proceedings:

(a)

The award was procured by corruption, fraud, or other undue means; or

(b)

That there was evident partiality or corruption in the arbitrators or any of them; or

(c)

That the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; that one or more of the arbitrators was disqualified to act as such under section nine hereof, and willfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or

(d)

That the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.

When an award is vacated, the court, in its discretion, may direct a new hearing either before the same arbitrators or before a new arbitrator or arbitrators to be chosen in the manner provided in the submission or contract for the selection of the original arbitrator or arbitrators, and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration to commence from the date of the court's order.

Where the court vacates an award, costs not exceeding fifty pesos and disbursements may be awarded to the prevailing party and the payment thereof may be enforced in like manner as the payment of costs upon the motion in an action.

Section 25. Grounds for modifying or correcting an award. — In any one of the following cases, the court must make an order modifying or correcting the award, upon the application of any party to the controversy which was arbitrated:

(a)

Where there was an evident miscalculation of figures, or an evident mistake in the description of any person, thing or property referred to in the award; or

(b)

Where the arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted; or

(c)

Where the award is imperfect in a matter of form not affecting the merits of the controversy, and if it had been a commissioner's report, the defect could have been amended or disregarded by the court.

The order may modify and correct the award so as to effect the intent thereof and promote justice between the parties.

In this case, petitioner does not specify which of the foregoing grounds it relies upon for judicial review. Petitioner avers that "if and when the factual circumstances referred to in the provisions aforementioned are present, judicial review of the award is warranted." [20] From its presentation of issues, however, it appears that the alleged evident partiality of Mr. Sison is singled out as a ground to vacate the board's decision.

We note, however, that the Court of Appeals found that petitioner did not present any proof to back up its claim of evident partiality on the part of Mr. Sison. Its averments to the effect that Mr. Sison was biased and had prejudged the case do not suffice to establish evident partiality. Neither does the fact that a party was disadvantaged by the decision of the arbitration committee prove evident partiality. [21]

According to the appellate court, "[p]etitioner was never deprived of the right to present evidence nor was there any showing that the Board showed signs of any bias in favor of FUCC. As correctly found by the trial court, this Court cannot find its way to support petitioner's contention that there was evident partiality in the assailed Award of the Arbitrator in favor of the respondent because the conclusion of the Board, which the Court found to be well-founded, is fully supported by substantial evidence." [22]

There is no reason to depart from this conclusion.

However, we take exception to the arbitrators' determination that based on promissory estoppel per se or alone, FUCC is entitled to just compensation for blasting works for the reasons discussed hereunder.

Section 9 of P.D. No. 1594, entitled Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts, provides:

SECTION 9. Change Order and Extra Work Order.—A change order or extra work order may be issued only for works necessary for the completion of the project and, therefore, shall be within the general scope of the contract as bid[ded] and awarded. All change orders and extra work orders shall be subject to the approval of the Minister of Public Works, Transportation and Communications, the Minister of Public Highways, or the Minister of Energy, as the case may be.

The pertinent portions of the Implementing Rules and Regulations of P.D. 1594 provide:

CI - Contract Implementation:

These Provisions Refer to Activities During Project Construction, i.e., After Contract Award Until Completion, Except as May Otherwise be Specifically Referred to Provisions Under Section II. IB - Instructions to Bidders.

CI 1 - Variation Orders - Change Order/Extra Work Order/Supplemental Agreement

- An Extra Work Order may be issued by the implementing official to cover the introduction of new work items after the same has been found to strictly comply with Section CI-1-1 and approved by the appropriate official if the amount of the Extra Work Order is within the limits of the former's authority to approve original contracts and under the following conditions:

- Where there are additional works needed and necessary for the completion, improvement or protection of the project which were not included as items of work in the original contract.

- Where there are subsurface or latent physical conditions at the site differing materially from those indicated

in the contract.

- Where there are duly unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work or character provided for in the contract.

- Where there are duly approved construction drawings or any instruction issued by the implementing office/agency during the term of contract which involve extra cost.

...

