

EQUITABLE PCI BANKING CORPORATION, GEORGE L. GO, PATRICK D. GO, GENEVIEVE W.J. GO, FERDINAND MARTIN G. ROMUALDEZ, OSCAR P. LOPEZ-DEE, RENE J. BUENAVENTURA, GLORIA L. TAN-CLIMACO...

G.R. No. 182248. December 18, 2008

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182248/>

VELASCO JR., J.:

The Case

This Petition for Review on Certiorari under Rule 45 seeks the reversal of the January 8, 2008[2] and March 17, 2008[3] Orders of the Regional Trial Court (RTC), Branch 148 in Makati City in SP Proc. Case No. 6046, entitled In the Matter of ICC Arbitration Ref. No. 13290/MS/JB/JEM Between RCBC Capital Corporation, (Claimant), and Equitable PCI Banking Corporation, Inc. et al., (Respondents). The assailed January 8, 2008 Order confirmed the Partial Award dated September 27, 2007[4] rendered by the International Chamber of Commerce-International Court of Arbitration (ICC-ICA) in Case No. 13290/MS/JB/JEM, entitled RCBC Capital Corporation (Philippines) v. Equitable PCI Bank, Inc. & Others (Philippines). The March 17, 2008 Order denied petitioners' motion for reconsideration of the January 8, 2008 Order.

The Facts

On May 24, 2000, petitioners Equitable PCI Bank, Inc. (EPCIB) and the individual shareholders of Bankard, Inc., as sellers, and respondent RCBC Capital Corporation (RCBC), as buyer, executed a Share Purchase Agreement[5] (SPA) for the purchase of petitioners' interests in Bankard, representing 226,460,000 shares, for the price of PhP 1,786,769,400. To expedite the purchase, RCBC agreed to dispense with the conduct of a due diligence audit on the financial status of Bankard.

Under the SPA, RCBC undertakes, on the date of contract execution, to deposit, as downpayment, 20% of the purchase price, or PhP 357,353,880, in an escrow account. The escrowed amount, the SPA stated, should be released to petitioners on an agreed-upon release date and the balance of the purchase price shall be delivered to the share buyers upon the fulfillment of certain conditions agreed upon, in the form of a manager's check.

The other relevant provisions of the SPA are:

Section 5. Sellers' Representations and Warranties

The SELLERS jointly and severally represent and warrant to the BUYER that:

x x x x

The Financial Condition of Bankard

g. The audited financial statements of Bankard for the three (3) fiscal years ended December 31, 1997, 1998

and 1999, and the unaudited financial statements for the first quarter ended 31 March 2000, are fair and accurate, and complete in all material respects, and have been prepared in accordance with generally accepted accounting principles consistently followed throughout the period indicated and:

i) the balance sheet of Bankard as of 31 December 1999, as prepared and certified by SGV & Co. ("SGV"), and the unaudited balance sheet for the first quarter ended 31 March 2000, present a fair and accurate statement as of those dates, of Bankard's financial condition and of all its assets and liabilities, and is complete in all material respects; and

ii) the statements of Bankard's profit and loss accounts for the fiscal years 1996 to 1999, as prepared and certified by SGV, and the unaudited profit and loss accounts for the first quarter ended 31 March 2000, fairly and accurately present the results of the operations of Bankard for the periods indicated, and are complete in all material respects.

h. Except as disclosed in the Disclosures, and except to the extent set forth or reserved in the audited financial statements of Bankard as of 31 December 1999 and its unaudited financial statements as of 31 March 2000, Bankard, as of such dates and up to 31 May 2000, had and shall have no liabilities, omissions or mistakes in its records which will have material adverse effect on the net worth or financial condition of Bankard to the extent of more than One Hundred Million Pesos (P100,000,000.00) in the aggregate. In the event such material adverse effect on the net worth or financial condition of Bankard exceeds One Hundred Million Pesos (P100,000,000.00), the Purchase Price shall be reduced in accordance with the following formula:

Reduction in Purchase Price = X multiplied by 226,460,000

where

Amount by which negative
adjustment exceeds P100 Million

X =

(1.925)

338,000,000

x x x x

Section 7. Remedies for Breach of Warranties

a. If any of the representations and warranties of any or all of the SELLERS or the BUYER (the "Defaulting Party") contained in Sections 5 and 6 shall be found to be untrue when made and/or as of the Closing Date, the other party, i.e., the BUYER if the Defaulting Party is any or all of the SELLERS and the SELLERS if the Defaulting Party is the BUYER (hereinafter referred to as the "Non-Defaulting Party") shall have the right to require the Defaulting Party, at the latter's expense, to cure such breach, and/or seek damages, by providing notice or presenting a claim to the Defaulting Party, reasonably specifying therein the particulars of the breach. The foregoing remedies shall be available to the Non-Defaulting Party only if the demand therefor is presented in writing to the Defaulting Party within three (3) years from the Closing Date except that the remedy for a breach of the SELLERS' representation and warrant in Section 5 (h) shall be available only if the demand therefor is presented to the Defaulting Party in writing together with schedules and to substantiate such demand, within six (6) months from the Closing Date.[6]

On June 2, 2000, RCBC deposited the stipulated downpayment amount in an escrow account after which it was given full management and operational control of Bankard. June 2, 2000 is also considered by the parties as the Closing Date referred to in the SPA.

Thereafter, the parties executed an Amendment to Share Purchase Agreement (ASPA) dated September 19, 2000.[7] Its paragraph 2(e) provided that:

2. Notwithstanding any provisions to the contrary in the Share Purchase Agreement and/or any agreement, instrument or document entered into or executed by the Parties in relation thereto (the "Related Agreements"), the Parties hereby agree that:

x x x x

e) Notwithstanding the provisions of Sec. 7 of the Share Purchase Agreement to the contrary, the remedy for a breach of the SELLERS' representation and warranty in Section 5(h) of the Share Purchase Agreement shall be available if the demand therefor is presented to the SELLERS in writing together with schedules and data to substantiate such demand, on or before 31 December 2000. (Emphasis added.)

Sometime in September 2000, RCBC had Bankard's accounts audited, creating for the purpose an audit team led by a certain Rubio, the Vice-President for Finance of RCBC at the time. Rubio's conclusion was that the warranty, as contained in Section 5(h) of the SPA (simply Sec. 5[h] hereinafter), was correct.

On December 28, 2000, RCBC paid the balance of the contract price. The corresponding deeds of sale for the shares in question were executed in January 2001.

Thereafter, in a letter of May 5, 2003, RCBC informed petitioners of its having overpaid the purchase price of the subject shares, claiming that there was an overstatement of valuation of accounts amounting to PhP 478 million, resulting in the overpayment of over PhP 616 million. Thus, RCBC claimed that petitioners violated their warranty, as sellers, embodied in Sec. 5(g) of the SPA (Sec. 5[g] hereinafter).

Following unsuccessful attempts at settlement, RCBC, in accordance with Sec. 10 of the SPA, filed a Request for Arbitration dated May 12, 2004[8] with the ICC-ICA. In the request, RCBC charged Bankard with deviating from, contravening and not following generally accepted accounting principles and practices in maintaining their books. Due to these improper accounting practices, RCBC alleged that both the audited and unaudited financial statements of Bankard prior to the stock purchase were far from fair and accurate and, hence, violated the representations and warranties of petitioners in the SPA. Per RCBC, its overpayment amounted to PhP 556 million. It thus prayed for the rescission of the SPA, restitution of the purchase price, payment of actual damages in the amount of PhP 573,132,110, legal interest on the purchase price until actual restitution, moral damages, and litigation and attorney's fees. As alternative to rescission and restitution, RCBC prayed for damages in the amount of at least PhP 809,796,092 plus legal interest.

To the Request for Arbitration, petitioners filed an Answer dated July 28, 2004,[9] denying RCBC's inculpatory averments and setting up the following affirmative allegations: the period for filing of the asserted claim had already lapsed by force of Sec. 7 of the SPA; RCBC is not entitled to rescission having had ample opportunity and reasonable time to file a claim against petitioners; RCBC is not entitled to its alternative prayer of damages, being guilty of laches and failing to set out the details of the breach as required under Sec. 7.

Arbitration in the ICC-ICA proceeded after the formation of the arbitration tribunal consisting of retired Justice Santiago M. Kapunan, nominated by petitioners; Neil Kaplan, RCBC's nominee; and Sir Ian Barker, appointed by the ICC-ICA.

After drawn out proceedings with each party alleging deviation and non-compliance by the other with arbitration

rules, the tribunal, with Justice Kapunan dissenting, rendered a Partial Award dated September 27, 2007,[10] the dispositive portion of which states:

15 AWARD AND DIRECTIONS

15.1 The Tribunal makes the following declarations by way of Partial Award:

- (a) The Claimant's claim is not time-barred under the provisions of this SPA.
- (b) The Claimant is not estopped by its conduct or the equitable doctrine of laches from pursuing its claim.
- (c) As detailed in the Partial Award, the Claimant has established the following breaches by the Respondents of clause 5(g) of the SPA:
 - i) the assets, revenue and net worth of Bankard were overstated by reason of its policy on and recognition of Late Payment Fees;
 - ii) reported receivables were higher than their realizable values by reason of the 'bucketing' method, thus overstating Bankard's assets; and
 - iii) the relevant Bankard statements were inadequate and misleading in that their disclosures caused readers to be misinformed about Bankard's accounting policies on revenue and receivables.

