

SPECIAL THIRTEENTH DIVISION

[CV No. 92017, March 19, 2010]

**FAIRLAINE DELOS REYES, PLAINTIFF-APPELLEE, VS. SPOUSES
ERNESTO LACSON AND ADELA LACSON, DEFENDANTS-
APPELLANTS.**

D E C I S I O N

Court of Appeals

Before Us is an appeal from the Decision^[1] dated May 17, 2005 of the Regional Trial Court, Branch 3, Baguio City in Civil Case No. 5230-R ordering herein defendants-appellants spouses Ernesto and Adela Lacson to pay plaintiff-appellee Fairlaine Delos Reyes^[2] P492,944.13, representing the amount due and payable the latter as contractor in the renovation of the former's residential building, plus interest of 12% per annum from date of judgment, the dispositive portion of which reads:

WHEREFORE, based on the Committee Report that defendants Sps. Ernesto and Adela Lacson owed the contractor plaintiff Fairlaine Delos Reyes under a sole proprietorship of RFAP Enterprises and Marketing in the amount of Four Hundred Ninety Two Thousand Nine Hundred Forty Four Pesos and Thirteen Centavos (P492,944.13), judgment is hereby rendered for defendants to pay the plaintiff in the said principal amount with legal interest of 12% per annum from date of this judgment until the amount is fully paid.

IT IS SO ORDERED.^[3]

THE FACTS

Appellants spouses Ernesto and Adela Lacson are the owners of a two-storey residential building situated at Upper Brookside, Baguio City. On the other hand, appellee Fairlaine Delos Reyes is the proprietor and general manager of RFAP Enterprises and Marketing (RFAP for brevity), a sole proprietorship which is authorized by law to engage in the construction business^[4]

On May 9, 2001, appellants and RFAP, through appellee and one Engineer Ferdinand D. Cacas, executed a contract denominated as *Proposed Major Renovation and Construction of Two Storey (Extension) Residential Building*^[5] whereby the latter undertook to renovate the former's residential building for and in consideration of P1,537,834.41. The parties agreed that RFAP would supply all labor, materials, tools, equipment and supervision needed for the completion of the project in accordance with the specifications stated in the Bill of Materials.

Pursuant to the agreement, RFAP commenced the construction work. Upon its completion, RFAP sent appellants a Notice⁶ of Completion dated December 20, 2001

informing the latter that the project was already 100% complete and that the same was being turned over to them. Upon receipt thereof, appellants signed the said notice signifying their acceptance of the completed work. Appellants then took possession and settled in the renovated house.

Thereafter, RFAP sent appellants a summary of accounts dated December 20, 2001 which was received by the latter on December 28, 2001. As stated therein, the total construction cost, after the changed orders were accounted for, amounted to P1,553,096.12^[7]. However, since appellants already paid P1,040,000.00^[8], the remaining unpaid balance of P513,096.12 was then due and collectible. On March 4, 2002, RFAP sent a demand letter^[9] to appellants informing them to settle their unpaid obligation in the amount of P513,096.12. Despite appellants' receipt of the said letter on March 8, 2002, no payments were made. On April 24, 2002, appellee's counsel sent appellants another demand letter^[10]. Appellants still failed to pay, hence, appellee filed with the Regional Trial Court of Baguio City the instant complaint for collection of sum of money with damages^[11].

In an Answer with Counterclaim^[12] dated September 11, 2002, appellants denied that they have an outstanding obligation to appellee and averred that they had already paid her whatever was due to appellee. They likewise claimed that appellee failed to complete the project in accordance with the specifications agreed upon. While appellants admitted having signed the notice informing them of the completion of the project, they asserted that the same was signed sometime in April 2001 and not on December 20, 2001. They signed the notice even before the completion of the project upon the request of appellee who made representations that she would be needing the document to obtain a loan from the bank. By way of counterclaim, appellants prayed that appellee be made to pay actual and moral damages as well as attorney's fees.

During the pre-trial conference on January 3, 2003, the parties entered into an agreement to form a committee which shall determine the extent of the work completed by appellee as well as the amount due her.^[13] The parties likewise agreed to be bound by the result of the evaluation to be undertaken by the committee.^[14] Pursuant to the agreement, the court *a quo* formed a three-member committee headed by court-appointed Engineer Januario Borillo of the Office of the City Engineer, Baguio City.^[15] The other two were Engineer Ferdinand Cacas and Engineer Isabelo Abing who were nominated by appellee and appellants, respectively.^[16]

In the process of evaluation, the counsels of both parties furnished the committee with the following documents: Building Plans, Contract and Bill of Materials, Computation for the Changed Orders, Notice of Completion, Statement of Account and

Billing, Evaluation of Engineer Isabelo Abing, and Reply of RFAP Enterprises and Marketing to the Evaluation of Engineer Abing.^[17] The committee also conducted a site inspection on January 22, 2003 in the presence of appellant Adela Lacson.