- A separate Supplemental Agreement may be entered into for all Change Orders and Extra Work Orders if the aggregate amount exceeds 25% of the escalated original contract price. All change orders/extra work orders beyond 100% of the escalated original contract cost shall be subject to public bidding except where the works involved are inseparable from the original scope of the project in which case negotiation with the incumbent contractor may be allowed, subject to approval by the appropriate authorities.

- Any Variation Order (Change Order, Extra Work Order or Supplemental Agreement) shall be subject to the escalation formula used to adjust the original contract price less the cost of mobilization. In claiming for any Variation Order, the contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within 28 calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Change Orders, Extra Work Orders or Supplemental Agreements are as follows:

- If the Project Engineer believes that a Change Order, Extra Work Order or Supplemental Agreement should be issued, he shall prepare the proposed Order or Supplemental Agreement accompanied with the notices submitted by the contractor, the plans therefore, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for the need of such Change Order, Extra Work Order or Supplemental Agreement, and shall submit the same to the Regional Director of office/agency/corporation concerned.

- The Regional Director concerned, upon receipt of the proposed Change Order, Extra Work Order or Supplemental Agreement shall immediately instruct the technical staff of the Region to conduct an on-the-spot investigation to verify the need for the work to be prosecuted. A report of such verification shall be submitted directly to the Regional Director concerned.

- The Regional Director concerned after being satisfied that such Change Order, Extra Work Order or Supplemental Agreement is justified and necessary, shall review the estimated quantities and prices and forward the proposal with the supporting documentation to the head of office/agency/corporation for consideration.

- If, after review of the plans, quantities and estimated unit cost of the items of work involved, the proper office/agency/corporation committee empowered to review and evaluate Change Orders, Extra Work Orders or Supplemental Agreements recommends approval thereof, the head of office/agency/corporation, believing the Change Order, Extra Work Order or Supplemental Agreement to be in order, shall approve the same. The limits of approving authority for any individual, and the aggregate of, Change Orders, Extra Work Orders or Supplemental Agreements for any project of the head of office/agency/corporation shall not be greater than those granted for an original project.

CI 3 - Conditions under which Contractor is to Start Work under Variation Orders and Receive Payments

- Under no circumstances shall a contractor proceed to commence work under any Change Order, Extra Work Order or Supplemental Agreement unless it has been approved by the Secretary or his duly authorized representative. Exceptions to the preceding rule are the following:

- The Regional Director, or its equivalent position in agencies/offices/corporations without plantilla position for the same, may, subject to the availability of funds, authorize the immediate start of work under any Change or Extra Work Order under any or all of the following conditions:

(1) In the event of an emergency where the prosecution of the work is urgent to avoid detriment to public service, or damage to life and/or property; and/or

(2) When time is of the essence; provided, however, that such approval is valid on work done up to the point where the cumulative increase in value of work on the project which has not yet been duly fully approved does not exceed five percent (5%) of the adjusted original contract price, or P500,000 whichever is less; provided, further, that immediately after the start of work, the corresponding Change/Extra Work Order shall be prepared and submitted for approval in accordance with the above rules herein set. Payments for works satisfactorily accomplished on any Change/Extra Work Order may be made only after approval of the same by the Secretary or his duly authorized representative.

- For a Change/Extra Work Order involving a cumulative amount exceeding five percent (5%) of the original contract price or original adjusted contract price no work thereon may be commenced unless said Change/Extra Work Order has been approved by the Secretary or his duly authorized representative. [Emphasis supplied]

It is petitioner's submission, and FUCC does not deny, that the claim for payment of blasting works in Botong alone was approximately P170,000,000.00, a figure which far exceeds the original contract price of P80,000,000.00 for two (2) project sites. Under the foregoing implementing rules, for an extra work order which exceeds 5% of the original contract price, no blasting work may be commenced without the approval of the Secretary or his duly authorized representative. Moreover, the procedure for the preparation and approval of the extra work order outlined under Contract Implementation (CI) 1(7) above should have been complied with. Accordingly, petitioner's officials should not have authorized the commencement of blasting works nor should FUCC have proceeded with the same.

