

SECOND DIVISION

[G.R. No. 176709, May 08, 2009]

**FORT BONIFACIO DEVELOPMENT CORPORATION, PETITIONER,
VS. HON. EDWIN D. SORONGON AND VALENTIN FONG,
RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Petitioner Fort Bonifacio Development Corporation (petitioner), a corporation registered under Philippine laws, is engaged in the business of real estate development. Respondent, Valentin Fong (respondent) doing business under the name VF Industrial Sales is the assignee of L & M Maxco Specialist Construction's (Maxco) retention money from the Bonifacio Ridge Condominium Phase 1 (BRCP 1).

In this Petition for Review,^[1] petitioner assails the Decision^[2] of the Court of Appeals dated November 30, 2006 which ruled that it is the regional trial court and not the Construction Industry Arbitration Commission (CIAC) that has jurisdiction over respondent's claim.

The facts are as follows:

On July 2000, Petitioner entered into a trade contract with Maxco wherein Maxco would undertake the structural and partial architectural package of the BRCP 1. Later petitioner accused Maxco of delay in completion of its work and on August 24, 2004 sent the latter a notice of termination. Petitioner also instructed Maxco to perform remedial measures prior to the contract expiration pursuant to Clause 23.1 of the contract.

Subsequently, Maxco was sued by its creditors including respondent for debts unrelated to BRCP 1. In order to settle the collection suit, on February 28, 2005, Maxco assigned its receivables representing its retention money from the BRCP 1 in the amount of one million five hundred seventy seven thousand one hundred fifteen pesos and ninety centavos (P1,577,115.90). On April 18, 2005, respondent wrote to petitioner, informing the latter of Maxco's assignment in his favor and asking the latter to confirm the validity of Maxco's receivables.^[3] Petitioner replied, informing the respondent that Maxco did have receivables, however these were not due and demandable until January of next year, moreover the amount had to be ascertained and liquidated.

A subsequent exchange of correspondence failed to settle the matter. Specifically, on January 31, 2006,^[4] petitioner through counsel, wrote to respondent informing the latter that there is no more amount due to Maxco from petitioner after the rectification of defect as well as the satisfaction of notices of garnishment dated July 30, 2004^[5] and January 26, 2006.^[6] On February 13, 2006, respondent filed a

complaint for a sum of money against petitioner and Maxco in the Regional Trial Court of Mandaluyong City.^[7] Respondent claimed that there were sufficient residual amounts to pay the receivables of Maxco at the time he served notice of the assignment. The subsequent notices of garnishment should not adversely affect the receivables assigned to him. The retention money was over due in January 2006 and despite demand, petitioner did not pay the amount subject of the deed of assignment. Petitioner however, paid out the retention money to other garnishing creditors of Maxco to the detriment of respondent.

On March 16, 2006, instead of filing an Answer, petitioner filed a Motion to Dismiss on the ground of lack of jurisdiction over the subject matter.^[8] Petitioner argued that since respondent merely stepped into the shoes of Maxco as its assignee, it was the CIAC and not the regular courts that had jurisdiction over the dispute as provided in the Trade Contract. Judge Edwin Sorongon issued an Order dated June 27, 2006 denying the motion to dismiss.^[9] Petitioner moved for reconsideration but this was denied in an Order dated August 15, 2006.

On October 16, 2006, petitioner filed a petition for certiorari and prohibition with the Court of Appeals. On November 30, 2006, the Court of Appeals denied the petition for lack of merit. The dispositive portion reads:

WHEREFORE, premises considered, the present petition is hereby DENIED DUE COURSE and accordingly DISMISSED for lack of merit. The assailed Orders dated June 27, 2006 and August 15, 2006 of respondent Judge in Civil Case No. MC-06-2928 are hereby AFFIRMED.

With costs against the petitioner.

SO ORDERED.^[10]

The appellate court held that it was the trial court and not the Construction Industry Arbitration Commission (CIAC) that had jurisdiction over the claims of Valentin Fong. The claim could not be construed as related to the construction industry as it is for enforcement of Maxco's deed of assignment over its retention money.

Petitioner moved for reconsideration on December 22, 2006 but this was denied by the appellate court in a resolution dated February 29, 2006.

Hence, the present petition for review on certiorari. Petitioners sets forth four (4) errors committed by the appellate court namely: (1) the original and exclusive jurisdiction over respondent's complaint is vested with the CIAC; (2) Respondent's complaint failed to state a cause of action; (3) the claim of respondent has already been extinguished; and (4) the conditions precedent for the complaint have not been complied with.

The petition lacks merit.

In reference to the first error, Section 4 of Executive Order No. 1008, Series of 1985 (E.O. No. 1008) sets forth the jurisdiction of CIAC. To wit:

SECTION 4. *Jurisdiction.*--The CIAC shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts

entered into by parties involved in construction in the Philippines, whether the dispute arises before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts. For the Board to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration.

The jurisdiction of the CIAC may include but is not limited to violation of specifications for materials and workmanship; violation of the terms of agreement; interpretation and/or application of contractual provisions; maintenance and defects; payment default of employer or contractor and changes in contract cost.

Excluded from the coverage of this law are disputes arising from employer-employee relationships which shall continue to be covered by the Labor Code of the Philippines.

Jurisdiction is defined as the authority to try, hear and decide a case.^[11] Moreover, that jurisdiction of the court over the subject matter is determined by the allegations of the complaint without regard to whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein is a well entrenched principle.^[12] In this regard, the jurisdiction of the court does not depend upon the defenses pleaded in the answer or in the motion to dismiss, lest the question of jurisdiction would almost entirely depend upon the defendant.^[13]

An examination of the allegations in Fong's complaint reveals that his cause of action springs not from a violation of the provisions of the Trade Contract, but from the assignment of Maxco's retention money to him and failure of petitioner to turn over the retention money. The allegations in Fong's Complaint are clear and simple: (1) That Maxco had an outstanding obligation to respondent; (2) Maxco assigned to Fong its retention from petitioner in payment of the said obligation,; (3) Petitioner as early as April 18, 2005 was notified of the assignment; (4) Despite due notice of such assignment, petitioner still refused to deliver the amount assigned to respondent, giving preference, instead, to the 2 other creditors of Maxco; (5) At the time petitioner was notified of the assignment, there were only one other notice of garnishment and there were sufficient residual amounts to satisfy Fong's claim; and (6) uncertain over which one between Maxco and petitioner he may resort to for payment, respondent named them both as defendants in Civil Case No. 06-0200-CFM.

While it is true that respondent, as the assignee of the receivables of Maxco from petitioner under the Trade Contract, merely stepped into the shoes of Maxco. However, the right of Maxco to the retention money from petitioner under the trade contract is not even in dispute in Civil Case No. 06-0200-CFM. Respondent raises as an issue before the RTC is the petitioner's alleged unjustified preference to the claims of the other creditors of Maxco over the retention money.

Although the jurisdiction of the CIAC is not limited to the instances enumerated in Section 4 of E. O. No. 1008, Fong's claim is not even construction-related at all. This court has held that: "*Construction* is defined as referring to all on-site works on buildings or altering structures, from land clearance through completion including