(d) Subject to proof of loss the Claimant is entitled to damages for the foregoing breaches.

(e) The Claimant is not entitled to rescission of the SPA.

(f) All other issues, including any issue relating to costs, will be dealt with in a further or final award.

15.2 A further Procedural Order will be necessary subsequent to the delivery of this Partial Award to deal with the determination of quantum and in particular, whether there should be an Expert appointed by the Tribunal under Article 20(4) of the ICC Rules to assist the Tribunal in this regard.

15.3 This Award is delivered by a majority of the Tribunal (Sir Ian Barker and Mr. Kaplan). Justice Kapunan is unable to agree with the majority's conclusion on the claim of estoppel brought by the respondents.

On the matter of prescription, the tribunal held that RCBC's claim is not time-barred, the claim properly falling under the contemplation of Sec. 5(g) and not Sec. 5(h). As such, the tribunal concluded, RCBC's claim was filed within the three (3)-year period under Sec. 5(g) and that the six (6)-month period under Sec. 5(h) did not apply.

The tribunal also exonerated RCBC from laches, the latter having sought relief within the three (3)-year period prescribed in the SPA. On the matter of estoppel suggested in petitioners' answer, the tribunal stated in par. 10.27 of the Partial Award the following:

10.27 Clearly, there has to be both an admission or representation by (in this case) the Claimant [RCBC], plus reliance upon it by (in this case) the Respondents [herein petitioners]. The Tribunal cannot find as proved any admission/representation that the Claimant was abandoning a 5(g) claim, any reliance by the Respondents on an admission, and any detriment to the Respondents such as would entitle them to have the Claimant deprived of the benefit of clause 5(g). These aspects of the claim for estoppels are rejected.[11]

Notably, the tribunal considered the rescission of the SPA and ASPA as impracticable and "totally out of the question." [12]

In his Dissenting Opinion[13] which he submitted to and which was received on September 24, 2007 by the ICC-ICA, Justice Kapunan stated the observation that RCBC's claim is time-barred, falling as such claim did under Sec. 5(h), which prescribes a comparatively shorter prescriptive period, not 5(g) as held by the majority of the tribunal, to wit:

Claimant admits that the Claim is for recovery of P431 million on account of alleged "overvaluation of the net worth of Bankard," allegedly for "improper accounting practices" resulting in "its book value per share as of 31

December 1999 [being] overstated." Claimant's witness, Dean Echanis asserts that "the inadequate provisioning for Bankard's doubtful accounts result[ed] in an overstatement of its December 31, 1999 total assets and net worth of by [sic] least P418.2 million."

In addition, Claimant's demand letter addressed to the Respondents alleged that "we overpaid for the Shares to the extent of the impact of the said overstatement on the Book Value per share".

These circumstances establish beyond dispute that the Claim is based on the alleged overstatement of the 1999 net worth of Bankard, which the parties relied on in setting the purchase price of the shares. Moreover, it is clear that there was an overstatement because of "improper accounting practices" which led Claimant to overpay for the shares.

Ultimately, the Claim is one for recovery of overpayment in the purchase price of the shares. x x x

As to the issue of estoppel, Justice Kapunan stated:

Moreover, Mr. Rubio's findings merely corroborated the disclosures made in the Information Memorandum that Claimant received from the Respondents prior to the execution of the SPA. In this connection, I note that Bankard's policy on provisioning and setting of allowances using the Bucketed Method and income recognition from AR/Principal, AR/Interest and AR/LPFs were disclosed in the Information Memorandum. Thus, these alleged improper accounting practices were known to the Claimant even prior to the execution of the SPA.

Thus, when Claimant paid the balance of the purchase price, it did so with full knowledge of these accounting practices of Bankard that it now assails. By paying the balance of the purchase price without taking exception or objecting to the accounting practices disclosed through Mr. Rubio's review and the Information Memorandum, Claimant is deemed to have accepted such practices as correctly reporting the 1999 net worth. x x x

x x x x

As last point, I note that my colleagues invoke a principle that for estoppels to apply there must be positive indication that the right to sue was waived. I am of the view that there is no such principle under Philippine law. What is applicable is the holding in *Knecht* and in *Coca-Cola* that prior knowledge of an unfavorable fact is binding on the party who has such knowledge; "when the purchaser proceeds to make investigations by himself, and the vendor does nothing to prevent such investigation from being as complete as the former might wish, the purchaser cannot later allege that the vendor made false representations to him" (*Cf. Songco v. Sellner*, 37 Phil 254 citations omitted).

Applied to this case, the Claimant cannot seek relief on the basis that when it paid the purchase price in December 2000, it was unaware that the accounting practices that went into the reporting of the 1999 net worth as amounting to P1,387,275,847 were not in conformity with GAAP [generally accepted accounting principles]. (Emphasis added.)

On October 26, 2007, RCBC filed with the RTC a Motion to Confirm Partial Award. On the same day, petitioners countered with a Motion to Vacate the Partial Award. On November 9, 2007, petitioners again filed a Motion to Suspend and Inhibit Barker and Kaplan.

On January 8, 2008, the RTC issued the first assailed order confirming the Partial Award and denying the adverted separate motions to vacate and to suspend and inhibit. From this order, petitioners sought reconsideration, but their motion was denied by the RTC in the equally assailed second order of March 17, 2008.

From the assailed orders, petitioners came directly to this Court through this petition for review.

The Issues

This petition seeks the review, reversal and setting aside of the orders Annexes A and B and, in lieu of them, it seeks judgment vacating the arbitrators' liability award, Annex C, on these grounds:

(a) The trial court acted contrary to law and judicial authority in refusing to vacate the arbitral award, notwithstanding it was rendered in plain disregard of the parties' contract and applicable Philippine law, under which the claim in arbitration was indubitably time-barred.

(b) The trial court acted contrary to law and judicial authority in refusing to vacate and in confirming the arbitral award, notwithstanding that the arbitrators had plainly and admittedly failed to accord petitioners' due process by denying them a hearing on the basic factual matter upon which their liability is predicated.

(c) The trial court committed grave error in confirming the arbitrators' award, which held petitioners-sellers liable for an alleged improper recording of accounts, allegedly affecting the value of the shares they sold, notwithstanding that the respondent-buyer knew before contracting that the accounts were kept in the manner complained of, and in fact ratified and adopted the questioned accounting practice and policies.[14]

The Court's Ruling

The petition must be denied.

On Procedural Misstep of Direct Appeal to This Court

As earlier recited, the ICC-ICA's Partial Award dated September 27, 2007 was confirmed by the RTC in its first assailed order of January 8, 2008. Thereafter, the RTC, by order of March 17, 2008, denied petitioners' motion for reconsideration. Therefrom, petitioners came directly to this Court on a petition for review under Rule 45 of the Rules of Court.

This is a procedural miscue for petitioners who erroneously bypassed the Court of Appeals (CA) in pursuit of its appeal. While this procedural gaffe has not been raised by RCBC, still we would be remiss in not pointing out the proper mode of appeal from a decision of the RTC confirming, vacating, setting aside, modifying, or correcting an arbitral award.

Rule 45 is not the remedy available to petitioners as the proper mode of appeal assailing the decision of the RTC confirming an arbitral award is an appeal before the CA pursuant to Sec. 46 of Republic Act No. (RA) 9285, otherwise known as the Alternative Dispute Resolution Act of 2004, or completely, 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, promulgated on April 2, 2004 and became effective on April 28, 2004 after its publication on April 13, 2004.

In *Korea Technologies Co., Ltd v. Lerma*, we explained, inter alia, that the RTC decision of an assailed arbitral award is appealable to the CA and may further be appealed to this Court, thus:

Sec. 46 of RA 9285 provides for an appeal before the CA as the remedy of an aggrieved party in cases where the RTC sets aside, rejects, vacates, modifies, or corrects an arbitral award, thus:

SEC. 46. Appeal from Court Decision or Arbitral Awards.-A decision of the Regional Trial Court confirming, vacating, setting aside, modifying or correcting an arbitral award may be appealed to the Court of Appeals in accordance with the rules and procedure to be promulgated by the Supreme Court.

The losing party who appeals from the judgment of the court confirming an arbitral award shall be required by the appellate court to post a counterbond executed in favor of the prevailing party equal to the amount of the award in accordance with the rules to be promulgated by the Supreme Court.

Thereafter, the CA decision may further be appealed or reviewed before this Court through a petition for review under Rule 45 of the Rules of Court.[15]

It is clear from the factual antecedents that RA 9285 applies to the instant case. This law was already effective at the time the arbitral proceedings were commenced by RCBC through a request for arbitration filed before the ICC-ICA on May 12, 2004. Besides, the assailed confirmation order of the RTC was issued on March 17, 2008. Thus, petitioners clearly took the wrong mode of appeal and the instant petition can be outright rejected and dismissed.

Even if we entertain the petition, the outcome will be the same.

