

THIRD DIVISION

[G.R. No. 180765, February 27, 2009]

**FORT BONIFACIO DEVELOPMENT CORPORATION, PETITIONER,
VS. MANUEL N. DOMINGO, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, filed by petitioner Fort Bonifacio Development Corporation, seeking to reverse and set aside the Decision dated 19 July 2007^[1] and the Resolution dated 10 December 2007^[2] of the Court of Appeals in CA-G.R. SP No. 97731. The appellate court, in its assailed Decision, affirmed the Order^[3] of the Regional Trial Court (RTC) of Pasay City, Branch 109, in Civil Case No. 06-2000-CFM, denying the Motion to Dismiss of petitioner; and in its assailed Resolution, refused to reconsider its decision.

Petitioner, a domestic corporation duly organized under Philippine laws, is engaged in the real estate development business. Respondent is the assignee of L and M Maxco Specialist Engineering Construction (LMM Construction) of its receivables from petitioner.

On 5 July 2000, petitioner entered into a Trade Contract with LMM Construction for partial structural and architectural works on one of its projects, the Bonifacio Ridge Condominium. According to the said Contract, petitioner had the right to withhold the retention money equivalent to 5% of the contract price for a period of one year after the completion of the project. Retention money is a portion of the contract price, set aside by the project owner, from all approved billings and retained for a certain period to guarantee the performance by the contractor of all corrective works during the defect-liability period.^[4]

Due to the defect and delay in the work of LMM Construction on the condominium project, petitioner unilaterally terminated the Trade Contract^[5] and hired another contractor to finish the rest of the work left undone by LMM Construction. Despite the pre-termination of the Trade Contract, petitioner was liable to pay LMM Construction a fraction of the contract price in proportion to the works already performed by the latter.^[6]

On 30 July 2004, petitioner received the first Notice of Garnishment against the receivables of LMM Construction issued by the Construction Industry Arbitration Commission (CIAC) in connection with CIAC Case No. 11-2002 filed by Asia-Con Builders against LMM Construction, wherein LMM Construction was adjudged liable to Asia-Con Builders for the amount of P5,990,927.77.

On 30 April 2005, petitioner received a letter dated 18 April 2005 from respondent inquiring on the retention money supposedly due to LMM Construction and informing petitioner that a portion of the amount receivable by LMM Construction therefrom was already assigned to him as evidenced by the Deed of Assignment executed by LMM Construction in respondent's favor on 28 February 2005. LMM Construction assigned its receivables from petitioner to respondent to settle the alleged unpaid obligation of LMM Construction to respondent amounting to P804,068.21.

Through its letter dated 11 October 2005, addressed to respondent, petitioner acknowledged that LMM Construction did have receivables still with petitioner, consisting of the retention money; but petitioner also advised respondent that the retention money was not yet due and demandable and may be ascertained only after the completion of the corrective works undertaken by the new contractor on the condominium project. Petitioner also notified respondent that part of the receivables was also being garnished by the other creditors of LMM Construction.

Unsatisfied with the reply of petitioner, respondent sent another letter dated 14 October 2005 asserting his ownership over a portion of the retention money assigned to him and maintaining that the amount thereof pertaining to him can no longer be garnished to satisfy the obligations of LMM Construction to other persons since it already ceased to be the property of LMM Construction by virtue of the Deed of Assignment. Attached to respondent's letter was the endorsement of LMM Construction dated 17 January 2005 approving respondent's claim upon petitioner in the amount of P804,068.21 chargeable against the retention money that may be received by LMM Construction from the petitioner.

Before respondent's claim could be fully addressed, petitioner, on 6 June 2005, received the second Notice of Garnishment against the receivables of LMM Construction, this time, issued by the National Labor Relations Commission (NLRC) to satisfy the liability of LMM Construction to Nicolas Consigna in NLRC Case No. 00-07-05483-2003.

On 13 July 2005, petitioner received an Order of Delivery of Money issued by the Office of the Clerk of Court and Ex-Officio Sheriff enforcing the first Notice of Garnishment and directing petitioner to deliver to Asia-Con Builders, through the Sheriff, the amount of P5,990,227.77 belonging to LMM Construction. In compliance with the said Order, petitioner was able to deliver to Asia-Con Builders on 22 July 2005 and on 11 August 2005 partial payments amounting to P1,170,601.81, covered by the appropriate Acknowledgement Receipts.

A third Notice of Garnishment against the receivables of LMM Construction, already accompanied by an Order of Delivery of Money, both issued by the RTC of Makati, Branch 133, was served upon petitioner on 26 January 2006. The Order enjoined petitioner to deliver the amount of P558,448.27 to the Sheriff to answer for the favorable judgment obtained by Concrete Masters, Inc. (Concrete Masters) against LMM Construction in Civil Case No. 05-164.

Petitioner, in a letter dated **31 January 2006**, categorically denied respondent's claim on the retention money, reasoning that after the completion of the rectification works on the condominium project and satisfaction of the various garnishment orders, there was no more left of the retention money of LMM Construction.

It would appear, however, that petitioner fully satisfied the first Notice of Garnishment in the amount of P5,110,833.44 only on **31 January 2006**,^[7] the very the same date that it expressly denied respondent's claim. Also, petitioner complied with the Notice of Garnishment and its accompanying Order of Delivery of Money in the amount of P558,448.27 on **8 February 2006**, a week after its denial of respondent's claim.^[8]

The foregoing events prompted respondent to file a Complaint for collection of sum of money, against both LMM Construction and petitioner, docketed as Civil Case No. 06-0200-CFM before the RTC of Pasay City, Branch 109.

Instead of filing an Answer, petitioner filed a Motion to Dismiss Civil Case No. 06-0200-CFM on the ground of lack of jurisdiction over the subject matter. Petitioner argued that since respondent merely stepped into the shoes of LMM Construction as its assignor, it was the CIAC and not the regular courts that had jurisdiction over the dispute as provided in the Trade Contract.

On 6 June 2006, the RTC issued an Order denying the Motion to Dismiss of petitioner, ruling that a full-blown trial was necessary to determine which one between LMM Construction and petitioner should be made accountable for the sum due to respondent.

Petitioner sought remedy from the Court of Appeals by filing a Petition for *Certiorari*, docketed as CA-G.R. SP No. 97731, challenging the RTC Order dated 6 June 2006 for having been rendered by the trial court with grave abuse of discretion.

In its Decision promulgated on 19 July 2007, the Court of Appeals dismissed the Petition for *Certiorari* and affirmed the 6 June 2006 Order of the RTC denying the Motion to Dismiss of petitioner. The appellate court rejected the argument of petitioner that respondent, as the assignee of LMM Construction, was bound by the stipulation in the Trade Contract that disputes arising therefrom should be brought before the CIAC. The Court of Appeals declared that respondent was not privy, but a third party, to the Trade Contract; and money claims of third persons against the contractor, developer, or owner of the project are lodged in the regular courts and not in the CIAC.

Similarly ill-fated was petitioner's Motion for Reconsideration, which was denied by the Court of Appeals in its Resolution dated 10 December 2007.

Petitioner now comes to this Court *via* this instant Petition for Review on *Certiorari* praying for the reversal of the 19 July 2007 Decision of the Court of Appeals and 6 June 2006 Order of the RTC and, ultimately, for the dismissal of Civil Case No. 06-0200-CFM pending before the RTC.

For the resolution of this Court is the sole issue of:

WHETHER OR NOT THE RTC HAS JURISDICTION OVER CIVIL CASE NO. 06-0200-CFM.

The jurisdiction of CIAC is defined under Executive Order No. 1008 as follows: