

FIRST DIVISION

[G.R. No. 214864, March 22, 2017]

PHILIPPINE PORTS AUTHORITY (PPA), REPRESENTED BY OSCAR M. SEVILLA, GENERAL MANAGER, BENJAMIN B. CECILIO, ASSISTANT MANAGER FOR OPERATIONS, AND SISALI B. ARAP, PORT MANAGER, PETITIONER, VS. NASIPIT INTEGRATED ARRASTRE AND STEVEDORING SERVICES, INC. (NIASSI), REPRESENTED BY RAMON CALO, RESPONDENT.

DECISION

CAGUIOA, J:

This is a Petition for Review on *Certiorari*^[1] (Petition) filed under Rule 45 of the Rules of Court against the Amended Decision^[2] dated September 15, 2014 (Amended Decision) in CA-G.R. SP No. 04828-MIN rendered by the Court of Appeals, Cagayan de Oro City, Special Former Twenty-Second Division (CA). The Amended Decision stems from an Amended Petition for Mandamus with Prayer for the Writ of Preliminary Mandatory Injunction and/or Temporary Restraining Order^[3] filed before the Regional Trial Court of Butuan City (RTC) by respondent Nasipit Integrated Arrastre and Stevedoring Services, Inc. (NIASSI) against petitioner Philippine Ports Authority (PPA),^[4] which sought to compel the latter to formally execute the 10-year cargo-handling contract awarded in NIASSI's favor.

The Facts

PPA is a government agency created by virtue of Presidential Decree No. 505 (PD 505). Under PD 505, PPA is charged with the management and control of all ports in the Philippines.^[5] On the other hand, NIASSI is a duly organized Philippine corporation engaged in the business of cargo handling.^[6]

Sometime in November 2000, PPA, through its Pre-qualification, Bids and Awards Committee (PBAC) accepted bids for a 10-year contract to operate as the sole cargo handler at the port of Nasipit, Agusan del Norte (Nasipit Port).^[7] Subsequently, PBAC issued Resolution No. 005-2000^[8] recommending that the 10-year cargo-handling contract be awarded to NIASSI as the winning bidder.^[9]

On November 20, 2000, the second highest bidder, Concord Arrastre and Stevedoring Corporation (CASCOR) filed a protest with PPA's General Manager, Oscar M. Sevilla^[10] (Sevilla), alleging that two of NIASSI's stockholders on record are legislators who are constitutionally prohibited from having any direct or indirect financial interest in any contract with the government or any of its agencies during the term of their office.^[11]

Notwithstanding the protest, PPA issued a Notice of Award in favor of NIASI on December 21, 2000.^[12] The Notice of Award directed NIASI to signify its concurrence thereto by signing the *conforme* portion and returning the same to PPA within 10 days from receipt.^[13] PPA received notice of NIASI's conformity to the Notice of Award on January 3, 2001.^[14]

However, instead of formally executing a written contract, NIASI requested PPA to issue a Hold-Over Authority (HOA) in its favor, in view of CASCOR's pending protest. PPA granted NIASI's request and issued a HOA dated August 1, 2001, effective until October 31, 2001, "or until [such time] a cargo[-]handling contract shall have been awarded, whichever comes first."^[15]

Meanwhile, the Office of the Government Corporate Counsel (OGCC) issued Opinion No. 028, series of 2002 on February 7, 2002 (OGCC Opinion) which confirmed the authority of PPA to bid out the cargo-handling contract and affirmed the validity of the award in NIASI's favor.^[16] Despite this, the HOA was subsequently extended several times upon NIASI's request. While the exact number of extensions and their particulars cannot be ascertained from the records, the last extension of the HOA appears to have been issued on October 13, 2004, for a term of six months.^[17]

However, barely two months after the last extension of the HOA, PPA, through its Assistant General Manager for Operations, Benjamin B. Cecilio (Cecilio), issued a letter dated December 6, 2004 revoking the extension.^[18] In said letter, Cecilio advised NIASI that PPA received numerous complaints regarding the poor quality of its services due to the use of inadequately maintained equipment. Cecilio further relayed that PPA would take over the cargo-handling services at the Nasipit Port beginning December 10, 2004.^[19]

