

WILLIAM GOLANGCO CONSTRUCTION CORPORATION, PETITIONER, VS. RAY BURTON DEVELOPMENT CORPORATION, RESPONDENT.

G.R. No. 163582. August 09, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA) dated December 19, 2003, holding that the Construction Industry Arbitration Commission (CIAC) had no jurisdiction over the dispute between herein parties, and the CA Resolution[2] dated May 24, 2004, denying herein petitioner's motion for reconsideration, be reversed and set aside.

The undisputed facts, as accurately narrated in the CA Decision, are as follows.

On July 20, 1995, petitioner Ray Burton Development Corporation [herein respondent] (RBDC for brevity) and private respondent William Golangco Construction Corporation [herein petitioner] (WGCC) entered into a Contract for the construction of the Elizabeth Place (Office/Residential Condominium).

On March 18, 2002, private respondent WGCC filed a complaint with a request for arbitration with the Construction Industry Arbitration Commission (hereinafter referred to as CIAC). In its complaint, private respondent prayed that CIAC render judgment ordering petitioner to pay private respondent the amount of, to wit:

- P24,703,132.44 for the unpaid balance on the contract price;
- P10,602,670.25 for the unpaid balance on the labor cost adjustment;
- P9,264,503.70 for the unpaid balance of additive works;
- P2,865,615.10 for extended overhead expenses;
- P1,395,364.01 for materials cost adjustment and trade contractors' utilities expenses;
- P4,835,933.95 for interest charges on unpaid overdue billings on labor cost adjustment and change orders.

or for a total of Fifty Three Million Six Hundred Sixty-Seven Thousand Two Hundred Nineteen and 45/xx (P53,667,219.45) and interest charges based on the prevailing bank rates on the foregoing amount from March 1, 2002 and until such time as the same shall be fully paid.

On April 12, 2002, petitioner RBDC filed a Motion to Dismiss the aforesaid complaint on the ground of lack of jurisdiction. It is petitioner's contention that the CIAC acquires jurisdiction over disputes arising from or connected with construction contracts only when the parties to the contract agree to submit the same to voluntary arbitration. In the contract between petitioner and private respondent, petitioner claimed that only disputes by reason of differences in interpretation of the contract documents shall be deemed subject to arbitration.

Private respondent filed a Comment and Opposition to the aforesaid Motion dated April 15, 2002. Private respondent averred that the claims set forth in the complaint require contract interpretation and are thus cognizable by the CIAC pursuant to the arbitration clause in the construction contract between the parties. Moreover, even assuming that the claims do not involve differing contract interpretation, they are still cognizable by the CIAC as the arbitration clause mandates their direct filing therewith.

On May 6, 2002, the CIAC rendered an Order the pertinent portion of which reads as follows:

The Commission has taken note of the foregoing arguments of the parties. After due deliberations, the Commission resolved to DENY Respondent's motion on the following grounds:

[1] Clause 17.2 of Art. XVII of the Contract Agreement explicitly provides that "any dispute" arising under the construction contract shall be submitted to "the Construction Arbitration Authority created by the Government." Even without this provision, the bare agreement to submit a construction dispute to arbitration vests in the Commission original and exclusive jurisdiction by virtue of Sec. 4 of Executive Order No. 1008, whether or not a dispute involves a collection of sum of money or contract interpretation as long as the same arises from, or in connection with, contracts entered into by the parties involved. The Supreme Court jurisprudence on *Tesco vs. Vera* case referred to by respondent is no longer controlling as the same was based on the old provision of Article III, Sec. 1 of the CIAC Rules which has long been amended.

[2] The issue raised by Respondent in its Motion to Dismiss is similar to the issue set forth in CA-G.R. Sp. No. 67367, *Continental Cement Corporation vs. CIAC and EEI Corporation*, where the appellate court upheld the ruling of the CIAC thereon that since the parties agreed to submit to arbitration any dispute, the same does not exclude disputes relating to claims for payment in as much as the said dispute originates from execution of the works. As such, the subject dispute falls within the original and exclusive jurisdiction of the CIAC.

WHEREFORE, in view of the foregoing, Respondent's Motion to Dismiss is DENIED for lack of merit. Respondent is given anew an inextendible period of ten (10) days from receipt hereof within which to file its Answer and nominees for the Arbitral Tribunal. If Respondent shall fail to comply within the prescribed period, the Commission shall proceed with arbitration in accordance with its Rules. x x x

Thereafter, petitioner filed a Motion to Suspend Proceedings praying that the CIAC order a suspension of the proceedings in Case No. 13-2002 until the resolution of the negotiations between the parties, and consequently, that the period to file an Answer be held in abeyance.