The Court Will Not Overturn an Arbitral Award Unless It Was Made in Manifest Disregard of the Law

In *Asset Privatization Trust v. Court of Appeals*,^[16] the Court passed on similar issues as the ones tendered in the instant petition. In that case, the arbitration committee issued an arbitral award which the trial court, upon due proceedings, confirmed despite the opposition of the losing party. Motions for reconsideration by the losing party were denied. An appeal interposed by the losing party to the CA was denied due course. On appeal to this Court, we established the parameters by which an arbitral award may be set aside, to wit:

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

Nonetheless, the arbitrators' awards is not absolute and without exceptions. The arbitrators cannot resolve issues beyond the scope of the submission agreement. The parties to such an agreement are bound by the arbitrators' award only to the extent and in the manner prescribed by the contract and only if the award is rendered in conformity thereto. Thus, Sections 24 and 25 of the Arbitration Law provide grounds for vacating, rescinding or modifying an arbitration award. Where the conditions described in Articles 2038, 2039 and 2040 of the Civil Code applicable to compromises and arbitration are attendant, the arbitration award may also be annulled.

x x x x

Finally, it should be stressed that while a court is precluded from overturning an award for errors in determination of factual issues, nevertheless, if an examination of the record reveals no support whatever for the arbitrators' determinations, their award must be vacated. In the same manner, an award must be vacated if it was made in "manifest disregard of the law."^[17] (Emphasis supplied.)

Following *Asset Privatization Trust*, errors in law and fact would not generally justify the reversal of an arbitral award. A party asking for the vacation of an arbitral award must show that any of the grounds for vacating, rescinding, or modifying an award are present or that the arbitral award was made in manifest disregard of the law. Otherwise, the Court is duty-bound to uphold an arbitral award.

The instant petition dwells on the alleged manifest disregard of the law by the ICC-ICA.

The US case of *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Jaros*^[18] expounded on the phrase "manifest disregard of the law" in the following wise:

This court has emphasized that manifest disregard of the law is a very narrow standard of review. *Anaconda Co. v. District Lodge No. 27*, 693 F.2d 35 (6th Cir.1982). A mere error in interpretation or application of the law is insufficient. *Anaconda*, 693 F.2d at 37-38. Rather, the decision must fly in the face of clearly established

legal precedent. When faced with questions of law, an arbitration panel does not act in manifest disregard of the law unless (1) the applicable legal principle is clearly defined and not subject to reasonable debate; and (2) the arbitrators refused to heed that legal principle.

Thus, to justify the vacation of an arbitral award on account of "manifest disregard of the law," the arbiter's findings must clearly and unequivocally violate an established legal precedent. Anything less would not suffice.

In the present case, petitioners, in a bid to establish that the arbitral award was issued in manifest disregard of the law, allege that the Partial Award violated the principles of prescription, due process, and estoppel. A review of petitioners' arguments would, however, show that their arguments are bereft of merit. Thus, the Partial Award dated September 27, 2007 cannot be vacated.

RCBC's Claim Is Not Time-Barred

Petitioners argue that RCBC's claim under Sec. 5(g) is based on overvaluation of Bankard's revenues, assets, and net worth, hence, for price reduction falling under Sec. 5(h), in which case it was belatedly filed, for RCBC presented the claim to petitioners on May 5, 2003, when the period for presenting it under Sec. 5(h) expired on December 31, 2000. As a counterpoint, RCBC asserts that its claim clearly comes under Sec. 5(g) in relation to Sec. 7 which thus gave it three (3) years from the closing date of June 2, 2000, or until June 1, 2003, within which to make its claim. RCBC contends having acted within the required period, having presented its claim-demand on May 5, 2003.

To make clear the issue at hand, we highlight the pertinent portions of Secs. 5(g), 5(h), and 7 bearing on what petitioners warranted relative to the financial condition of Bankard and the remedies available to RCBC in case of breach of warranty:

g.

The audited financial statements of Bankard for the three (3) fiscal years ended December 31, 1997, 1998 and 1999, and the unaudited financial statements for the first quarter ended 31 March 2000, are fair and accurate, and complete in all material respects, and have been prepared in accordance with generally accepted accounting principles consistently followed throughout the period indicated and:

i)

the balance sheet of Bankard as of 31 December 1999, as prepared and certified by SGV & Co. ("SGV"), and the unaudited balance sheet for the first quarter ended 31 March 2000, present a fair and accurate statement as of those dates, of Bankard's financial condition and of all its assets and liabilities, and is complete in all material respects; and

ii)

the statements of Bankard's profit and loss accounts for the fiscal years 1996 to 1999, as prepared and certified by SGV, and the unaudited profit and loss accounts for the first quarter ended 31 March 2000, fairly and accurately present the results of the operations of Bankard for the periods indicated, and are complete in all material respects.

h.

Except as disclosed in the Disclosures, and except to the extent set forth or reserved in the audited financial statements of Bankard as of 31 December 1999 and its unaudited financial statements for the first quarter ended 31 March 2000, Bankard, as of such dates and up to 31 May 2000, had and shall have no liabilities, omissions or mistakes in its records which will have a material adverse effect on the net worth or financial condition of Bankard to the extent of more than One Hundred Million Pesos (P 100,000,000.00) in the

aggregate. In the event such material adverse effect on the net worth or financial condition of Bankard exceeds One Hundred Million Pesos (P 100,000,000.00), the Purchase Price shall be reduced in accordance with the following formula:

x x x x

Section 7. Remedies for Breach of Warranties

If any of the representations and warranties of any or all of the SELLERS or the BUYER (the "Defaulting Party") contained in Sections 5 and 6 shall be found to be untrue when made and/or as of the Closing Date, the other party, i.e., the BUYER if the Defaulting is any of the SELLERS and the SELLERS if the Defaulting Party is the BUYER (hereinafter referred to as the "Non-Defaulting Party") shall have the right to require the Defaulting Party, at the latter's expense, to cure such breach, and/or seek damages, by providing notice or presenting a claim to the Defaulting Party, reasonably specifying therein the particulars of the breach. The foregoing remedies shall be available to the Non-Defaulting Party only if the demand therefor is presented in writing to the Defaulting Party within three (3) years from the Closing Date, except that the remedy for a breach of the SELLERS' representation and warranty in Section 5 (h) shall be available only if the demand therefor is presented to the Defaulting Party in writing together with schedules and data to substantiate such demand, within six (6) months from the Closing Date. (Emphasis supplied.)

Before we address the issue put forward by petitioners, there is a necessity to determine the nature and application of the reliefs provided under Sec. 5(g) and Sec. 5(h) in conjunction with Sec. 7, thus:

(1) The relief under Sec. 5(h) is specifically for price reduction as said section explicitly states that the "Purchase Price shall be reduced in accordance with the following formula x x x." In addition, Sec. 7 gives the aggrieved party the right to ask damages based on the stipulation that the non-defaulting party "shall have the right to require the Defaulting Party, at the latter's expense, to cure such breach and/or seek damages."

On the other hand, the remedy under Sec. 5(g) in conjunction with Sec. 7 can include specific performance, damages, and other reliefs excluding price reduction.

(2) Sec. 5(g) warranty covers the audited financial statements (AFS) for the three (3) years ending December 31, 1997 to 1999 and the unaudited financial statements (UFS) for the first quarter ending March 31, 2000. On the other hand, the Sec. 5(h) warranty refers only to the AFS for the year ending December 31, 1999 and the UFS up to May 31, 2000. It is undenied that Sec. 5(h) refers to price reduction as it covers "only the most up-to-date audited and unaudited financial statements upon which the price must have been based." [19]

(3) Under Sec. 5(h), the responsibility of petitioners for its warranty shall exclude the disclosures and reservations made in AFS of Bankard as of December 31, 1999 and its UFS up to May 31, 2000. No such exclusions were made under Sec. 5(g) with respect to the warranty of petitioners in the AFS and UFS of Bankard.

(4) Sec. 5(h) gives relief only if there is material adverse effect in the net worth in excess of PhP 100 million and it provides a formula for price reduction. [20] On the other hand, Sec. 5(g) can be the basis for remedies like specific performance, damages, and other reliefs, except price reduction, even if the overvaluation is less or above PhP 100 million and there is no formula for computation of damages.

(5) Under Sec. 7, the aggrieved party shall present its written demand to the defaulting party within three (3) years from closing date. Under Sec. 5(h), the written demand shall be presented within six (6) months from closing date. In accordance with par. 2(c) of the ASPA, the deadline to file the demand under Sec. 5(h) was extended to December 31, 2000.

From the above determination, it becomes clear that the aggrieved party is entitled to two (2) separate alternative

remedies under Secs. 5 and 7 of the SPA, thus:

- A claim for price reduction under Sec. 5(h) and/or damages based on the breach of warranty by Bankard on the absence of liabilities, omissions and mistakes on the financial statements as of 31 December 1999 and the UFS as of 31 May 2000, provided that the material adverse effect on the net worth exceeds PhP 100M and the written demand is presented within six (6) months from closing date (extended to 31 December 2000); and
- An action to cure the breach like specific performance and/or damages under Sec. 5(g) based on Bankard's breach of warranty involving its AFS for the three (3) fiscal years ending 31 December 1997, 1998, and 1999 and the UFS for the first quarter ending 31 March 2000 provided that the written demand shall be presented within three (3) years from closing date.

