



Republic of the Philippines
Supreme Court
Manila

EN BANC

RG CABRERA CORPORATION,
INC.,

Petitioner,

G.R. No. 221773

Present:

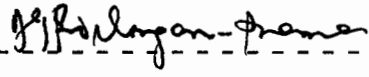
- versus -

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,
AND COMMISSION ON AUDIT,
Respondents.

Promulgated:

October 18, 2016

X -----  ----- X

DECISION

MENDOZA, J.:

This Petition for *Certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the March 17, 2015 Decision¹ and the August 18, 2015 Resolution² of the Commission on Audit (COA) in COA CP Case Nos. 2011-200 and 2011-228, denying the consolidated claims of petitioner RG Cabrera Corporation, Inc. (*RG Cabrera*) against the Department of Public Works and Highways (DPWH), Pampanga 2nd Engineering District, Guagua, Pampanga (*DPWH Pampanga*).

¹ *Rollo*, pp. 32-37.

² *Id.* at 38.

In June 1991, Mt. Pinatubo erupted producing thick volcanic ash and sand deposits affecting the surrounding mountains and hills of Pampanga, Tarlac and Zambales. These volcanic deposits were washed down by monsoon rains causing lahar, which destroyed existing dike systems and spilled into neighboring villages. To address the problems arising from the aftermath of the Mt. Pinatubo eruption, Task Force Mount Pinatubo Rehabilitation Projects was created. It was headed by DPWH Regional Director Vicente B. Lopez (*Chairman Lopez*).³

From February to July 1992, the DPWH Pampanga entered into several contracts for lease of equipment with RG Cabrera for the maintenance and restoration of portions of the Porac-Gumain Diversion Channel System. Later, on September 1, 1992, the DPWH Pampanga leased another four (4) bulldozers from RG Cabrera covered by another contract of lease of equipment. At the end of the lease period, RG Cabrera tried to collect the agreed rentals from the DPWH Pampanga but failed to receive any payment.⁴

This prompted RG Cabrera to file five (5) separate complaints for collection of sum of money against the DPWH before the Regional Trial Court, Branch 52, Guagua, Pampanga (*RTC*). In all the cases, the Office of the Solicitor General (*OSG*) objected on the ground that the said contracts were defective because of their failure to follow the requirements of the law. In 2002 and 2003, the RTC granted the separate complaints of RG Cabrera involving the contracts of lease of equipment entered into from February to September 1992. The trial court held that the contracts of lease were binding upon the parties and, therefore, the DPWH was bound to comply with the said contracts and to pay the agreed fees. It noted that RG Cabrera was able to prove that it had performed its obligation under the said contracts warranting it to receive payment therefor.

When the cases were appealed by the OSG before the Court of Appeals (*CA*), the RTC decisions were *reversed*. The appellate court explained that the state was immune from suit and that the money claims should have been filed before the COA.⁵

RG Cabrera elevated the cases to this Court, which denied the petitions for failure to show that the CA committed any reversible error. Thus, the Court sustained the CA ruling that RG Cabrera should have filed its claims with the COA.⁶

³ Id. at 5-6.

⁴ Id at 6-8.

⁵ Id. at 33.

⁶ Id. at 8.

Thereafter, in 2011, RG Cabrera filed the said money claims before the COA which were docketed as COA CP Case No. 2011-200 and COA CP Case No. 2011-228.⁷

COA CP Case Nos. 2011-200 and 2011-228

The COA, in its March 17, 2015 Decision, identified the claims as follows:

- a. Lease contract for one payloader covering the period February 3, 1992 to March 3, 1992, for which the rental fees amounted to ₱174,515.00;
- b. Lease contract for four (4) bulldozers for the period June 1, 1992 to July 15, 1992 which was extended for the period July 16, 1992 until August 28, 1992, with the rental fees totaling ₱2,392,077.50; and
- c. Lease contract for the use of one payloader and two (2) dump trucks for the period July 1, 1992 up to September 28, 1992, for which rental fees amounted to ₱1,790,676.00.

The total claim for the contracts amounted to ₱4,357,268.50, an amount allegedly left unpaid by the respondent.

In COA CP Case No. 2011-228, the claim involves the contract entered into on September 1, 1992 for the lease of four (4) bulldozers, the rental fees of which amounted to ₱587,211.50, which amount is sought to be recovered by the claimant.⁸

Respondent DPWH argued that the contracts were null and void, as these were unauthorized and not compliant with the requirements under the law and, thus, not legally binding upon the government. The DPWH also invoked its immunity from suit as the contract called for governmental functions.

The COA Ruling

On March 17, 2015, in its consolidated decision, the COA upheld the decision of the COA Regional Office denying RG Cabrera's money claims in COA CP No. 2011-200 and COA CP No. 2011-228. It found that the lease contracts between RG Cabrera and the DPWH were void for non-compliance with the provisions of Presidential Decree (*P.D.*) No. 1445. The COA noted that the contracts of lease were unsupported by prior certification as to the availability of the necessary funds. On *quantum meruit*, it stated that RG Cabrera's claims could not be granted because the DPWH had consistently denied any liability or acceptance of benefits from the subject lease contracts.

