GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMMITTEE AND THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, PETITIONERS, VS. JANCOM ENVIRONMENTAL CORPORATION AND JANCOM INTE...

G.R. NO. 163663. June 30, 2006

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-163663/

CARPIO MORALES, J.:

The present petition for review on certiorari challenges the Decision[1] dated December 19, 2003 and Resolution[2] dated May 11, 2004 of the Court of Appeals (CA)[3] in CA-G.R. SP No. 78752 which denied the petition for certiorari filed by herein petitioners Greater Metropolitan Manila Solid Waste Management Committee (GMMSWMC) and the Metropolitan Manila Development Authority (MMDA) and their Motion for Reconsideration, respectively.

In 1994, Presidential Memorandum Order No. 202 was issued by then President Fidel V. Ramos creating an Executive Committee to oversee and develop waste-to-energy projects for the waste disposal sites in San Mateo, Rizal and Carmona, Cavite under the Build-Operate-Transfer (BOT) scheme.

Respondent Jancom International Development Projects Pty. Limited of Australia (Jancom International) was one of the bidders for the San Mateo Waste Disposal Site. It subsequently entered into a partnership with Asea Brown Boveri under the firm name JANCOM Environmental Corporation (JANCOM), its co-respondent.

On February 12, 1997, the above-said Executive Committee approved the recommendation of the Pre-qualification, Bids and Awards Committee to declare JANCOM as the sole complying bidder for the San Mateo Waste Disposal Site.

On December 19, 1997, a Contract for the BOT Implementation of the Solid Waste Management Project for the San Mateo, Rizal Waste Disposal Site[4] (the contract) was entered into by the Republic of the Philippines, represented by the Presidential Task Force on Solid Waste Management through then Department of Environment and Natural Resources Secretary Victor Ramos, then Cabinet Office for Regional Development-National Capital Region Chairman Dionisio dela Serna, and then MMDA Chairman Prospero Oreta on one hand, and JANCOM represented by its Chief Executive Officer Jorge Mora Aisa and its Chairman Jay Alparslan, on the other.

On March 5, 1998, the contract was submitted for approval to President Ramos who subsequently endorsed it to then incoming President Joseph E. Estrada.

Owing to the clamor of the residents of Rizal, the Estrada administration ordered the closure of the San Mateo landfill. Petitioner GMMSWMC thereupon adopted a Resolution not to pursue the contract with JANCOM, citing as reasons therefor the passage of Republic Act 8749, otherwise known as the Clean Air Act of 1999, the non-availability of the San Mateo site, and costly tipping fees.[5]

The Board of Directors of Jancom International thereafter adopted on January 4, 2000 a Resolution[6] authorizing Atty. Manuel Molina to act as legal counsel for respondents and "determine and file such legal action as deemed necessary before the Philippine courts in any manner he may deem appropriate" against petitioners.

The Board of Directors of JANCOM also adopted a Resolution[7] on February 7, 2000 granting Atty. Molina similar authorization to file legal action as may be necessary to protect its interest with respect to the contract.

On March 14, 2000, respondents filed a petition for certiorari[8] with the Regional Trial Court (RTC) of Pasig City where it was docketed as Special Civil Action No. 1955, to declare the GMMSWMC Resolution and the acts of the MMDA calling for bids for and authorizing the forging of a new contract for the Metro Manila waste management as illegal, unconstitutional and void and to enjoin petitioners from implementing the Resolution and making another award in lieu thereof.

By Decision[9] of May 29, 2000, Branch 68 of the Pasig City RTC found in favor of respondents.[10]

Petitioners thereupon assailed the RTC Decision via petition for certiorari[11] with prayer for a temporary restraining order with the CA, docketed as CA-G.R. SP No. 59021.

By Decision[12] of November 13, 2000, the CA denied the petition for lack of merit and affirmed in toto the May 29, 2000 RTC Decision. Petitioners' Motion for Reconsideration was denied, prompting them to file a petition for review before this Court, docketed as G.R. No. 147465.

By Decision[13] of January 30, 2002 and Resolution[14] of April 10, 2002, this Court affirmed the November 13, 2001 CA Decision and declared the contract valid and perfected, albeit ineffective and unimplementable pending approval by the President.

JANCOM and the MMDA later purportedly entered into negotiations to modify certain provisions of the contract which were embodied in a draft Amended Agreement[15] dated June 2002. The draft Amended Agreement bore no signature of the parties.