Proceedings before the RTC

On the scheduled date of the take-over, NIASI filed with the RTC a Petition for Injunction with Prayer for the Writ of Preliminary Injunction and/or Temporary Restraining Order. The petition was later amended to a Petition for Mandamus with Prayer for the Writ of Preliminary Mandatory Injunction and/or Temporary Restraining Order on December 22, 2004. (Amended Petition).^[20]

The Amended Petition prayed for the issuance of a writ of mandamus directing PPA to formally execute a written contract, and a writ of preliminary mandatory injunction directing PPA to turn over the management and operations of Nasipit Port's cargo-handling services back to NIASI.^[21]

On March 18, 2005, the RTC issued a resolution granting NIASI's prayer for a writ of preliminary mandatory injunction, conditioned upon the posting of a P1,000,000.00 surety bond.^[22] The pertinent portion of the said resolution reads:

It is undeniable that petitioner spent a considerable capital outlay, in the form of equipment, machineries and appliances in the establishment of its port operation. Moreover, it has also supplied the necessary manpower to wheel its operation.

When the PPA took an active part in the management, control and supervision of the port operations, it practically utilized all the available resources supplied by the petitioner.

What actually happened was that PPA made only adjustment/correction in the port operation to improve the delivery of basic services. No additional capital outlay was spent.

In summation, this Court recognizes and declares that petitioner's right to continue the cargo handling operations should be protected. It cannot be denied that the continued operation by respondents will probably work injustice to the petitioner, causing irreparable damage to the latter. The better ends of justice [will] be served if the state of affairs [will] be maintained prior to respondent's actual takeover, until finally the main action is disposed.^[23]

After NIASI posted the required surety bond, the RTC issued the writ of preliminary mandatory injunction on March 28, 2005.^[24] PPA filed a Motion for Reconsideration on even date, followed by a Supplemental Motion on March 30, 2005. The Supplemental Motion alleged that the writ of preliminary mandatory injunction should be quashed since its corresponding surety bond designated NIASI's President Ramon Calo as principal, instead of NIASI itself.^[25]

Subsequently, PPA filed a Manifestation expressing its willingness to file a counter-bond in the event that its Motion for Reconsideration is granted.^[26] Thereafter, NIASI filed an Opposition/Reply to PPA's Motion for Reconsideration.^[27]

On April 11, 2005, the RTC issued an order (April 2005 RTC Order) granting PPA's Motion for Reconsideration. The April 2005 RTC Order immediately dissolved the writ of preliminary mandatory injunction and directed NIASI to surrender the management and control of Nasipit Port's cargo-handling operations to PPA.^[28]

Prompted by the April 2005 RTC Order, NIASI filed a Petition for *Certiorari* before the CA (CA petition), docketed as CA-G.R. SP No. 00214.^[29] The CA petition assailed the immediately executory nature of the April 2005 RTC Order and questioned the dissolution of the writ of preliminary injunction without prior hearing. In addition, the CA petition alleged that the April 2005 RTC Order reversed the RTC's previous order despite the absence of new matters or issues raised.^[30] The CA petition thus prayed for the reversal of the April 2005 RTC Order, and ultimately, the reinstatement of the writ of preliminary injunction.^[31]

For its part, PPA argued, among others, that NIASI was not entitled to the issuance of the injunctive writ because it had no legal right to continue providing cargo-handling services at Nasipit Port, considering that PPA has no existing cargo-handling contract with NIASI.^[32]

In a Decision^[33] dated August 8, 2006, the CA granted the petition observing that Presiding Judge Godofredo B. Abul, Jr. (Judge Abul) of the RTC committed several procedural errors when he issued the April 2005 RTC Order. According to the CA, Judge Abul did not conduct a hearing on PPA's Motion for Reconsideration nor did he direct PPA to file a counter-bond before quashing the writ of preliminary mandatory injunction, in violation of Section 6, Rule 58 of the Rules of Court.^[34] The CA

concluded that these lapses, taken together with Judge Abul's sudden and inexplicable change of mind, gave rise to suspicions that the issuance of the April 2005 RTC Order was tainted with irregularity and grave abuse of discretion.^[35] Thus, the CA directed the reinstatement of the writ of preliminary mandatory injunction.^[36] This decision was later affirmed by this Court in the case of *Philippine Ports Authority v. Nasipit Integrated Arrastre and Stevedoring Services, Inc.* ^[37]

Notably, in the process of resolving NIASSI's CA petition, it became necessary for the CA to determine whether NIASSI had any legal right to continue its operations at Nasipit Port. In this connection, the CA found that a perfected contract between NIASSI and PPA in respect of the cargo handling operations in fact existed, *albeit* unwritten.^[38] The CA held:

Under Article 1318 of the Civil Code, there can be no contract unless the following requisites concur: (a) consent of the contracting parties; (b) object certain which is the subject matter of the contract; and (c) cause of the obligation which is established.