⁷ Id. at 8.

⁸ Id. at 32-33.

Aggrieved, RG Cabrera moved for reconsideration of the decision, but its motion was denied by the COA in its August 18, 2015 Resolution.

Hence, this present petition raising this

SOLE ISSUE

WHETHER RG CABRERA IS ENTITLED TO RECOVER RENTALS FROM THE EQUIPMENT LEASED PURSUANT TO THE SUBJECT LEASE CONTRACTS.

RG Cabrera argues that the failure to comply with the technical requirements, such as the certification of availability of funds, does not bar it from recovering the rentals for the use of heavy equipment. It insists that it entered the subject lease contracts in good faith and was unaware of their infirmities and defects. It surmises that payment was being withheld by DPWH probably because there were allegations during a senate investigation that ghost projects had been paid by it.

Nevertheless, RG Cabrera prays that it be paid on the basis of *quantum meruit* considering that the government derived benefits at its expense in leasing the equipment used in the maintenance of the Porac-Gumain Diversion Channel. It notes that the DPWH never denied acceptance of the benefits of the subject lease contracts, but merely refused liability claiming nullity of the subject lease contracts.

In its Comment,⁹ dated March 21, 2016, the OSG counters that contracts which do not comply with the requirements of the law are void and, for said reason, no payment should be made. In addition, it asserts that payment cannot be made on the basis of *quantum meruit* because the COA did not make any determination on the extent of the services actually rendered.

In its Reply,¹⁰ dated July 5, 2016, RG Cabrera argues that the lack of certificate of availability of funds did not nullify the subject lease contracts. It insists that it can still recover payment notwithstanding its non-compliance with the technical requirements because the contracts are not illegal *per se*. It reiterates that it is entitled to receive payment on the basis of *quantum meruit*.

The Court's Ruling

The Court finds merit in the petition.

⁹ Id. at 255-262.

¹⁰ Id. at 266-271.

W

Primarily, the COA denied the money claims filed by petitioner RG Cabrera for the lack of a prior certification as to the availability of the necessary funds. The denial was based on Sections 86 and 87 of P.D. No. 1445, which read:

Section 86 – Certificate showing appropriation to meet contract. Except in the case of a contract for personal service, for supplies for current consumption or to be carried in stock not exceeding the estimated consumption for three (3) months, or banking transactions of government-owned or controlled banks no contract involving the expenditure of public funds by any government agency shall be entered into or authorized unless the proper accounting official of the agency concerned shall have certified to the officer entering into the obligation that funds have been duly appropriated for the purpose and that the amount necessary to cover the proposed contract for the current fiscal year is available for expenditure on account thereof, subject to verification by the auditor concerned. The certificate signed by the proper accounting official and the auditor who verified it, shall be attached to and become an integral part of the proposed contract, and the sum so certified shall not thereafter be available for expenditure for any other purpose until the obligation of the government agency concerned under the contract is fully extinguished.

Section 87 – Void contract and liability of officer. Any contract entered into contrary to the requirements of the two immediately preceding sections shall be void, and the officer or officers entering into the contract shall be liable to the government or other contracting party for any consequent damage to the same extent as if the transaction had been wholly between private parties.

It is true that the existence of appropriation and the attachment to the contract of the certification showing availability of funds are conditions *sine qua non* for the execution of government contracts.¹¹ The absence thereof, however, does not necessarily mean that the contractor is precluded from receiving payment for the services rendered.

In *DPWH v. Quiwa (Quiwa)*,¹² the Court held that the lack of certification of availability of funds does not bar a contractor from recovering the fees stipulated in the contract, to wit:

It was, however, undisputed that there was **no certification** from the chief accountant of DPWH regarding the said expenditure. In addition, the project manager has a limited authority to approve contracts in an amount not exceeding ₱1 million. Notwithstanding these irregularities, it should be pointed out that there is no novelty regarding the question of satisfying a claim for construction contracts entered into by the government, where there was no

¹¹ *Philippine National Railways v. Kanlaon Construction Enterprises Co., Inc.*, 662 Phil. 771, 779-780 (2011).

¹² 675 Phil. 9 (2011).

appropriation and where the contracts were considered void due to technical reasons. **It has been settled in several cases that payment for services done on account of the government, but based on a void contract, cannot be avoided.** The Court first resolved such question in *Royal Trust Construction v. Commission on Audit*. xxx

xxxx

The above case became the authority in granting claims of a contractor against the government based on a void contract. This exercise of equity to compensate contracts with the government was repeated in *Eslao vs. COA*. **In the said case, the respondent therein, Commission on Audit (COA), was ordered to pay the company of petitioner for the services rendered by the latter in constructing a building for a state university, notwithstanding the contract's violations of the mandatory requirements of law, including the prior appropriation of funds therefor.** The Court, in resolving the case, cited the unpublished Resolution in *Royal Construction*, wherein the Court allowed the payment of the company's services sans the legal requirements of prior appropriation.

