

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION, PETITIONER, V. SEM-CALACA POWER CORPORATION, RESPONDENT.

G.R. No. 204719. December 05, 2016

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Court of Appeals Decision[1] dated September 4, 2012 and Resolution[2] dated November 27, 2012 in CA-G.R. SP No. 123997, which affirmed the rulings of the Energy Regulatory Commission (ERC) specifying respondent's capacity allocation as a power producer.

The facts of the case follow.

The Electric Power Industry Reform Act of 2001 (EPIRA), or Republic Act (R.A.) No. 9136, which was signed into law by then President Gloria Macapagal Arroyo on June 8, 2001, was intended to provide a framework for the restructuring of the electric power industry, including the privatization of the assets of the National Power Corporation (NPC), the transition to the desired competitive structure and the definition of the responsibilities of the various government agencies and private entities with respect to the reform of the electric power industry.[3]

The EPIRA also provided for the creation of petitioner Power Sector Assets and Liabilities Management Corporation (PSALM), a government--owned and controlled corporation which took over ownership of the generation assets, liabilities, independent power producer (IPP) contracts, real estate and other disposable assets of the NPC.[4] PSALM's principal purpose under the law is to "manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner."[5]

Among the assets put on sale by PSALM was the 600-MW Batangas Coal-Fired Thermal Power Plant in Calaca, Batangas (Calaca Power Plant).[6] In July 2009, DMCI Holdings, Inc. (DMCI) was declared the highest bidder in the sale.[7] The sale was effected through an Asset Purchase Agreement (APA) executed by PSALM and DMCI on July 29, 2009, and became effective on August 3, 2009.[8]

On December 2, 2009, DMCI transferred all of its rights and obligations under the APA and the Land Lease Agreement (also called Final Transaction Documents) to herein respondent SEM-Calaca Power Corporation (SCPC) by entering into an Amendment, Accession and Assumption Agreement that was signed by PSALM, DMCI and SCPC.[9] Under the agreement, SCPC took over all the rights and obligations of DMCI under the said documents. SCPC also alleged that on that same date, it took over the physical possession, operation and maintenance of the Calaca Power Plant.[10]

Also on the same date, SCPC started providing electricity to customers listed in Schedule W of the APA, among which is MERALCO.[11]

Schedule W is partially reproduced hereunder:

SCHEDULE W[12] POWER SUPPLY CONTRACTS

Part I: Description of the PSC

CUSTOMERS

POWER SUPPLY CONTRACT

REMAINING CONTRACT VOLUME
as of 26 June 2009

Contract Duration

Monthly Average

Effectivity

Expiration

Energy
(MWh)

Demand
(kW)

Energy
(Mwh)

Demand
(kW)

Average
(MWh/mo)

Meralco (10.841%)

6 Nov 2006

25 Nov 2011

69,256

169,000

1,517,414

169,000

69,256

PEZA-Cavite Ecozone

26 June 2006

25 June 2011

34,038

55,420

623,320

80,800

24,933

BATELEC I

26 Dec 2006

25 Dec. 2010

16,450

42,000

334,586

42,000

17,610

Sunpower Philippines

18 Aug 2004

17 Aug 2019

5,500

8,955

676,500

8,970

5,500

Steel Asia

26 Mar 2008

25 Dec 2009

5,263

8,000

57,770

10,000

8,253

SteelCorp

26 June 2009

25 Dec 2009

2,500

8,000

15,000

8,320

2,500

Puyat Steel Corp.

26 Nov 2008

25 Nov 2009

194

1,300

3,260

2,150

543

ECSCO, Inc.

26 Dec 2005

25 Dec 2010

206

450

4,445

440

234

Lipa Ice Plant

26 Jan. 2005

25 Jan. 2010

220

400

4,650

520

245

BCFTPP Contractor

Semirara Mining

NA

NA

291

1450

NA

NA

Actual Consumption

Pozzolanic Industries Inc.

NA

NA

11

50

NA

NA

Actual Consumption

TOTAL

MWh

703,506

3,236,945

129,056

MW

295

322

Notes:

- All figures mentioned above are only indicative and will be based on the hourly/daily/monthly nominated volume as per average monthly contract level. A typical hourly customer's load profile for Calaca is demonstrated in the attached Figure 1 of this Schedule J (sic) (Power Supply Contract).

- The special conditions governing the assumption by the Buyer of the assignment of a portion of the Contract Energy under Meralco TSC are contained in Part II of this Schedule J (sic) (Power Supply Contract).

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Furthermore, in the event that the Purchased Assets (sic) is not able to supply the contracted power under the

aforesaid contracts due to the unavailability of coal or other causes, the Buyer may enter into a back-to-back supply contract with other generators or buy directly from the market for the deficiency.

Part II: Special Conditions of the MERALCO TSC

The following conditions, unique to the MERALCO-NPC contract, shall apply to the assigned portion of the Contract Energy from the MERALCO TSC.

1. Neither the MERALCO TSC nor any portion thereof shall be assigned to the Buyer. It is the Contract Energy specified in part I that is the subject of the assignment.