Private respondent filed an Opposition to the aforesaid Motion and a Counter-Motion to Declare respondent to Have Refused to Arbitrate and to Proceed with Arbitration Ex Parte.

On May 24, 2002 the CIAC issued an Order, the pertinent portion of which reads:

In view of the foregoing, Respondent's (petitioner's) Motion to Suspend Proceedings is DENIED. Accordingly, respondent is hereby given a non-extendible period of five (5) days from receipt thereof within which to submit its Answer and nominees for the Arbitral Tribunal. In default thereof, claimant's (private respondent's) Counter-Motion is deemed granted and arbitration shall proceed in accordance with the CIAC Rules Governing Construction Arbitration.

SO ORDERED. x x x

On June 3, 2002, petitioner RBDC filed [with the Court of Appeals (CA)] a petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction. Petitioner contended that CIAC acted without or in excess of its jurisdiction when it issued the questioned order despite the clear showing that there is lack of jurisdiction on the issue submitted by private respondent for arbitration.[3]

On December 19, 2003, the CA rendered the assailed Decision granting the petition for certiorari, ruling that the

CIAC had no jurisdiction over the subject matter of the case because the parties agreed that only disputes regarding differences in interpretation of the contract documents shall be submitted for arbitration, while the allegations in the complaint make out a case for collection of sum of money. Petitioner moved for reconsideration of said ruling, but the same was denied in a Resolution dated May 24, 2004.

Hence, this petition where it is alleged that:

I.

THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN FAILING TO DISMISS PRIVATE RESPONDENT RBDC'S PETITION IN CA-G.R. SP NO. 70959 OUTRIGHT IN VIEW OF RBDC'S FAILURE TO FILE A MOTION FOR RECONSIDERATION OF THE CIAC'S ORDER, AS WELL AS FOR RBDC'S FAILURE TO ATTACH TO THE PETITION THE RELEVANT PLEADINGS IN CIAC CASE NO. 13-2002, IN VIOLATION OF THE REQUIREMENT UNDER RULE 65, SECTIONS 1 AND 2, PARAGRAPH 2 THEREOF, AND RULE 46, SECTION 3, PARAGRAPH 2 THEREOF.

II.

THE COURT OF APPEALS ERRED GRAVELY IN NOT RULING THAT THE CIAC HAS JURISDICTION OVER WGCC'S CLAIMS, WHICH ARE IN THE NATURE OF ARBITRABLE DISPUTES COVERED BY CLAUSE 17.1 OF ARTICLE XVII INVOLVING CONTRACT INTERPRETATION.

x x x x

III.

THE COURT OF APPEALS ERRED GRAVELY IN FAILING TO DISCERN THAT CLAUSE 17.2 OF ARTICLE XVII CANNOT BE TREATED AS BEING "LIMITED TO DISPUTES ARISING FROM INTERPRETATION OF THE CONTRACT."

x x x x

IV.

THE COURT OF APPEALS ERRED GRAVELY IN NOT RULING THAT RBDC IS ESTOPPED FROM DISPUTING THE JURISDICTION OF THE CIAC.

x x x x

V.

FINALLY, THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REFUSING TO PAY HEED TO THE DECLARATION IN EXECUTIVE ORDER NO. 1008 THAT THE POLICY OF THE STATE IS IN FAVOR OF ARBITRATION OF CONSTRUCTION DISPUTES, WHICH POLICY HAS BEEN REINFORCED FURTHER BY THE RECENT PASSAGE OF THE "ALTERNATIVE DISPUTE RESOLUTION ACT OF 2004"(R.A. NO. 9285).[4]

The petition is meritorious.

The aforementioned issues boil down to (1) whether the CA acted with grave abuse of discretion in failing to dismiss the petition for certiorari filed by herein respondent, in view of the latter's failure to file a motion for reconsideration of the assailed CIAC Order and for failure to attach to the petition the relevant pleadings in CIAC Case No. 13-2002; and (2) whether the CA gravely erred in not upholding the jurisdiction of the CIAC over the subject complaint.

Petitioner is correct that it was grave error for the CA to have given due course to respondent's petition for certiorari despite its failure to attach copies of relevant pleadings in CIAC Case No. 13-2002. In *Tagle v. Equitable PCI Bank*,^[5] the party filing the petition for certiorari before the CA failed to attach the Motion to Stop Writ of Possession and the Order denying the same. On the ground of non-compliance with the rules, the CA dismissed said petition for certiorari. When the case was elevated to this Court via a petition for certiorari, the same was likewise dismissed. In said case, the Court emphasized the importance of complying with the formal requirements for filing a petition for certiorari and held as follows:

x x x Sec. 1, Rule 65, in relation to Sec. 3, Rule 46, of the Revised Rules of Court. Sec. 1 of Rule 65 reads:

SECTION 1. Petition for certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of [its or his] jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (Emphasis supplied.)

