PHILIPPINE ECONOMIC ZONE AUTHORITY, PETITIONER, VS. GREEN ASIA CONSTRUCTION & DEVELOPMENT CORPORATION REPRESENTED BY MR. RENATO P. LEGASPI, PRESIDENT/CEO, RESPONDENTS.

G.R. No. 188866. October 19, 2011

Ponente: SERENO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-188866/

SERENO, J.:

The Court, in this Petition for Review on Certiorari, is called upon to rule on a contractor's entitlement to a price escalation in a government infrastructure contract. Further, the Court is asked to rule on whether there is a need to prove first that direct acts of the government influenced the increase of construction materials.

The Factual Backdrop

The parties to this case -- petitioner Philippine Economic Zone Authority (PEZA), formerly the Export Processing Zone Authority (EPZA), and respondent Green Asia Construction & Development Corporation (hereinafter Green Asia) - were parties to a contract for a road network/storm drainage project. The project was awarded to Green Asia on 14 September 1992 with a contract price of P130,595,337.40.[1] Tagumpay R. Jardiniano, administrator of the then EPZA and Renato P. Legaspi, the president of Green Asia, signed the contract on 23 September 1992.[2] The stipulations in the contract include the contract price,[3] the mode of payment, advance payment, and the progress payment.[4] These stipulations found in Articles III to VI of the contract comprised all the liabilities pertaining to EPZA. EPZA was later on effectively succeeded by PEZA.

On 26 March 1996, Green Asia sent a letter to the PEZA Director General through Atty. Eugenio V. Vigo, Project Director for Construction of the PEZA Development Project. The letter, invoking Presidential Decree (PD) No. 1594, notified PEZA of Green Asia's claim for price escalation in the amount of P 9,860,169.58.[5] This claim was denied by PEZA through a letter signed by the Acting Corporate Secretary Atty. Nestor Hun Nadal. The denial of the claim was anchored on Section 8, PD 1594, requiring proof of the increase or decrease in construction cost due to the direct acts of the government. Alleging that Green Asia failed to present proof, PEZA stated in its letter as follows:[6]

> As per the records, it has not been established or proven that the increase/s in the cost of labor, equipment, materials and supplies required for the construction was/were due to the direct acts of the government.
>
> Moreover, the claim that the grant of claims for price escalation is "a normal process in the construction industry" was not enough to persuade the Board.
>
> Having failed to comply with the condition provided for by law, the Board decided to deny your claim for price escalation.

Despite the denial, Green Asia insisted on its claim and followed it up with three letters sent to PEZA from 1997 to 2000. Through Director General Lilia B. de Lima, PEZA reiterated the denial of the claim.[7] Because of these

repeated denials, Green Asia made a "final demand," which was received by PEZA on 29 November 2006 and signed by one Atty. Larry Ignacio. Atty. Ignacio included in the demand the amount of P 2,500,357.11 for the price escalation of another project, legal interest, and a collection fee of 1% of the total amount due.[8] The exchanges of correspondence pertaining to Green Asia's claim continued until 2006.[9] PEZA was, however, consistent in its position that Green Asia was not entitled to its claim, as the latter failed to prove the legal necessity of applying the price escalation provided for in PD 1594. In its letter dated 30 November 2006, PEZA pointed out that the contract price was fixed, as stipulated in Article IV of the contract, and that this provision was in effect a waiver of the provisions of PD 1594.[10]

On 2 August 2007, Green Asia sent to PEZA another notice, labelled "final demand notice," a copy of which was furnished to the Office of the President. This notice was for unpaid claims for the price escalation of the road network and drainage system in the amount of P 9,860,169.58, as well as for the sewage treatment plant in the amount of P 2,500,357.11. Green Asia disagreed with PEZA and posited that the fact that the contract stipulated a fixed price did not mean that it was the final receivable amount for the contractor. The fixed price, according to Green Asia, would apply only when the work orders in the construction did not vary during the construction period. Green Asia explained that it was "impossible and unrealistic" to stay within the original budgeted amount. Thus, there was a need for price escalation under Cl 12.1 of the Implementing Rules and Regulations (IRR) of PD 1594. Green Asia stressed that the basis of its claim was the price escalation under the IRR, and not merely the price adjustment provided in Section 8 of PD 1594.[11]