Respondents, through Atty. Molina, subsequently filed before Branch 68 of the Pasig City RTC an Omnibus Motion[16] dated July 29, 2002 praying that: (1) an alias writ of execution be issued prohibiting and enjoining petitioners and their representatives from calling for, accepting, evaluating, approving, awarding, negotiating or implementing all bids, awards and contracts involving other Metro Manila waste management projects intended to be pursued or which are already being pursued; (2) the MMDA, through its Chairman Bayani F. Fernando, be directed to immediately forward and recommend the approval of the Amended Agreement to President Gloria Macapagal Arroyo; (3) Chairman Fernando be ordered to personally appear before the court and explain his acts and public pronouncements which are in direct violation and gross defiance of the final and executory May 29, 2000 RTC Decision; (4) the Executive Secretary and the Cabinet Secretaries of the departments-members of the National Solid Waste Management Commission be directed "to submit the contract within 30 days from notice to the President for signature and approval and if the latter chooses not to sign or approve the contract, the Executive Secretary be made to show cause therefor;" and (5) petitioners be directed to comply with and submit their written compliance with their obligations specifically directed under the provisions of Article 18, paragraphs 18.1, 18.1.1 (a), (b), (c) and (d) of the contract within 30 days from notice.[17]

To the Omnibus Motion petitioners filed their Opposition[18] which merited JANCOM's Reply[19] filed on August 19, 2002.

On August 21, 2002, Atty. Simeon M. Magdamit, on behalf of Jancom International, filed before the RTC an Entry of Special Appearance and Manifestation with Motion to Reject the Pending Omnibus Motion[20] alleging

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

that: (1) the Omnibus Motion was never approved by Jancom International; (2) the Omnibus Motion was initiated by lawyers whose services had already been terminated, hence, were unauthorized to represent it; and (3) the agreed judicial venue for dispute resolution relative to the implementation of the contract is the International Court of Arbitration in the United Kingdom pursuant to Article 16.1[21] of said contract.

In the meantime, on November 3, 2002, the MMDA forwarded the contract to the Office of the President for appropriate action,[22] together with MMDA Resolution No. 02-18[23] dated June 26, 2002, "Recommending to her Excellency the President of the Republic of the Philippines to Disapprove the Contract Entered Into by the Executive Committee of the Presidential Task Force on Waste Management with Jancom Environmental Corporation and for Other Purposes."

By Order[24] of November 18, 2002, the RTC noted the above-stated Entry of Special Appearance of Atty. Magdamit for Jancom International and denied the Motion to Reject Pending Omnibus Motion for lack of merit. Jancom International filed on December 9, 2002 a Motion for Reconsideration[25] which was denied for lack of merit by Order[26] of January 8, 2003.

Petitioners and respondents then filed their Memoranda[27] on May 23, 2003 and May 26, 2003, respectively.

By Order[28] of June 11, 2003, the RTC granted respondents' Omnibus Motion in part. The dispositive portion of the Order reads, quoted verbatim:

> WHEREFORE, in view of the foregoing, let an Alias Writ of Execution immediately issue and the Clerk of Court and Ex-Oficio Sheriff or any o[f] her Deputies is directed to implement the same within sixty (60) days from receipt thereof.
>
> Thus, any and all such bids or contracts entered into by respondent MMDA with third parties covering the waste disposal and management within the Metro Manila after August 14, 2000 are hereby declared NULL and VOID. Respondents are henceforth enjoined and prohibited, with a stern warning, from entering into any such contract with any third party whether directly or indirectly, in violation of the contractual rights of petitioner JANCOM under the BOT Contract Award, consistent with the Supreme Court's Decision of January 30, 2002.
>
> Respondent MMDA is hereby directed to SUBMIT the Amended Agreement concluded by petitioners with the previous MMDA officials, or in its discretion if it finds [it] more advantageous to the government, to require petitioners to make adjustments in the Contract in accordance with existing environmental laws and other relevant concerns, and thereafter forward the Amended Agreement for signature and approval by the President of the Philippines. The concerned respondents are hereby further directed to comply fully and in good faith with its institutional obligations or undertakings as provided in Article 18 of the BOT Contract.
>
> Let a copy of this Order be furnished the Office of the Clerk of Court and the Commission on Audit for its information and guidance.
>
> SO ORDERED.[29] (Emphasis in the original)

On June 23, 2003 the RTC issued an Alias Writ of Execution[30] reading:

> WHEREAS, on May 29, 2000, a Decision was rendered by this Court in the above-entitled case, the pertinent portions of which is [sic] hereunder quoted as follows:
> WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of petitioners JANCOM ENVIRONMENTAL CORP and JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY., LIMITED OF AUSTRALIAS [sic], and against respondents GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMM., and HON. ROBERTO N. AVENTAJADO, in his capacity as Chairman of the said Committee, METRO MANILA DEVELOPMENT AUTHORITY and HON. JEJOMAR C. BINAY, in his capacity as Chairman of said Authority, declaring the Resolution of respondent Greater

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

> Metropolitan Manila Solid Waste Management Committee disregarding petitioners' BOT Award Contract and calling for bids for and authorizing a new contract for the Metro Manila waste management ILLEGAL an[d] VOID.
>
> Moreover, respondents and their agents are hereby PROHIBITED and ENJOINED from implementing the aforesaid Resolution and disregarding petitioners' BOT Award Contract and from making another award in its place.
>
> Let it be emphasized that this Court is not preventing or stopping the government from implementing infrastructure projects as it is aware of the proscription under PD 1818. On the contrary, the Court is paving the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country.
>
> SO ORDERED.

