

CARGILL PHILIPPINES, INC., PETITIONER, VS. SAN FERNANDO REGALA TRADING, INC., RESPONDENT.

G.R. No. 175404. January 31, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is a petition for review on certiorari seeking to reverse and set aside the Decision[1] dated July 31, 2006 and the Resolution[2] dated November 13, 2006 of the Court of Appeals (CA) in CA G.R. SP No. 50304.

The factual antecedents are as follows:

On June 18, 1998, respondent San Fernando Regala Trading, Inc. filed with the Regional Trial Court (RTC) of Makati City a Complaint for Rescission of Contract with Damages[3] against petitioner Cargill Philippines, Inc. In its Complaint, respondent alleged that it was engaged in buying and selling of molasses and petitioner was one of its various sources from whom it purchased molasses. Respondent alleged that it entered into a contract dated July 11, 1996 with petitioner, wherein it was agreed upon that respondent would purchase from petitioner 12,000 metric tons of Thailand origin cane blackstrap molasses at the price of US\$192 per metric ton; that the delivery of the molasses was to be made in January/February 1997 and payment was to be made by means of an Irrevocable Letter of Credit payable at sight, to be opened by September 15, 1996; that sometime prior to September 15, 1996, the parties agreed that instead of January/February 1997, the delivery would be made in April/May 1997 and that payment would be by an Irrevocable Letter of Credit payable at sight, to be opened upon petitioner's advice. Petitioner, as seller, failed to comply with its obligations under the contract, despite demands from respondent, thus, the latter prayed for rescission of the contract and payment of damages.

On July 24, 1998, petitioner filed a Motion to Dismiss/Suspend Proceedings and To Refer Controversy to Voluntary Arbitration,[4] wherein it argued that the alleged contract between the parties, dated July 11, 1996, was never consummated because respondent never returned the proposed agreement bearing its written acceptance or conformity nor did respondent open the Irrevocable Letter of Credit at sight. Petitioner contended that the controversy between the parties was whether or not the alleged contract between the parties was legally in existence and the RTC was not the proper forum to ventilate such issue. It claimed that the contract contained an arbitration clause, to wit:

ARBITRATION

Any dispute which the Buyer and Seller may not be able to settle by mutual agreement shall be settled by arbitration in the City of New York before the American Arbitration Association. The Arbitration Award shall be final and binding on both parties.[5]

that respondent must first comply with the arbitration clause before resorting to court, thus, the RTC must either dismiss the case or suspend the proceedings and direct the parties to proceed with arbitration, pursuant to Sections [6[6]] and [7[7]] of Republic Act (R.A.) No. 876, or the Arbitration Law.

Respondent filed an Opposition, wherein it argued that the RTC has jurisdiction over the action for rescission of contract and could not be changed by the subject arbitration clause. It cited cases wherein arbitration clauses, such as the subject clause in the contract, had been struck down as void for being contrary to public policy since it provided that the arbitration award shall be final and binding on both parties, thus, ousting the courts of jurisdiction.

In its Reply, petitioner maintained that the cited decisions were already inapplicable, having been rendered prior to the effectivity of the New Civil Code in 1950 and the Arbitration Law in 1953.

In its Rejoinder, respondent argued that the arbitration clause relied upon by petitioner is invalid and unenforceable, considering that the requirements imposed by the provisions of the Arbitration Law had not been complied with.

By way of Sur-Rejoinder, petitioner contended that respondent had even clarified that the issue boiled down to whether the arbitration clause contained in the contract subject of the complaint is valid and enforceable; that the arbitration clause did not violate any of the cited provisions of the Arbitration Law.

On September 17, 1998, the RTC rendered an Order,[8] the dispositive portion of which reads:

Premises considered, defendant's "Motion To Dismiss/Suspend Proceedings and To Refer Controversy To Voluntary Arbitration" is hereby DENIED. Defendant is directed to file its answer within ten (10) days from receipt of a copy of this order.[9]

In denying the motion, the RTC found that there was no clear basis for petitioner's plea to dismiss the case, pursuant to Section 7 of the Arbitration Law. The RTC said that the provision directed the court concerned only to stay the action or proceeding brought upon an issue arising out of an agreement providing for the arbitration thereof, but did not impose the sanction of dismissal. However, the RTC did not find the suspension of the proceedings warranted, since the Arbitration Law contemplates an arbitration proceeding that must be conducted in the Philippines under the jurisdiction and control of the RTC; and before an arbitrator who resides in the country; and that the arbitral award is subject to court approval, disapproval and modification, and that there must be an appeal from the judgment of the RTC. The RTC found that the arbitration clause in question contravened these procedures, i.e., the arbitration clause contemplated an arbitration proceeding in New York before a non-resident arbitrator (American Arbitration Association); that the arbitral award shall be final and binding on both parties. The RTC said that to apply Section 7 of the Arbitration Law to such an agreement would result in disregarding the other sections of the same law and rendered them useless and mere surplusages.