In a report^[18] dated February 18, 2003, the committee found that the project was fully completed on December 20, 2001 and that appellants were still liable to

appellee in the amount of P492,944.13. In arriving at this amount, the committee deducted from the contract price of P1,537,834.41 the amount of P284,895.09 which represents the revisions made in the original work contract. The committee then added thereto the amounts of P288,544.89 and P1,459.92, representing the consideration for the changed orders and additional cost of labor, respectively. Finally, the committee subtracted the partial payments made by appellants in the amount of P1,040,000.00 as well as the amount of P10,000.00 to account for the defects in appellee's work. The full text of the committee's report is quoted:

Republic of the Philippines
OFFICE OF THE CITY ENGINEER
Baguio City

BACKGROUND

The project subject for assessment is a structure located along Upper Brookside this city, which is owned by Spouses Ernesto and Adela Lacson. Renovation and extension works [were] done on the structure by RFAP Enterprises & Marketing of which was **completed as of December 20, 2001** as per Notice of Completion prepared by Ms. Fairlane P. Delos Reyes, manager.

The committee conducted site inspection on January 22, 2003.

DOCUMENTS USED:

1. Building plans consisting of three pages
2. Contract and bill of materials
3. Computation for the Changed Orders
4. Notice of Completion
5. Statement of Account and Billing
6. **Evaluation of Engr. Isabelo Abing**
7. Reply of RFAP enterprises and Marketing to the Evaluation of Engr. Abing

FINDINGS

- a. Removal of concrete hollow blocks walls at the first floor level along line 1, B and D.
- b. Removal of concrete hollow blocks walls at the second floor level along line 2.
- c. Revision of toilet and bath at the first and second floor level along line 2.
- d. Revision of second floor access door to the renovated existing structure.
- e. Defects noted on some portions of painted surfaces.
- f. Defective electrical line noted in a portion of the attic area.
- g. Increase in the area of wall to be constructed of Hardiflex board on light cage steel.
- h. Reduction of the wall area made of glass blocks.
- i. Reduction of the units of downpouts.
- j. Revision of the gutters from ordinary galvanized iron to stainless

gutters.

k. Additional under sheathing and partition walls.

I. Revision of the color of pebbles.

EVALUATION

Deductive

| | | |
|--|------------|------------|
| Construction of Extension: | | |
| Retaining Wall | 35,360.00 | |
| CHB Wall (Due to Cancellation of other Partitions) | 7,864.20 | |
| Steel Casement Window With glass | 12,000.00 | |
| Glass Blocks | 19,950.00 | |
| Doors | 27,600.00 | |
| Downspout Floor Drains, Catch Basin | 10,000.00 | |
| Building Renovation: Roofing | 102,120.89 | |
| Downspout, Catch Basin 10,000.00 Steel Frames & Hardiflex Board | 80,000.00 | |
| | | 284,895.09 |

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|--|-----------|--|
| Additive (Change Order): | | |
| Construction of Two Storey Extension: | | |
| CHB Wall to Replace Retaining Wall | 21,239.20 | |
| CHB Wall Added (CR) | 4,268.50 | |
| Glass Blocks | 10,395.00 | |
| Doors | 24,600.00 | |
| Downspout, Floor Drains, Catch Basin | 5,000.00 | |

| | | |
|----------------------------|------------|--|
| Building Renovation: | | |
| Column (Frontage) | 10,496.22 | |
| Roofing | 109,406.22 | |
| Downspouts, Catch Basin | 5,000.00 | |

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|---|-----------|--|
| Supply and Installation of Light Gauge, Steel | 66,096.00 | |
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| | | |
|-------------------------------|--------------|-------------|
| Frames & Hardiflex Board | | |
| Under Sheating/partition wall | 32,043.00 | 288,544.89 |
| Sum(Additive) | 3,649.80 | |
| + 40% Labor | 1,459.92 | 5,109.72 |
| Amount Payable to Contractor: | | |
| Contract Cost | 1,537,834.41 | |
| Less: | | |
| Partial Payments | 1,040,000.00 | |
| Defects | 10,000.00 | |
| Add: | 5,109.72 | |
| Amount Payable to Contractor | | P492,944.13 |

(Sgd.) JANUARIO S.
BORILLO
Chairman

(Sgd.) FERDINAND
CACAS
Member

(Sgd.) ISABELO
ABING
Member [19]
(Emphasis Supplied)

On March 3, 2003, appellants filed a *Motion for the Conduct of a Re-assessment/Re-evaluation* [20] contending that the evaluation of the committee did not completely consider the value of the construction works actually done by the appellee *vis-a-vis* the cost of the agreed plan. Appellants were not also given ample opportunity to participate in the committee's evaluation and to relay the corrective measures they undertook on the building.

During the hearing of the motion on April 8, 2005, Engineer Borillo, the chairman of the three-member committee, testified that the committee determined the value of the construction based on the prior separate evaluations of Engineers Cacas and Abing, the two engineers nominated by appellee and appellants, respectively. Further, when the committee conducted the on-site inspection on January 22, 2003, appellant Adela Lacson was present.

In a Decision [21] dated May 17, 2005, the court *a quo* found that the renovation of appellants' two-storey house has already been fully completed and that they are already staying therein but have not fully paid appellee yet. The court *a quo* then adopted the findings of the committee that appellants are liable to appellee in the