WHEREAS, on August 7, 2000, petitioners through counsel filed a "Motion for Execution" which the Court GRANTED in its Order dated August 14, 2000;

WHEREAS, as a consequence thereof, a Writ of Execution was issued on August 14, 2000 and was duly served upon respondents as per Sheriff's Return dated August 27, 2000;

WHEREAS, ON July 29, 2002, petitioners through counsel filed an "Omnibus Motion," praying, among others, for the issuance of an Alias Writ of Execution which the Court GRANTED in its Order dated June 11, 2003, the dispositive portion of which reads as follows:

> WHEREFORE, in view of the foregoing, let an Alias Writ of Execution immediately issue and the Clerk of Court and Ex-Oficio Sheriff or any of her Deputies is directed to implement the same within sixty (60) days from receipt thereof.
>
> Thus, any and all such bids or contracts entered into by respondent MMDA [with] third parties covering the waste disposal and management within the Metro Manila after August 14, 2000 are hereby declared NULL and VOID. Respondents are henceforth enjoined and prohibited, with a stern warning, from entering into any such contract with any third party whether directly or indirectly, in violation of the contractual rights of petitioner Jancom under the BOT Contract Award, consistent with the Supreme Court's Decision of January 30, 2002.
>
> Respondent MMDA is hereby directed to SUBMIT the Amended Agreement concluded by petitioners with the previous MMDA officials, or in its discretion if it finds [it] more advantageous to the government, to require petitioners to make adjustments in the Contract in accordance with existing environmental laws and other relevant concerns, and thereafter forward the Amended Agreement for signature and approval by the President of the Philippines. The concerned respondents are hereby further directed to comply fully and in good faith with its institutional obligations or undertakings as provided in Article 18 of the BOT Contract.
>
> Let a copy of this Order be furnished the Office of the Clerk of Court and the Commission on Audit for its information and guidance.
>
> SO ORDERED.
>
> x x x x (Emphasis in the original)

By letter[31] of August 15, 2003, Chairman Fernando advised Sheriff Alejandro Q. Loquinario of the Office of the Clerk of Court and Ex-Oficio Sheriff, Pasig City RTC that:

> - MMDA has not entered into a new contract for solid waste management in lieu of JANCOM's Contract.
>
> - JANCOM's Contract has been referred to the Office of the President for appropriate action.

- Without the President's approval, JANCOM's Contract cannot be implemented.[32]

Petitioners later challenged the RTC June 11, 2003 Order via petition for certiorari[33] with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction before the CA. They subsequently filed an Amended Petition[34] on September 26, 2003.

To the Amended Petition JANCOM filed on October 8, 2003 its Comment[35] after which petitioners filed their Reply[36] on November 24, 2003.

By the challenged Decision of December 19, 2003, the CA denied the petition and affirmed the June 11, 2003 RTC Order in this wise:

> The Supreme Court ruled that the Jancom contract has the force of law and the parties must abide in good faith by their respective contractual commitments. It is precisely this pronouncement that the alias writ of execution issued by respondent judge seeks to enforce. x x x
>
> x x x x
>
> The fact that the Jancom contract has been declared unimplementable without the President's signature, would not excuse petitioners' failure to comply with their undertakings under Article 18 of the contract. x x x
>
> x x x x
>
> Petitioners complain that respondent judge focused only on requiring them to perform their supposed obligations under Article 18 of the contract when private respondents are also required thereunder to post a Performance Security acceptable to the Republic in the amount allowed in the BOT Law. Petitioners' complaint is not justified. x x x
>
> x x x x
>
> It cannot x x x be said that respondent judge had been unfair or one-sided in directing only petitioners to fulfill their own obligations under Article 18 of the Jancom contract. Compliance with private respondents' obligations under the contract had not yet become due.
>
> x x x x
>
> There is no debate that the trial court's Decision has attained finality. Once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right and the granting of execution becomes a mandatory or ministerial duty of the court. After a judgment has become final and executory, vested rights are acquired by the winning party. Just as the losing party has the right to file an appeal within the prescribed period, so also the winning party has the correlative right to enjoy the finality of the resolution of the case.
>
> It is true that the ministerial duty of the court to order the execution of a final and executory judgment admits of exceptions as (a) where it becomes imperative in the higher interest of justice to direct the suspension of its execution; or (b) whenever it is necessary to accomplish the aims of justice; or (c) when certain facts and circumstances transpired after the judgment became final which could render the execution of the judgment unjust. Petitioners have not shown that any of these exceptions exists to prevent the mandatory execution of the trial court's Decision.[37] (Italics in the original)

Petitioners' Motion for Reconsideration[38] having been denied by the CA by Resolution of May 11, 2004, the present petition for review[39] was filed on July 12, 2004 positing that:

> THE COURT OF APPEALS GRAVELY ERRED IN UPHOLDING THE LOWER COURT AND IN DISREGARDING THE FOLLOWING PROPOSITIONS:
>
> I

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> THE SUBJECT CONTRACT IS INEFFECTIVE ANDUNIMPLEMENTABLE UNTIL AND UNLESS IT IS APPROVEDBY THE PRESIDENT.
>
> II
>
> THE SUBJECT CONTRACT ONLY COVERS THE DISPOSITION OF 3,000 TONS OF SOLID WASTE A DAY.
>
> III
>
> THE ALLEGED AMENDED AGREEMENT IS ONLY A DRAFT ORPROPOSAL SUBMITTED BY RESPONDENTS.
>
> IV
>
> RESPONDENTS MUST ALSO BE MADE TO COMPLY WITH THEIR CONTRACTUAL COMMITMENTS.[40] (Underscoring supplied)

JANCOM filed on September 20, 2004 its Comment[41] on the petition to which petitioners filed their Reply[42] on January 28, 2005.

On May 4, 2005, Jancom International filed its Comment,[43] reiterating its position that it did not authorize the filing before the RTC by Atty. Molina of the July 29, 2002 Omnibus Motion that impleaded it as party-movant.

On July 7, 2005, petitioners filed their Reply[44] to Jancom International's Comment.

Petitioners argue that since the contract remains unsigned by the President, it cannot yet be executed. Ergo, they conclude, the proceedings which resulted in the issuance of an alias writ of execution "ran afoul of the [January 30, 2002] decision of [the Supreme] Court in G.R. No. 147465."[45]

Petitioners go on to argue that since the contract covers only 3,000 tons of garbage per day while Metro Manila generates at least 6,000 tons of solid waste a day, MMDA may properly bid out the other 3,000 tons of solid waste to other interested groups or entities.

Petitioners moreover argue that the alleged Amended Agreement concluded supposedly between JANCOM and former MMDA Chairman Benjamin Abalos is a mere scrap of paper, a mere draft or proposal submitted by JANCOM to the MMDA, no agreement on which was reached by the parties; and at all events, express authority ought to have first been accorded the MMDA to conclude such an amended agreement with JANCOM, the original contract having been concluded between the Republic of the Philippines and JANCOM.

Finally, petitioners argue that respondents should also be required to perform their commitments pursuant to Article 18[46] of the contract.

The petition is impressed with merit in light of the following considerations.

Section 1, Rule 39 of the Rules of Court provides:

> SECTION 1. Execution upon judgments or final orders. – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.
>
> If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

> The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

Once a judgment becomes final, it is basic that the prevailing party is entitled as a matter of right to a writ of execution the issuance of which is the trial court's ministerial duty, compellable by mandamus.[47]

There are instances, however, when an error may be committed in the course of execution proceedings prejudicial to the rights of a party. These instances call for correction by a superior court, as where:

> 1)
>
> the writ of execution varies the judgment;
>
> 2)
>
> there has been a change in the situation of the parties making execution inequitable or unjust;
>
> 3)
>
> execution is sought to be enforced against property exempt from execution;
>
> 4)
>
> it appears that the controversy has never been submitted to the judgment of the court;
>
> 5)
>
> the terms of the judgment are not clear enough and there remains room for interpretation thereof; or
>
> 6)
>
> it appears that the writ of execution has been improvidently issued, or that it isdefective in substance, or is issued against the wrong party, or that the judgment debt has been paid or otherwise satisfied, or the writ was issued without authority.[48] (Emphasis and Underscoring supplied)

That a writ of execution must conform to the judgment which is to be executed, substantially to every essential particular thereof,[49] it is settled. It may not thus vary the terms of the judgment it seeks to enforce,[50] nor go beyond its terms. Where the execution is not in harmony with the judgment which gives it life and exceeds it, it has no validity.[51]

This Court's January 30, 2002 Decision in G.R. No. 147465 held:

> We, therefore, hold that the Court of Appeals did not err when it declared the existence of a valid and perfected contract between the Republic of the Philippines and JANCOM. There being a perfected contract, MMDA cannot revoke or renounce the same without the consent of the other. From the moment of perfection, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the

> consequences which, according to their nature, may be in keeping with good faith, usage, and law (Article 1315, Civil Code). The contract has the force of law between the parties and they are expected to abide in good faith by their respective contractual commitments, not weasel out of them. Just as nobody can be forced to enter into a contract, in the same manner, once a contract is entered into, no party can renounce it unilaterally or without the consent of the other. It is a general principle of law that no one may be permitted to change his mind or disavow and go back upon his own acts, or to proceed contrary thereto, to the prejudice of the other party. Nonetheless, it has to be repeated that although the contract is a perfected one, it is still ineffective or unimplementable until and unless it is approved by the President.[52] (Emphasis and Underscoring supplied)

This Court's April 10, 2002 Resolution also in G.R. No. 147465 moreover held:

> x x x The only question before the Court is whether or not there is a valid and perfected contract between the parties. As to the necessity, expediency, and wisdom of the contract, these are outside the realm of judicial adjudication. These considerations are primarily and exclusively a matter for the President to decide. While the Court recognizes that the garbage problem is a matter of grave public concern, it can only declare that the contract in question is a valid and perfected one between the parties, but the same is still ineffective or unimplementable until andunless it is approved by the President, the contract itself providingthat such approval by the President is necessary for itseffectivity.[53] (Emphasis and Underscoring supplied)

Article 19 of the contract provides:

> Article 19. Effectivity. – This Contract shall become effective upon approval by the President of the Republic of [the] Philippines pursuant to existing Laws subject to condition precedent in Article 18. This Contract shall remain in full force and effect for twenty five (25) years subject to renewal for another twenty five (25) years from the date of Effectivity. Such renewal will be subject to mutual agreement of the parties and approval by the [P]resident of the Republic of [the] Philippines. (Emphasis and underscoring supplied)

In issuing the alias writ of execution, the trial court in effect ordered the enforcement of the contract despite this Court's unequivocal pronouncement that albeit valid and perfected, the contract shall become effective only upon approval by the President.

Indubitably, the alias writ of execution varied the tenor of this Court's judgment, went against essential portions and exceeded the terms thereof.

> x x x a lower court is without supervisory jurisdiction to interpret or to reverse the judgment of the higher court x x x. A judge of a lower court cannot enforce different decrees than those rendered by the superior court. x x x
>
> The inferior court is bound by the decree as the law of the case, and must carry it into execution according to the mandate. They cannot vary it, or examine it for any other purpose than execution, or give any other or further relief, or review it upon any matter decided on appeal for error apparent, or intermeddle with it, further than to settle so much as has been remanded. x x x[54]

The execution directed by the trial court being out of harmony with the judgment, legal implications cannot save it from being found to be fatally defective.[55]

Notably, while the trial court ratiocinated that it issued on June 23, 2003 the alias writ "to set into motion the legal mechanism for Presidential approval and signature,"[56] it failed to take due consideration of the fact that during the pendency of the Omnibus Motion, the contract had earlier been forwarded for appropriate action on November 3, 2002 by Chairman Fernando to the Office of the President, with recommendation for its disapproval, which fact the trial court had been duly informed of through pleadings and open court manifestations.[57]

Additionally, it bears noting that the June 11, 2003 Order of the trial court is likewise indisputably defective in substance for having directed the submission of the draft Amended Agreement to the President.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The appellate court, in affirming the June 11, 2003 Order of the trial court, overlooked the fact that the Amended Agreement was unsigned by the parties and it instead speculated and rationalized that the submission thereof to the President would at all events solve the mounting garbage problem in Metro Manila:

> We find that the submission of the Amended Agreement to the President will break the impasse now existing between the parties which has effectively halted the government's efforts to address Metro Manila's mounting garbage problem. x x x
>
> As long as petitioners refuse to deal with private respondents, the Metro Manila garbage problem will only continue to worsen. x x x
>
> That the Amended Agreement could have well been negotiated, if not concluded between private respondents and the former MMDA administration, is not far-fetched. Petitioners do not dispute that the President had referred the Jancom contract to then MMDA Chairman Benjamin Abalos for recommendation. Petitioners also do not dispute that private respondents negotiated with the MMDA for the amendment of the contract.
>
> Besides, the Amended Agreement does not veer away from the original Jancom contract. x x x[58]

The Amended Agreement was, as petitioners correctly allege, merely a draft document containing the proposals of JANCOM, subject to the approval of the MMDA. As earlier stated, it was not signed by the parties.[59]

The original contract itself provides in Article 17.6 that it "may not be amended except by a written [c]ontract signed by the parties."[60]

It is elementary that, being consensual, a contract is perfected by mere consent.[61] The essence of consent is the conformity of the parties to the terms of the contract, the acceptance by one of the offer made by the other;[62] it is the concurrence of the minds of the parties on the object and the cause which shall constitute the contract.[63] Where there is merely an offer by one party without acceptance by the other, there is no consent and the contract does not come into existence.[64]

As distinguished from the original contract in which this Court held in G.R. No. 147465:

> x x x the signing and execution of the contract by the parties clearly show that, as between the parties, there was concurrence of offer and acceptance with respect to the material details of the contract, thereby giving rise to the perfection of the contract. The execution and signing of the contract is not disputed by the parties x x x,[65]

the parties did not, with respect to the Amended Agreement, get past the negotiation stage. No meeting of minds was established. While there was an initial offer made, there was no acceptance.

Even JANCOM President Alfonso G. Tuzon conceded, by letter[66] of June 17, 2002 to Chairman Fernando, that the Amended Agreement was a mere proposal:

> Apropos to all these, we are seeking an urgent EXECUTIVE SESSION on your best time and venue. We can thresh up major points to establish a common perspective based on data and merit.
>
> We are optimistic you shall then consider with confidence the proposed Amended Contract which incorporates the adjustments we committed to as stated and earlier submitted to your Office during the incumbency of your predecessor, for evaluation and appropriate action by NEDA in compliance with the BOT Law and Article 18.1.1 of our contract.[67]

While respondents aver that an acceptance was made, they have not proffered any proof. While indeed the MMDA, by a letter[68] issued by then MMDA General Manager Jaime Paz, requested then Secretary of Justice Hernando B. Perez for his legal opinion on the draft Amended Agreement, nowhere in the letter is there any

statement indicating that the MMDA, or the Republic of the Philippines for that matter, had approved respondents' proposals embodied in the said draft agreement.