Petitioner filed its Motion for Reconsideration, which the RTC denied in an Order[10] dated November 25, 1998.

Petitioner filed a petition for certiorari with the CA raising the sole issue that the RTC acted in excess of jurisdiction or with grave abuse of discretion in refusing to dismiss or at least suspend the proceedings a quo, despite the fact that the party's agreement to arbitrate had not been complied with.

Respondent filed its Comment and Reply. The parties were then required to file their respective Memoranda.

On July 31, 2006, the CA rendered its assailed Decision denying the petition and affirming the RTC Orders.

In denying the petition, the CA found that stipulation providing for arbitration in contractual obligation is both valid and constitutional; that arbitration as an alternative mode of dispute resolution has long been accepted in our jurisdiction and expressly provided for in the Civil Code; that R.A. No. 876 (the Arbitration Law) also expressly authorized the arbitration of domestic disputes. The CA found error in the RTC's holding that Section 7 of R.A. No. 876 was inapplicable to arbitration clause simply because the clause failed to comply with the requirements

prescribed by the law. The CA found that there was nothing in the Civil Code, or R.A. No. 876, that require that arbitration proceedings must be conducted only in the Philippines and the arbitrators should be Philippine residents. It also found that the RTC ruling effectively invalidated not only the disputed arbitration clause, but all other agreements which provide for foreign arbitration. The CA did not find illegal or against public policy the arbitration clause so as to render it null and void or ineffectual.

Notwithstanding such findings, the CA still held that the case cannot be brought under the Arbitration Law for the purpose of suspending the proceedings before the RTC, since in its Motion to Dismiss/Suspend proceedings, petitioner alleged, as one of the grounds thereof, that the subject contract between the parties did not exist or it was invalid; that the said contract bearing the arbitration clause was never consummated by the parties, thus, it was proper that such issue be first resolved by the court through an appropriate trial; that the issue involved a question of fact that the RTC should first resolve. Arbitration is not proper when one of the parties repudiated the existence or validity of the contract.

Petitioner's motion for reconsideration was denied in a Resolution dated November 13, 2006.

Hence, this petition.

Petitioner alleges that the CA committed an error of law in ruling that arbitration cannot proceed despite the fact that: (a) it had ruled, in its assailed decision, that the arbitration clause is valid, enforceable and binding on the parties; (b) the case of *Gonzales v. Climax Mining Ltd.*[11] is inapplicable here; (c) parties are generally allowed, under the Rules of Court, to adopt several defenses, alternatively or hypothetically, even if such defenses are inconsistent with each other; and (d) the complaint filed by respondent with the trial court is premature.

Petitioner alleges that the CA adopted inconsistent positions when it found the arbitration clause between the parties as valid and enforceable and yet in the same breath decreed that the arbitration cannot proceed because petitioner assailed the existence of the entire agreement containing the arbitration clause. Petitioner claims the inapplicability of the cited *Gonzales* case decided in 2005, because in the present case, it was respondent who had filed the complaint for rescission and damages with the RTC, which based its cause of action against petitioner on the alleged agreement dated July 11, 2006 between the parties; and that the same agreement contained the arbitration clause sought to be enforced by petitioner in this case. Thus, whether petitioner assails the genuineness and due execution of the agreement, the fact remains that the agreement sued upon provides for an arbitration clause; that respondent cannot use the provisions favorable to him and completely disregard those that are unfavorable, such as the arbitration clause.

Petitioner contends that as the defendant in the RTC, it presented two alternative defenses, i.e., the parties had not entered into any agreement upon which respondent as plaintiff can sue upon; and, assuming that such agreement existed, there was an arbitration clause that should be enforced, thus, the dispute must first be submitted to arbitration before an action can be instituted in court. Petitioner argues that under Section 1(j) of Rule 16 of the Rules of Court, included as a ground to dismiss a complaint is when a condition precedent for filing the complaint has not been complied with; and that submission to arbitration when such has been agreed upon is one such condition precedent. Petitioner submits that the proceedings in the RTC must be dismissed, or at least suspended, and the parties be ordered to proceed with arbitration.

