

## SECOND DIVISION

[ G.R. No. 163582, August 09, 2010 ]

**WILLIAM GOLANGCO CONSTRUCTION CORPORATION,  
PETITIONER, VS. RAY BURTON DEVELOPMENT CORPORATION,  
RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated December 19, 2003, holding that the Construction Industry Arbitration Commission (CIAC) had no jurisdiction over the dispute between herein parties, and the CA Resolution<sup>[2]</sup> dated May 24, 2004, denying herein petitioner's motion for reconsideration, be reversed and set aside.

The undisputed facts, as accurately narrated in the CA Decision, are as follows.

On July 20, 1995, petitioner Ray Burton Development Corporation [herein respondent] (RBDC for brevity) and private respondent William Golangco Construction Corporation [herein petitioner] (WGCC) entered into a Contract for the construction of the Elizabeth Place (Office/Residential Condominium).

On March 18, 2002, private respondent WGCC filed a complaint with a request for arbitration with the Construction Industry Arbitration Commission (hereinafter referred to as CIAC). In its complaint, private respondent prayed that CIAC render judgment ordering petitioner to pay private respondent the amount of, to wit:

1. P24,703,132.44 for the unpaid balance on the contract price;
2. P10,602,670.25 for the unpaid balance on the labor cost adjustment;
3. P9,264,503.70 for the unpaid balance of additive works;
4. P2,865,615.10 for extended overhead expenses;
5. P1,395,364.01 for materials cost adjustment and trade contractors' utilities expenses;
6. P4,835,933.95 for interest charges on unpaid overdue billings on labor cost adjustment and change orders.

or for a total of Fifty Three Million Six Hundred Sixty-Seven Thousand Two Hundred Nineteen and 45/xx (P53,667,219.45) and interest charges based on the prevailing bank rates on the foregoing amount from March 1, 2002 and until such time as the same shall be fully paid.

On April 12, 2002, petitioner RBDC filed a Motion to Dismiss the aforesaid complaint on the ground of lack of jurisdiction. It is petitioner's contention that the CIAC acquires jurisdiction over disputes arising from or connected with construction contracts only when the parties to the contract agree to submit the same to voluntary arbitration. In the contract between petitioner and private respondent, petitioner claimed that only disputes by reason of differences in interpretation of the contract documents shall be deemed subject to arbitration.

Private respondent filed a Comment and Opposition to the aforesaid Motion dated April 15, 2002. Private respondent averred that the claims set forth in the complaint require contract interpretation and are thus cognizable by the CIAC pursuant to the arbitration clause in the construction contract between the parties. Moreover, even assuming that the claims do not involve differing contract interpretation, they are still cognizable by the CIAC as the arbitration clause mandates their direct filing therewith.

On May 6, 2002, the CIAC rendered an Order the pertinent portion of which reads as follows:

The Commission has taken note of the foregoing arguments of the parties. After due deliberations, the Commission resolved to DENY Respondent's motion on the following grounds:

[1] Clause 17.2 of Art. XVII of the Contract Agreement explicitly provides that "any dispute" arising under the construction contract shall be submitted to "the Construction Arbitration Authority created by the Government." Even without this provision, the bare agreement to submit a construction dispute to arbitration vests in the Commission original and exclusive jurisdiction by virtue of Sec. 4 of Executive Order No. 1008, whether or not a dispute involves a collection of sum of money or contract interpretation as long as the same arises from, or in connection with, contracts entered into by the parties involved. The Supreme Court jurisprudence on *Tesco vs. Vera* case referred to by respondent is no longer controlling as the same was based on the old provision of Article III, Sec. 1 of the CIAC Rules which has long been amended.

[2] The issue raised by Respondent in its Motion to Dismiss is similar to the issue set forth in CA-G.R. Sp. No. 67367, *Continental Cement Corporation vs. CIAC and EEI Corporation*, where the appellate court upheld the ruling of the CIAC thereon that since the parties agreed to submit to arbitration any dispute, the same does not exclude disputes relating to claims for payment in as much as the said dispute originates from execution of the works. As such, the subject dispute falls within the original and exclusive jurisdiction of the CIAC.

**WHEREFORE**, in view of the foregoing, Respondent's Motion to Dismiss is **DENIED** for lack of merit. Respondent is given anew an inextendible period of ten (10) days from receipt hereof within which to file its Answer and nominees for the Arbitral Tribunal. If Respondent shall fail to comply within the prescribed period, the Commission shall proceed with arbitration in accordance with its Rules. x x x

Thereafter, petitioner filed a Motion to Suspend Proceedings praying that the CIAC order a suspension of the proceedings in Case No. 13-2002 until the resolution of the negotiations between the parties, and consequently, that the period to file an Answer be held in abeyance.

Private respondent filed an Opposition to the aforesaid Motion and a Counter-Motion to Declare respondent to Have Refused to Arbitrate and to Proceed with Arbitration *Ex Parte*.