Subsequent to the final demand notice to PEZA, Green Asia sent then President Gloria Macapagal Arroyo, on 14 November 2007, a letter with the heading "Appeal for the Settlement of Unpaid Claims for Price Escalation Under Project of the Philippines Economic Zone Authority." In this letter, Green Asia asked her to intervene for the affirmative resolution of its claim against PEZA in the amount of P 12,360,525.69.[12] The Office of the President (OP) took cognizance of the letter as an appeal, docketed it as O.P. Case No. 07-K-451, and ordered Green Asia to pay the appeal fee and PEZA to forward the complete records of the case.[13]

After summary proceedings in the OP, the case was decided in favor of Green Asia. The dispositive portion of the OP Decision reads as follows:

> WHEREFORE, herein claim for Price Escalation Payment sought by Green Asia Construction & Development Corp. through its President/CEO Renato P. Legaspi is hereby GRANTED.
>
> Respondent Philippine Economic Zone Authority (PEZA) is hereby ordered to pay claimant the total amount of P12,360,526.70, subject to its verification by PEZA using the parametric formula provided in Cl 12, IRR, PD 1594.
>
> In addition, PEZA is liable to pay interest upon the total unpaid claims at the legal interest of 6% per annum reckoned from the date Green Asia made the final demand notice on August 6, 2007 up to finality of this Decision, and 12% interest from its finality up to full payment.
>
> SO ORDERED.[14]

The OP's reason for granting Green Asia's claim was that proof of increase in relevant construction prices due to the direct acts of the government was not required by law, before a price escalation may be invoked. The OP cited Item 6, Cl 12.1 of the IRR of PD 1594, quoting the following portions:

> Escalation of prices for work accomplishment on infrastructure construction x x x shall be made x x x using the parametric formula as described below, to compensate for fluctuation of prices of construction supplies and materials, equipment and labor which would bring about during the period under consideration an increase or decrease of more than five percent (5%) of the original OR ADJUSTED contract unit price of items of work.

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

The OP also interpreted the phrase "due to direct acts of the Government." It held that PD 454,[15] a prior enactment on government infrastructure projects, authorized price escalation; and that "direct acts of the government" included increases in the prices of gasoline, fuel oil and cement. It was, therefore, not necessary to actually show that the prices of those commodities increased because of the direct acts of the government. In effect, the OP Decision held that price escalation is automatically awarded to contractors of all government infrastructure projects.

The Court of Appeals (CA), in CA-G.R. SP No. 105430,[16] sustained the OP Decision. It found the OP's construction of PD 1594, in connection with PD 454, proper. Since PD 454 was not expressly repealed by PD 1594, and since there was no apparent conflict between the two laws, the appellate court deemed it best to harmonize them. The result was again a favorable Decision to Green Asia.

The OP Decision was, however, modified by the CA as to the amount of the price escalation awarded to Green Asia. Citing paragraphs 6 and 7, Cl 12.1 of the IRR of PD 1594, the appellate court ordered the parties to compute the price escalation using the parametric formula provided therein. The Court of Appeals held:

> ...[W]e find that petitioner correctly faults the Office of the President for ordering the payment of respondent's claim for price escalation in the sum of P12,360,526.70 - with legal interest from respondent's August 6, 2007 demand - despite the absence of showing of how said amount was computed. Granted that the assailed decision prov[i]des that payment is "subject to verification," it cannot be gainsaid that paragraphs 6 and 7, CI 12.1 of the Amended Rules and Regulations implementing Presidential Decree No. 1594 provide as follows:
>
> "6. Escalation of prices for work accomplishment on infrastructure construction, rehabilitation and/or improvement projects shall be made periodically, using the parametric formula as described below, to compensate for fluctuation of prices of construction supplies and materials, equipment and labor which would bring about during the period under consideration an increase or decrease of more than five percent (5%) of the original or adjusted contract unit price of items of work.
>
> 7. Price escalation shall be reckoned from the month of bidding of the project, and shall be allowed for every progress billing. When the contract has not been the subject of competitive bidding, price escalation shall be reckoned from the month agreed upon in the contract and shall be granted for every progress billing. For construction and related materials under government-controlled prices, the computation of price escalation shall be reckoned from the actual date of bidding the projects, or the actual date agreed upon in the contract has not been the subject of competitive project."

To our mind, the present quandary regarding the amount due is attributable to petitioner's outright and unjustified denial of the price escalation claimed by respondent as well as the concomitant failure on the part of the latter to submit the computation thereof. Given the practical and legal import of the foregoing provisions and respondent's right to the price escalation provided under Section 8 of Presidential Decree No. 1594, it consequently behooves the parties to compute the same in accordance with the parametric formula provided under CI12 of the Implementing Rules and Regulations of said law. Considering respondent's long-standing demand therefor, however, we find it equitable that payment of interest on the amount of price escalation due shall accrue upon determination of the amount due in accordance with the aforesaid parametric formula.