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SCPC contends that it is obliged to supply 10.841% of MERALCO's total requirement but not to exceed 169,000 kW in any hourly interval.[13] However, PSALM holds a different view and contends that SCPC is bound to supply the entire 10.841% of what MERALCO requires, without regard to any cap or limit.[14]

Thus, during a period of high demand, specifically in the summer of the year 2010, when SCPC fell short of supplying the entire 10.841% of MERALCO's requirements, the deficiency was filled by supply from the Wholesale Electricity Spot Market (WESM).[15] SCPC contends that this was the consequence of NPC's and PSALM's nominations in excess of what SCPC claims to be the 169,000 kW cap or limit in its supply.[16] PSALM disputes that there is such a cap or limit, noting that SCPC was obligated to supply the entire 10.841% under Schedule W of the APA.[17] Thus, NPC and PSALM, who contend that they were merely following the Transition Supply Contract (TSC) with MERALCO, billed the latter for the electricity delivered by SCPC and that supplied through WESM.[18] SCPC claims, however, that PSALM withheld MERALCO's payments even for the electricity that SCPC supplied without the latter's knowledge nor consent.[19] NPC also allegedly replaced SCPC Power Bills to MERALCO with PSALM Power Bills, with instructions that payments be remitted directly to PSALM instead of SCPC.[20]

On March 16, 2010, SCPC wrote a letter to PSALM insisting that the 169,000 kW supplied to MERALCO "should be treated as the maximum limit of the MERALCO allocation which SCPC is bound to supply under the APA in accordance with Schedule W." [21] On April 20, 2010, SCPC wrote a demand letter formally asking both PSALM and NPC to release MERALCO's payments for the period of January 26, 2010 to February 25, 2010 amounting to Php451,450,889.13 and to directly remit to SCPC all subsequent amounts due from MERALCO.[22]

On May 13, 2010, PSALM replied through a letter reiterating that SCPC assumed the obligation to supply 10.841% of MERALCO's TSC and that the latter's payments would be remitted to SCPC only after deducting the cost of power supplied by WESM.[23]

Thus, PSALM proceeded to deduct from its remittances to SCPC the cost of the power that NPC allegedly purchased from WESM.[24] SCPC claims that for the months of January 2010 to June 2010, the amounts due it was Php1,894,028,305.00. Instead, PSALM paid it the amount of only Php934,114,678.04, or short of Php959,913,626.96, which allegedly represents the cost of electricity that PSALM charged against SCPC representing the power NPC supposedly obtained from WESM to fill the alleged deficiency in SCPC's supply to MERALCO.[25]

Eventually, following negotiations between the parties, PSALM agreed, through a letter dated June 21, 2010, to cap MERALCO's nominations from the Calaca Power Plant "in any hour up to 169MWh or 10.841% of each hourly energy nomination submitted by MERALCO to NPC under the MERALCO TSC effective June 26, 2010." [26]

However, as SCPC was insisting that the MERALCO cap should have taken effect much earlier, or on December 2, 2009, i.e., the date of effectivity of the APA, and as the parties failed to execute the Implementation, Agreement and Protocol (Implementation Agreement) covering the parties' responsibilities with regards to the supply of power to MERALCO, SCPC made an offer to PSALM for the issues to be brought to the ERC for arbitration.[27] The proposal, however, was rejected by PSALM.[28]

Hence, SCPC initiated the instant case by filing a Petition for Dispute Resolution (with Prayer for Provisional Remedies) before the Energy Regulatory Commission (ERC) against NPC and PSALM.[29]

In its Decision[30] dated July 6, 2011, the ERC ruled in favor of SCPC and against NPC and PSALM, with the following dispositive portion:

WHEREFORE, the foregoing premises considered, the Commission hereby resolves the issues raised in this instant dispute as follows:

- SCPC's obligation under Schedule W of the APA is to deliver 10.841% of MERALCO's energy requirements but not to exceed 169,000 kW capacity allocation, at any given hour;
- The obligation to deliver 10.841% of MERALCO's energy requirements, but not to exceed 169,000 kW capacity, at any given hour, shall commence from December 2, 2009 when the physical possession, occupation and operation of the Calaca Power Plant was formally turned over to SCPC;
- The NPC and PSALM have no basis, in fact and in law, to charge against SCPC the nominations beyond the 169,000 kW capacity which NPC allegedly purchased for MERALCO from the WESM. There being no basis to charge SCPC, PSALM must return all the payments of MERALCO which were withheld by PSALM, including the amount representing the cost of electricity nominated and purchased by NPC beyond the 169,000 kW from the WESM for the period January 2010 to June 25, 2010;
- The payment of interests on the amount to be returned by PSALM to SCPC is in order. However, in the absence of a stipulation, the amount of interest shall be pegged at 6% per annum; and
- NPC shall continue to nominate for MERALCO's energy requirements, in accordance with the TSC between them. However, in nominating for MERALCO's contract energy under the APA, NPC shall consider the 169,000 kW capacity limit, in accordance with Schedule W of the APA, considering the generating capacity of the Calaca Power Plant. In the absence of an Implementation Agreement and Protocol, all nominations made for MERALCO by SCPC in accordance with the APA, shall henceforth be billed through NPC and payment thereof shall be collected directly from MERALCO by SCPC.