Has RCBC the option to choose between Sec. 5(g) or Sec. 5(h)?

The answer is yes. Sec. 5 and Sec. 7 are clear that it is discretionary on the aggrieved parties to avail themselves of any remedy mentioned above. They may choose one and dispense with the other. Of course, the relief for price reduction under Sec. 5(h) will have to conform to the prerequisites and time frame of six (6) months; otherwise, it is waived.

Preliminarily, petitioners' basic posture that RCBC's claim is for the recovery of overpayment is specious. The records show that in its Request for Arbitration dated May 12, 2004, RCBC prayed for the rescission of the SPA, restitution of the whole purchase price, and damages not for reduction of price or for the return of any overpayment. Even in its May 5, 2000 letter,[21] RCBC did not ask for the recovery of any overpayment or reduction of price, merely stating in it that the accounts of Bankard, as reflected in its AFS for 1999, were overstated which, necessarily, resulted in an overpayment situation. RCBC was emphatic and unequivocal that petitioners violated their warranty covered by Sec. 5(g) of the SPA.

It is thus evident that RCBC did not avail itself of the option under Sec. 5(h), i.e., for price reduction or the return of any overpayment arising from the overvaluation of Bankard's financial condition. Clearly, RCBC invoked Sec. 5(g) to claim damages from petitioners which is one of the alternative reliefs granted under Sec. 7 in addition to rescission and restitution of purchase price.

Petitioners do not deny that RCBC formally filed its claim under Sec. 5(g) which is anchored on the material overstatement or overvaluation of Bankard's revenues, assets, and net worth and, hence, the overstatement of the purchase price. They, however, assert that such claim for overpayment is actually a claim under Sec. 5(h) of the SPA for price reduction which it forfeited after December 31, 2000.

We cannot sustain petitioners' position.

It cannot be disputed that an overstatement or overvaluation of Bankard's financial condition as of closing date translates into a misrepresentation not only of the accuracy and truthfulness of the financial statements under Sec. 5(g), but also as to Bankard's actual net worth mentioned in Sec. 5(h). Overvaluation presupposes mistakes in the entries in the financial statements and amounts to a breach of petitioners' representations and warranties under Sec. 5. Consequently, such error in the financial statements would impact on the figure representing the net worth of Bankard as of closing date. An overvaluation means that the financial condition of Bankard as of closing date, i.e., June 2, 2000, is overstated, a situation that will definitely result in a breach of EPCIB's representations and warranties.

A scrutiny of Sec. 5(g) and Sec. 5(h) in relation to Sec. 7 of the SPA would indicate the following remedies available to RCBC should it be discovered, as of closing date, that there is overvaluation which will constitute breach of the warranty clause under either Sec. 5(g) or (h), to wit:

(1) An overvaluation of Bankard's actual financial condition as of closing date taints the veracity and accuracy of the AFS for 1997, 1998, and 1999 and the UFS for the first quarter of 2000 and is an actionable breach of petitioners' warranties under Sec. 5(g).

(2) An overvaluation of Bankard's financial condition as of May 31, 2000, encompassing the warranted financial condition as of December 31, 1999 through the AFS for 1999 and as of March 31, 2000 through the UFS for the first quarter of 2000, is a breach of petitioners' representations and warranties under Sec. 5(h).

Thus, RCBC has two distinct alternative remedies in case of an overvaluation of Bankard's financial condition. It may invoke Sec. 5(h) when the conditions of the threshold aggregate overvaluation and the claim made within the six-month time-bar are present. In the alternative, it may invoke Sec. 5(g) when it finds that a claim for "curing the breach" and/or damages will be more advantageous to its interests provided it is filed within three (3) years from closing date. Since it has two remedies, RCBC may opt to exercise either one. Of course, the exercise of either one will preclude the other.

Moreover, the language employed in Sec. 5(g) and Sec. 5(h) is clear and bereft of any ambiguity. The SPA's stipulations reveal that the non-use or waiver of Sec. 5(h) does not preclude RCBC from availing itself of the second relief under Sec. 5(g). Article 1370 of the Civil Code is explicit that "if terms of a contract are clear and leave no doubt upon the intention of the contracting parties the literal meaning of its stipulations shall control." Since the terms of a contract have the force of law between the parties,[22] then the parties must respect and strictly conform to it. Lastly, it is a long held cardinal rule that when the terms of an agreement are reduced to writing, it is deemed to contain all the terms agreed upon and no evidence of such terms can be admitted other than the contents of the agreement itself.[23] Since the SPA is unambiguous, and petitioners failed to adduce evidence to the contrary, then they are legally bound to comply with it.

Petitioners agreed ultimately to the stipulation that:

Each of the representations and warranties of the SELLERS is deemed to be a separate representation and warranty, and the BUYER has placed complete reliance thereon in agreeing to the Purchase Price and in entering into this Agreement. The representations and warranties of the SELLERS shall be correct as of the date of this Agreement and as of the Closing Date with the same force and effect as though such representations and warranties had been made as of the Closing Date.[24] (Emphasis supplied.)

The Court sustains the finding in the Partial Award that Sec. 5(g) of the SPA is a free standing warranty and not constricted by Sec. 5(h) of the said agreement.

Upon the foregoing premises and in the light of the undisputed facts on record, RCBC's claim for rescission of the SPA and damages due to overvaluation of Bankard's accounts was properly for a breach of the warranty under Sec. 5(g) and was not time-barred. To repeat, RCBC presented its written claim on May 5, 2003, or a little less than a month before closing date, well within the three (3)-year prescriptive period provided under Sec. 7 for the exercise of the right provided under Sec. 5(g).

Petitioners bemoan the fact that "the arbitrators' liability award (a) disregarded the 6-month contractual limitation for RCBC's 'overprice' claim, and [b] substituted in its place the 3-year limitation under the contract for other claims,"[25] adopting in that regard the interpretation of the SPA made by arbitral tribunal member, retired Justice Kapunan, in his Dissenting Opinion, in which he asserted:

Ultimately, the Claim is one for recovery of overpayment in the purchase price of the shares. And it is in this context, that I respectfully submit that Section 5(h) and not Section 5(g), applies to the present controversy.[26]

x x x x

True, without Section 5(h), the Claim for price recovery would fall under Section 5(g). The recovery of the pecuniary loss of the Claimant in the form of the excess price paid would be in the nature of a claim for actual damages by way of compensation. In that situation, all the accounts in the 1999 financial statements would be the subject of the warranty in Section 5(g).

However, since the parties explicitly included Section 5(h) in their SPA, which assures the Claimant that there were no "omissions or mistakes in the records" that would misstate the 1999 net worth account, I am left with no other conclusion but that the accuracy of the net worth was the subject of the warranty in Section 5(h), while the accuracy or correctness of the other accounts that did not bear on, or affect Bankard's net worth, were guaranteed by Section 5(g).

x x x x

This manner of reconciling the two provisions is consistent with the principle in Rule 130, Section 12 of the Rules of Court that "when a general and a particular provision are inconsistent, the latter is paramount to the former... [so] a particular intent will control a general one that is inconsistent with it." This is also consistent with existing doctrines on statutory construction, the application of which is illustrated in the case of Commissioner of Customs vs. Court of Tax Appeals, GR No. L-41861, dated March 23, 1987 x x x.

x x x x

The Claim is for recovery of the excess price by way of actual damages.[27] x x x (Emphasis supplied.)

Justice Kapunan noted that without Sec. 5(h), RCBC's claim would fall under Sec. 5(g), impliedly admitting that both provisions could very well cover RCBC's claim, except that Sec. 5(h) excludes the situation contemplated in it from the general terms of Sec. 5(g).

Such view is incorrect.

While it is true that Sec. 5(h), as couched, is a warranty on the accuracy of the Bankard's net worth while Sec. 5(g), as also couched, is a warranty on the veracity, accuracy, and completeness of the AFS in all material respects as prepared in accordance with generally accepted accounting principles consistently followed throughout the period audited, yet both warranties boil down to the same thing and stem from the same accounts as summarized in the AFS. Since the net worth is the balance of Bankard's assets less its liabilities, it necessarily includes all the accounts under the AFS. In short, there are no accounts in the AFS that do not bear on the net worth of Bankard. Moreover, as earlier elucidated, any overvaluation of Bankard's net worth is necessarily a misrepresentation of the veracity, accuracy, and completeness of the AFS and also a breach of the warranty under Sec. 5(g). Thus, the subject of the warranty in Sec. 5(h) is also covered by the warranty in Sec. 5(g), and Sec. 5(h) cannot exclude such breach from the ambit of Sec. 5(g). There is no need to rely on Sec. 12, Rule 130 of the Rules of Court for both Sec. 5(g) and Sec. 5(h) as alternative remedies are of equal footing and one need not categorize one section as a general provision and the other a particular provision.

More importantly, a scrutiny of the four corners of the SPA does not explicitly reveal any stipulation nor even impliedly that the parties intended to limit the scope of the warranty in Sec. 5(g) or gave priority to Sec. 5(h) over Sec. 5(g).