Under Article 1315 of the same Code, contracts are perfected by mere consent, upon the acceptance by the offeree of the offer made by the offeror. From that moment, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.

In the case at bar, there is no dispute as to the subject matter of the contract and the cause of the obligation. The controversy lies in the consent - whether the Notice of Award constitutes as a counter-offer and, as a consequence, did not give rise to a perfected contract.

A perusal of the records shows that PPA conducted a public bidding for a ten-year contract to operate as sole cargo handler at Nasipit Port, and among the bidders, only two (2) pre-qualified, one of which is the petitioner. In its Resolution No. 005-2000, the Pre-qualification, Bids and Awards Committee (PBAC) declared the petitioner as the winning bidder, and, consequently, a Notice of Award was given to the latter. x x x

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Since respondent PPA started the process of entering into the contract by conducting a bidding, Article 1326 of the Civil Code shall apply, to wit:

Advertisements to bidders are simply invitations to make proposals, and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears.

Accordingly, the rules and regulations issued by the PPA for the public bidding constituted the advertisement to bid on the contract, while the bid proposals submitted by the bidders constituted the offer. The reply of respondent PPA shows its acceptance or rejection of the respective offers.

x x x PPA categorically awarded the contract to the petitioner in accordance with the terms and conditions of the latter's bid proposal. This is the acceptance of petitioner's offer as contemplated by the law. A

thorough reading of the required documents clearly shows that they had no material or significant bearing to the perfection of the contract. These were mere formal requirements that will not affect the award of the contract to the petitioner. If at all, the need to submit the documents in question pertains to the issuance of the written evidence of the contract.

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Verily, the Holdover Authority (HOA) granted by the private respondent and the series of extensions allowing the petitioner to operate provisionally the arrastre service confirm the perfection of their contract despite the delay in its consummation due to acts attributable to the private respondents. But it cannot be gainsaid that the series of extensions constitute partial fulfillment and execution of the contract of cargo handling services.

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It is therefore Our submission that a perfected contract of cargo handling services existed when the petitioner won the bidding, given the Notice of Award and conformed (sic) to the conditions set forth in the Notice of Award because the requirements prescribed in the Notice of Award have no bearing on the perfection of the contract. On the contrary, it amounted to a qualified acceptance of petitioner's offer, a clear legal right to continue its operations in the port. Since the respondent is bound by the contract, the act of taking over the cargo handling service from the petitioner is violative of its right.^[39] (Emphasis supplied)

In view of the foregoing CA decision, and this Court's decision in G.R. No. 174136 affirming the same, the RTC directed the parties to submit their simultaneous memoranda on the issue of whether the Amended Petition had been rendered moot and academic.^[40] On the basis of such memoranda, Judge Abul issued a Resolution^[41] dated June 1, 2011 (June 2011 RTC Resolution) dismissing the Amended Petition for being moot and academic. The June 2011 RTC Resolution observed that since the CA had already made a definitive ruling that a contract had been perfected between the parties, the RTC had "nothing left to do" in respect of the Amended Petition.^[42]

However, on NIASI's Motion for Reconsideration, the RTC issued a Resolution^[43] dated September 20, 2011 (September 2011 RTC Resolution) reversing the June 2011 RTC Resolution. The dispositive portion of the September 2011 RTC Resolution reads:

WHEREFORE, premises considered, the Motion for Reconsideration is granted.

The defendant is hereby ordered to execute a formal ten (10) years contract in favor of the plaintiff, upon the finality of this order. The writ of preliminary injunction issued by the Court dated August 8, 2006, will be considered dissolved upon perfection of the formal arrastre service contract.