Accordingly, the NPC is hereby enjoined from making nominations beyond the 169,000 kW of MERALCO's allocation. On the other hand, PSALM is hereby directed to (1) refrain from charging against SCPC the cost of power beyond the 169,000 kW of MERALCO's allocation and to (2) refrain from withholding all MERALCO payments for electricity supplied by SCPC.

The NPC, PSALM and SCPC are further directed to account for and reconcile the amounts charged against the SCPC by PSALM, on account of the NPC's nominations and purchases from the WESM beyond the 169,000 kW capacity allocation during the period January 2010 to June 25, 2010. Thereafter, the parties are directed to submit to the Commission the reconciled computation of the over-nominations and other MERALCO payments withheld by PSALM for the said period, within ten (10) days from receipt of this Decision. Further, PSALM is hereby directed to return to SCPC, the amount as computed and reconciled, including the interests thereon at the rate of 6% per annum, within ten (10) days from the parties' submission of the reconciled computation to the Commission. Finally, the parties are directed to submit their Compliance with the foregoing dispositions within thirty (30) days from receipt of this Decision.

SO ORDERED.[31]

PSALM filed a motion for reconsideration of the above decision. However, in an Order[32] dated February 13, 2012, the ERC denied the said motion.

Aggrieved, PSALM filed a Petition for Review of the ERC decision to the Court of Appeals (CA).[33]

In its assailed Decision[34] dated September 4, 2012, the CA denied PSALM's petition and upheld the findings of the ERC. The dispositive portion of the decision states:

WHEREFORE, premises considered, the petition is DENIED. The Decision dated July 6, 2011 and the Order dated February 13, 2012 of the Energy Regulatory Commission in ERC Case No. 2010-058 are hereby AFFIRMED.

SO ORDERED.[35]

The CA sustained the ERC's interpretation of the APA that SCPC's obligation was to supply 10.841% of MERALCO's energy requirement, but not to exceed 169,000 kW at any given hour, as such interpretation would reconcile the presence of the two figures in Schedule W and harmonize the provisions of the said contract.[36] Likewise, the appellate court upheld ERC in explaining why a cap of 169,000 kW is placed on SCPC's obligation to supply electricity to MERALCO, the explanation being: unlike before the privatization when NPC, with all its generation assets, was the sole supplier of MERALCO and, therefore, could obtain electricity from any of those assets, in the current situation, SCPC is just one of many suppliers and SCPC's asset is only the Calaca Power Plant, which has a limited capacity.[37] The CA likewise stated that the findings of administrative or regulatory agencies on matters within their technical area of expertise are generally accorded not only respect but finality if such findings are supported by substantial evidence.[38]

PSALM filed a Motion for Reconsideration of the decision above, but the same was likewise denied in a Resolution of the CA, dated November 27, 2012.[39]

Hence, PSALM goes to this Court via the present Petition for Review on Certiorari.

PSALM contends that the CA erred in placing a cap of 169,000 kW on SCPC's obligation to supply 10.841% of MERALCO's requirement. It insists that SCPC stepped into the shoes of NPC and PSALM in terms of the fulfillment of the obligation of the latter to supply 10.841% of MERALCO's nominated volume.[40] In PSALM's view, SCPC is deemed to have assumed PSALM's rights and obligations under the Power Supply Contracts (PSCs) subject to the conditions specified in Schedule W.[41]

Further, it adds that Schedule W is unambiguous and requires no construction or interpretation.[42] Allegedly, the figure 169,000 kW is not meant to qualify the 10.841% of MERALCO's energy requirement; instead, Schedule W's "Notes" portion supposedly explains that 169,000 kW and all the other figures mentioned therein are only "indicative" and the supply of MERALCO's energy requirement "will still be based on the hourly/daily/monthly nominated volume per average monthly contract level."[43] Thus, for PSALM, it was error for the ERC and CA to conclude that a cap exists as to the 10.841% energy requirement of MERALCO.[44]

Petitioner PSALM additionally holds that the ERC erred in harmonizing only two figures in Schedule W: the 10.841% and the 169,000 kW, since it claims that such figures are not the only stipulations in the said Schedule, there being special conditions such as the Notes which, had it been read together with the rest of the conditions, should have led the ERC to a different conclusion.[45] PSALM also cites additional stipulations such as the so-called Special Conditions of the MERALCO TSC, the Calaca Typical Hourly Customer's Load Profile and the Nomination Protocol between MERALCO and NPC of TSC Contract Energy.[46] Then, there is also a provision

supposedly in Schedule Win which SCPC has the option to enter into back-to-back supply contracts with other generators or purchase directly from the market should it become unable to supply the contracted power under the contracts in Schedule W.[47] According to PSALM, these are clear indications that a cap on SCPC's supply had not been intended by the parties.[48]

PSALM also poses that even granting that Schedule W is ambiguous, the CA's and ERC's interpretations were restrictive and incorrect.[49] It also accuses the ERC of erroneously resorting to extrinsic evidence in its interpretation, a method also erroneously concurred in by the CA.[50] Allegedly, this was done when the ERC cited the testimony of a witness in interpreting Schedule W.[51] From the testimony, the ERC supposedly inferred that "prior to privatization, NPC did not take into account the capacities of its assets" in relation to its supply contract with MERALCO, meaning that before, NPC was the sole supplier and could make its various assets generate the supply needed, unlike at present, where SCPC is just one of many suppliers with a single generating asset, with a limited capacity.[52] Allegedly, this led the ERC and the CA to erroneously conclude that a cap of 169,000 kW in SCPC's supply obligations was indeed intended.[53]

