

**UNIVERSITY OF THE PHILIPPINES COLLEGE OF AGRICULTURE
AND/OR UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS.
DOMINGO P. GABRIEL, DOING BUSINESS UNDER THE NAME AND
STYLE: ALLIED P...**

G.R. No. 70826. October 12, 1987

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-70826/>

GUTIERREZ, JR., J.:

The decisive issue in the instant petition is whether or not petitioner University of the Philippines (UP) is solidarily liable with Beta Construction Company, Inc., to pay the amount of P68,843.98 representing the unpaid balance for labor and materials expended in the plumbing and extra works performed at the Biological Science Building of the U.P. College of Agriculture, by the sub-contractor, Allied Plumbing Company, the private respondent herein.

On December 27, 1966, the UP and Beta Construction Co., Inc., entered into a contract for the latter to construct the Biological Science Building of the U.P. College of Agriculture at Los Banos, Laguna for a total lump sum price of Three Million Seven Hundred Ninety Two Thousand Two Hundred Eighteen Pesos and Seven Centavos (P3,792,218.07).

On January 4, 1967, Beta subcontracted its plumbing works to private respondent Allied Plumbing Company represented by its general manager Domingo P. Gabriel for the total amount of One Hundred Fifty Five Thousand Eight Hundred Twenty Eight and 60/100 Pesos (P155,828.60)

The plumbing contract was duly approved by the U.P. Bidding Committee.

On the ground that after Allied Plumbing Company completed its works, Beta refused to remit the balance of P64,626.08 plus the payment of additional works asked by Beta in the total amount of P4,017.90, the former filed a complaint for "sum of money with damages" against U.P. and Beta with the Court of First Instance of Rizal.

The defendants denied the allegations of the plaintiff that the latter had completed its plumbing works under the sub-contract. They contended that there was delay in payment due to the improper and faulty plumbing connections made by the plaintiff; that the plaintiff was unable to complete the work stipulated in the sub-contract and that the work completed including the additional works by the plaintiff were later found to be grossly defective and had to be repaired and re-done by Beta; that because of the incompetence of the plaintiff, Beta was compelled to engage the services of another plumbing contractor who repaired the work; and that Beta overpaid the amount of P81,686.00 under the plumbing sub-contract which plaintiff is under obligation to return to Beta.

After trial on the merits, the lower court rendered a decision in favor of the plaintiff. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered in favor of plaintiff, as follows:

"1. Sentencing defendant Beta Construction Co., Inc., and University of the Philippines College of Agriculture and/or University of the Philippines, jointly and severally, to pay plaintiff the total sum of P68,843.98, representing the unpaid balance for labor and materials expended in the plumbing and extra works performed by plaintiff at the Biological Science Building of the College of Agriculture, with interest thereon at the legal rate from October 16, 1969, until fully paid;

"2 Sentencing defendant Beta Construction Co., Inc., to pay plaintiff:

"a) the sum of P20,000.00, by way of moral damages;

"b) the sum of P5,000.00 by way of exemplary damages; and

"c) the sum of P10,000.00, by way of attorney's fees.

"Costs against both defendants." (pp. 131-132, Record on Appeal)

Only U.P. appealed the decision to the then Intermediate Appellate Court, now Court of Appeals. The decision was affirmed. A motion for reconsideration was denied. Hence, this petition.

In a resolution dated September 30, 1985, we gave due course to the petition.

The petitioner questions the findings of facts of the appellate court which adopted those of the lower court, to wit:

"Plaintiff completed the contracted plumbing and extra work in November, 1968. However, of the contracted price of P155,828.60 defendant Beta paid plaintiff only the amount of P91,202.52 thereby leaving a balance unpaid of P64,626.08 for the plumbing works on the Biological Science Building. Plaintiff likewise was not paid the contract price of P2,985.00 and P1,032.90, respectively, for the extra work it performed at the request of defendant Beta which defendant UP also approved, despite presentation of the corresponding statements of accounts. The total claim, therefore, of plaintiff amounted to P68,643.98. Because of the failure of defendant Beta to pay plaintiff for the balance of the plumbing and extra works, plaintiff sent a letter, dated November 4, 1968 to defendant UP, through its Project Manager at the job site, requesting the latter 'not to approve the final payment and retention due and payable to the general contractor Beta Construction Co., Inc., without a written certification from us, that we have been fully paid of their obligations to us.' The aforesaid letter was duly received on November 7, 1968 and was followed by a demand letter dated August 4, 1969 which plaintiff sent to defendant UP, through its College of Agriculture, and copies of which were furnished also the Dean and Auditor of the college and duly received by the addressees. Failing to get any reply, plaintiff endorsed the matter to a lawyer, who sent to the College of Agriculture and to the Project Manager two demand letters, both of which were left unanswered by defendant UP (pp. 123-124, Record on Appeal)" (p. 51, Rollo).