The pertinent portions of the letter read:

> Attention:
>
> HON. HERNANDO B. PEREZ
> Secretary
>
> Subject:
>
> Request for Opinion Regarding the Compromise Offer of Jancom Environmental Corporation for the Municipal Solid Waste Management of Metro Manila
>
> Dear Secretary Perez:
>
> This is to respectfully request for an opinion from your Honorable Office regarding the Compromise Proposal offered by JANCOM Environmental Corporation ("JANCOM") in relation to its Contract for the BOT Implementation of the Waste Management Project for the San Mateo, Rizal Waste Disposal Site dated 19 December 1997 (hereinafter referred to as the BOT Contract for brevity) with the Republic of the Philippines.
>
> x x x x
>
> x x x this representation is requesting your Honorable Office to render a legal opinion on the following:
>
> Does the offer of JANCOM to temporarily set aside the waste-to-energy plant and implement only the other two major components of the BOT Contract amount to a novation of the BOT Contract, and therefore necessitating a re-bidding? If the same does not amount to a novation, by what authority may Jancom set aside temporarily a major component of the BOT Contract?
>
> x x x x[69]

Only an absolute or unqualified acceptance of a definite offer manifests the consent necessary to perfect a contract.[70] If at all, the MMDA letter only shows that the parties had not gone beyond the preparation stage, which is the period from the start of the negotiations until the moment just before the agreement of the parties.[71] Obviously, other material considerations still remained before the Amended Agreement could be perfected. At any time prior to the perfection of a contract, unaccepted offers and proposals remain as such and cannot be considered as binding commitments.[72]

Respecting petitioners' argument that respondents should be directed to comply with their commitments under Article 18 of the contract, this Court is not convinced.

Article 18.2.1 of the contract provides:

> 18.2.1 The BOT COMPANY hereby undertakes to provide the following within 2 months from execution of this Contract as an effective document:
>
> a)
>
> sufficient proof of the actual equity contributions from the proposed shareholders of the BOT COMPANY in a

> total amount not less than PHP 500,000,000 in accordance with the BOT Law and the implementing rules and regulations;
>
> b)
>
> sufficient proof of financial commitment from a lending institution sufficient to cover total project cost in accordance with the BOT Law and the implementing rules and regulations;
>
> c)
>
> to support its obligation under this Contract, the BOT COMPANY shall submit a security bond to the CLIENT in accordance with the form and amount required under the BOT Law. (Underscoring supplied)

As this Court held in G.R. No. 147465:

> As clearly stated in Article 18, JANCOM undertook to comply with the stated conditions within 2 months from execution of the Contract as an effective document. Since the President of the Philippines has not yet affixed his signature on the contract, the same has not yet become an effective document. Thus, the two-month period within which JANCOM should comply with the conditions has not yet started to run. x x x[73] (Underscoring supplied)

A final point. The argument raised against the authority of Atty. Molina to file respondents' Omnibus Motion before the RTC does not lie.

Representation continues until the court dispenses with the services of counsel in accordance with Section 26, Rule 138 of the Rules of Court.[74] No substitution of counsel of record is allowed unless the following essential requisites concur: (1) there must be a written request for substitution; (2) it must be filed with the written consent of the client; (3) it must be with the written consent of the attorney to be substituted; and (4) in case the consent of the attorney to be substituted cannot be obtained, there must be at least a proof of notice that the motion for substitution was served on him in the manner prescribed by the Rules of Court.[75]

In the case at bar, there is no showing that there was a valid substitution of counsel at the time Atty. Molina filed the Omnibus Motion on July 29, 2002 before the RTC, nor that he had priorly filed a Withdrawal of Appearance. He thus continued to enjoy the presumption of authority granted to him by respondents.

While clients undoubtedly have the right to terminate their relations with their counsel and effect a substitution or change at any stage of the proceedings, the exercise of such right is subject to compliance with the prescribed requirements. Otherwise, no substitution can be effective and the counsel who last appeared in the case before the substitution became effective shall still be responsible for the conduct of the case.[76] The rule is intended to ensure the orderly disposition of cases.[77]

In the absence then of compliance with the essential requirements for valid substitution of the counsel of record, Atty. Molina enjoys the presumption of authority granted to him by respondents.

In light of the foregoing disquisition, a discussion of the other matters raised by petitioners has been rendered unnecessary.

WHEREFORE, the petition is GRANTED. The Decision dated December 19, 2003 and Resolution dated May 11, 2004 of the Court of Appeals in CA-G.R. SP No. 78752 are REVERSED and SET ASIDE. The June 11, 2003 Order of the Regional Trial Court of Pasig, Branch 68 in SCA No. 1955 is declared NULL and VOID.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

SO ORDERED.