Thus, according to PSALM, given the allegedly erroneous rulings, the CA should not have relied on the principle of upholding the findings of fact of administrative agencies, like the ERC, and instead, should have reversed the latter's findings.[54]

In its Comment, SCPC writes that PSALM's own interpretation, while also self-serving and inconsistent, would render the implementation of Schedule W impossible and absurd.[55] For one, SCPC posits that the figure 10.841%, when observed alone and literally applied, provides no meaningful reference, because Schedule W itself does not state that the figure refers to 10.841% of the actual volume nominated for MERALCO.[56] It has no base value and is an incomplete mathematical statement.[57] Further, SCPC claims that observing the figure 10.841% alone disregards all the other figures that appear in Schedule W, including the 169,000 kW which in fact appears twice in the said schedule.[58] And finally, it argues that mainly relying on the Notes and its statement that the figures in the schedule are "indicative" would render all the figures in Schedule W insignificant, as if concluding that SCPC's supply obligations are unlimited.[59]

SCPC maintains that such interpretation by PSALM has no support from any principle of contract interpretation, while it was the ERC and the CA that applied the correct rule of interpretation, such as one found in the Civil Code, to wit:[60]

Art. 1374. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.

SCPC also touts the ERC's reason for not applying the Notes' statement that the figures were "indicative," or mere estimates of the true value. The reason is that such would lead to an absurdity as it would allocate more than 169,000 kW for MERALCO despite the limited actual generating capacity of the Calaca Power Plant.[61] Instead, the ERC allegedly employed the principle of "reasonableness of results" in contract interpretation to avoid an unreasonable or absurd outcome.[62]

As for the other clause in the Notes which grants SCPC the option to enter into back-to-back supply contracts with other suppliers in order to fulfill its MERALCO obligations, SCPC again quotes the ERC in stating that it is, in fact, NPC's responsibility to fill any shortfall in supply to MERALCO, and that the back-to-back supply contracts to be entered into by SCPC only refer to when the latter is unable to supply MERALCO to the extent of 169,000 kW, which is the cap in its obligation; shortages due to nominations by NPC in excess of 169,000 kW are no longer the contractual obligation of SCPC.[63]

Further, SCPC states that the ERC sufficiently explained the implications of the Special Conditions of the

MERALCO TSC, clarifying that "NPC's and PSALM's obligation to supply the entire energy contract to MERALCO, including the obligation to replace any curtailed energy, was not passed on or assigned to SCPC," rather, only such portion as defined in Part I of Schedule W was assigned to SCPC, as clearly provided for under Part II of Schedule W.[64] As for the Calaca Typical Hourly Customer's Load Profile and Nomination Protocol, ERC explained that previously, when NPC was the sole supplier and had other existing assets, even if a particular allocation exceeded a plant's capacity, NPC could obtain supply from its other generating assets.[65] ERC stated that such is no longer the situation in the case at bar, where supply is supposed to come from a specific plant - the Calaca Power Plant- which has a limited capacity.[66]

SCPC argues that the CA correctly considered the circumstances surrounding the execution of the APA in interpreting Schedule W, i.e., the poor condition of the Calaca Power Plant which, at that time only had a dependable capacity of 330 MW out of its 600 MW rated capacity.[67] SCPC narrates that the low dependable capacity is the reason why the contracted demand levels for various customers listed in Schedule W were pegged at 322 MW only and, with a reserve of only eight (8) MW, the plant is well short of providing NPC's excess nominations which allegedly went up to 25,531.93 kWh (25MW) during one billing period.[68] SCPC asserts that DMCI, the original purchaser of the Calaca Power Plant, then knew of the plant's dependable capacity, which it saw as consistent with the total demand listed in Schedule W, which was what prompted it to naturally assume only the obligations spelled out in the said APA and Schedule W.[69] Thus, SCPC states that PSALM's claim that the buyer also assumed "the risk of supplying energy considering the diminishing capacity of the other plants" is absurd and unreasonable, as these could not have been known despite the buyer's due diligence.[70] Besides, SCPC argues that any ambiguity should be interpreted against PSALM, the seller and the party who prepared the APA.[71]

Lastly, SCPC contends that the witness, whose testimony was considered by the ERC in ruling that the actual capacity of a power plant is material in determining its allocation, was PSALM's own witness, therefore, the latter party may not disavow her testimony.[72]

The singular issue now before the Court is: whether there was error in the CA's affirmation of the ERC's interpretation of Schedule W of the so-called Asset Purchase Agreement (APA), i.e., the contract between the parties PSALM and SCPC, to mean that SCPC's obligation thereunder is to deliver 10.841% of MERALCO's energy requirements but not to exceed 169,000 kW capacity allocation, at any given hour.

We resolve to deny the petition. No error attended the CA's affirmation of the ruling of the ERC.

