

**G.R. No. 232801 – PHILIPPINE CHARITY SWEEPSTAKES OFFICE,**  
*Petitioner, v. DFNN, INC., Respondent;*

**G.R. No. 234193 – PHILIPPINE CHARITY SWEEPSTAKES OFFICE,**  
*Petitioner, v. DFNN, INC., Respondent.*

Promulgated:

**JUN 30 2021**

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## CONCURRING OPINION

**PERLAS-BERNABE, J.:**

I concur.

The petition in **G.R. No. 234193** should be granted since the Court of Appeals (CA), in CA-G.R. SP No. 145983, erred in affirming the Makati Regional Trial Court's<sup>1</sup> (RTC) increase of the Arbitral Award dated May 21, 2015 (Arbitral Award) on the ground of "evident miscalculation of figures." As the *ponencia* correctly observed, such ground must relate to obvious mathematical errors and miscalculation appearing on the face of the award—a situation that does not obtain here as the RTC effectively used this ground to amend the Arbitration Panel's substantive findings.<sup>2</sup>

In the same vein, the petition in **G.R. No. 232801** should likewise be granted since the CA, in CA-G.R. SP No. 145462, erred in ordering the Mandaluyong RTC<sup>3</sup> to consolidate petitioner Philippine Charity Sweepstakes Office's (PCSO) Petition for Confirmation with respondent DFNN, Inc.'s (DFNNI) Petition for Correction filed before the Makati RTC.

To expound, the rationale for consolidation is to have all intimately related cases acted upon by one branch of the court to avoid the possibility of conflicting decisions being rendered, and in effect, prevent confusion, unnecessary costs, and delay. However, an essential requisite of consolidation is that the actions to be consolidated are **pending before the court.**<sup>4</sup>

In this case, records show that at the time that the Mandaluyong RTC resolved DFNNI's motion seeking to consolidate the Petition for Confirmation filed before it with the Petition for Correction filed by DFNNI in the Makati RTC, the Makati RTC had already rendered a judgment in the

<sup>1</sup> Branch 66.

<sup>2</sup> *Ponencia*, pp. 15-21.

<sup>3</sup> Branch 212.

<sup>4</sup> *Puncia v. Toyota Shaw/Pasig, Inc.*, 788 Phil. 464, 476 (2016).

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petition before it. Hence, there was no more pending case before the Makati RTC which could be consolidated.

To briefly recount the events, on June 25, 2015, PCSO filed a Petition for Confirmation of the Arbitral Award before the Mandaluyong RTC, while DFNNI filed a Petition for Correction of the same award with the Makati RTC a day after.<sup>5</sup>

DFNNI subsequently filed a Motion for Consolidation<sup>6</sup> dated July 16, 2015 under Rule 11.5 of the Special Rules of Court on Alternative Dispute Resolution before the Mandaluyong RTC seeking to consolidate both petitions in the Makati RTC.

**While this motion was pending, the Makati RTC already rendered a Decision<sup>7</sup> dated February 17, 2016, granting DFNNI's petition and increasing the arbitral award** as above-stated. The ruling of the Makati RTC was then elevated to<sup>8</sup> and, thereupon, affirmed by the CA,<sup>9</sup> in CA-G.R. SP No. 145983. The CA's ruling, in turn, was elevated to this Court, via the present petition in **G.R. No. 234193**.

Considering the ruling of the Makati RTC at that time, the Mandaluyong RTC thus issued an Order<sup>10</sup> dated April 11, 2016 **denying DFNNI's Motion for Consolidation**. Aside from ruling that the use of the word "may" in Rule 11.5 indicates the permissive and discretionary nature of consolidation, **it found that since the Makati RTC had already rendered a decision in the Petition for Correction, consolidation will unduly delay the disposition of the cases and burden the court.**<sup>11</sup> The proceedings continued, culminating in a Decision<sup>12</sup> dated January 5, 2017, rendered by the Mandaluyong RTC confirming the Arbitral Award.

The foregoing notwithstanding, the CA, in CA-G.R. SP No. 145462, granted DFNNI's appeal against the denial of its motion for consolidation. In a Decision<sup>13</sup> dated February 20, 2017, the CA held that consolidation was proper, and thus, ordered the Mandaluyong RTC to consolidate its case with the petition before the Makati RTC.<sup>14</sup> Glaringly, however, the CA ruling was silent as to the ground that prompted the Mandaluyong RTC to deny consolidation, *i.e.*, that the Makati RTC had already rendered a judgment in

<sup>5</sup> *Ponencia*, pp. 2-5.

<sup>6</sup> *Rollo* (G.R. No. 232801), pp. 123-131.

<sup>7</sup> *Id.* at 148-152. Penned by Presiding Judge Joselito C. Villarosa.

<sup>8</sup> *Rollo* (G.R. No. 234193), pp. 250-269.

<sup>9</sup> *Rollo* (G.R. No. 232801), pp. 191-201. Penned by Associate Justice Socorro B. Inting with Associate Justices Priscilla J. Baltazar-Padilla (now a retired member of the Court) and Leoncia R. Dimagiba, concurring.

<sup>10</sup> *Id.* at 59-63. Penned by Judge Rizalina T. Capco-Umali.

<sup>11</sup> *Id.* at 64.

<sup>12</sup> *Id.* at 73-81. Penned by Judge Rizalina T. Capco-Umali.

<sup>13</sup> *Id.* at 41-54. Penned by Associate Justice Danton Q. Bueser with Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco, concurring.

<sup>14</sup> *Id.* at 8-10.

the correction case. Moreover, it should be pointed out that at the time that the CA ordered consolidation in CA-G.R. SP No. 145462, the Mandaluyong RTC had already rendered a Decision<sup>15</sup> dated January 5, 2017, granting PCSO's petition for confirmation of Arbitral Award.

Given the trajectory of events, the CA, in CA-G.R. SP No. 145462, erred in still ordering consolidation despite the fact that (a) during the pendency of the motion for consolidation before the Mandaluyong RTC, the Makati RTC had already rendered judgment in the correction case; and (b) during the pendency of the petition before it, the Mandaluyong RTC had also rendered a judgment in the confirmation case. Accordingly, the purpose sought to be achieved by consolidating the petitions would not be any more subserved since the proceedings before the Makati RTC had already been terminated, leaving no avenue for both petitions to be jointly tried in an effort to abbreviate and simplify the proceedings. Thus, considering the circumstances under which the Mandaluyong RTC disposed of DFNNI's motion for consolidation, the said court had no other choice but to deny the motion filed before it.

In fine, as ruled by the *ponencia*, the petitions in **G.R. No. 232801 and G.R. No. 234193** should be both granted. The foregoing dispositions will thus yield the following practical result: pursuant to the Decision<sup>16</sup> dated January 5, 2017 of the Mandaluyong RTC granting the petition for confirmation and pursuant to this Court's holding in **G.R. No. 234193** that correction is improper, **the Arbitral Award between the parties will therefore stand confirmed**. Meanwhile, since the only issue involving the Mandaluyong RTC, as elevated in **G.R. No. 232801**, is the propriety of consolidation and no other, DFNNI is free to pursue any other remedy available to it under the law against the arbitral award's confirmation.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

<sup>15</sup> Id. at 73-81. Penned by Judge Rizalina T. Capco-Umali.

<sup>16</sup> Id.