The arbitral tribunal did not find any legal basis in the SPA that Sec. 5(h) "somehow cuts down" the scope of Sec. 5(g), thus:

9.10 In the opinion of the Tribunal, there is nothing in the wording used in the SPA to give priority to one warranty over the other. There is nothing in the wording used to indicate that the parties intended to limit the

scope of the warranty in 5(g). If it be contended that, on a true construction of the two warranties, 5(h) somehow cuts down the scope of 5(g), the Tribunal can find no justification for such conclusion on the wording used. Furthermore, the Tribunal is of the view that very clear words would be needed to cut down the scope of the 5(g) warranty.[28]

The Court upholds the conclusion of the tribunal and rules that the claim of RCBC under Sec. 5(g) is not time-barred.

Petitioners Were Not Denied Due Process

Petitioners impute on RCBC the act of creating summaries of the accounts of Bankard which "in turn were used by its experts to conclude that Bankard improperly recorded its receivables and committed material deviations from GAAP requirements." [29] Later, petitioners would assert that "the arbitrators' partial award admitted and used the Summaries as evidence, and held on the basis of the 'information' contained in them that petitioners were in breach of their warranty in GAAP compliance."

To petitioners, the ICC-ICA's use of such summaries but without presenting the source documents violates their right to due process. Pressing the point, petitioners had moved, but to no avail, for the exclusion of the said summaries. Petitioners allege that they had reserved the right to cross-examine the witnesses of RCBC who testified on the summaries, pending the resolution of their motion to exclude. But, according to them, they were effectively denied the right to cross-examine RCBC's witnesses when the ICC-ICA admitted the summaries of RCBC as evidence.

Petitioners' position is bereft of merit.

Anent the use but non-presentation of the source documents as the jumping board for a claim of denial of due process, petitioners cite *Compania Maritima v. Allied Free Worker's Union*. [30] It may be stated, however, that such case is not on all fours with the instant case and, therefore, cannot be applied here considering that it does not involve an administrative body exercising quasi-judicial function but rather the regular court.

In a catena of cases, we have ruled that "[t]he essence of due process is the opportunity to be heard. What the law prohibits is not the absence of previous notice but the absolute absence thereof and the lack of opportunity to be heard." [31]

We also explained in *Lastimoso v. Asayo* that "[d]ue process in an administrative context does not require trial type proceedings similar to those in courts of justice. Where an opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process." [32]

Were petitioners afforded the opportunity to refute the summaries and pieces of evidence submitted by RCBC which became the bases of the experts' opinion?

The answer is in the affirmative.

We recall the events that culminated in the issuance of the challenged Partial Award, thus:

On May 17, 2004, the ICC-ICA received the Request for Arbitration dated May 12, 2004 from RCBC seeking rescission of the SPA and restitution of all the amounts paid by RCBC to petitioners, with actual and moral damages, interest, and costs of suit.

On August 8, 2004, petitioners filed an Answer to the Request for Arbitration dated July 28, 2004, setting up a counterclaim for USD 300,000 for actual and exemplary damages.

RCBC filed its Reply [33] dated August 31, 2004 to petitioners' Answer to the Request for Arbitration.

On October 4, 2004, the parties entered into the Terms of Reference.[34] At the same time, the chairperson of the arbitral tribunal issued a provisional timetable[35] for the arbitration.

On October 25, 2004, as previously agreed upon in the meeting on October 4, 2004, petitioners filed a Motion to Dismiss[36] while RCBC filed a "Claimant's Position Paper (Re: [Petitioners'] Assertion that RCBC CAPITAL CORPORATION's Present Claim Is Time Barred)."[37]

Then, the tribunal issued Procedural Order No. 1 dated January 12, 2005,[38] denying the motion to dismiss and setting the initial hearing of the case on April 11, 2005.

In a letter dated February 9, 2005,[39] petitioners requested that the tribunal direct RCBC to produce certain documents. At the same time, petitioners sought the postponement of the hearing on April 11, 2005 to March 21, 2005, in light of their own request.

On February 11, 2005, petitioners received RCBC's brief of evidence and supporting documentation in accordance with the provisional timetable.[40] In the brief of evidence, RCBC provided summaries of the accounts of Bankard, which petitioners now question.

Later, in a letter dated February 14, 2005,[41] petitioners complained to the tribunal with regard to their lack of access to RCBC's external auditor. Petitioners sought an audit by an accounting firm of the records of Bankard with respect to the claims of RCBC. By virtue of such requests, petitioners also sought a rescheduling of the provisional timetable, despite their earlier assurance to the tribunal that if they received the documents that they requested on February 9, 2005 on or before February 21, 2005, they would abide by the provisional timetable.

Thereafter, the tribunal issued Procedural Order No. 2 dated February 18, 2005,[42] in which it allowed the discovery and inspection of the documents requested by petitioners that were also scheduled on February 18, 2005. The request for an audit of Bankard's accounts was denied without prejudice to the conduct of such audit during the course of the hearings. Consequently, the tribunal amended the provisional timetable, extending the deadline for petitioners to file their brief of evidence and documents to March 21, 2005. The date of the initial hearing, however, remained on April 11, 2005.

On February 18, 2005, petitioners were furnished the documents that they requested RCBC.[43] The parties also agreed to meet again on February 23, 2005 to provide petitioners with a "walk-through" of Bankard's Statistical Analysis System and to provide petitioners with a soft copy of all of Bankard's cardholders.[44]

During the February 23, 2005 meeting, EPCIB's counsels/representatives were accompanied to the Bankard's Credit-MIS Group. There, Bankard's representative, Amor Lazaro, described and explained to petitioners' representatives the steps involved in procuring and translating raw data on customer transactions. Lazaro explained that Bankard captures cardholder information and transactions through encoding or electronic data capture. Thereafter, such data are transmitted to its main credit card administration system. Such raw data are then sent to Bankard's Information Technology Group. Using a proprietary software called SAS, the raw data is then converted into SAS files which may be viewed, handled, and converted into Excel files for reporting purposes. During the walk-through, petitioners' representatives asked questions which were answered in detail by Lazaro.

At the same time, another Bankard representative, Felix L. Sincoñegue, accompanied two auditors/representatives of petitioners to examine the journal vouchers and supporting documents of Bankard consisting of several boxes. The auditors randomly sifted through the boxes which they had earlier requested to be inspected.

In addition, petitioners were furnished with an electronic copy of the details of all cardholders, including relevant data for aging of receivables for the years 2000 to 2003, as well as data containing details of written-off accounts

from 1999 to March 2000 contained in compact discs.[45]

On March 4, 2005, petitioners sent a letter[46] to the tribunal requesting for a postponement of the April 11, 2005 hearing of the case. Petitioners claim that they could not confirm the summaries prepared by RCBC, considering that RCBC allegedly did not cooperate in providing data that would facilitate their verification. Petitioners specifically mentioned the following data: (1) list of names of cardholders whose accounts are sources of data gathered or calculated in the summaries; (2) references to the basic cardholder documents from which such data were collected; and (3) access to the underlying cardholder documents at a time and under conditions mutually convenient to the parties. As regards the compact discs of information provided to petitioners, it is claimed that such information could not be accessed as the software necessary for the handling of the data could not be made immediately available to them.

In Procedural Order No. 3 dated March 11 2005,[47] the initial hearing was moved to June 13 to 16, 2005, considering that petitioners failed to pay the advance on costs of the tribunal.

On March 23, 2005, RCBC paid the balance of the advance on costs.[48]

On April 22, 2005, petitioners sent the tribunal a letter,[49] requesting for the postponement of the hearing scheduled on June 13 to 16, 2005 on the ground that they could not submit their witness' statements due to the volume of data that they acquired from RCBC.

In a letter dated April 25, 2005,[50] petitioners demanded from RCBC that they be allowed to examine the journal vouchers earlier made available to them during the February 23, 2005 meeting. This demand was answered by RCBC in a letter dated April 26, 2005,[51] stating that such demand was being denied by virtue of Procedural Order No. 2, in which it was ruled that further requests for discovery would not be made except with leave of the chairperson of the tribunal.

In Procedural Order No. 4,[52] the tribunal granted petitioners' request for the postponement of the hearing on June 13, 2005 and rescheduled it to November 21, 2005 in light of the pending motions filed by EPCIB with the RTC in Makati City.

On July 29, 2005, the parties held a meeting wherein it was agreed that petitioners would be provided with hard and soft copies of the inventory of the journal vouchers earlier presented to its representatives, while making the journal vouchers available to petitioners for two weeks for examination and photocopying.[53]

On September 2, 2005, petitioners applied for the postponement of the November 21, 2005 hearing due to the following: (1) petitioners had earlier filed a motion dated August 11, 2005 with the RTC, in which the issue of whether the non-Filipino members of the tribunal were illegally practicing law in the Philippines by hearing their case, which was still pending; and (2) the gathering and processing of the data and documents made available by RCBC would require 26 weeks.[54] Such application was denied by the tribunal in Procedural Order No. 5 dated September 16, 2005.[55]

On October 21, 2005, the tribunal issued Procedural Order No. 6,[56] postponing the November 21, 2005 hearing by virtue of an order issued by the RTC in Makati City directing the tribunal to reset the hearing for April 21 and 24, 2006.