Hence, this petition for review.

The Issue

> Whether Presidential Decree 1594 requires the contractor to prove that the price increase of construction materials was due to the direct acts of the government before a price escalation is granted in this payment dispute in a construction contract

PEZA argues that there was no need for any statutory construction of PD 1594, since the provisions thereof are not ambiguous. It insists that Section 8 thereof requires certain conditions before an adjustment of the contract price may be made.[17] These conditions obtain when there is a concurrence of the following: there was an increase or a decrease in the cost of labor, equipment, materials and supplies for construction; and the said increase or decrease is due to the direct acts of the government. PEZA stresses that respondent Green Asia has failed to show the existence of these conditions.[18]

Green Asia, in its Comment,[19] claims that it has proved the increase or decrease in the cost of labor and construction materials. It has allegedly relied on the official indices of prices regularly issued by the National Statistics Office (NSO) for Calendar Years 1992-1999. It was on these indices that it based the amount of its claim.[20]

The Court's Ruling
We sustain the assailed Decision.

After a painstaking study of the records before us and the relevant laws, we are of the opinion that the Court of Appeals was correct in its disposition of the case.

We agree with the ruling of the appellate court that the OP correctly construed PD 1594 as being in pari materia to PD 454. Since the two presidential decrees are in pari materia, there is a need to construe them together. Thus explained the Court in Honasan v. The Panel of the Investigating Prosecutors of the Department of Justice:[21]

> Statutes are in pari materia when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.
>
> It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "interpretare et concordare legibus est optimus interpretandi," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.[22]

PD 454 which was enacted prior to PD 1594, was where the phrase "direct acts of the government" was explained to cover the increase of prices during the effectivity of a government infrastructure contract. The phrase was first used in Republic Act (RA) No. 1595, which was amended by PD 454. The latter amended R.A. No. 1595 by supplying the meaning of the phrase "direct acts of the government" and expressly including the increase of prices of gasoline within the coverage of that phrase. Consequently, when PD 1594 reproduced the phrase without supplying a contrary or different definition, the definition provided by the earlier enacted PD 454 was deemed adopted by the later decree. Thus, proof of an increase in fuel and cement price and a subsequent increase in the cost of labor and relevant construction materials during the contract period are considered a compliance with the IRR requirements for a claim for price escalation.

The parties separately invoke PD 1594[23] and its IRR. A reading of their provisions, however, leads to the conclusion that "price adjustment" under PD 1594 is actually the same as "price escalation" under the IRR. Just as the term "price escalation" is not found in PD 1594, so is "price adjustment" in the IRR. These concepts are, evidently, one and the same. They have different names, but pertain to the same thing -- the adjustment of the contract price due to certain circumstances. The computation of the adjustment has been explained in detail as price escalation in the IRR, found in CI 12. At first glance, price escalation may be considered as an expansion of the concept of price adjustment. In truth, however, the IRR did not expand anything, but merely laid out a guideline for the computation of the adjustment or escalation of price. The two provisions are therefore not separate and must be read together. Otherwise, if we accept the arguments of both parties that one is invoking

either PD 1594 or the IRR, two different rights would arise therefrom, which is obviously not intended by the law.

Price escalation, as explained in paragraph 6 of Cl 2.1 of the IRR, is meant to compensate for changes in the prices of relevant construction necessities during the effectivity of the contract, resulting in more than 5% increase or decrease in the unit price of those items. It is thus the prices of the items that have actually increased that become the basis of the computation. It is also stated in the IRR that in case of advance payment, the materials to which the advance payment has been applied will not be adjusted for a price escalation.[24] The government will charge an interest on the amount it has paid in advance to the contractor. This interest will be deducted from the succeeding price escalation that may be due the contractor.[25]

It should also be mentioned that in National Steel Corporation v. The Regional Trial Court of Lanao del Norte,[26] the Supreme Court held:

> [P]rice escalation is expressly allowed under Presidential Decree 1594, which law allows price escalation in all contracts involving government projects including contracts entered into by government entities and instrumentalities and Government Owned or Controlled Corporations (GOCCs). It is a basic rule in contracts that the law is deemed written into the contract between the parties. And when there is no prohibitory clause on price escalation, the Court will allow payment therefor.

The contract between PEZA and Green Asia did not incorporate provisions prohibiting price escalation or any clause that may be interpreted as a waiver of the price escalation. Consequently, payment of price escalation is deemed to have included the provision for the payment of price escalation.