It is general practice among the courts that the rulings of administrative agencies like the ERC are accorded great respect, owing to a traditional deference given to such administrative agencies equipped with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters.[73] Factual findings of administrative agencies that are affirmed by the Court of Appeals are generally conclusive on the parties and not reviewable by this Court.[74] Although there are instances when such a practice is not applied, such as when the board or official has gone beyond its/his statutory authority, exercised unconstitutional powers or clearly acted arbitrarily without regard to its/his duty or with grave abuse of discretion, or when the actuation of the administrative official or administrative board or agency is tainted by a failure to abide by the command of the law,[75] none of such instances obtain in the present case which would prompt this Court to reverse the findings of the tribunal below.

On the contrary, We find the ERC to have acted within its statutory powers as defined in Section 43 (u), RA 9136, or the EPIRA Law, which grants it original and exclusive jurisdiction "over all cases involving disputes between and among participants or players in the energy sector." [76] Jurisprudence also states that administrative agencies

like the ERC, which were created to address the complexities of settling disputes in a modern and diverse society and economy, count among their functions the interpretation of contracts and the determination of the rights of parties, which traditionally were the exclusive domain of the judicial branch.[77] Such broadened quasi-judicial powers of administrative agencies are explained in the case of *Antipolo Realty Corporation v. NHA*,[78] which states:

In this era of clogged court dockets, the need for specialized administrative boards or commissions with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or essentially factual matters, subject to judicial review in case of grave abuse of discretion, has become well nigh indispensable. Thus, in 1984, the Court noted that "between the power lodged in an administrative body and a court, the unmistakable trend has been to refer it to the former. x x x."

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In general, the quantum of judicial or quasi-judicial powers which an administrative agency may exercise is defined in the enabling act of such agency. In other words, the extent to which an administrative entity may exercise such powers depends largely, if not wholly, on the provisions of the statute creating or empowering such agency. In the exercise of such powers, the agency concerned must commonly interpret and apply contracts and determine the rights of private parties under such contracts. One thrust of the multiplication of administrative agencies is that the interpretation of contracts and the determination of private rights thereunder is no longer a uniquely judicial function, exercisable only by our regular courts.

As the foregoing imply, the ERC merely performed its statutory function of resolving disputes among the parties who are players in the industry, and exercised its quasi-judicial and administrative powers as outlined in jurisprudence by interpreting the contract between the parties in the present dispute, the so-called APA and specifically its Schedule W.

As for the correctness of the ERC's interpretation and finding, this Court examined the records and found no reason to depart from the rule that especially when supported by substantial evidence and affirmed by the Court of Appeals, the findings of a quasi-judicial body like the ERC deserve the highest respect, if not finality.[79]

The petitioner PSALM assails ERC's holding that SCPC's obligation is "to deliver 10.841% of MERALCO's energy requirements but not to exceed 169,000 kW capacity allocation, at any given hour," which the ERC based on its interpretation of the figures 169,000 kW and 10.841% found in three columns of Schedule W.

We affirm the ERC's interpretation, as upheld by the CA.

Among the key principles in the interpretation of contracts is that espoused in Article 1370, paragraph 1, of the Civil Code, quoted as follows:

Art. 1370. If the 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.

The rule means that the contract's meaning should be determined from its clear terms without reference to extrinsic facts or aids.[80] The intention of the parties must be gathered from the contract's language, and from that language alone.[81] Stated differently, where the language of a written contract is clear and unambiguous, the contract must be taken to mean that which, on its face, it purports to mean, unless some good reason can be assigned to show that the words should be understood in a different sense.[82]

Thus, conversely, when the terms of the contract are unclear or are ambiguous, interpretation must proceed beyond the words' literal meaning. Paragraph 2 of the same Article 1370 provides:

If the words appear to be contrary to the evident intention of the parties, the latter shall prevail over the former.

Discerning the parties' true intent requires the application of other principles of contract interpretation. Jurisprudence dictates that when the intention of the parties cannot be discerned from the plain and literal language of the contract, or where there is more than just one way of reading it for its meaning, the court must make a preliminary inquiry of whether the contract before it is an ambiguous one.[83] A contract provision is ambiguous if it is susceptible of two reasonable alternative interpretations.[84] In such case, its interpretation is left to the court, or another tribunal with jurisdiction over it.[85] More simply, "interpretation" is defined as the act of making intelligible what was before not understood, ambiguous, or not obvious; it is a method by which the meaning of language is ascertained.[86] The "interpretation" of a contract is the determination of the meaning attached to the words written or spoken which make the contract.[87]

In the case at bar, the Court finds that ambiguity indeed surrounds the figures 10.841% and 169,000 kW found in the contract, the former because it does not indicate a base value with a specific quantity and a definite unit of measurement and the latter because there is uncertainty as to whether it is a cap or limit on the party's obligation or not. These were similarly the findings of both the ERC and the appellate court. Even to the casual observer, it is obvious that the plain language alone of Schedule W does not shed light on these figures.