The following events, culled from the decision of the Arbitration Board and the assailed Decision, are made the bases for the finding of promissory estoppel on the part of petitioner:

- After claimant [respondent herein] encountered what it claimed to be massive hard rock formation (Testimony of witness Dumaliang, TSN, 28 October 1996, pp. 41-42; Testimony of witness Lataquin, 28 November 1996, pp. 2-3; 20-23; Exh. "JJJ" and sub-markings) and informed respondent [petitioner herein] about it, respondent's own geologists went to the Botong site to investigate and confirmed the rock formation and recommended blasting (Cf. Memorandum of Mr. Petronilo E. Pana, Acting Manager of the Geoscience Services Department and the report of the geologists who conducted the site investigation; Exhs. "F" and "F-1").

- Claimant asked for clearance to blast the rock formation to the design grade (Letter dated 28 September 1992; Exh. "UU"). The engineers of respondent at the project site advised claimant to proceed with its suggested method of extraction (Order/Instruction given by Mr. Reuel R. Declaro and Mr. Francis A. Paderna dated 29 September 1992; Exh. "C").

- Claimant requested that the intended blasting works be confirmed as extra work order by responsible officials of respondent directly involved in the BACMAN II Project (i.e., then BACMAN II Project Manager, Mr. Lauro R. Umali and Mr. Angelito G. Senga, Section Chief, Civil Engineering Design of respondent's Design Department which bidded the project). These officials issued verbal instructions to the effect: (a) that claimant

could blast the rock formation down to the design grade of 495 masl; (b) that said blasting works would be an extra work order; and (c) that claimant would be paid for said blasting works using the price per cubic meter for similar blasting works at Palinpinon, or at P1,346.00 per cubic meter.

- Claimant sent two (2) confirmatory letters to respondent, both addressed to its President, one dated 30 September 1992, and sent through Mr. Angelito Senga, Chief Civil Design – Thermal, the other dated 02 October 1992, and sent through Mr. Lauro R. Umali, Project Manager–BacMan II (Exhs. “D” and “E”; Testimony of witness Dumaliang, TSN, 28 October 1996, pp. 43-49). The identical letters read:

We wish to confirm your instruction for us to proceed with the blasting of the Botong Plant site to the design grade pending issuance of the relevant variation order. This is to avoid delay in the implementation of this critical project due to the urgent need to blast rocks on the plant site.

We are confirming further your statement that the said blasting works is an extra work order and that we will be paid using the price established in your Palinpinon contract with Phesco.

Thank you for your timely action and we look forward to the immediate issuance of the extra work order.

We are now mobilizing equipment and manpower for the said work and hope to start blasting next week.

- Respondent received the letters but did not reply thereto nor countermand the earlier instructions given to claimant to proceed with the blasting works. The due execution and authenticity of these letters (Exhs. “D-1” and “E-1”) and the fact of receipt (Exhs. “D-2” and “E-2”) were duly proved by claimant (Testimony of witness Dumaliang, TSN, 28 October 1996, 43-49).

- In mid-October 1992, three (3) Vice-Presidents of respondent visited the project site and were informed of claimant’s blasting activities. While respondent claims that one of the Vice-Presidents, Mr. Rodrigo Falcon, raised objections to claimant’s blasting works as an extra work order, they instructed claimant to speed up the works because of the power crisis then hounding the country. Stipulation no. 24 of the Joint Stipulation of Facts of the parties which reads: “24. In mid-October 1992, three (3) Vice-Presidents of respondent, namely: Mr. Hector N. Campos, Sr., of Engineering Construction, Mr. C.A. Pastoral of Engineering Design, and Mr. Rodrigo P. Falcon, visited the project site and were likewise apprised of claimant’s blasting activities. They never complained about the blasting works, much less ordered its cessation. In fact, no official of respondent ever ordered that the blasting works be stopped.”

- After visiting Botong, Mr. Hector N. Campos, Sr., then Vice President of Engineering Construction, instructed Mr. Fernando A. Magallanes then Manager of the Luzon Engineering Projects Department, to evaluate claimant’s blasting works and to submit his recommendations on the proper price therefor. In a memorandum dated 17 November 1992 (Exh. “G” and sub-markings), Mr. Magallanes confirmed that claimant’s blasting works was an extra work order and recommended that it be paid at the price for similar blasting works at Palinpinon, or at P1,346.00 per cubic meter. Mr. Campos concurred with the findings and recommendations of Mr. Magallanes and instructed Mr. Lauro R. Umali, then Project Manager of BacMan II, to implement the same as shown by his instructions scribbled on the memorandum.

