

FIRST DIVISION

[G.R. No. 213229, December 09, 2015]

FILINVEST ALABANG, INC., PETITIONER, VS. CENTURY IRON WORKS, INC., RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated December 27, 2013 and the Resolution^[3] dated June 25, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 97025, which affirmed with modification the Decision^[4] dated August 3, 2010 of the Regional Trial Court of Pasig City (assigned in the City of San Juan), Branch 264 (RTC) in Civil Case No. 68850 and, accordingly, ordered petitioner Filinvest Alabang, Inc. (petitioner) to pay respondent Century Iron Works, Inc. (respondent) the aggregate amount of P1,392,088.68, plus legal interest at the rate of twelve percent (12%) per annum from the time of default until full payment thereof.

The Facts

Sometime in 1997 and 1998, petitioner awarded various contracts to respondent, including a contract for the completion of the metal works requirement of Filinvest Festival Supermall amounting to P29,000,000.00, as evidenced by the Agreement for Construction^[5] executed by both parties (subject contract), as well as the General Conditions of Contract^[6] (General Conditions) which supplements the subject contract. After the completion of said project, respondent tried to fully settle its credit with petitioner, but the latter, despite demands, allegedly withheld without any reasonable ground the payment of the aggregate amount of P1,392,088.68, broken down as follows: (a) balance of the retention fee amounting to P40,880.00; (b) additional deduction of P227,500.00 from the latter's total payments; and (c) the cost of an additional scenic elevator enclosure amounting to P1,123,708.68. This prompted respondent to file the instant case for sum of money with damages against petitioner before the RTC, docketed as Civil Case No. 68850.^[7]

In defense, petitioner maintained that: (a) it had the right to retain the amounts of P40,880.00 and P227,500.00 as they represented damages arising from respondent's substandard workmanship; and (b) the subject contract is lump sum in nature, hence, it cannot be liable for the amount representing the additional scenic elevator enclosure absent any instruction authorizing the construction of the same.^[8]

The RTC Ruling

In a Decision^[9] dated August 3, 2010, the RTC granted respondent's claim for the

amount of P227,500.00 plus legal interest, but denied the rest of the latter's claims.
[10]

The RTC found that petitioner is already estopped from claiming damages purportedly arising from respondent's substandard workmanship, considering its issuance of a Certificate of Completion and Acceptance^[11] signifying its acceptance of respondent's work as up to par. As such, petitioner must remit the amount of P227,500.00 to respondent.^[12] However, the RTC held that since the subject contract is lump sum in nature, petitioner cannot be held liable for the cost of the additional scenic elevator enclosure amounting to P1,123,708.68 as its liability is already fixed at the lump sum contract price of P29,000,000.00.^[13]

Aggrieved, respondent appealed^[14] to the CA.

The CA Ruling

In a Decision^[15] dated December 27, 2013, the CA affirmed the RTC ruling with modification, ordering petitioner to pay respondent the amounts of P40,880.00 and P1,123,708.68 as well, both with legal interest at the rate of twelve percent (12%) per annum from the time of default until full payment.^[16]

The CA agreed with the RTC that petitioner is estopped from asserting respondent's poor workmanship in view of its issuance of a Certificate of Completion and Acceptance. As such, petitioner must pay not only the amount of P227,500.00 initially ordered by the RTC, but also the amount of P40,880.00 withheld by petitioner on account of respondent's purported defective works, which was overlooked by the RTC in its ruling.^[17]

However, contrary to the RTC's finding, the CA held that the subject contract is not fixed lump sum in nature and, thus, petitioner's liability over the subject contract cannot be limited to P29,000,000.00 as stipulated. Hence, the parties may stipulate on additional works beyond what was specified in the subject contract, as in this case where they agreed on the installation of an additional scenic elevator enclosure which cost P1,123,708.68. In this light, respondent must be paid the cost for the additional elevator; otherwise, it will constitute unjust enrichment on the part of petitioner.^[18]

Dissatisfied, petitioner moved for reconsideration,^[19] which was, however, denied in a Resolution^[20] dated June 25, 2014; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly ordered petitioner to pay the following amounts to respondent: (a) balance of the retention fee amounting to P40,880.00; (b) additional deduction of P227,500.00 due to purported substandard work of the latter; and (c) the cost of an additional scenic elevator enclosure amounting to P1,123,708.68.

The Court's Ruling

The petition is denied.