Thereafter, in a letter dated January 18, 2006,[57] petitioners wrote the tribunal requesting that RCBC be directed to: (1) provide petitioners with information identifying the journal vouchers and other supporting documents that RCBC used to arrive at the figures set out in the summaries and other relevant information necessary to enable them to reconstruct and/or otherwise understand the figures or amounts in each summary; and (2) submit to

petitioners the requested pieces of information as soon as these are or have become available, or in any case not later than five days.

In response to such letter, RCBC addressed a letter dated January 31, 2006[58] to the tribunal claiming that the pieces of information that petitioners requested are already known to petitioners considering that RCBC merely maintained the systems that they inherited when it bought Bankard from petitioners. RCBC added that the documents that EPCIB originally transmitted to it when RCBC bought Bankard were all being made available to petitioners; thus, any missing supporting documents from these files were never transmitted to them in the first place.

Later, petitioners sent to the tribunal a letter dated February 10, 2006,[59] asking that it direct RCBC to provide petitioners with the supporting documents that RCBC mentioned in its letter dated January 31, 2006. Petitioners wrote that should RCBC fail to present such documents, RCBC's summaries should be excluded from the records.

In a letter dated March 10, 2006,[60] petitioners requested that they be given an additional period of at least 47 days within which to submit their evidence-in-chief with the corresponding request for the cancellation of the hearing on April 24, 2006. Petitioners submit that should such request be denied, RCBC's summaries should be excluded from the records.

On April 6, 2006, petitioners filed their arbitration briefs and witness statements. By way of reply, on April 17, 2006, RCBC submitted Volumes IV and V of its exhibits and Volume II of its evidence-in-chief.[61]

On April 18, 2006, petitioners requested the tribunal that they be allowed to file rejoinder briefs, or otherwise exclude RCBC's reply brief and witness statements.[62] In this request, petitioners also requested that the hearing set for April 24, 2006 be moved. These requests were denied.

Consequently, on April 24 to 27, 2006, the arbitral tribunal conducted hearings on the case.[63]

On December 4, 2006, petitioners submitted rejoinder affidavits, raising new issues for the first time, to which RCBC submitted Volume III of its evidence-in-chief by way of a reply.

On January 16, 2007, both parties simultaneously submitted their memoranda. On January 26, 2007, both parties simultaneously filed their reply to the other's memorandum.[64]

Thus, on September 27, 2007, the Partial Award was rendered by the Tribunal.

Later, petitioners moved to vacate the said award before the RTC. Such motion was denied by the trial court in the first assailed order dated January 8, 2008. Petitioners then moved for a reconsideration of such order, but their motion was also denied in the second assailed order dated March 17, 2008.

The foregoing events unequivocally demonstrate ample opportunity for petitioners to verify and examine RCBC's summaries, accounting records, and reports. The pleadings reveal that RCBC granted petitioners' requests for production of documents and accounting records. More so, they had more than three (3) years to prepare for their defense after RCBC's submission of its brief of evidence. Finally, it must be emphasized that petitioners had the opportunity to appeal the Partial Award to the RTC, which they in fact did. Later, petitioners even moved for the reconsideration of the denial of their appeal. Having been able to appeal and move for a reconsideration of the assailed rulings, petitioners cannot claim a denial of due process.[65]

Petitioners' right to due process was not breached.

As regards petitioners' claim that its right to due process was violated when they were allegedly denied the right to cross-examine RCBC's witnesses, their claim is also bereft of merit.

Sec. 15 of RA 876 or the Arbitration Law provides that:

Section 15. Hearing by arbitrators. -- Arbitrators may, at the commencement of the hearing, ask both parties for brief statements of the issues in controversy and/or an agreed statement of facts. Thereafter the parties may offer such evidence as they desire, and shall produce such additional evidence as the arbitrators shall require or deem necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judge of the relevancy and materiality of the evidence offered or produced, and shall not be bound to conform to the Rules of Court pertaining to evidence. Arbitrators shall receive as exhibits in evidence any document which the parties may wish to submit and the exhibits shall be properly identified at the time of submission. All exhibits shall remain in the custody of the Clerk of Court during the course of the arbitration and shall be returned to the parties at the time the award is made. The arbitrators may make an ocular inspection of any matter or premises which are in dispute, but such inspection shall be made only in the presence of all parties to the arbitration, unless any party who shall have received notice thereof fails to appear, in which event such inspection shall be made in the absence of such party. (Emphasis supplied.)

The well-settled rule is that administrative agencies exercising quasi-judicial powers shall not be fettered by the rigid technicalities of procedure, albeit they are, at all times required, to adhere to the basic concepts of fair play. The Court wrote in *CMP Federal Security Agency, Inc. v. NLRC*:

While administrative tribunals exercising quasi-judicial powers, like the NLRC and Labor Arbiters, are free from the rigidity of certain procedural requirements, they are nonetheless bound by law and practice to observe the fundamental and essential requirements of due process. The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored. Hence, it is not legally objectionable, for being violative of due process, for the Labor Arbiter to resolve a case based solely on the position papers, affidavits or documentary evidence submitted by the parties. The affidavits of witnesses in such case may take the place of their direct testimony.[66]

Of the same tenor is our holding in *Quiambao v. Court of Appeals*:

In resolving administrative cases, conduct of full-blown trial is not indispensable to dispense justice to the parties. The requirement of notice and hearing does not connote full adversarial proceedings. Submission of position papers may be sufficient for as long as the parties thereto are given the opportunity to be heard. In administrative proceedings, the essence of due process is simply an opportunity to be heard, or an opportunity to explain one's side or opportunity to seek a reconsideration of the action or ruling complained of. This constitutional mandate is deemed satisfied if a person is granted an opportunity to seek reconsideration of an action or a ruling. It does not require trial-type proceedings similar to those in the courts of justice. Where opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process.[67] (Emphasis supplied.)

Citing *Vertudes v. Buenaflor*, petitioners also cry denial of due process when they were allegedly denied the right to cross-examine the witnesses presented by RCBC. It is true that in *Vertudes*, we stated: "The right of a party to confront and cross-examine opposing witnesses in a judicial litigation, be it criminal or civil in nature, or in proceedings before administrative tribunals with quasi-judicial powers, is a fundamental right which is part of due process." [68]

It is, however, equally true that:

[T]he right is a personal one which may be waived expressly or impliedly by conduct amounting to a renunciation of the right of cross-examination. Thus, where a party has had the opportunity to cross-examine a witness but failed to avail himself of it, he necessarily forfeits the right to cross-examine and the testimony given on direct examination of the witness will be received or allowed to remain in the record.[69] (Emphasis supplied.)

We also held in one case:

However, the right has always been understood as requiring not necessarily an actual cross-examination but merely an opportunity to exercise the right to cross-examine if desired. What is proscribed by statutory norm and jurisprudential precept is the absence of the opportunity to cross-examine. The right is a personal one and may be waived expressly or impliedly. There is an implied waiver when the party was given the opportunity to confront and cross-examine an opposing witness but failed to take advantage of it for reasons attributable to himself alone. If by his actuations, the accused lost his opportunity to cross-examine wholly or in part the witnesses against him, his right to cross-examine is impliedly waived.[70] (Emphasis supplied.)

And later in *Velez v. De Vera*, the Court En Banc expounded on the above rulings, adding that in administrative proceedings, cross-examination is not indispensable, thus:

Due process of law in administrative cases is not identical with "judicial process" for a trial in court is not always essential to due process. While a day in court is a matter of right in judicial proceedings, it is otherwise in administrative proceedings since they rest upon different principles. The due process clause guarantees no particular form of procedure and its requirements are not technical. Thus, in certain proceedings of administrative character, the right to a notice or hearing [is] not essential to due process of law. The constitutional requirement of due process is met by a fair hearing before a regularly established administrative agency or tribunal. It is not essential that hearings be had before the making of a determination if thereafter, there is available trial and tribunal before which all objections and defenses to the making of such determination may be raised and considered. One adequate hearing is all that due process requires. What is required for "hearing" may differ as the functions of the administrative bodies differ.

The right to cross-examine is not an indispensable aspect of due process.[71] x x x (Emphasis supplied.)

Clearly, the right to cross-examine a witness, although a fundamental right of a party, may be waived. Petitioners themselves admit having had the opportunity to cross-examine RCBC's witnesses during the hearings before the tribunal, but declined to do so by reserving such right at a later time. Having had the opportunity to cross-examine RCBC's witnesses, petitioners were not denied their right to due process.

RCBC Is Not Estopped from Questioning the Financial Condition of Bankard

On estoppel, petitioners contend that RCBC already knew the recording of the Bankard accounts before it paid the balance of the purchase price and could no longer challenge the financial statements of Bankard. RCBC, they claim, had full control of the operations of Bankard since June 2, 2000 and RCBC's audit team reviewed the accounts in September 2000. Thus, RCBC is now precluded from denying the fairness and accuracy of said accounts since it did not seek price reduction under Sec. 5(h). Lastly, they asseverate that RCBC continued with Bankard's accounting policies and practices and found them to conform to the generally accepted accounting principles, contrary to RCBC's allegations.