The ERC correctly explained and interpreted these provisions, in this wise:

It is worthy to note that Schedule W of the APA indicates the value "10.841%", which is enclosed in parenthesis, under the name of MERALCO in the first column, without any reference as to its base value. The figure 10.841% simply written as it is (without reference on the base value), is an incomplete mathematical sentence and, therefore, is susceptible to several interpretations. For instance, it can be construed as 10.841% of the entire SCPC capacity (10.841% of 322 MW) or it can also be taken to mean that 169,000 kW represents 10.841% of MERALCO's contract energy. A close scrutiny of Schedule W, however, indicates that 10.841% is not synonymous to 169,000 kW, i.e., 169,000 kW does not represent 10.841% of MERALCO's energy requirement. To complete its meaning, the figure 10.841% should have been followed by a reference value and should have been written as "10.841% of ..." a specific base reference. Thus, to use 10.841% as the reference value alone for MERALCO's contract energy at any given hour would not be appropriate under the circumstances because SCPC would not have an idea of how much energy MERALCO would need at any given time and the capacity that the power plant can generate may not match with it.

On the other hand, to use the nominal figure 169,000 kW alone in reference to MERALCO's contract energy would likewise not be appropriate under the circumstances because the "10.841%" value written in parenthesis underneath the name "MERALCO" in the first column of Schedule W cannot just simply be ignored.

To synthesize, the Commission believes that neither of the figures (10.841% or 169,000 kW) taken alone should be controlling in reference to MERALCO's contract energy under the APA. The 10.841% value should be read and harmonized with the nominal figure 169,000 kW in order to give meaning to both, consistent with and in relation to the APA. In giving meaning to the words and intention of Schedule W, the Commission abides by the law stipulated under Article 1374 of the New Civil Code, which provides:

ART. 1374. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.[88]

The ambiguity in Schedule W partly lies in the figure "10.841%," which lacks a base value and is bereft of any specific quantity or number (in kilowatts or any other unit) to represent the generated electricity that SCPC was obliged to deliver to MERALCO. A mere percentage below MERALCO's name without indicating what it is and what its base value is amounts to an incomplete numerical statement. Then, on the right columns, specific quantities, including the "160,000 kW," are laid down which seem to correspond or add up to SCPC's generating capacity but which, in the "Notes" section of the schedule, are confusingly referred to as merely "indicative," i.e., estimates, which do not help reduce the uncertainty.

Such a lack of clarity results in a perplexing situation wherein the obligation to deliver could be interpreted as open-ended by one party — the obligee, but could be argued as "capped" or "limited" by the other party — the obligor. Obviously, such divergence needed to be addressed by a disinterested third party like the ERC.

Although how such confusion came about despite the presumed knowledge of both parties of both the high and low ranges of MERALCO's projected requirements, at any given time, as well as the limited generating capacity of the Calaca Power Plant, the supplier's sole generating asset, is beyond the subject of this review, what is certain is that there is an ambiguity that, if left to stand or to remain unresolved, would inevitably lead to interminable disputes. Thus, the Court sustains the ERC's decision to interpret the contract as well as its resulting interpretation and explanation.

The ERC correctly cited another principle under the Civil Code in contract interpretation which states,

Art. 1374. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.[89]

Additionally, under the Rules on Evidence, it is required that:

RULE 130

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Sec. 11. Instrument construed so as to give effect to all provisions. - In the construction of an instrument where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all.

Then, case law is also settled on the rule that contracts should be so construed as to harmonize and give effect to its different provisions.[90] The legal effect of a contract is not determined alone by any particular provision disconnected from all others, but from the whole read together.[91]

Following the above rules and principles, the ERC correctly interpreted the ambiguity in Schedule W in a way that would render all of the contracts' provisions effectual. Although there was ambiguity, as earlier stated, in the figures 10.841% and 169,000 kW that appear on the said schedule, the ERC properly harmonized both provisions. It did not just disregard or dispense with either of the figures as such would have violated the principles that the "various stipulations of the contract shall be interpreted together" and that the "doubtful provisions shall be attributed with the sense which may result from all of them taken jointly." Instead, it interpreted both in a way that they would be preserved and work together. The parties clearly intended for the figures to be in the contract and bestowed such with meanings which the ERC had no power to just ignore or remove.

As stated by the ERC, the 10.841% without any base reference is mathematically incomplete and therefore opens itself up to various interpretations; thus, it is ambiguous. On the other hand, the 169,000 kW, which appears twice in Schedule W, if treated as merely "indicative" or just an "estimate," as PSALM alleges, would be rendered insignificant or as if it was not even written in the contract, and the same could be said of all the other figures in the schedule including the 10.841%. Clearly, this was not the intention of the parties. The parties clearly assigned a common meaning to the figures and they were not mere estimates nor insignificant because, otherwise, the contract would be ineffectual and without these figures, the contract would not have even been signed in the first place.

It bears emphasis as well that the contract APA and its Schedule W appear to have been prepared by PSALM, so that the interpretation of any obscure or ambiguous words or stipulations therein should not favor it, as it is presumed to have caused such obscurity or ambiguity.[92]

Moreover, overturning the ERC's and the CA's interpretation would result in the absurd scenario of requiring SCPC to supply more than 169,000kW for MERALCO despite the fact that its contracted demand levels for various customers listed in Schedule W were pegged at 322 MW only and its dependable capacity is only 330 MW. As this Court has verified in the records, the ERC correctly explained that the Calaca Power Plant only produces up to 322 MW in electricity net of plant use; out of such produced, MERALCO obtains the biggest allocation of 169,000 kW (169 M) whereas the rest of the customers share 153,000 kW (153MW).[93] It would be highly unreasonable to require SCPC to allocate even a marginal increase from 169,000 kW for MERALCO when such would cause it to renege on its obligations to supply its other customers. Such an interpretation that would lead to an unreasonableness which is frowned upon, for another oft-cited rule in the interpretation of contracts is that "the reasonableness of the result obtained, after analysis and construction of the contract, must also be carefully considered." [94]