Royal Trust Construction was again mentioned in *Melchor v. COA*, which was decided a few months after *Eslao*. **In *Melchor*, it was found that the contract was approved by an unauthorized person and, similar to the case at bar, the required certification of the chief accountant was absent.** The Court did not deny or justify the invalidity of the contract. **The Court, however, found that the government unjustifiably denied what the latter owed to the contractors, leaving them uncompensated after the government had benefit[t]ed from the already completed work.**¹³ [Emphases supplied]

The circumstances in the case at bench are similar to those in *Quiwa*. *First*, the contracts in both cases involved the rehabilitation of the areas devastated by the aftermath of the Mt. Pinatubo eruption. The contractor in *Quiwa* performed construction services, while RG Cabrera provided the equipment to be used in the rehabilitation projects. *Second*, the services rendered by the contracts had redounded to the benefit of the government. *Third*, the DPWH, in both cases, refused to pay on the ground that no certificates as to the availability of funds were attached to the assailed contracts.

Indeed, the subject lease contracts are not intrinsically illegal but were merely declared to be so under P.D. No. 1445 for lack of the necessary certification. Nevertheless, it would be an injustice to deny RG Cabrera the payment for the use of its heavy equipment, which benefited the public, solely on the ground of the procedural flaws in the contracts. In *EPG Construction Co. v. Vigilar*,¹⁴ the Court upheld the right of the contractor to recover fees due them for services that it rendered notwithstanding the defects in the contracts therein, *viz*:

¹³ Id. at 21-25.

¹⁴ 407 Phil. 53 (2001).

Notably, the peculiar circumstances present in the instant case buttress petitioners' claim for compensation for the additional constructions, despite the illegality and void nature of the "implied contracts" forged between the DPWH and petitioners-contractors. On this matter, it bears stressing that the illegality of the subject contracts proceeds from an express declaration or prohibition by law, and not from any intrinsic illegality. Stated differently, the subject contracts are not illegal *per se*.

x x x x

To our mind, it would be the apex of injustice and highly inequitable for us to defeat petitioners-contractors' right to be duly compensated for actual work performed and services rendered, where both the government and the public have, for years, received and accepted benefits from said housing project and reaped the fruits of petitioners-contractors' honest toil and labor.¹⁵

In the case at bench, the OSG never denied that the equipment of RG Cabrera were used by DPWH. In fact, the evidence on record would show that the bulldozers, payloaders and dump trucks were utilized by the DPWH in the maintenance of the Porac-Gumain Diversion Channel System.

To deny RG Cabrera of compensation for the lease of its equipment to the government would be tantamount to injustice, which cannot be countenanced by this Court. This is especially true as the use of the equipment was for the rehabilitation of the areas severely affected by the Mt. Pinatubo eruption. The government and the people of Pampanga clearly benefited from the lease subject contracts. It is but just that RG Cabrera receive compensation for the use of its equipment.

WHEREFORE, the petition is **GRANTED**. The March 17, 2015 Decision and the August 18, 2015 Resolution of the Commission on Audit in COA CP Case Nos. 2011-200 and 2011-228 are **REVERSED** and **SET ASIDE**. The Department of Public Works and Highway is hereby **ORDERED** to pay RG Cabrera Corporation, Inc. the agreed rentals in the subject lease contracts in the aggregate amount of ₱4,944,480.00, plus interests at the legal rate.

This disposition is without prejudice to any criminal or administrative action against erring DPWH officials for violation of the law, if any.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

¹⁵ Id. at 63-64.

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



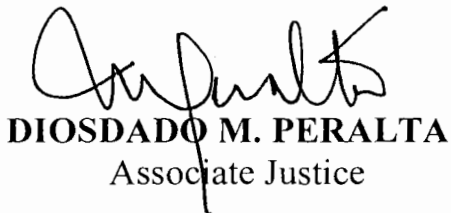
ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

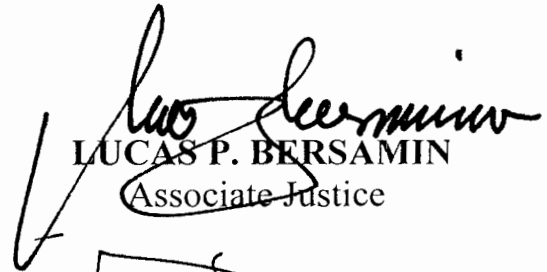
Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice




LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice




BIENVENIDO L. REYES
Associate Justice



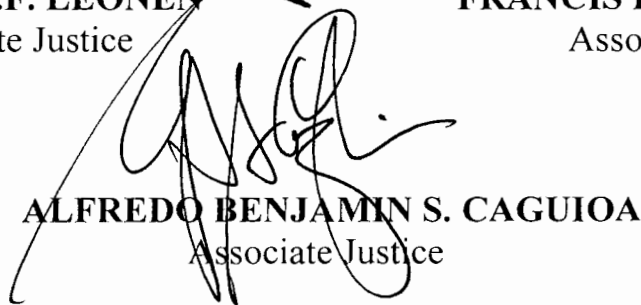
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

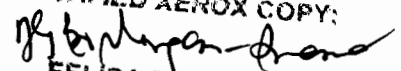
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT