Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 18, 2015** *which reads as follows:*

"**G.R. No. 215774** (Dakay Construction & Development Corporation and Pericles P. Dakay, *petitioners, v.* FSC Formworks Corporation, *respondent.*). –

The petitioners' motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

This Petition for Review on *Certiorari* seeks to assail the Decision[1] dated 27 February 2014 and Resolution[2] dated 28 October 2014 of the Court of Appeals in CA-G.R. SP No. 03804.

Petitioner Dakay Construction & Development Corporation (DCDC) entered into a construction contract with Alturas Group of Companies (AGC) for the construction of Island City Mall in Tagbilaran City, Bohol. As the contractor, DCDC entered into a rental agreement with Formaply Systems Corporation (FSC) for the supply of formworks materials and equipments. The pertinent provisions of the agreement refer to the contract price of around ₱10.5 Million; rental period of 8 months; and the restriction on the use of form materials.

During the construction, AGC requested DCDC to finish the concreting works from 5 to 3 months and to work on an additional area of 11,188.22 square meters.

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1 *Rollo*, pp. 99-117; Penned by Associate Justice Carmelita Salandanan-Manahan with Associate Justices Ramon Paul L. Hernando and Ma. Luisa Quijano-Padilla, concurring.

2 Id. at 178-181.

The rental period was supposed to commence on 4 April 2003 but the turnover of the project to DCDC was delayed and it forestalled the start of the rental period. In view of the delay, the President of DCDC, Pericles Dakay (Dakay) met with FSC President Mr. Erum (Erum) to discuss the delay of the turn-over; the start of the works in July 2003; and the compression of the concreting works from 5 to 3 months. Dakay and Erum mutually agreed to formalize their agreement through a Letter dated 3 July 2003. Among the amendments was the increase in the rental amount.

According to FSC, the project was slated to finish on 11 April 2004 but DCDC made the final return of the leased formworks materials only on 23 September 2004. FSC alleged that there were also unaccounted or unreturned formworks materials. FSC then filed a Complaint for unpaid rentals and damages before the Construction Industry Arbitration Commission (CIAC). FSC prayed for an award of ₱4,231,265.13 plus legal interest, attorney's fees, honorarium and success fee.[3]

DCDC filed a Motion to Dismiss raising lack of jurisdiction on the part of CIAC over the subject matter of the complaint which DCDC categorized as a simple collection of sum of money. Dakay claimed that FSC Formworks has no contractual relations with them as the rental agreement readily shows that the party who contracted with DCDC is Formaply Systems Corporation. DCDC invoked the invalidity of the arbitration clause in the rental agreement for the jurisdiction of CIAC involves only disputes concerning construction-related issues but not as to questions regarding the existence, validity or termination of contracts.

On 2 May 2006, the CIAC denied the motion to dismiss.

On 23 August 2006, a Final Award was promulgated by CIAC granting unto FSC the claims prayed for less the amount of overpayment by DCDC. FSC then moved for the execution of the award and a corresponding writ of execution was issued.

Aggrieved, DCDC filed a petition for review with the Court of Appeals raising the following grounds: 1) CIAC had no jurisdiction over the case; 2) the rental agreement was voidable because there was a patent mistake as to the parties of the contract when during the preparation and

[3] Id. at 103-104.

negotiation stage of the contract, DCDC worked with Formaply Industries, represented by Erum, but the party who executed the contract was FSC; 3) CIAC gravely erred in awarding to FSC the monetary claims; and 4) CIAC should have awarded to DCDC its counterclaim.[4]

On 27 February 2014, the Court of Appeals denied the petition and affirmed the final award of CIAC.

On the issue of jurisdiction, the appellate court pointed out that the subjects of the rental agreement, the formworks and their accessories, are indubitably connected with the construction project. Furthermore, the rental agreement contains an arbitration clause which provides that any dispute arising out or in connection with the contract shall be referred to CIAC.

The appellate court ruled that while there was a mistake on the identity of the lessor, such identity of entities (Formaply Industries or FSC), both duly represented by the same person, is not the principal consideration for the celebration of the contract. The alleged fraud and mistake as to the identity of the lessor do not constitute causes for vitiation of its consent.

The appellate court found that the findings of CIAC with respect to the liability of DCDC for the additional rental charges are supported by evidence.

In the present petition, DCDC argues that CIAC has jurisdiction only over disputes concerning construction-related issues but not as to questions regarding the existence, validity and termination of contracts. DCDC insists that FSC employed fraud to lure DCDC to sign the rental contract by using another entity, Formaply Industries, during the negotiation. Thus, DCDC posits that the rental agreement is voidable. DCDC faults the appellate court for failing to go over the factual findings of CIAC. Finally, DCDC claims that FSC's monetary claims were merely based on conjectures, presumptions and guesswork. Hence, DCDC urges this Court to review the findings of facts of the CIAC.

The Court will not, in a petition for review on *certiorari*, entertain matters factual in nature, save for the most compelling and cogent reasons, like when such factual findings were drawn from a vacuum or arbitrarily

4 Id. at 54-55.

reached, or are grounded entirely on speculation or conjectures, are conflicting or are premised on the supposed evidence and contradicted by the evidence on record or when the inference made is manifestly mistaken or absurd. This conclusion is made more compelling by the fact that the CIAC is a quasi-judicial body whose jurisdiction is confined to construction disputes. Well-settled is the rule that findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect, but finality when affirmed by the Court of Appeals.[5]

Finding no reversible error, the petition for review should be denied. But a modification of the Court of Appeals ruling is in order. Following the ruling in *Nacar v. Gallery Frames*,[6] the legal interest remains at 6% and 12% per *annum*, as the case may be, since the judgment subject of the execution became final on 23 August 2006. Interests accruing after 1 July 2013, however, shall be at the rate of 6% per *annum*.

WHEREFORE, the instant petition is **DENIED**. The Decision dated 27 February 2014 and the Resolution dated 28 October 2014 of the Court of Appeals in CA-G.R. SP No. 03804 are hereby **AFFIRMED** with **MODIFICATION**. Interest accruing after 1 July 2013 shall be at the rate of 6% per *annum*.

SO ORDERED." SERENO, C.J., on official travel, **JARDELEZA, J.,** Acting Member per S.O. No. 1952 dated March 18, 2015.

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court

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5 *National Housing Authority v. First United Constructors Corporation*, G.R. No. 176535, 7 September 2011, 657 SCRA 175, 219.

6 G.R. No. 189871, 13 August 2013, 703 SCRA 439

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