It also bears stating that in his dissent, retired Justice Kapunan, an arbitral tribunal member, argued that Bankard's accounting practices were disclosed in the information memorandum provided to RCBC; hence, RCBC was supposed to know such accounting practices and to have accepted their propriety even before the execution of the SPA. He then argued that when it paid the purchase price on December 29, 2000, RCBC could no longer claim that the accounting practices that went into the reporting of the 1999 AFS of Bankard were not in accord with generally accepted accounting principles. He pointed out that RCBC was bound by the audit conducted by a certain Rubio prior to the full payment of the purchase price of Bankard. Anchored on these statements by Justice Kapunan, petitioners conclude that RCBC is estopped from claiming that the former violated their warranties under the SPA.

Petitioners' contention is not meritorious.

Art. 1431 of the Civil Code, on the subject of estoppel, provides: "Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon."

The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith, and justice; and its purpose is to forbid one to speak against one's own acts, representations, or commitments to the injury of one to whom they were directed and who reasonably relied on them.[72]

We explained the principle of estoppel in *Philippine Savings Bank v. Chowking Food Corporation*:

x x x The equitable doctrine of estoppel was explained by this Court in *Caltex (Philippines), Inc. v. Court of Appeals*:

Under the doctrine of estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon. A party may not go back on his own acts and representations to the prejudice of the other party who relied upon them. In the law of evidence, whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, to act upon such belief, he cannot, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it.

The principle received further elaboration in *Maneclang v. Baun*:

In estoppel by pais, as related to the party sought to be estopped, it is necessary that there be a concurrence of the following requisites: (a) conduct amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (b) intent, or at least expectation that this conduct shall be acted upon, or at least influenced by the other party; and (c) knowledge, actual or constructive of the actual facts.

Estoppel may vary somewhat in definition, but all authorities agree that a party invoking the doctrine must have been misled to one's prejudice. That is the final and, in reality, most important of the elements of equitable estoppel. It is this element that is lacking here.[73] (Emphasis supplied.)

The elements of estoppel pertaining to the party estopped are:

(1) conduct which amounts to a false representation or concealment of material facts, or, at least, which calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) intention, or at least expectation, that such conduct shall be acted upon by the other party; and (3) knowledge, actual or constructive, of the actual facts.[74]

In the case at bar, the first element of estoppel in relation to the party sought to be estopped is not present. Petitioners claim that RCBC misrepresented itself when RCBC made it appear that they considered petitioners to have sufficiently complied with its warranties under Sec. 5(g) and 5(h), in relation to Sec. 7 of the SPA. Petitioners' position is that "RCBC was aware of the manner in which the Bankard accounts were recorded, well before it consummated the SPA by taking delivery of the shares and paying the outstanding 80% balance of the contract price." [75]

Petitioners, therefore, theorize that in this case, the first element of estoppel in relation to the party sought to be estopped is that RCBC made a false representation that it considered Bankard's accounts to be in order and, thus, RCBC abandoned any claim under Sec. 5(g) and 5(h) by its inaction.

Such contention is incorrect.

It must be emphasized that it was only after a second audit that RCBC presented its claim to petitioners for violation of Sec. 5(g), within the three (3)-year period prescribed. In other words, RCBC, prior to such second audit, did not have full and thorough knowledge of the correctness of Bankard's accounts, in relation to Sec. 5(g). RCBC, therefore, could not have misrepresented itself considering that it was still in the process of verifying the warranties covered under Sec. 5(g). Considering that there must be a concurrence of the elements of estoppel for it to arise, on this ground alone such claim is already negated. As will be shown, however, all the other elements of estoppel are likewise absent in the case at bar.

As to the second element, in order to establish estoppel, RCBC must have intended that petitioners would act upon its actions. This element is also missing. RCBC by its actions did not mislead petitioners into believing that it waived any claim for violation of a warranty. The periods under Sec. 5(g) and 5(h) were still available to RCBC.

The element that petitioners relied on the acts and conduct of RCBC is absent. The Court finds that there was no reliance on the part of petitioners on the acts of RCBC that would lead them to believe that the RCBC will forego the filing of a claim under Sec. 5(g). The allegation that RCBC knew that the Bankard accounts did not comply with generally accepted accounting principles before payment and, hence, it cannot question the financial statements of Bankard is meritless. Precisely, the SPA explicitly provides that claims for violation of the warranties under Sec. 5(g) can still be filed within three (3) years from the closing date. Petitioners' contention that RCBC had full control of Bankard operations after payment of the price and that an audit undertaken by the Rubio team did not find anything wrong with the accounts could not have plausibly misled petitioners into believing that RCBC will waive its right to file a claim under Sec. 5(g). After all, the period to file a claim under Sec. 5(g) is three (3) years under Sec. 7, much longer than the six (6)-month period under Sec. 5(h). Petitioners are fully aware that the warranties under Sec. 5(g) (1997 up to March 2000) are of a wider scope than that of Sec. 5(h) (AFS of 1999 and UFS up to May 31, 2000), necessitating a longer audit period than the six (6)-month period under Sec. 5(h).

The third element of estoppel in relation to the party sought to be estopped is also absent considering that, as stated, RCBC was still in the process of verifying the correctness of Bankard's accounts prior to presenting its claim of overvaluation to petitioners. RCBC, therefore, had no sufficient knowledge of the correctness of Bankard's accounts.

On another issue, RCBC could not have immediately changed the Bankard accounting practices until it had conducted a more extensive and thorough audit of Bankard's voluminous records and transactions to uncover any irregularities. That would be the only logical explanation why Bankard's alleged irregular practices were maintained for more than two (2) years from closing date. The fact that RCBC continued with the audit of Bankard's AFS and records after the termination of the Rubio audit can only send the clear message to petitioners that RCBC is still entertaining the possibility of filing a claim under Sec. 5(g). It cannot then be said that petitioners' reliance on RCBC's acts after full payment of the price could have misled them into believing that no more claim will be presented by RCBC.

The Arbitral Tribunal explained in detail why estoppel is not present in the case at bar, thus:

10.18

The audit exercise conducted by Mr. Legaspi and Mr. Rubio was clearly not one comprehensive enough to have discovered the problems later unearthed by Dr. Laya and Dean Ledesma. x x x

10.19

Although the powers of the TC [Transition Committee] may have been widely expressed in the view of Mr. Rogelio Chua, then in charge of Bankard x x x the TC conducted meetings only to get updated on the status and progress of Bankard's operations. Commercially, one would expect that an unpaid vendor expecting to receive 80% of a large purchase price would not be receptive to a purchaser making vast policy changes in the operation of the business until the purchaser has paid up its money. It is more likely that, until the settlement date, there was a practice of maintaining the status quo at Bankard.

10.20

But neither the Claimant nor the TC did anything, in the Tribunal's view, which would have given the Respondents the impression that they were being relieved over the next three years of susceptibility to a claim under clause 5(g). Maybe the TC could have been more proactive in commissioning further or more in-depth audits but it was not. It did not have to be. It is commercially unlikely that it have been done so, with the necessary degree of attention to detail, within the relatively short time between the appointment of the TC and the ultimate settlement date of the purchase - a period of some three months. An interim arrangement was obviously sensible to enable the Claimant and its staff to become familiar with the practices and procedures of Bankard.

10.21

The core consideration weighing with the Tribunal in assessing these claims for estoppel is that the SPA allowed two types of claim; one within six months under 5(h) and one within three years under 5(g). The Tribunal has already held the present claim is not barred by clause 5(h). It must therefore have been within the reasonable contemplation of the parties that a 5(g) claim could surface within the three-year period and that it could be somewhat differently assessed than the claim under 5(h). The Tribunal cannot find estoppel by conduct either from the formation of the TC or from the limited auditing exercise done by Mr. Rubio and Mr. Legaspi. The onus proving estoppel is on the Respondents and it has not been discharged.

10.22

If the parties had wished the avenues of relief for misrepresentation afforded to the Claimant to have been restricted to a claim under Clause 5(h), then they could have said so. The 'special audit' may have provided an answer to any claim based on clause 5(h) but it cannot do so in respect of a claim based on Clause 5(g). Clause 5(g) imposed a positive obligation on the Respondents from which they cannot be excused, simply by reason of either the formation and conduct of the TC or of the limited audit.

10.23

The three-year limitation period obviously contemplated that it could take some time to ascertain whether there had been a breach of the GAAP standards, etc. Such was the case. A six-month limitation period under Clause 5(h), in contrast, presaged a somewhat less stringent enquiry of the kind carried out by Mr. Rubio and Mr. Legaspi.

10.24

Clause 2(3) of the Amendment to the SPA strengthens the conclusion that the parties were concerned only with a 5(h) claim during the TC's reign. The focus of the 'audit' - however intense it was - conducted by Mr. Rubio and Mr. Legaspi, was on establishing possible liability under that section and thus as a possible reduction in the price to be paid on settlement.