- Mr. Umali and the project team prepared proposed Extra Work Order No. 2 – Blasting (Exh. “DDD” – Memorandum of Mr. Umali to Mr. Campos dated 20 January 1993 forwarding proposed Extra Work Order No. 2), recommending a price of P983.75 per cubic meter for claimant’s blasting works. Claimant agreed to this price (Testimony of witness Dumaliang, 7 November 1996, p. 48).

- On 19 February 1993, claimant brought the matter of its unpaid blasting works to the attention of the then NPC Chairman [also Secretary of the Department of Energy then] Delfin L. Lazaro during a meeting with the multi-sectoral task force monitoring the implementation of power plant projects, who asked then NPC President Pablo B. Malixi what he was doing about the problem. President Malixi thereafter convened respondent’s vice-presidents and ordered them to quickly document the variation order and pay claimant. The

vice-president, and specifically Mr. Campos, pledged that the variation order for claimant's blasting works would be submitted for the approval of the NPC Board during the first week of March 1993. Claimant thereafter sent respondent a letter dated 22 February 1993 (Ex. "K") to confirm this pledge (Testimony of witness Dumaliang, 7 November 1996, pp. 28-30).

- Mr. Campos created a task force (i.e., the Technical Task Force on the Study and Review of Extra Work Order No. 2; Exh. "FFF") to review claimant's blasting works. After several meetings with the task force, claimant agreed to the lower price of P458.07 per cubic meter, in exchange for quick payment (Testimony of witness Dumaliang, 7 November 1996, p. 30).

- However, no variation order was issued and no payment came, although it appears from two (2) radiograms sent by Mr. Campos to Mr. Paderna at the project site that the variation order was being processed and that payment to claimant was forthcoming (Exhs. "AAA" and "BBB").

- Respondent asked the Department of Public Works and Highways (DPWH) about the standard prices for blasting in the projects of the DPWH. The DPWH officially replied to respondent's query in a letter dated 19 May 1993 but the task force still failed to seek Board approval for claimant's variation order. The task force eventually recommended that the issue of grading excavation and structural excavation and the unit prices therefor be brought into voluntary arbitration (Testimony of witness Dumaliang, 7 November 1996, pp. 30-57).

- Claimant thereafter saw Mr. Francisco L. Viray, the new NPC President, who proposed that claimant accept the price of P458.07 per cubic meter for its blasting works with the balance of its claim to be the subject of arbitration. Claimant accepted the offer and sent the letter dated 28 September 1993 (Exh. "O") to formalize said acceptance. However, no variation order was issued and the promised payment never came. (Testimony of witness Dumaliang, 7 November 1996, p. 58).

- After some time, claimant met Mr. Viray on 19 October 1993 at the project site, and with some NPC officers in attendance, particularly Mr. Gilberto A. Pastoral, Vice-President for Engineering Design, who was instructed by Mr. Viray to prepare the necessary memorandum (i.e., that claimant would be paid P458.07 per cubic meter with the balance of its claim to be the subject of arbitration) for the approval of the NPC Board. Claimant formalized what transpired during this meeting in its letter to Mr. Pastoral dated 22 October 1993 (Exhibit "R"). But no action was taken by Mr. Pastoral and no variation order was issued by respondent (Testimony of witness Dumaliang, 7 November 1996, pp. 57-58).[23] [Emphasis supplied and bracketed words]

Promissory estoppel "may arise from the making of a promise, even though without consideration, if it was intended that the promise should be relied upon and in fact it was relied upon, and if a refusal to enforce it would be virtually to sanction the perpetration of fraud or would result in other injustice." [24] Promissory estoppel presupposes the existence of a promise on the part of one against whom estoppel is claimed. The promise must be plain and unambiguous and sufficiently specific so that the court can understand the obligation assumed and enforce the promise according to its terms. [25]

In the present case, the foregoing events clearly evince that the promise that the blasting works would be paid was predicated on the approval of the extra work order by petitioner's Board. Even FUCC acknowledged that the blasting works should be an extra work order and requested that the extra work order be confirmed as such and approved by the appropriate officials. Notably, even as the extra work order allegedly promised to it was not yet forthcoming, FUCC commenced blasting.

The alleged promise to pay was therefore conditional and up to this point, promissory estoppel cannot be established as the basis of petitioner's liability especially in light of P.D. 1594 and its implementing rules of which both parties are presumed to have knowledge. In *Mendoza v. Court of Appeals*, supra, we ruled that "[a] cause of action for promissory estoppel does not lie where an alleged oral promise was conditional, so that

reliance upon it was not reasonable. It does not operate to create liability where it does not otherwise exist.”

Petitioner’s argument that it is not bound by the acts of its officials who acted beyond the scope of their authority in allowing the blasting works is correct. Petitioner is a government agency with a juridical personality separate and distinct from the government. It is not a mere agency of the government but a corporate entity performing proprietary functions. It has its own assets and liabilities and exercises corporate powers, including the power to enter into all contracts, through its Board of Directors.

In this case, petitioner’s officials exceeded the scope of their authority when they authorized FUCC to commence blasting works without an extra work order properly approved in accordance with P.D. 1594. Their acts cannot bind petitioner unless it has ratified such acts or is estopped from disclaiming them.[26]

However, the Compromise Agreement entered into by the parties, petitioner being represented by its President, Mr. Guido Alfredo A. Delgado, acting pursuant to its Board Resolution No. 95-54 dated April 3, 1995, is a confirmatory act signifying petitioner’s ratification of all the prior acts of its officers. Significantly, the parties agreed that “[t]his Compromise Agreement shall serve as the Supplemental Agreement for the payment of plaintiff’s blasting works at the Botong site”[27] in accordance with CI 1(6) afore-quoted. In other words, it is primarily by the force of this Compromise Agreement that the Court is constrained to declare FUCC entitled to payment for the blasting works it undertook.

Moreover, since the blasting works were already rendered by FUCC and accepted by petitioner and in the absence of proof that the blasting was done gratuitously, it is but equitable that petitioner should make compensation therefor, pursuant to the principle that no one should be permitted to enrich himself at the expense of another.[28]

This brings us to the issue of just compensation.

The parties proposed in the terms of reference jointly submitted to the Arbitration Board that should FUCC be adjudged entitled to just compensation for its blasting works, the price therefor should be determined based on the payment for blasting works in similar projects of FUCC and the amount it paid to its blasting subcontractor.[29] They agreed further that “the price of the blasting at the Botong site . . . shall range from Defendant’s position of P76.00 per cubic meter as per contract to a maximum of P1,144.00”[30]

Petitioner contends that the Arbitration Board, trial court and the appellate court unduly relied on the memorandum of Mr. Umali which was allegedly not marked as an exhibit. We note, however, that this memorandum actually forms part of the record of the case as Exhibit “DDD.”[31] Moreover, both the Arbitration Board and the Court of Appeals found that Mr. Umali’s proposal is the best evidence on record as it is supported by detailed cost estimates that will serve as basis to determine just compensation.

While the Arbitration Board found that FUCC did not present evidence showing the amount it paid to its blasting sub-contractor, it did present testimony to the effect that it incurred other costs and expenses on top of the actual blasting cost. Hence, the amount of P430.00 per cubic meter indicated in FUCC’s Contract of Agreement with Dynamic is not controlling.

Moreover, FUCC presented evidence showing that in two (2) other projects where blasting works were undertaken, petitioner paid the contractors P1,346 per cubic meter for blasting and disposal of solid rocks in the Palinpinon project and P1,144.51 per cubic meter for rock excavation in the Hermosa Balintawak project. Besides, while petitioner claims that in a contract with Wilper Construction for the construction of the Tayabas sub-station, the price agreed for blasting was only P96.13, petitioner itself did not present evidence in support of this claim.[32]

Parenthetically, the point raised by petitioner that its subsequent contractor, Phesco, did not undertake blasting works in excavating the same rock formation is extraneous and irrelevant. The fact is that petitioner allowed FUCC to blast and undertook to pay for the blasting works.

At this point, we hearken to the rule that the findings of the Arbitration Board, affirmed by the trial court and the Court of Appeals and supported as they are by substantial evidence, should be accorded not only respect but finality.[33] Accordingly, the amount of P763.00 per cubic meter fixed by the Arbitration Board and affirmed by the appellate court as just compensation should stand.

As regards the issue of interest, while the appellate court declared in the body of its Decision “that interest which would represent the cost of the money spent be imposed on the money actually spent by claimant for the blasting works,”[34] there is no pronouncement as to the payment of interest in the dispositive portion of the Decision even as it specifically deleted the award of attorney’s fees.

Despite its knowledge of the appellate court’s omission, FUCC did not file a motion for reconsideration or appeal from its Decision. In failing to do so, FUCC allowed the Decision to become final as to it.

In *Edwards v. Arce*,[35] we ruled that in a case decided by a court, the true judgment of legal effect is that entered by the clerk of said court pursuant to the dispositive part of its decision. The only portion of the decision that may be the subject of execution is that which is ordained or decreed in the dispositive portion. Whatever may be found in the body of the decision can only be considered as part of the reasons or conclusions of the court and serve only as guides to determine the ratio decidendi.[36]

Even so, the Court allows a judgment which had become final and executory to be clarified when there is an ambiguity caused by an omission or mistake in the dispositive portion of the decision.[37] In *Reinsurance Company of the Orient, Inc. v. Court of Appeals*,[38] we held:

In *Republic Surety and Insurance Company, Inc. v. Intermediate Appellate Court*, the Court applying the above doctrine said:

“xxx We clarify, in other words, what we did affirm. What is involved here is not what is ordinarily regarded as a clerical error in the dispositive part of the decision of the Court of First Instance, which type of error is perhaps best typified by an error in arithmetical computation. At the same time, what is involved here is not a correction of an erroneous judgment or dispositive portion of a judgment. What we believe is involved here is in the nature of an inadvertent omission on the part of the Court of First Instance (which should have been noticed by private respondent’s counsel who had prepared the complaint), of what might be described as a logical follow-through of something set forth both in the body of the decision and in the dispositive portion thereof: the inevitable follow-through, or translation into, operational or behavioral terms, of the annulment of the Deed of Sale with Assumption of Mortgage, from which petitioners’ title or claim of title embodied in TCT 133153 flows.” (Italics supplied)[39]

In this case, the omission of the award of interest was obviously inadvertent. Correction is therefore in order. However, we do not agree with the Arbitration Board that the interest should be computed at 12%. Since the case does not involve a loan or forbearance of money, goods or credit and court judgments thereon, the interest due shall be computed at 6% per annum computed from the time the claim was made in 1992 as determined by the Arbitration Board and in accordance with Articles 2209 and 1169 of the Civil Code. The actual base for the computation of legal interest shall be on the amount finally adjudged.[40] Further, when the judgment awarding a sum of money becomes final and executory, the rate of legal interest shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.[41]

WHEREFORE, the petition is GRANTED in part. The appealed decision is MODIFIED in that the amount of

P74,035,503.50 shall earn legal interest of six percent (6%) from 1992. A twelve percent (12%) interest, in lieu of six percent (6%), shall be imposed on such amount upon finality of this decision until the payment thereof.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 9-56.

[2] Id. at 58-87; Penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Eloy R. Bello, Jr. and Perlita J. Tria-Tirona.

[3] Id. at 88-92.

[4] Id. at 93.

[5] Id. at 59-67.

[6] Id. at 71-72.

[7] Representing direct costs of P693.65 and 10% mark up for overhead of P69.36.

[8] The technical consultant engaged by both parties to compute the volume of blasted rocks.

[9] Rollo, p. 83.

[10] Id. at 86-87. The dispositive portion reads:

“WHEREFORE, the petition is hereby DENIED for lack of merit. The order dated May 22, 2000 and Writ of Execution dated June 9, 2000 of Regional Trial Court-National Capital Judicial Region, Branch 99, Quezon City are hereby AFFIRMED with the modification that private respondent is entitled to P74,035,503.50 (i.e. 97,032.16 cubic meters P763.00 per cubic meter) as per computation of Dr. Benjamin Buensuceso, [Jr.] (technical person engaged by both parties for said computation) and the award of attorney’s fee is deleted.

SO ORDERED.”

[11] Supra note 1 at 33-35.

[12] Sec. 20. – Form of contents of award.

... ..

In the event that the parties to an arbitration have, during the course of such arbitration, settled their dispute, they may request of the arbitrators that such settlement be embodied in an award which shall be signed by the arbitrators. No arbitrator shall act as a mediator in any proceeding in which he is acting as arbitrator; and all negotiation towards settlement of the dispute must take place without the presence of the arbitrators.

[13] Supra note 1 at 249-272.

[14] Id. at 310-320.

[15] Id. at 19; par. 7.1 of the Compromise Agreement; also at Rollo, p. 112.

[16] Id. at 20; par. 7.5 of the Compromise Agreement; also at Rollo, p. 112.

[17] *Asset Privatization Trust v. Court of Appeals*, 360 Phil. 768 (1998), citations omitted.

[18] Art. 2038. A compromise in which there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents is subject to the provisions of Article 1330 of this Code.

However, one of the parties cannot set up a mistake of fact as against the other if the latter, by virtue of the compromise, has withdrawn from a litigation already commenced.

Art. 2039. When the parties compromise generally on all differences which they might have with each other, the discovery of documents referring to one or more but not to all of the questions settled shall not itself be a cause for annulment or rescission of the compromise, unless said documents have been concealed by one of the parties.

But the compromise may be annulled or rescinded if it refers only to one thing to which one of the parties has no right, as shown by the newly-discovered documents.

Art. 2040. If after a litigation has been decided by a final judgment, a compromise should be agreed upon, either or both parties being unaware of the existence of the final judgment, the compromise may be rescinded.

Ignorance of a judgment which may be revoked or set aside is not a valid ground for attacking a compromise.

[19] *Chung Fu Industries (Phils.), Inc. v. Court of Appeals*, G.R. No. 96283, February 25, 1992, 206 SCRA 545 (1992).

[20] *Supra* note 1 at 33.

[21] *Adamson v. Court of Appeals*, G.R. No. 106879, May 27, 1994, 232 SCRA 602.

[22] *Supra* note 1 at 74.

[23] *Id.* at 144-148, Arbitration Award; see also Rollo, pp. 79-81, Decision of the Court of Appeals.

[24] *Mendoza v. Court of Appeals*, 412 Phil. 14 (2001), citing *Ramos v. Central Bank*, 41 SCRA 565 (1971).

[25] *Ibid.*

[26] *San Juan Structural and Steel Fabricators, Inc. v. Court of Appeals*, 357 Phil. 631 (1998).

[27] *Supra*, note 1 at 107; par. 3, Compromise Agreement.

[28] *Dominguez v. Court of Appeals*, No. L-52715, February 28, 1985, 135 SCRA 98.

[29] *Supra*, note 1 at 22.

[30] *Id.* at 109; par.7.1, Compromise Agreement.

[31] *Id.* at 150.

[32] *Id.* at 149.

[33] *National Steel Corporation v. Regional Trial Court of Lanao del Norte, Br. 2, Iligan City*, 364 Phil. 240 (1999), citing *Chung Fu Industries v. Court of Appeals*, 206 SCRA 545, *International Container Terminal Services v. National Labor Relations Commission*, 256 SCRA 124 and *Ang Tibay v. CIR*, 69 Phil. 635.

[34] *Supra*, note 1 at 83.

[35] 98 Phil. 688 (1956).

[36] *Ibid.* citations omitted.

[37] Filipino Legion Corporation v. Court of Appeals, 155 Phil. 616 (1974).

[38] G.R. No. 61250, June 3, 1991, 198 SCRA 19.

[39] Id. at 29 citing Republic Surety and Insurance Company, Inc. v. Intermediate Appellate Court, 152 SCRA 309 (1987).

[40] Eastern Shipping Lines, Inc. v. Court of Appeals, G.R. No. 97412, July 12, 1994, 234 SCRA 78; Pilipinas Bank v. Court of Appeals, G.R. No. 97873, August 12, 1993, 225 SCRA 268.

[41] Ibid.

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