And Sec. 3 of Rule 46 provides:

SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly-authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis supplied.)

The afore-quoted provisions are plain and unmistakable. Failure to comply with the requirement that the petition be accompanied by a duplicate original or certified true copy of the judgment, order, resolution or ruling being challenged is sufficient ground for the dismissal of said petition. Consequently, it cannot be said that the Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petition x x x for non-compliance with Sec. 1, Rule 65, in relation to Sec. 3, Rule 46, of the Revised Rules of Court.^[6]

In the present case, herein petitioner (private respondent below) strongly argued against the CA's granting due course to the petition, pointing out that pertinent pleadings such as the Complaint before the CIAC, herein

respondent's Motion to Dismiss, herein petitioner's Comment and Opposition (Re: Motion to Dismiss), and the Motion to Suspend Proceedings, have not been attached to the petition. Herein respondent (petitioner before the CA) argued in its Reply[7] before the CA that it did not deem such pleadings or documents germane to the petition. However, in the CA Resolution[8] dated July 4, 2002, the appellate court itself revealed the necessity of such documents by ordering the submission of copies of pleadings relevant to the petition. Indeed, such pleadings are necessary for a judicious resolution of the issues raised in the petition and should have been attached thereto. As mandated by the rules, the failure to do so is sufficient ground for the dismissal of the petition. The CA did not give any convincing reason why the rule regarding requirements for filing a petition should be relaxed in favor of herein respondent. Therefore, it was error for the CA to have given due course to the petition for certiorari despite herein respondent's failure to comply with the requirements set forth in Section 1, Rule 65, in relation to Section 3, Rule 46, of the Revised Rules of Court.

Even on the main issue regarding the CIAC's jurisdiction, the CA erred in ruling that said arbitration body had no jurisdiction over the complaint filed by herein petitioner. There is no question that, as provided under Section 4 of Executive Order No. 1008, also known as the "Construction Industry Arbitration Law," the CIAC has original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines and all that is needed for the CIAC to acquire jurisdiction is for the parties to agree to submit the same to voluntary arbitration. Nevertheless, respondent insists that the only disputes it agreed to submit to voluntary arbitration are those arising from interpretation of contract documents. It argued that the claims alleged in petitioner's complaint are not disputes arising from interpretation of contract documents; hence, the CIAC cannot assume jurisdiction over the case.

Respondent's contention is tenuous.

The contract between herein parties contained an arbitration clause which reads as follows:

17.1.1. Any dispute arising in the course of the execution of this Contract by reason of differences in interpretation of the Contract Documents which the OWNER and the CONTRACTOR are unable to resolve between themselves, shall be submitted by either party for resolution or decision, x x x to a Board of Arbitrators composed of three (3) members, to be chosen as follows:

One (1) member each shall be chosen by the OWNER and the CONTRACTOR. The said two (2) members, in turn, shall select a third member acceptable to both of them. The decision of the Board of Arbitrators shall be rendered within fifteen (15) days from the first meeting of the Board. The decision of the Board of Arbitrators when reached through the affirmative vote of at least two (2) of its members shall be final and binding upon the OWNER and the CONTRACTOR.

17.2 Matters not otherwise provided for in this Contract or by special agreement of the parties shall be governed by the provisions of the Construction Arbitration Law of the Philippines. As a last resort, any dispute which is not resolved by the Board of Arbitrators shall be submitted to the Construction Arbitration Authority created by the government.[9]

In gist, the foregoing provisions mean that herein parties agreed to submit disputes arising by reason of differences in interpretation of the contract to a Board of Arbitrators the composition of which is mutually agreed upon by the parties, and, as a last resort, any other dispute which had not been resolved by the Board of Arbitrators shall be submitted to the Construction Arbitration Authority created by the government, which is no other than the CIAC. Moreover, other matters not dealt with by provisions of the contract or by special agreements shall be governed by provisions of the Construction Industry Arbitration Law, or Executive Order No. 1008.

The Court finds that petitioner's claims that it is entitled to payment for several items under their contract, which claims are, in turn, refuted by respondent, involves a "dispute arising from differences in interpretation of the contract." Verily, the matter of ascertaining the duties and obligations of the parties under their contract all involve interpretation of the provisions of the contract. Therefore, if the parties cannot see eye to eye regarding each other's obligations, i.e., the extent of work to be expected from each of the parties and the valuation thereof, this is properly a dispute arising from differences in the interpretation of the contract.