PSALM also contends that other stipulations in the contract such as the Special Conditions of the MERALCO TSC, as well as SCPC's option to enter into back-to-back supply contracts with other generators (or to purchase directly from the market), should it become unable to supply the contracted power under Schedule W, clearly are indications that there is no cap in SCPC's supply obligations. The contention, however, has no merit and, upon this Court's own examination of the contracts, affirms as correct the ERC's explanation in its Order[95] dated March 12, 2012 dismissing PSALM's motion for reconsideration, to wit:

A. NPC/PSALM's OBLIGATION UNDER THE TSC

Under the TSC contracted between MERALCO and NPC, the latter is obliged to deliver MERALCO's total energy requirements. As such, NPC is required to exhaust all means to find other sources of power to replace any curtailed energy at no extra cost to MERALCO. Simply put, NPC is directly responsible to make up for any shortfall under the MERALCO TSC. In fact, in its "Motion for Reconsideration," PSALM mentioned that "Undeniably, Respondent PSALM under the MERALCO TSC is obligated to deliver the entire contracted energy as stated therein. x x x" and that "Respondent PSALM's obligation is to keep MERALCO whole."

It must be emphasized that NPC and PSALM's obligation to supply the entire energy contract to MERALCO, including the obligation to replace any curtailed energy, was not passed on or assigned to SCPC. Only the portion of the contract energy as defined in Part I of Schedule W was assigned to SCPC. Such is clear under Part II of Schedule W, which states:

"Part II. Special Conditions of the MERALCO TSC

The following conditions, unique to the MERALCO-NPC contract, shall apply to the assigned portion of the Contract Energy from the MERALCO TSC.

1. Neither the MERALCO TSC nor any portion thereof shall be assigned to the Buyer. It is the Contract Energy specified in part I that is the subject of the assignment."

B. SCPC'S OBLIGATION UNDER SCHEDULE W OF THE APA

On the other hand, under Schedule W of the APA, SCPC is legally obligated to deliver 10.841% of MERALCO's energy requirements but not to exceed 169,000 kW capacity allocation at any given hour. Accordingly, SCPC is responsible for any shortfall and is under obligation to provide and make up for curtailed energy if it fails to produce up to 169,000 kW capacity, at any given hour.[96]

The above explanation by the ERC states, in simple terms, that SCPC is not accountable for any shortfall once it had delivered 169,000 kW at any given hour, the same being the responsibility of NPC. SCPC becomes liable only whenever it fails to deliver whichever is lower of 169,000 kW or 10.841% of MERALCO's requirements, at

any given hour. The Court has exhaustively examined the contract between the parties, including the so-called Special Conditions of the MERALCO TSC,[97] the Calaca Typical Hourly Customer's Load Profile[98] and the Nomination Protocol between MERALCO and NPC of TSC Contract Energy,[99] as cited by PSALM in its petition, and specifically the provisions thereof quoted by the ERC, and found the same to be consistent with the above conclusions of the said agency. As such, the Court will not interfere with the same, mindful of the principle that actions of an administrative agency may not be disturbed nor set aside by the judicial department sans any error of law, grave abuse of power or lack of jurisdiction, or grave abuse of discretion clearly conflicting with either the letter or spirit of the law.[100]

WHEREFORE, the petition is DENIED. The Court of Appeals' Decision dated September 4, 2012 and Resolution dated November 27, 2012 in CA-GR. SP No. 123997 are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Velasco, Jr., (Chairperson), Perez, Reyes and Jardeleza, JJ., concur.

December 16, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on December 5, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 16, 2016 at 11:00 a.m.

Very truly yours,

(SGD) WILFREDO V. LAPITAN
Division Clerk of Court

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Normandie B. Pizarro and Manuel M. Barrios, concurring; rollo, pp. 59-73.

[2] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Normandie B. Pizarro and Leoncia R. Dimagiba, concurring; id. at 74-75.

[3] RA 9136, Sec. 3.

[4] Id., Sec. 49.

[5] Id. at Sec. 50.

[6] Rollo, pp. 8, 458.

[7] Id. The parties differ as to the actual date of the declaration of DMCI as winning bidder. Petitioners state the date as July 8, 2009, while respondents put it on July 3, 2009.

[8] Rollo, pp. 8, 76-124, 458.

[9] Id. at 8, 459.

[10] Id. at 459.

[11] Id. at 10, 459.

[12] Id. at 125-126.

[13] Id. at 459.

[14] Id. at 11.

[15] Id.

[16] Id. at 461.

[17] Id. at 11.

[18] Id.

[19] Id. at 461.

[20] Id.

[21] Id.

[22] Id. at 11, 461-462.

[23] Id. at 12, 462.

[24] Id. at 462.

[25] Id.

[26] Id. at 12, 462.

[27] Id. at 12-13, 462-463.

[28] Id. at 13, 463.