On March 12, 2007, petitioner filed a Manifestation[12] saying that the CA's rationale in declining to order arbitration based on the 2005 *Gonzales* ruling had been modified upon a motion for reconsideration decided in 2007; that the CA decision lost its legal basis, because it had been ruled that the arbitration agreement can be implemented notwithstanding that one of the parties thereto repudiated the contract which contained such agreement based on the doctrine of separability.

In its Comment, respondent argues that certiorari under Rule 65 is not the remedy against an order denying a Motion to Dismiss/Suspend Proceedings and To Refer Controversy to Voluntary Arbitration. It claims that the Arbitration Law which petitioner invoked as basis for its Motion prescribed, under its Section 29, a remedy, i.e., appeal by a petition for review on certiorari under Rule 45. Respondent contends that the Gonzales case, which was decided in 2007, is inapplicable in this case, especially as to the doctrine of separability enunciated therein. Respondent argues that even if the existence of the contract and the arbitration clause is conceded, the decisions of the RTC and the CA declining referral of the dispute between the parties to arbitration would still be correct. This is so because respondent's complaint filed in Civil Case No. 98-1376 presents the principal issue of whether under the facts alleged in the complaint, respondent is entitled to rescind its contract with petitioner and for the latter to pay damages; that such issue constitutes a judicial question or one that requires the exercise of judicial function and cannot be the subject of arbitration.

Respondent contends that Section 8 of the Rules of Court, which allowed a defendant to adopt in the same action several defenses, alternatively or hypothetically, even if such defenses are inconsistent with each other refers to allegations in the pleadings, such as complaint, counterclaim, cross-claim, third-party complaint, answer, but not to a motion to dismiss. Finally, respondent claims that petitioner's argument is premised on the existence of a contract with respondent containing a provision for arbitration. However, its reliance on the contract, which it repudiates, is inappropriate.

In its Reply, petitioner insists that respondent filed an action for rescission and damages on the basis of the contract, thus, respondent admitted the existence of all the provisions contained thereunder, including the arbitration clause; that if respondent relies on said contract for its cause of action against petitioner, it must also consider itself bound by the rest of the terms and conditions contained thereunder notwithstanding that respondent may find some provisions to be adverse to its position; that respondent's citation of the Gonzales case, decided in 2005, to show that the validity of the contract cannot be the subject of the arbitration proceeding and that it is the RTC which has the jurisdiction to resolve the situation between the parties herein, is not correct since in the resolution of the Gonzales' motion for reconsideration in 2007, it had been ruled that an arbitration agreement is effective notwithstanding the fact that one of the parties thereto repudiated the main contract which contained it.

We first address the procedural issue raised by respondent that petitioner's petition for certiorari under Rule 65 filed in the CA against an RTC Order denying a Motion to Dismiss/Suspend Proceedings and to Refer Controversy to Voluntary Arbitration was a wrong remedy invoking Section 29 of R.A. No. 876, which provides:

Section 29.

x x x An appeal may be taken from an order made in a proceeding under this Act, or from a judgment entered upon an award through certiorari proceedings, but such appeals shall be limited to question of law. x x x.

To support its argument, respondent cites the case of *Gonzales v. Climax Mining Ltd.*[13] (Gonzales case), wherein we ruled the impropriety of a petition for certiorari under Rule 65 as a mode of appeal from an RTC Order directing the parties to arbitration.

We find the cited case not in point.

In the Gonzales case, Climax-Arimco filed before the RTC of Makati a petition to compel arbitration under R.A. No. 876, pursuant to the arbitration clause found in the Addendum Contract it entered with Gonzales. Judge Oscar Pimentel of the RTC of Makati then directed the parties to arbitration proceedings. Gonzales filed a petition for certiorari with Us contending that Judge Pimentel acted with grave abuse of discretion in immediately ordering the parties to proceed with arbitration despite the proper, valid and timely raised argument in his Answer with counterclaim that the Addendum Contract containing the arbitration clause was null and void. Climax-Arimco

assailed the mode of review availed of by Gonzales, citing Section 29 of R.A. No. 876 contending that certiorari under Rule 65 can be availed of only if there was no appeal or any adequate remedy in the ordinary course of law; that R.A. No. 876 provides for an appeal from such order. We then ruled that Gonzales' petition for certiorari should be dismissed as it was filed in lieu of an appeal by certiorari which was the prescribed remedy under R.A. No. 876 and the petition was filed far beyond the reglementary period.

We found that Gonzales' petition for certiorari raises a question of law, but not a question of jurisdiction; that Judge Pimentel acted in accordance with the procedure prescribed in R.A. No. 876 when he ordered Gonzales to proceed with arbitration and appointed a sole arbitrator after making the determination that there was indeed an arbitration agreement. It had been held that as long as a court acts within its jurisdiction and does not gravely abuse its discretion in the exercise thereof, any supposed error committed by it will amount to nothing more than an error of judgment reviewable by a timely appeal and not assailable by a special civil action of certiorari.[14]

In this case, petitioner raises before the CA the issue that the respondent Judge acted in excess of jurisdiction or with grave abuse of discretion in refusing to dismiss, or at least suspend, the proceedings a quo, despite the fact that the party's agreement to arbitrate had not been complied with. Notably, the RTC found the existence of the arbitration clause, since it said in its decision that "hardly disputed is the fact that the arbitration clause in question contravenes several provisions of the Arbitration Law x x x and to apply Section 7 of the Arbitration Law to such an agreement would result in the disregard of the afore-cited sections of the Arbitration Law and render them useless and mere surplusages." However, notwithstanding the finding that an arbitration agreement existed, the RTC denied petitioner's motion and directed petitioner to file an answer.

In *La Naval Drug Corporation v. Court of Appeals*,^[15] it was held that R.A. No. 876 explicitly confines the court's authority only to the determination of whether or not there is an agreement in writing providing for arbitration. In the affirmative, the statute ordains that the court shall issue an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof. If the court, upon the other hand, finds that no such agreement exists, the proceedings shall be dismissed.

In issuing the Order which denied petitioner's Motion to Dismiss/Suspend Proceedings and to Refer Controversy to Voluntary Arbitration, the RTC went beyond its authority of determining only the issue of whether or not there is an agreement in writing providing for arbitration by directing petitioner to file an answer, instead of ordering the parties to proceed to arbitration. In so doing, it acted in excess of its jurisdiction and since there is no plain, speedy, and adequate remedy in the ordinary course of law, petitioner's resort to a petition for certiorari is the proper remedy.

We now proceed to the substantive issue of whether the CA erred in finding that this case cannot be brought under the arbitration law for the purpose of suspending the proceedings in the RTC.

We find merit in the petition.

Arbitration, as an alternative mode of settling disputes, has long been recognized and accepted in our jurisdiction.^[16] R.A. No. [876^[17]] authorizes arbitration of domestic disputes. Foreign arbitration, as a system of settling commercial disputes of an international character, is likewise recognized.^[18] The enactment of R.A. No. 9285 on April 2, 2004 further institutionalized the use of alternative dispute resolution systems, including arbitration, in the settlement of disputes.^[19]

A contract is required for arbitration to take place and to be binding.^[20] Submission to arbitration is a contract^[21] and a clause in a contract providing that all matters in dispute between the parties shall be referred to arbitration is a contract.^[22] The provision to submit to arbitration any dispute arising therefrom and the

relationship of the parties is part of the contract and is itself a contract.[23]

In this case, the contract sued upon by respondent provides for an arbitration clause, to wit:

ARBITRATION

Any dispute which the Buyer and Seller may not be able to settle by mutual agreement shall be settled by arbitration in the City of New York before the American Arbitration Association, The Arbitration Award shall be final and binding on both parties.

The CA ruled that arbitration cannot be ordered in this case, since petitioner alleged that the contract between the parties did not exist or was invalid and arbitration is not proper when one of the parties repudiates the existence or validity of the contract. Thus, said the CA:

Notwithstanding our ruling on the validity and enforceability of the assailed arbitration clause providing for foreign arbitration, it is our considered opinion that the case at bench still cannot be brought under the Arbitration Law for the purpose of suspending the proceedings before the trial court. We note that in its Motion to Dismiss/Suspend Proceedings, etc, petitioner Cargill alleged, as one of the grounds thereof, that the alleged contract between the parties do not legally exist or is invalid. As posited by petitioner, it is their contention that the said contract, bearing the arbitration clause, was never consummated by the parties. That being the case, it is but proper that such issue be first resolved by the court through an appropriate trial. The issue involves a question of fact that the trial court should first resolve.