Note, further, that in respondent's letter[10] dated February 14, 2000, it stated that disputed items of work such as Labor Cost Adjustment and interest charges, retention, processing of payment on Cost Retained by WGCC, Determination of Cost of Deletion for miscellaneous Finishing Works, are considered "unresolved dispute[s] as to the proper interpretation of our respective obligations under the Contract," which should be referred to the Board of Arbitrators. Even if the dispute subject matter of said letter had been satisfactorily settled by herein parties, the contents of the letter evinces respondent's frame of mind that the claims being made by petitioner in the complaint subject of this petition, are indeed matters involving disputes arising from differences in interpretation.

Clearly, the subject matter of petitioner's claims arose from differences in interpretation of the contract, and under the terms thereof, such disputes are subject to voluntary arbitration. Since, under Section 4 of Executive Order No. 1008 the CIAC shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines and all that is needed for the CIAC to acquire jurisdiction is for the parties to agree to submit the same to voluntary arbitration, there can be no other conclusion but that the CIAC had jurisdiction over petitioner's complaint. Furthermore, Section 1, Article III of the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules) further provide that "[a]n arbitration clause in a construction contract or a submission to arbitration of a construction dispute shall be deemed an agreement to submit an existing or future controversy to CIAC jurisdiction, notwithstanding the reference to a different arbitration institution or arbitral body in such contract or submission." Thus, even if there is no showing that petitioner previously brought its claims before a Board of Arbitrators constituted under the terms of the contract, this circumstance would not divest the CIAC of jurisdiction. In *HUTAMA-RSEA Joint Operations, Inc. v. Citra Metro Manila Tollways Corporation*,[11] the Court held that:

Under Section 1, Article III of the CIAC Rules, an arbitration clause in a construction contract shall be deemed as an agreement to submit an existing or future controversy to CIAC jurisdiction, "notwithstanding the reference to a different arbitration institution or arbitral body in such contract x x x." Elementary is the rule that when laws or rules are clear, it is incumbent on the court to apply them. When the law (or rule) is unambiguous and unequivocal, application, not interpretation thereof, is imperative.

Hence, the bare fact that the parties herein incorporated an arbitration clause in the EPCC is sufficient to vest the CIAC with jurisdiction over any construction controversy or claim between the parties. The arbitration clause in the construction contract ipso facto vested the CIAC with jurisdiction. This rule applies, regardless of whether the parties specifically choose another forum or make reference to another arbitral body. Since the jurisdiction of CIAC is conferred by law, it cannot be subjected to any condition; nor can it be waived or diminished by the stipulation, act or omission of the parties, as long as the parties agreed to submit their construction contract dispute to arbitration, or if there is an arbitration clause in the construction contract. The parties will not be precluded from electing to submit their dispute to CIAC, because this right has been vested in each party by law.

x x x x

It bears to emphasize that the mere existence of an arbitration clause in the construction contract is considered by law as an agreement by the parties to submit existing or future controversies between them to CIAC jurisdiction, without any qualification or condition precedent. To affirm a condition precedent in the

construction contract, which would effectively suspend the jurisdiction of the CIAC until compliance therewith, would be in conflict with the recognized intention of the law and rules to automatically vest CIAC with jurisdiction over a dispute should the construction contract contain an arbitration clause.

Moreover, the CIAC was created in recognition of the contribution of the construction industry to national development goals. Realizing that delays in the resolution of construction industry disputes would also hold up the development of the country, Executive Order No. 1008 expressly mandates the CIAC to expeditiously settle construction industry disputes and, for this purpose, vests in the CIAC original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by the parties involved in construction in the Philippines.[12]

Thus, there is no question that in this case, the CIAC properly took cognizance of petitioner's complaint as it had jurisdiction over the same.

IN VIEW OF THE FOREGOING, the Petition is GRANTED. The Decision of the Court of Appeals, dated December 19, 2003, and its Resolution dated May 24, 2004 in CA-G.R. SP No. 70959 are REVERSED and SET ASIDE. The Order of the Construction Industry Arbitration Commission is REINSTATED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Eloy R. Bello, Jr., with Associate Justices Amelita G. Tolentino and Arturo D. Brion (now a member of this Court), concurring; rollo, pp. 88-94.

[2] Id. at 96.

[3] Rollo, pp. 88-91.

[4] Id. at 34-36.

[5] G.R. No. 172299, April 22, 2008, 552 SCRA 424.

[6] Id. at 442-444. (Emphasis supplied.)

[7] CA rollo, pp. 293-303.

[8] Id. at 62-63.

[9] Rollo, pp. 494-495.

[10] Id. at 270-271.

[11] G.R. No. 180640, April 24, 2009, 586 SCRA 746.

[12] Id. at 760-763. (Emphasis supplied.)

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