At the outset, it must be stressed that a petition for review under Rule 45 of the Rules of Court covers only questions of law. Questions of fact are not reviewable,^[21] absent any of the exceptions recognized by case law.^[22] This rule is rooted on the doctrine that findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored.^[23] Hence, absent any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts, especially when affirmed by the CA, are binding and conclusive upon this Court.^[24]

In the instant case, both the RTC and the CA found that petitioner had issued to respondent a Certificate of Completion and Acceptance^[25] signifying that it had already accepted respondent's work as up to par. As correctly pointed out by the RTC and the CA, this factual finding already estops petitioner from withholding the amounts due to respondent's purported substandard workmanship. It is settled that "[w]henver a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it,"^[26] as in this case. Therefore, it is but proper that petitioner remit to respondent the amounts of P40,880.00 and P227,500.00 it withheld from the latter.

On the other hand, anent the issue of whether or not petitioner is liable to respondent in the amount of P1,123,708.68 representing the cost of an additional scenic elevator enclosure, the RTC and the CA had different factual findings which then led to different conclusions. As already adverted to, the RTC found the subject contract to be fixed lump sum in nature and, thus, adjudged petitioner liable only for the amount of P29,000,000.00; on the other hand, the CA held otherwise, resulting in its ruling that petitioner should be held liable for the cost of the additional scenic elevator enclosure. In view of the conflicting factual findings of the RTC and the CA on this matter, the Court is constrained to make its own determination as to whether or not the subject contract is fixed lump sum in nature, and thereafter, resolve if petitioner is indeed liable for the amount of P1,123,708.68.^[27]

Fixed lump sum contracts are governed by Article 1724 of the Civil Code, which reads:

Art. 1724. The contractor who undertakes to build a structure or any other work for a stipulated price, in conformity with plans and specifications agreed upon with the landowner, can neither withdraw from the contract nor demand an increase in the price on account of the higher cost of labor or materials, save when there has been a change in the plans and specifications, provided:

- (1) Such change has been authorized by the proprietor in writing; and
- (2) The additional price to be paid to the contractor has been determined in writing by both parties.

In a fixed lump sum contract, the project owner agrees to pay the contractor a specified amount for completing a scope of work involving a variety of unspecified items of work without requiring a cost breakdown. The contractor estimates the project cost based on the scope of work and schedule and considers probable errors in measurement and changes in the price of materials.^[28] Otherwise stated, in fixed lump sum contracts, the project owner's liability to the contractor is **generally** limited to what is stipulated therein.

However, it must be clarified that Article 1724 of the Civil Code does not preclude the parties from stipulating on additional works to the project covered by said fixed lump sum contract which would entail added liabilities on the part of the project owner. In fact, the said provision allows contractors to recover from project owners additional costs in fixed lump sum contracts, as well as the increase in price for any additional work due to a subsequent change in the original plans and specifications, provided that there exists: (a) a written authority from the developer or project owner ordering or allowing the written changes in work; **and** (b) written agreement of the parties with regard to the increase in price or cost due to the change in work or design modification. Jurisprudence instructs that compliance with these two (2) requisites is a **condition precedent** for recovery and hence, the absence of one or the other condition bars the claim for additional costs. Notably, neither the authority for the changes made nor the additional price to be paid therefor may be proved by any evidence other than the written authority and agreement as above-mentioned.^[29]

In the instant case, pertinent portions of the subject contract read:

ARTICLE I - SCOPE OF WORK

1.1 The CONTRACTOR shall furnish **all materials, labor, equipment, supervision and all other accessories, fixings and incidentals necessary to complete the Supply and Installation of Metal Works Requirements** (referred to either as the "Contract Works" or the "Works") and hand-over the works to Filinvest in accordance with the Approved Plans, Technical Specifications, General Conditions of Contract and other Bid Documents all included in the Notice of Award dated 30 April 1997 (Annex A hereof) inclusive of all its attachments and Annexes all of which are made integral parts of this Agreement by reference.

ARTICLE II - CONTRACT PRICE

2.1 **For and in consideration of the services to be rendered by the CONTRACTOR as herein above specified, FILINVEST shall pay the CONTRACTOR the Lump Sum Contract Price of PESOS: TWENTY NINE MILLION AND 00/100 (P29,000,000.00),** inclusive of Value Added Tax (VAT), in the manner set forth under Article III hereof (the "Manner of Payment").

x x x x^[30] (Emphases and underscoring supplied)