It was therefore wrong for PEZA to disregard PD 454 by automatically denying the claim of Green Asia for price escalation or to require the latter to prove that the increase in the construction cost was due to the direct acts of the government. PD 454 actually bridges the gap between PD 1594 and its IRR. PD 1594 no longer explains the provision on price adjustment, because it is already found in PD 454 and in older laws. In its Whereas Clause, PD 454 states:

> WHEREAS, the Government feels that amendment of the existing escalatory clause is a fair and equitable way of dealing with the situation.

The "amendment of the existing escalatory clause" referred to is found in Section 1 of PD 454, which provides:

> "The provisions of Section 10(b) of Republic Act No. 5979 and other existing laws, or presidential decrees to the contrary notwithstanding, adjustment of contract prices for public works project is hereby authorized, should any or both of the following conditions occur:
>
> (a) If during the effectivity of the contract, the cost of labor, materials, equipment rentals and supplies for construction should increase or decrease due to the direct acts of the government; and for purposes of this Decree the increase of prices of gasoline and other fuel oils, and of cement shall be considered direct acts of the Government;
>
> (b) If during the effectivity of the contract, the costs of labor, equipment rentals, construction materials and supplies used in the project should cause the sum total of the prices of bid items to increase or decrease by more than five (5%) percent compared with the total contract price.
>
> The increase or decrease in the contract price shall be determined by application of the appropriate official indices." (emphasis and underscoring supplied)

We find that the assigned error allegedly committed by the Court of Appeals is absent. The appellate court was, thus, correct in granting respondent's claim for payment of price escalation, and the assailed Decision must be upheld.

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

It will appear strange, to today's consumer, that the government would automatically accept -- nay, decree under the express terms of PD 454 -- that "the increase of prices of gasoline and other fuel oils, and of cement shall be considered direct acts of the Government," such that the effects of these price increases in the form of escalation of the prices of contracts with the government would be absorbed by it and, indirectly, by the taxpayer. It would appear that the context in which this policy decision to absorb costs from price increases was made in an era in which the government was strictly monitoring oil, cement and gasoline prices, and was itself controlling the price of oil before the Downstream Oil Deregulation Law[27] was passed.

Considering the deregulation of the oil industry and the removal of price control on gasoline and other fuel oils, we believe that the wisdom behind Section 1 of PD 454 may no longer hold true. Government is significantly less responsible today for the price of gasoline and other fuel oils, as well as cement, than it used to be. The dynamics of pricing of these commodities has changed dramatically. This law merits a thorough reevaluation. Congress and the Executive Department, it is suggested, must look at whether this policy should be maintained.

IN VIEW OF THE FOREGOING, the assailed 15 July 2009 Decision of the Court of Appeals is hereby AFFIRMED in toto. Let a copy of this Decision be served on the Office of the President, the Senate President and the Speaker of the House of Representatives.

SO ORDERED.

Carpio, (Chairperson), Brion, Reyes, and Perlas-Bernabe,[*] JJ., concur.

---

[*] Designated as Acting Member of the Second Division vice Associate Justice Jose P. Perez per Special Order No. 1114 dated October 3, 2011.

[1] Rollo at 46.

[2] Id. at 56.

[3] Id. at 49-50.

[4] Id.

[5] Id. at 58.

[6] Id. at 59.

[7] Id. at 62.

[8] Id. at 63.

[9] Id. at 64-70.

[10] Id. at 71-72.

[11] Id. at 73-76.

[12] Id. at 77-78.

[13] Id. at 79-80.

[14] Id. at 103-104.

[15] Dated 14 May 1974; Amending the Provisions of Section 10(b) of Republic Act No. 5979 to Authorize

Adjustment of Contract Prices for Government Projects under Certain Conditions.

[16] Decision dated 15 July 2009, with Associate Justice Rebecca de Guia-Salvador as ponente, and Associate Justices Japar B. Dimaampao and Sixto C. Marella, Jr. concurring; rollo at 32-45.

[17] Id. at 21.

[18] Id. at 22.

[19] Id. at 165-169.

[20] Id. at 168-169.

[21]G.R. No. 159747, 13 April 2004, 427 SCRA 46.

[22] Id. at 69-70.

[23]"Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts," June 11, 1978.

[24]IRR of PD 1594, Cl 2.1 (10).

[25] Id.

[26] G.R. No. 127004, March 11, 1999.

[27] Republic Act 8479

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.