Quisumbing, (Chairperson), and Tinga, JJ., concur.
Carpio, J., no part due to inhibition in prior in case GR 147465.
Velasco, Jr., J., no part due to prior action in CA-G.R. SP No. 59021 and SP No. 60364.

---

[1] Rollo, pp. 6-20 (First half of rollo is paged 1-391 the next half is paged 292-345).

[2] Id. at 21-23.

[3] Penned by Justice Noel G. Tijam and concurred in by Justices Ruben T. Reyes (now Presiding Justice) and Edgardo P. Cruz.

[4] Rollo, pp. 330-367.

[5] Records, Vol. 1, p. 70.

[6] Id. at 171-172.

[7] Id. at 170.

[8] Id. at 1-21.

[9] Rollo, pp. 73-76.

[10] The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of petitioners JANCOM ENVIRONMENTAL CORP., and JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY., LIMITED OF AUSTRALIA, and against respondents GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMM., and HON. ROBERTO N. AVENTAJADO, in his Capacity as Chairman of the said Committee, METRO MANILA DEVELOPMENT AUTHORITY and HON. JEJOMAR C. BINAY, in his capacity as Chairman of said Authority, declaring the Resolution of respondent Greater Metropolitan Manila Solid Waste Management Committee disregarding petitioners' BOT Award Contract and calling for bids for and authorizing a new contract for the Metro Manila waste management ILLEGAL and VOID.

Moreover, respondents and their agents are hereby PROHIBITED and ENJOINED from implementing the aforesaid Resolution and disregarding petitioners' BOT Award Contract and from making another award in its place.

Let it be emphasized that this Court is not preventing or stopping the government from Implementing Infrastructure projects as it is aware of the proscription under PD 1818. On the contrary, the Court is paving the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country.

SO ORDERED.

[11] Records, Vol. I, pp. 279-311.

[12] Rollo, pp. 77-96.

[13] Id. at 97-118.

[14] Id. at 312-318.

[15] Id. at 325-329.

[16] Id. at 119-134.

[17] Id. at 129-131.

[18] Records, Vol. II, pp. 590-596.

[19] Id. at 634-641.

[20] Id. at 644-647.

[21] 16.1 Dispute Resolution

The parties agree to settle amicably any dispute or controversy arising in connection with this Contract. In the event such dispute or disagreement cannot be resolved, the matter shall be submitted to arbitration.

Consequently, no Party shall be entitled to commence or maintain any action in court of law upon any matter in dispute until such matter shall have been submitted and determined by arbitration as provided below and then only for the enforcement of such arbitration and thereafter until the arbitrators publish their award, the Parties shall continue to perform all their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

The Parties agree that the arbitration proceedings shall be in the English language, under the rules of conciliation and arbitration of the International Chambers of Commerce, at London, Great Britain.

Upon mutual agreement the Parties may submit their dispute for Arbitration under the Republic Act No. 876 of Philippines.

[22] Records, Vol. II, p. 759.

[23] Id. at 713-715.

[24] Id. at 731-732.

[25] Id. at 733-738.

[26] Id. at 746.

[27] Id. at 824-828 and 831-852.

[28] Rollo, pp. 199-204.

[29] Id. at 204.

[30] Records, Vol. II, pp. 859-861.

[31] Id. at 862.

[32] Ibid.

[33] Rollo, pp. 205-220.

[34] Id. at 221-238.

[35] Id. at 239-256.

[36] Id. at 288-295.

[37] Id. at 12-19.

[38] Id. at 298-306.

[39] Id. at 32-54.

[40] Id. at 40-41.

[41] Id. at 370-384.

[42] Id. at 295-300.

[43] Id. at 314-316.

[44] Id. at 331-333.

[45] Id. at 43.

[46] 18.1.5. To support its obligation under this Contract, the BOT COMPANY (JANCOM) shall post Performance Security either in the form of cash, manager's check, bank draft or other security reasonable and acceptable to the CLIENT (the Republic) in the amount allowed in the BOT Law.

[47] Gatchalian v. Court of Appeals, G.R. No. 161645, July 30, 2004, 435 SCRA 681, 688 (citation omitted), Adlawan v. Tomol, G.R. No. 63225, April 3, 1990, 184 SCRA 31, 39 (citations omitted), Torno v. Intermediate Appellate Court, G.R. No. L-72622, October 28, 1988, 166 SCRA 742, 751 (citations omitted), Pamantasan ng Lungsod ng Maynila v. Intermediate Appellate Court, 227 Phil. 289, 292 (1986) (citations omitted), Balintawak Construction Supply Corporation v. Valenzuela, 209 Phil. 270, 275 (1983).

[48] Reburiano v. Court of Appeals, 361 Phil. 294, 302 (1999) (citation omitted), Limpin, Jr. v. Intermediate Appellate Court, G.R. No. L-70987, January 30, 1987, 147 SCRA 516, 522-23 (citations omitted).