In affirming the decision of the trial court, the appellate court applied Article 1729 of the New Civil Code which states:

"Those who put their labor upon or furnish materials for a piece of work undertaken by the contractor have an action against the owner up to the amount owing from the latter to the contractor at the time the claim is made. However, the following shall not prejudice the laborers, employees and furnishers of materials:

"(1) Payments made by the owner to the contractor before they are due;

"(2) Renunciation by the contractor of any amount due him from the owner.

"This article is subject to the provisions of special laws."

The appellate court ruled that the private respondent had a lawful claim against UP, owner of the constructed

building pursuant to Article 1729 in view of the following facts:

"Plaintiff notified defendant UP in writing as early as November 7, 1968 that plaintiff had not been fully paid by the general contractor and accordingly requested defendant UP not to release to said contractor 'the final payment for the 100% completion and the payment of the retention.' Nevertheless, defendant UP released payments to defendant BETA from November 25, 1968 up to February 10, 1970 and thereafter, thereby defeating plaintiff's claim for the unpaid price of the work it contracted for and performed.

"Defendant UP's own Exhibit "2-UP" shows that said defendant disregarded the notice of claim of plaintiff, at a time when the amounts owing from defendant UP to defendant Beta were more than sufficient to pay for plaintiff's claim. The 19th and 20th payments alone which were released on November 25, 1968 and September 1, 1969, respectively, or after receipt of plaintiff's claim on November 7, 1968 amounted to P158,490.70. And from the 21st to the 25th and final payments, defendant UP released to defendant Beta the net amount of P167,402.55 covering the period November 3, 1968 up to February 20, 1970. (Record on Appeal, pp. 125-126, Underscoring supplied).

"From the foregoing, Appellant did not approve the work accomplished by Plaintiff-Appellee because it disregarded the notice of claim. Thus, it cannot be said that Appellee's claim was not yet due and demandable since it was Appellant's inaction that precipitated the appealed case. Were it not for Appellant's total disregard of Plaintiff-Appellee's claim, it should not have been impleaded as a party defendant. As aptly observed by the court a quo, 'the least that Appellant should have done was to withhold payment of the balance still owing to defendant Beta as of November 7, 1968 until the claim of plaintiff was clarified.' (pp. 127 128, Record on Appeal). pp. 9-10, Appellee's Brief)." (pp. 55-56, Rollo).

The petitioner refutes these findings by stating that Article 1729 contemplates "those who actually furnish labor and materials and as per specification and not those who furnish defective works." The petitioner maintains that the private respondent did not fully accomplish the plumbing works specified in the subcontract; and that there was actually "overpayment" by Beta.

The petitioner also states that the word "claim" in the same provision refers to claims that are due and demandable or valid claims enforceable in law and does not, therefore, apply to a claim which a sub-contractor has no right to make against his contractor as in the instant case where the work accomplished by private respondent as a sub-contractor had no recorded approval by UPCA pursuant to their agreement dated January 4, 1967. The petitioner submits that it is the burden of the private respondent to show that the former gave the required approval for work accomplished adequately and per specifications under the sub-contract agreement.

The sub-contract between private respondent Allied Plumbing Company represented by its General Manager Domingo P. Gabriel and Beta provides that:

xxx xxx xxx

"The terms of payment shall be on a monthly basis as per work accomplished and approved by the UNIVERSITY OF THE PHILIPPINES COLLEGE OF AGRICULTURE." (p. 16, Record on Appeal; Underlining supplied).

The petitioner became party to this sub-contract when it was approved by the UP Bidding Committee.

This stipulation in the sub-contract is clear and leaves no doubt as to the intention of the contracting parties. Consequently, the literal meaning of the stipulation shall control. This is the first rule in the interpretation of contracts (Article 1370, New Civil Code; *La Suerte Cigar & Cigarette Factory v. Director of the Bureau of Labor Relations*, 123 SCRA 679). This is the law between the parties.

It is essential that there must be approval of the works completed by the private respondent before UP can be

made liable under the sub-contract. It is of no moment that the private respondent, wrote UP that Beta, the contractor had not yet paid all its obligations to the former. This does not necessarily mean approval of the private respondent's works.

Moreover, it is to be noted that this letter was forwarded to Beta for clarification. And in a letter dated August 13, 1969 addressed to the Office of the Project Manager, Technical & Administrative Unit, UPCA 5-year Development Program, College, Los Banos, Laguna, Beta stated that -

"It is not true that we had stopped paying Mr. Gabriel since July, 1968, the truth being that we were forced to make the purchases of materials ourselves and pay his laborers due to Mr. Gabriel's own consistent inability to perform his work with reasonable efficiency and within allowable time. There have been several written communications from us to Mr. Gabriel regarding this matter. We even reiterated in writing our invitation to Mr. Gabriel for a conference on this matter, but he had consistently disregarded our invitations for conference. The UPCA has been fully aware of this matter since the outset, as per reports of its engineers.

"In fact, Mr. Domingo Gabriel had been overpaid by us over and above his contract price based on an accomplishment of 91.1% given by UPCA as of our last collection on October 15, 1968.

"We are even assessing the damage suffered by us as a result of the failure of Mr. Gabriel to perform his work.

"We are therefore suggesting that you disregard the unfounded claims of Mr. Gabriel as acts of pure harassment against us. We are in fact aggrieved parties of Mr. Gabriel's negligence and malice." (pp. 29-30, Record on Appeal; Underscoring supplied).

Faced with these two conflicting claims, the petitioner should not be faulted for relying on the contractor's claim that it paid all its obligations to the private respondent and at the same time disregarding the latter's claim. There is no evidence showing approval of the works performed by the private respondent pursuant to the terms of the sub-contract.

Hence, we agree with the Solicitor General that the private respondent had no valid claim against the petitioner.

Article 1729 of the New Civil Code also states that its provisions are subject to special laws. In this connection, the appellate court applying Act No. 3959 (An Act making it obligatory for any person, company, firm or corporation owning any work of any kind executed by contract to require the contractor to furnish a bond guaranteeing the payment of the laborers, providing penalties for the violation hereof, and for other purposes) stated:

xxx xxx xxx

"x x x It is true that UPCA and/or UP had already fully paid its obligation to Beta however, appellant's payment to defendant Beta does not extinguish its legal obligation to plaintiff-appellee because such payment was irregular. As correctly stated by the trial court, appellant UPCA and/or UP 'x x x should have taken care not to pay to such contractor the full amount which he is entitled to receive by virtue of the contract, until he shall have shown that he first paid the wages of the laborer employed in said work, by means of an affidavit made and subscribed by said contractor before a notary public or other officer authorized by law to administer oaths.' There is no showing that defendant UP, as owner of the building, complied with this requirement laid down in Act No. 3959. Hence, under Section 2 of said law, said defendant is responsible, jointly and severally with the general contractor, defendant Beta, for the payment of the wages of the plumbing sub-contract and other extra works." (p. 128, Record on appeal). (p. 58, Rollo).

The above conclusion is wrong.

Act 3959 was intended for private persons, companies, firms, or corporations using the services of contractors who may employ their own carpenters, masons, and laborers or hire sub-contractors. This is made even more evident by the fact that Presidential Decree No. 442, The Labor Code of the Philippines, Articles 106 to 109 and its Rules and Regulations, Rule VIII, Sections 7-9, have superseded Act 3959. The Labor Code does not cover government employment.

The applicable law is Act 3688 which is titled "AN ACT FOR THE PROTECTION OF PERSONS FURNISHING MATERIAL AND LABOR FOR THE CONSTRUCTION OF PUBLIC WORKS."

Petitioner UP was established "to provide advanced instruction in literature, philosophy, the sciences and arts, and to give professional and technical training." (*Mindanao Federation of Labor v. University of the Philippines*, 138 SCRA 623, citing *University of the Philippines v. Court of Industrial Relations, et al.*, 107 Phil. 848). Thus, UP performs a governmental function. It is neither a corporation created for profit nor an industry or business corporation, but it is a public institution of higher learning created for a fundamental public purpose.

There is no doubt that it was in furtherance of its governmental function as an institution of higher learning that the UP bidded out the construction of the Biological Science Building of the College of Agriculture at Los Banos, Laguna. Thus, the construction of this building should be considered as a construction of public works.

In the instant case, Beta, the contractor posted a "performance bond" in the amount of P758,443.61 "conditioned for the faithful performance of the contract and for the full payment of all obligation and fees (legal or business) arising thereunder."

Section 1 of Act 3688 provides that:

"x x x If no suit should be brought by the Government of the Philippine Islands within six months from the completion and final settlement of said contract, or if the Government expressly waives its right to institute action on the penal bond, then the person or persons supplying the contractor with labor and materials shall, upon application therefor, and furnishing affidavit to the department under the direction of which said work has been prosecuted, that labor or materials for the prosecution of such work have been supplied by him or them, and payment for which has not been made, be furnished with a certified copy of said contract and bond, upon which he or they shall have a right of action, and shall be, and are hereby, authorized to bring suit in the name of the Government of the Philippine Islands in the Court of First Instance in the district in which said contract was to be performed and executed, and not elsewhere, for his or their use and benefit against said contractor and his sureties, and to prosecute the same to final judgment and execution. x x x "

Thus, the private respondent should have requested for a certified copy of the contract and bond from UP and sued Beta Construction and the surety company for unpaid labor and materials instead of proceeding against UP. Under the circumstances of this case, UP is not solidarily liable with Beta for the claims of the sub-contractor against Beta.

WHEREFORE, the instant petition is hereby GRANTED. The questioned decision of the then Intermediate Appellate Court is MODIFIED. Petitioner University of the Philippines is absolved from paying respondent Allied Plumbing Company the amount of P68,843.98 representing the unpaid balance for labor and materials expended in the plumbing and extra works it performed as sub-contractor of Beta Construction Company, Inc., at the Biological Science Building of the UP College of Agriculture. No costs.

SO ORDERED.

Fernan, (Chairman), Feliciano, and Cortes, JJ., concur.

Bidin, J., no part.

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.