Arbitration is not proper when one of the parties repudiates the existence or validity of the contract. Apropos is *Gonzales v. Climax Mining Ltd.*, 452 SCRA 607, (G.R.No.161957), where the Supreme Court held that:

The question of validity of the contract containing the agreement to submit to arbitration will affect the applicability of the arbitration clause itself. A party cannot rely on the contract and claim rights or obligations under it and at the same time impugn its existence or validity. Indeed, litigants are enjoined from taking inconsistent positions....

Consequently, the petitioner herein cannot claim that the contract was never consummated and, at the same time, invokes the arbitration clause provided for under the contract which it alleges to be non-existent or invalid. Petitioner claims that private respondent's complaint lacks a cause of action due to the absence of any valid contract between the parties. Apparently, the arbitration clause is being invoked merely as a fallback position. The petitioner must first adduce evidence in support of its claim that there is no valid contract between them and should the court a quo find the claim to be meritorious, the parties may then be spared the rigors and expenses that arbitration in a foreign land would surely entail.[24]

However, the *Gonzales* case,[25] which the CA relied upon for not ordering arbitration, had been modified upon a motion for reconsideration in this wise:

x x x The adjudication of the petition in G.R. No. 167994 effectively modifies part of the Decision dated 28 February 2005 in G.R. No. 161957. Hence, we now hold that the validity of the contract containing the agreement to submit to arbitration does not affect the applicability of the arbitration clause itself. A contrary ruling would suggest that a party's mere repudiation of the main contract is sufficient to avoid arbitration. That is exactly the situation that the separability doctrine, as well as jurisprudence applying it, seeks to avoid. We add that when it was declared in G.R. No. 161957 that the case should not be brought for arbitration, it should be clarified that the case referred to is the case actually filed by *Gonzales* before the DENR Panel of Arbitrators, which was for the nullification of the main contract on the ground of fraud, as it had already been determined that the case should have been brought before the regular courts involving as it did judicial issues.[26]

In so ruling that the validity of the contract containing the arbitration agreement does not affect the applicability of the arbitration clause itself, we then applied the doctrine of separability, thus:

The doctrine of separability, or severability as other writers call it, enunciates that an arbitration agreement is independent of the main contract. The arbitration agreement is to be treated as a separate agreement and the arbitration agreement does not automatically terminate when the contract of which it is a part comes to an end.

The separability of the arbitration agreement is especially significant to the determination of whether the invalidity of the main contract also nullifies the arbitration clause. Indeed, the doctrine denotes that the invalidity of the main contract, also referred to as the "container" contract, does not affect the validity of the arbitration agreement. Irrespective of the fact that the main contract is invalid, the arbitration clause/agreement still remains valid and enforceable.[27]

Respondent argues that the separability doctrine is not applicable in petitioner's case, since in the Gonzales case, Climax-Arimco sought to enforce the arbitration clause of its contract with Gonzales and the former's move was premised on the existence of a valid contract; while Gonzales, who resisted the move of Climax-Arimco for arbitration, did not deny the existence of the contract but merely assailed the validity thereof on the ground of fraud and oppression. Respondent claims that in the case before Us, petitioner who is the party insistent on arbitration also claimed in their Motion to Dismiss/Suspend Proceedings that the contract sought by respondent to be rescinded did not exist or was not consummated; thus, there is no room for the application of the separability doctrine, since there is no container or main contract or an arbitration clause to speak of.

We are not persuaded.

Applying the Gonzales ruling, an arbitration agreement which forms part of the main contract shall not be regarded as invalid or non-existent just because the main contract is invalid or did not come into existence, since the arbitration agreement shall be treated as a separate agreement independent of the main contract. To reiterate, a contrary ruling would suggest that a party's mere repudiation of the main contract is sufficient to avoid arbitration and that is exactly the situation that the separability doctrine sought to avoid. Thus, we find that even the party who has repudiated the main contract is not prevented from enforcing its arbitration clause.

Moreover, it is worthy to note that respondent filed a complaint for rescission of contract and damages with the RTC. In so doing, respondent alleged that a contract exists between respondent and petitioner. It is that contract which provides for an arbitration clause which states that "any dispute which the Buyer and Seller may not be able to settle by mutual agreement shall be settled before the City of New York by the American Arbitration Association. The arbitration agreement clearly expressed the parties' intention that any dispute between them as buyer and seller should be referred to arbitration. It is for the arbitrator and not the courts to decide whether a contract between the parties exists or is valid.

Respondent contends that assuming that the existence of the contract and the arbitration clause is conceded, the CA's decision declining referral of the parties' dispute to arbitration is still correct. It claims that its complaint in the RTC presents the issue of whether under the facts alleged, it is entitled to rescind the contract with damages; and that issue constitutes a judicial question or one that requires the exercise of judicial function and cannot be the subject of an arbitration proceeding. Respondent cites our ruling in Gonzales, wherein we held that a panel of arbitrator is bereft of jurisdiction over the complaint for declaration of nullity/or termination of the subject contracts on the grounds of fraud and oppression attendant to the execution of the addendum contract and the other contracts emanating from it, and that the complaint should have been filed with the regular courts as it involved issues which are judicial in nature.

Such argument is misplaced and respondent cannot rely on the Gonzales case to support its argument.

In *Gonzales*, petitioner *Gonzales* filed a complaint before the Panel of Arbitrators, Region II, Mines and Geosciences Bureau, of the Department of Environment and Natural Resources (DENR) against respondents *Climax- Mining Ltd*, *Climax-Arimco* and *Australasian Philippines Mining Inc*, seeking the declaration of nullity or termination of the addendum contract and the other contracts emanating from it on the grounds of fraud and oppression. The Panel dismissed the complaint for lack of jurisdiction. However, the Panel, upon petitioner's motion for reconsideration, ruled that it had jurisdiction over the dispute maintaining that it was a mining dispute, since the subject complaint arose from a contract between the parties which involved the exploration and exploitation of minerals over the disputed area. Respondents assailed the order of the Panel of Arbitrators via a petition for certiorari before the CA. The CA granted the petition and declared that the Panel of Arbitrators did not have jurisdiction over the complaint, since its jurisdiction was limited to the resolution of mining disputes, such as those which raised a question of fact or matter requiring the technical knowledge and experience of mining authorities and not when the complaint alleged fraud and oppression which called for the interpretation and application of laws. The CA further ruled that the petition should have been settled through arbitration under R.A. No. 876 – the Arbitration Law – as provided under the addendum contract.

On a review on certiorari, we affirmed the CA's finding that the Panel of Arbitrators who, under R.A. No. 7942 of the Philippine Mining Act of 1995, has exclusive and original jurisdiction to hear and decide mining disputes, such as mining areas, mineral agreements, FTAA's or permits and surface owners, occupants and claimholders/concessionaires, is bereft of jurisdiction over the complaint for declaration of nullity of the addendum contract; thus, the Panels' jurisdiction is limited only to those mining disputes which raised question of facts or matters requiring the technical knowledge and experience of mining authorities. We then said:

In *Pearson v. Intermediate Appellate Court*, this Court observed that the trend has been to make the adjudication of mining cases a purely administrative matter. Decisions of the Supreme Court on mining disputes have recognized a distinction between (1) the primary powers granted by pertinent provisions of law to the then Secretary of Agriculture and Natural Resources (and the bureau directors) of an executive or administrative nature, such as granting of license, permits, lease and contracts, or approving, rejecting, reinstating or canceling applications, or deciding conflicting applications, and (2) controversies or disagreements of civil or contractual nature between litigants which are questions of a judicial nature that may be adjudicated only by the courts of justice. This distinction is carried on even in Rep. Act No. 7942.[28]

We found that since the complaint filed before the DENR Panel of Arbitrators charged respondents with disregarding and ignoring the addendum contract, and acting in a fraudulent and oppressive manner against petitioner, the complaint filed before the Panel was not a dispute involving rights to mining areas, or was it a dispute involving claimholders or concessionaires, but essentially judicial issues. We then said that the Panel of Arbitrators did not have jurisdiction over such issue, since it does not involve the application of technical knowledge and expertise relating to mining. It is in this context that we said that:

Arbitration before the Panel of Arbitrators is proper only when there is a disagreement between the parties as to some provisions of the contract between them, which needs the interpretation and the application of that particular knowledge and expertise possessed by members of that Panel. It is not proper when one of the parties repudiates the existence or validity of such contract or agreement on the ground of fraud or oppression as in this case. The validity of the contract cannot be subject of arbitration proceedings. Allegations of fraud and duress in the execution of a contract are matters within the jurisdiction of the ordinary courts of law. These questions are legal in nature and require the application and interpretation of laws and jurisprudence which is necessarily a judicial function.[29]

In fact, We even clarified in our resolution on *Gonzales*' motion for reconsideration that "when we declared that the case should not be brought for arbitration, it should be clarified that the case referred to is the case actually

filed by Gonzales before the DENR Panel of Arbitrators, which was for the nullification of the main contract on the ground of fraud, as it had already been determined that the case should have been brought before the regular courts involving as it did judicial issues." We made such clarification in our resolution of the motion for reconsideration after ruling that the parties in that case can proceed to arbitration under the Arbitration Law, as provided under the Arbitration Clause in their Addendum Contract.

WHEREFORE, the petition is GRANTED. The Decision dated July 31, 2006 and the Resolution dated November 13, 2006 of the Court of Appeals in CA-G.R. SP No. 50304 are REVERSED and SET ASIDE. The parties are hereby ORDERED to SUBMIT themselves to the arbitration of their dispute, pursuant to their July 11, 1996 agreement.

SO ORDERED.

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

[1] Penned by Associate Justice Edgardo F. Sundiam, with Associate Justices Rodrigo V. Cosico and Japar B. Dimaampao, concurring; rollo, pp. 32-45.

[2] Id. at 47-48.

[3] Docketed as Civil Case No. 98-1376; raffled off to Branch 59.

[4] Rollo, pp. 61-70.

[5] Id. at 60.

[6] Section 6. Hearing by court. - A party aggrieved by the failure, neglect or refusal of another to perform under an agreement in writing providing for arbitration may petition the court for an order directing that such arbitration proceed in the manner provided for in such agreement. Five days notice in writing of the hearing of such application shall be served either personally or by registered mail upon the party in default. The court shall hear the parties, and upon being satisfied that the making of the agreement or such failure to comply therewith is not in issue, shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. If the making of the agreement or default be in issue the court shall proceed to summarily hear such issue. If the finding be that no agreement in writing providing for arbitration was made, or that there is no default in the proceeding thereunder, the proceeding shall be dismissed. If the finding be that a written provision for arbitration was made and there is a default in proceeding thereunder, an order shall be made summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

The court shall decide all motions, petitions or applications filed under the provisions of this Act, within ten days after such motions, petitions, or applications have been heard by it.

[7] Sec. 7. Stay of civil action. - If any suit or proceeding be brought upon an issue arising out of an agreement providing for the arbitration thereof, the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration, shall say the action or proceeding until an arbitration has been had in accordance with the terms of the agreement; Provided that the applicant for the stay is not in default in proceeding with such arbitration.

[8] Penned by Judge Lucia Violago Isnani; rollo, pp. 71-75.

[9] Id. at 75.

[10] Records, pp. 113-115.

[11] G.R. No. 161957, February 28, 2005, 452 SCRA 607.

[12] Rollo, pp. 311-314.

[13] G.R. Nos. 161957 & 167994, January 22, 1997, 512 SCRA 148, 163.

[14] Id. at 165.

[15] G.R. No. 103200, August 31, 1994, 236 SCRA 78, 91.

[16] *Gonzales v. Climax Mining Ltd.*, supra note 13, at 166.

[17] An Act to Institutionalize the Use of An Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for other purposes.

[18] *Gonzales v. Climax Mining Ltd.*, supra note 13.

[19] Id. at 167.

[20] Id.

[21] Id., citing *Manila Electric Co. v. Pasay Transportation Co.*, 57 Phil 600 (1932).

[22] Id. at 167-168.

[23] Id., citing *Del Monte Corporation -USA v. Court of Appeals*, 404 Phil. 192 (2001).

[24] Rollo, pp. 44-45. (Emphasis supplied.)

[25] *Gonzales v. Climax Mining Ltd.*, supra note 11.

[26] *Gonzales v. Climax Mining Ltd.*, supra note 13, at 172-173. (Emphasis supplied.)

[27] Id. at 170.

[28] *Gonzales v. Climax Mining Ltd.*, supra note 11, at 620.

[29] Id. at 624.

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