[49] Separa v. Atty. Maceda, 431 Phil 1, 8 (2002) (citation omitted), Philippine Bank of Communications v. Court of Appeals, 344 Phil 777, 791 (1997), Government Service Insurance System v. Court of Appeals, G.R. No. 103590, January 29, 1993, 218 SCRA 233, 250, Pamantasan ng Lungsod ng Maynila v. Intermediate Appellate Court, 227 Phil 289, 292 (1986).

[50] Philippine Virginia Tobacco Adm. v. Gonzales, G.R. No. L-34628, July 30, 1979, 92 SCRA 172, 185 (citations omitted).

[51] Equatorial Realty Dev't, Inc. v. Mayfair Theater, Inc., 387 Phil 885, 895 (2000) (citations omitted), Nazareno v. Court of Appeals, 383 Phil 229, 231 (2000) (citation omitted), Bobis v. Provincial Sheriff of Camarines Norte, 206 Phil 26, 33 (1983) (citation omitted), Windor Steel Mfg. Co., Inc. v. Court of Appeals, G.R. No. L-34332, January 27, 1981, 102 SCRA 275, 284 (citation omitted), Gamboa's Incorporated v. Court of Appeals, G.R. No. L-23634, July 29, 1976, 72 SCRA 131, 137-138 (citation omitted), Collector of Internal Revenue v. Gutierrez, 108 Phil 215, 219-220 (citation omitted), Villoria v. Piccio, 95 Phil 802, 805-806 (1954) (citation omitted).

[52] Metropolitan Manila Development Authority v. Jancom Environmental Corporation, 425 Phil. 961, 981-82 (2002).

[53] Rollo, p. 318.

[54] Doliente v. Blanco, 87 Phil 670, 674 (1950) (citation omitted).

[55] Bank of the Philippine Islands v. Green, 48 Phil 284, 288 (1925).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[56] Rollo, p. 202.

[57] Id. at 44.

[58] Rollo, p. 17.

[59] Vide: Luxuria Homes, Inc. v. Court of Appeals (361 Phil. 989, 1004 [1999]) where this Court found: "Although it appears that there was an agreement for the development of the area, there is no showing that the same was ever perfected and finalized. Private respondents presented in evidence only drafts of a proposed management contract with petitioner's handwritten marginal notes but the management contract was not put in its final form. The reason why there was no final uncorrected draft was because the parties could not agree on the stipulations of said contract x x x. As a consequence the management drafts submitted by the private respondents should at best be considered as mere unaccepted offers;" and Riker v. Ople (G.R. No. L-50492, October 27, 1987, 155 SCRA 85, 94) where this Court held: "Of prime importance is the fact that the proposed x x x contract, not having been signed by private respondent, lacks consent which is the first essential requisite of every contract (Art. 1319, Civil Code)."

[60] Rollo, p. 358.

[61] Swedish Match, AB v. Court of Appeals, G.R. No. 128120, October 20, 2004, 441 SCRA 1, 18 (citation omitted), Insular Life Assurance Company, Ltd. v. Asset Builders Corporation, G.R. No. 147410, February 5, 2004, 422 SCRA 148, 159-160 (citations omitted).

[62] Firme v. Bukal Enterprises and Development Corporation, G.R. No. 146608, October 23, 2003, 414 SCRA 190, 206 (citation omitted), Salonga v. Farrales, 192 Phil. 614, 622-623 (1981).

[63] IV A. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, 447 (1997 ed.).

[64] Ibid.

[65] Rollo, pp. 108-109.

[66] CA rollo, pp. 102-103.

[67] Id. at 103.

[68] Id. at 263-266.

[69] Id. at 263-265.

[70] Weldon Construction Corporation v. Court of Appeals, G.R. No. L-35721, October 12, 1987, 154 SCRA 618, 628 (citation omitted).

[71] Mendoza v. Court of Appeals, 412 Phil. 14, 28 (2001) (citation omitted).

[72] Luxuria Homes, Inc. v. Court of Appeals, supra note 59 at 1005.

[73] Metropolitan Manila Development Authority v. Jancom Environmental Corporation, supra note 52 at 981.

[74] Rollo, p. 22.

[75] Pioneer Insurance & Surety Corporation v. De Dios Transportation Co., Inc., 454 Phil. 409, 427 (2003) (citation omitted), Santana-Cruz v. Court of Appeals, 414 Phil. 47, 61 (2001) (citations omitted), Bernardo v. Court of Appeals, 341 Phil. 413, 425-6 (1997) (citations omitted), Nacuray v. NLRC, 336 Phil. 749, 754-5 (1997)

(citation omitted), Rinconada Telephone Company, Inc. v. Buenviaje, G.R. No. 49241-42, April 27, 1990, 184 SCRA 701, 754-755, Sumadchat v. Court of Appeals, 197 Phil. 465, 477 (1982).

[76] Nacuray v. National Labor Relations Commission, supra note 75 at 755.

[77] Santana-Cruz v. Court of Appeals, supra note 75 at 62 (citation omitted).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.