[29] The petition was docketed as ERC Case No. 2010-058MC and entitled In the Matter of the Petition for Dispute Resolution, with Application for the Issuance of Provisional Remedies, Sem-Calaca Power Corporation, petitioner, vs. National Power Corporation and Power Sector Assets and Liabilities Management Corporation, respondents; id. at 13, 463, 490-508.

[30] Signed by Chairperson Zenaida G. Cruz-Ducut and Commissioners Rauf A. Tan, Alejandro Z. Barin and Jose C. Reyes ; id. at 295-318.

[31] Id. at 315-317.

[32] Signed by Chairperson Zenaida Cruz-Ducut and Commissioners Jose C. Reyes, Maria Teresa A.R. Castañeda and Gloria Victoria C. Yap-Taruc; id. at 337-350.

[33] Rollo, pp. 351-373.

[34] Id. at 69-73.

[35] Id. at 72.

[36] Id. at 67-69.

[37] Id. at 69-71.

[38] Id. at 71.

[39] Id. at 74-75.

[40] Id. at 19-20.

[41] Id. at 20.

[42] Id. at 23.

[43] Id. at 21-23.

[44] Id. at 25.

[45] Id. at 27-29.

[46] Id. at 29.

[47] Id. at 29-30.

[48] Id. at 30.

[49] Id. at 31-36.

[50] Id. at 32-33.

[51] Id. at 33.

[52] Id. at 31-33.

[53] Id.

[54] Id. at 37-39.

[55] Id. at 471.

[56] Id.

[57] Id.

[58] Id.

[59] Id.

[60] Id.

[61] Id. at 473.

[62] Id.

[63] Id. at 473-474.

[64] Id. at 474.

[65] Id. at 475.

[66] Id.

[67] Id. at 476-477.

[68] Id.

[69] Id. at 477.

[70] Id.

[71] Id. at 477-478.

[72] Id. at 478-479.

[73] *Globe Telecom Inc. v. National Telecommunications Commission*, 479 Phil. 1, 11 (2004).

[74] *Herida v. F&C Pawnshop and Jewelry Store*, 603 Phil. 385, 390 (2006).

[75] *Ruby Industrial Corporation v. Court of Appeals*, 348 Phil. 480, 492 (1998).

[76] Sec. 43. Functions of the ERC.

xxxx

(u) The ERC shall have the original and exclusive jurisdiction over all cases contesting rates, fees, fines and penalties imposed by the ERC in the exercise of the above mentioned powers, functions and responsibilities and over all cases involving disputes between and among participants or players in the energy sector. (Emphasis supplied.)

An "Electric Power Industry Participant" is defined in Section 4 of the same law as referring to "any person or entity engaged in the generation, transmission, distribution or supply of electricity.

[77] *Christian General Assembly Inc. v. Spouses Ignacio*, 613 Phil. 629, 640-641 (2009); *Philippine International Trading Corporation v. Presiding Judge Angeles*, 331 Phil. 723, 748 (1996).

[78] 237 Phil. 389, 396-398 (1987). (Emphasis ours; citations omitted)

[79] *Mount Carmel College Employees Union (MCCEU) v. Mount Carmel College, Inc.*, G.R. No. 187621, September 24, 2014, 736 SCRA 381, 389.

[80] *Magoyag, et al. v. Maruhom*, 640 Phil. 289, 298 (2010).

[81] Id.

[82] Id. at 298-299.

[83] *Law Firm of Tungal v. Court of Appeals*, 579 Phil. 717, 726 (2008), citing *Abad v. Goldloop Properties, Inc.*, 549 Phil. 641, 654 (2007).

[84] Id.

[85] Id.

[86] *National Irrigation Administration v. Gamit*, G.R. No. 85869, November 6, 1992, 215 SCRA 436, 453, citing *Martin*, *Comments on the Rules of Court*, Vol. V, 1986 ed., p. 124, citing *Dick vs. King*, 236 P. 1059, 73 Mont. 465.

[87] Id. at 453-454, citing *Dent v. Industrial Oil & Gas Co.*, Ark. 122 2d. 162, 164.

[88] *Rollo*, pp. 306-307.

[89] See also *Licaros v. Gatmaitan*, 414 Phil. 857 (2001); *China Banking Corporation v. Court of Appeals*, 333 Phil. 158 (1996).

[90] *Mendros, Jr. v. Mitsubishi Motors Phils. Corporation (MMPC)*, 599 Phil. 1, 18 (2009), citing *Reparations Commission v. Northern Lines, Inc., et al.*, 145 Phil. 24, 33 (1970).

[91] *Id.*

[92] CIVIL CODE, Art. 1377; *Horrigan v. Troika Commercial, Inc.*, 512 Phil. 782, 785 (2005).

[93] *Rollo*, p. 308.

[94] *JMA House Incorporated v. Sta. Monica Industrial Dev. Corp.*, 532 Phil. 233, 254 (2006), citing *RP v. David*, 480 Phil. 258, 266-267 (2004); *Carceller v. CA*, 362 Phil. 332, 340 (1994).

[95] *Rollo*, pp. 337-350.

[96] *Id.* at 343-345. (Emphasis supplied; italics on the original)

[97] *Id.* at 126.

[98] *Id.* at 127.

[99] *Id.* at 128.

[100] *Eastern Shipping Lines, Inc. v. Court of Appeals*, 353 Phil. 676, 685 (1998).

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