10.25

The fact that the purchase price was paid over in full without any deduction in terms of clause 5(h) is not a bar to the Claimant bringing a claim under 5(g) within the three-year period. The fact that payment was made can be, as the Tribunal has held, a barrier to a claim for rescission and restitution *ad inegrum*. A claim for estoppel

needs a finding of representation by words of conduct or a shared presumption that a right would not be relied upon. The party relying on estoppel has to show reliance to its detriment or that, otherwise, it would be unconscionable to resile from the provision.

10.26

Article 1431 of the Civil Code states:

"Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon."

10.27

Clearly, there has to both an admission or representation by (in this case) the Claimant, plus reliance upon it by (in this case) the Respondents. The Tribunal cannot find as proved any admission/representation that the Claimant was abandoning a 5(g) claim, any reliance by Respondents on an admission, and any detriment to the Respondents such as would entitle them to have the Claimant deprived of the benefit of clause 5(g). These aspects of the claim of estoppel are rejected.

x x x x

10.42

The Tribunal is not the appropriate forum for deciding whether there have been any regulatory or ethical infractions by Bankard and/or the Claimant in setting the 'buy-back' price. It has no bearing on whether the Claimant must be considered as having waived its right to claim against the Respondents.

10.43

In the Tribunal's view, neither any infraction by Bankard in failing to advise the Central Bank of the experts' findings, nor a failure to put a tag on the accounts nor to have said something to the shareholders in the buy-back exercise operates as a "technical knock-out" of Claimant's claim.

10.44

The Tribunal notes that the conciliation process mandated by the SPA took most of 2003 and this may explain a part of the delay in commencing arbitral proceedings.

10.45

Whatever the status of Mr. Rubio's and Mr. Legaspi's enquiries in late 2000, the Claimant was quite entitled to commission subsequent reports from Dr. Laya and Dr. Echanis and, on the basis of those reports, make a timeous claim under clause 5(g) of the SPA.

10.46

In the Tribunal's view, therefore, there is no merit in Respondents' various submissions that the Claimant is debarred from prosecuting its claims on the grounds of estoppel. There is just no proof of the necessary representation to the Respondent, nor any detriment to the Respondent proved. The grounds of delay and laches are not substantiated.

In summary, the tribunal properly ruled that petitioners failed to prove that the formation of the Transition Committee and the conduct of the audit by Rubio and Legaspi were admissions or representations by RCBC that it would not pursue a claim under Sec. 5(g) and that petitioners relied on such representation to their detriment. We agree with the findings of the tribunal that estoppel is not present in the situation at bar.

Additionally, petitioners claim that in *Knecht v. Court of Appeals*[76] and *Coca-Cola Bottlers Philippines, Inc. v. Court of Appeals (Coca-Cola)*,[77] this Court ruled that the absence of the element of reliance by a party on the representation of another does not negate the principle of estoppel. Those cases are, however, not on all fours with and cannot be applied to this case.

In *Knecht*, the buyer had the opportunity of knowing the conditions of the land he was buying early on in the transaction, but proceeded with the sale anyway. According to the Court, the buyer was estopped from claiming that the vendor made a false representation as to the condition of the land. This is not true in the instant case. RCBC did not conduct a due diligence audit in relation to Sec.5(g) prior to the sale due to petitioners' express representations and warranties. The examination conducted by RCBC, through Rubio, after the execution of the SPA on June 2, 2000, was confined to finding any breach under Sec. 5(h) for a possible reduction of the purchase price prior to the payment of its balance on December 31, 2000. Further, the parties clearly agreed under Sec. 7 of the SPA to a three (3)-year period from closing date within which to present a claim for damages for violation of the warranties under the SPA. Hence, *Knecht* is not a precedent to the case at bar.

So is *Coca-Cola*. As lessee, *Coca-Cola Bottlers* was well aware of the nature and situation of the land relative to its intended use prior to the signing of the contract. Its subsequent assertion that the land was not suited for the purpose it was leased was, therefore, cast aside for being unmeritorious. Such circumstance does not obtain in the instant case. There was no prior due diligence audit conducted by RCBC, it having relied, as earlier stated, on the warranties of petitioners with regard to the financial condition of Bankard under Sec. 5(g). As such, Sec. 5(g) guaranteed RCBC that it could file a claim for damages for any mistakes in the AFS and UFS of Bankard. Clearly, *Coca-Cola* also cannot be applied to the instant case.

It becomes evident from all of the foregoing findings that the ICC-ICA is not guilty of any manifest disregard of the law on estoppel. As shown above, the findings of the ICC-ICA in the Partial Award are well-supported in law and grounded on facts. The Partial Award must be upheld.

We close this disposition with the observation that a member of the three-person arbitration panel was selected by petitioners, while another was respondent's choice. The respective interests of the parties, therefore, are very much safeguarded in the arbitration proceedings. Any suggestion, therefore, on the partiality of the arbitration tribunal has to be dismissed.

WHEREFORE, the instant petition is hereby DENIED. The assailed January 8, 2008 and March 17, 2008 Orders of the RTC, Branch 148 in Makati City are hereby AFFIRMED.

Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, and Brion, JJ., concur.
Tinga, J., in the result.

[1] Also referred to as *Equitable PCI Bank, Inc.* in the rollo.

[2] Rollo, pp. 36-41. Penned by Judge Oscar B. Pimentel.

[3] *Id.* at 43-45.

[4] *Id.* at 47-159.

[5] *Id.* at 185-220.

- [6] Id. at 194-195, 200.
- [7] Id. at 222-228.
- [8] Id. at 490-551.
- [9] Id. at 587-621.
- [10] Id. at 47-159.
- [11] Id. at 96.
- [12] Id. at 86.
- [13] Id. at 162-183.
- [14] Id. at 7.
- [15] G.R. No. 143581, January 7, 2008, 542 SCRA 1.
- [16] G.R. No. 121171, December 21, 1998, 300 SCRA 579.
- [17] Id. at 601-602, 605.
- [18] 70 F.3d 418.
- [19] Arbitral Award, Item 9.7.
- [20] Id.
- [21] Rollo, pp. 607-608.
- [22] Co Chien v. Sta. Lucia Realty and Development, Inc ., G.R. No. 162090, January 31, 2007, 513 SCRA 570.
- [23] Baluyut v. Poblete, G.R. No. 144435, February 6, 2007, 514 SCRA 370.
- [24] Rollo, pp. 198-199.
- [25] Id. at 11.
- [26] Id. at 164.
- [27] Id. at 167-168.
- [28] Id. at 89.
- [29] Id. at 13.
- [30] No. L-28999, May 24, 1977, 77 SCRA 24.
- [31] Espinocilla, Jr. v. Bagong Tanyag Homeowners Association, Inc., G.R. No. 151019, August 9, 2007, 529 SCRA 654, 660; Huertas v. Gonzalez, G.R. No. 152443, February 14, 2005, 451 SCRA 256; Zacarias v. National Police Commission, G.R. No. 119847, October 24, 2003, 414 SCRA 387; Producers Bank of the Philippines v. Court of Appeals, G.R. No. 126620, April 17, 2002, 381 SCRA 185.
- [32] G.R. No. 154243, December 4, 2007, 539 SCRA 381, 384.
- [33] Rollo, pp. 623-651.
- [34] Id. at 653-681.

[35] Id. at 683-686.

[36] Id. at 688-703.

[37] Id. at 707-732.

[38] Id. at 773-774.

[39] Id. at 791-811.

[40] Id. at 61.

[41] Id. at 825-834.

[42] Id. at 841-858.

[43] Id. at 860-864.

[44] Id. at 866-871.

[45] Id.

[46] Id. at 887-899.

[47] Id. at 908-910.

[48] Id. at 63.

[49] Id. at 924-932.

[50] Id. at 916-918.

[51] Id. at 920-922.

[52] Id. at 942-945.

[53] Id. at 947-949.

[54] Id. at 955-960.

[55] Id. at 962-971.

[56] Id. at 973-975

[57] Id. at 977-993.

[58] Id. at 995-1001.

[59] Id. at 1003-1011.

[60] Id. at 1044-1050.

[61] Id. at 446.

[62] Id. at 66.

[63] Id. at 68.

[64] Id. at 447.

[65] Sunrise Manning Agency, Inc. v. National Labor Relations Commission, G.R. No. 146703, November 18,

2004, 443 SCRA 35, 42.

[66] G.R. No. 125298, February 11, 1999, 303 SCRA 99, 109-110.

[67] G.R. No. 128305, March 28, 2005, 454 SCRA 17, 40.

[68] G.R. No. 153166, December 16, 2005, 478 SCRA 210, 226.

[69] Id.

[70] People v. Escote, Jr., G.R. No. 140756, April 4, 2003, 400 SCRA 603, 618-619.

[71] A.C. No. 6697, July 25, 2006, 496 SCRA 345, 387-388.

[72] Philippine National Bank v. Court of Appeals, Nos. L-30831 & L-31176, November 21, 1979, 94 SCRA 357.

[73] G.R. No. 177526, July 4, 2008.

[74] Directors v. Alanday, 109 Phil. 1058 (1960).

[75] Rollo, p. 20.

[76] No. L-65114, February 23, 1988, 158 SCRA 80.

[77] G.R. No. 100957, January 27, 1994, 229 SCRA 533.

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.