On May 24, 2002 the CIAC issued an Order, the pertinent portion of which reads:

In view of the foregoing, Respondent's (petitioner's) Motion to Suspend Proceedings is **DENIED**. Accordingly, respondent is hereby given a non-extendible period of five (5) days from receipt thereof within which to submit its Answer and nominees for the Arbitral Tribunal. In default thereof, claimant's (private respondent's) Counter-Motion is deemed granted and arbitration shall proceed in accordance with the CIAC Rules Governing Construction Arbitration.

SO ORDERED. x x x

On June 3, 2002, petitioner RBDC filed [with the Court of Appeals (CA)] a petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction. Petitioner contended that CIAC acted without or in excess of its jurisdiction when it issued the questioned order despite the clear showing that there is lack of jurisdiction on the issue submitted by private respondent for arbitration.<sup>[3]</sup>

On December 19, 2003, the CA rendered the assailed Decision granting the petition for *certiorari*, ruling that the CIAC had no jurisdiction over the subject matter of the case because the parties agreed that only disputes regarding differences in interpretation of the contract documents shall be submitted for arbitration, while the allegations in the complaint make out a case for collection of sum of money. Petitioner moved for reconsideration of said ruling, but the same was denied in a Resolution dated May 24, 2004.

Hence, this petition where it is alleged that:

I.

THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN FAILING TO DISMISS PRIVATE RESPONDENT RBDC'S PETITION IN CA-G.R. SP NO. 70959 OUTRIGHT IN VIEW OF RBDC'S FAILURE TO FILE A MOTION FOR RECONSIDERATION OF THE CIAC'S ORDER, AS WELL AS FOR RBDC'S FAILURE TO ATTACH TO THE PETITION THE RELEVANT PLEADINGS IN CIAC CASE NO. 13-2002, IN VIOLATION OF THE REQUIREMENT UNDER RULE 65, SECTIONS 1 AND 2, PARAGRAPH 2 THEREOF, AND RULE 46, SECTION 3, PARAGRAPH 2 THEREOF.

II.

THE COURT OF APPEALS ERRED GRAVELY IN NOT RULING THAT THE CIAC HAS JURISDICTION OVER WGCC'S CLAIMS, WHICH ARE IN THE NATURE OF ARBITRABLE DISPUTES COVERED BY CLAUSE 17.1 OF ARTICLE XVII INVOLVING CONTRACT INTERPRETATION.

x x x x

III.

THE COURT OF APPEALS ERRED GRAVELY IN FAILING TO DISCERN THAT CLAUSE 17.2 OF ARTICLE XVII CANNOT BE TREATED AS BEING "LIMITED TO DISPUTES ARISING FROM INTERPRETATION OF THE CONTRACT."

x x x x

IV.

THE COURT OF APPEALS ERRED GRAVELY IN NOT RULING THAT RBDC IS ESTOPPED FROM DISPUTING THE JURISDICTION OF THE CIAC.

x x x x

V.

FINALLY, THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REFUSING TO PAY HEED TO THE DECLARATION IN EXECUTIVE ORDER NO. 1008 THAT THE POLICY OF THE STATE IS IN FAVOR OF ARBITRATION OF CONSTRUCTION DISPUTES, WHICH POLICY HAS BEEN REINFORCED FURTHER BY THE RECENT PASSAGE OF THE "ALTERNATIVE DISPUTE RESOLUTION ACT OF 2004"(R.A. NO. 9285).<sup>[4]</sup>

The petition is meritorious.

The aforementioned issues boil down to (1) whether the CA acted with grave abuse

of discretion in failing to dismiss the petition for *certiorari* filed by herein respondent, in view of the latter's failure to file a motion for reconsideration of the assailed CIAC Order and for failure to attach to the petition the relevant pleadings in CIAC Case No. 13-2002; and (2) whether the CA gravely erred in not upholding the jurisdiction of the CIAC over the subject complaint.

Petitioner is correct that it was grave error for the CA to have given due course to respondent's petition for *certiorari* despite its failure to attach copies of relevant pleadings in CIAC Case No. 13-2002. In *Tagle v. Equitable PCI Bank*,<sup>[5]</sup> the party filing the petition for *certiorari* before the CA failed to attach the *Motion to Stop Writ of Possession* and the Order denying the same. On the ground of non-compliance with the rules, the CA dismissed said petition for *certiorari*. When the case was elevated to this Court *via* a petition for *certiorari*, the same was likewise dismissed. In said case, the Court emphasized the importance of complying with the formal requirements for filing a petition for *certiorari* and held as follows:

x x x Sec. 1, Rule 65, in relation to Sec. 3, Rule 46, of the Revised Rules of Court. Sec. 1 of Rule 65 reads:

SECTION 1. *Petition for certiorari.* - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of [its or his] jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

*The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (Emphasis supplied.)*

And Sec. 3 of Rule 46 provides:

SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if