

THIRD DIVISION

[G.R. NO. 163663, June 30, 2006]

GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMMITTEE AND THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, PETITIONERS, VS. JANCOM ENVIRONMENTAL CORPORATION AND JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY. LIMITED OF AUSTRALIA, RESPONDENTS.

DECISION

CARPIO MORALES, J.:

The present petition for review on certiorari challenges the Decision^[1] dated December 19, 2003 and Resolution^[2] dated May 11, 2004 of the Court of Appeals (CA)^[3] in CA-G.R. SP No. 78752 which denied the petition for certiorari filed by herein petitioners Greater Metropolitan Manila Solid Waste Management Committee (GMMSWMC) and the Metropolitan Manila Development Authority (MMDA) and their Motion for Reconsideration, respectively.

In 1994, Presidential Memorandum Order No. 202 was issued by then President Fidel V. Ramos creating an Executive Committee to oversee and develop waste-to-energy projects for the waste disposal sites in San Mateo, Rizal and Carmona, Cavite under the Build-Operate-Transfer (BOT) scheme.

Respondent Jancom International Development Projects Pty. Limited of Australia (Jancom International) was one of the bidders for the San Mateo Waste Disposal Site. It subsequently entered into a partnership with Asea Brown Boveri under the firm name JANCOM Environmental Corporation (JANCOM), its co-respondent.

On February 12, 1997, the above-said Executive Committee approved the recommendation of the Pre-qualification, Bids and Awards Committee to declare JANCOM as the sole complying bidder for the San Mateo Waste Disposal Site.

On December 19, 1997, a Contract for the BOT Implementation of the Solid Waste Management Project for the San Mateo, Rizal Waste Disposal Site^[4] (the contract) was entered into by the Republic of the Philippines, represented by the Presidential Task Force on Solid Waste Management through then Department of Environment and Natural Resources Secretary Victor Ramos, then Cabinet Office for Regional Development-National Capital Region Chairman Dionisio dela Serna, and then MMDA Chairman Prospero Oreta on one hand, and JANCOM represented by its Chief Executive Officer Jorge Mora Aisa and its Chairman Jay Alparslan, on the other.

On March 5, 1998, the contract was submitted for approval to President Ramos who subsequently endorsed it to then incoming President Joseph E. Estrada.

Owing to the clamor of the residents of Rizal, the Estrada administration ordered the

closure of the San Mateo landfill. Petitioner GMSWMC thereupon adopted a Resolution not to pursue the contract with JANCOM, citing as reasons therefor the passage of Republic Act 8749, otherwise known as the Clean Air Act of 1999, the non-availability of the San Mateo site, and costly tipping fees.^[5]

The Board of Directors of Jancom International thereafter adopted on January 4, 2000 a Resolution^[6] authorizing Atty. Manuel Molina to act as legal counsel for respondents and "determine and file such legal action as deemed necessary before the Philippine courts in any manner he may deem appropriate" against petitioners.

The Board of Directors of JANCOM also adopted a Resolution^[7] on February 7, 2000 granting Atty. Molina similar authorization to file legal action as may be necessary to protect its interest with respect to the contract.

On March 14, 2000, respondents filed a petition for certiorari^[8] with the Regional Trial Court (RTC) of Pasig City where it was docketed as Special Civil Action No. 1955, to declare the GMSWMC Resolution and the acts of the MMDA calling for bids for and authorizing the forging of a new contract for the Metro Manila waste management as illegal, unconstitutional and void and to enjoin petitioners from implementing the Resolution and making another award in lieu thereof.

By Decision^[9] of May 29, 2000, Branch 68 of the Pasig City RTC found in favor of respondents.^[10]

Petitioners thereupon assailed the RTC Decision via petition for certiorari^[11] with prayer for a temporary restraining order with the CA, docketed as CA-G.R. SP No. 59021.

By Decision^[12] of November 13, 2000, the CA denied the petition for lack of merit and affirmed *in toto* the May 29, 2000 RTC Decision. Petitioners' Motion for Reconsideration was denied, prompting them to file a petition for review before this Court, docketed as G.R. No. 147465.

By Decision^[13] of January 30, 2002 and Resolution^[14] of April 10, 2002, this Court affirmed the November 13, 2001 CA Decision and declared the contract valid and perfected, albeit ineffective and unimplementable pending approval by the President.

JANCOM and the MMDA later purportedly entered into negotiations to modify certain provisions of the contract which were embodied in a draft Amended Agreement^[15] dated June 2002. The draft Amended Agreement bore no signature of the parties.

Respondents, through Atty. Molina, subsequently filed before Branch 68 of the Pasig City RTC an Omnibus Motion^[16] dated July 29, 2002 praying that: (1) an alias writ of execution be issued prohibiting and enjoining petitioners and their representatives from calling for, accepting, evaluating, approving, awarding, negotiating or implementing all bids, awards and contracts involving other Metro Manila waste management projects intended to be pursued or which are already being pursued; (2) the MMDA, through its Chairman Bayani F. Fernando, be directed to immediately forward and recommend the approval of the Amended Agreement to

President Gloria Macapagal Arroyo; (3) Chairman Fernando be ordered to personally appear before the court and explain his acts and public pronouncements which are in direct violation and gross defiance of the final and executory May 29, 2000 RTC Decision; (4) the Executive Secretary and the Cabinet Secretaries of the departments-members of the National Solid Waste Management Commission be directed "to submit the contract within 30 days from notice to the President for signature and approval and if the latter chooses not to sign or approve the contract, the Executive Secretary be made to show cause therefor;" and (5) petitioners be directed to comply with and submit their written compliance with their obligations specifically directed under the provisions of Article 18, paragraphs 18.1, 18.1.1 (a), (b), (c) and (d) of the contract within 30 days from notice.^[17]

To the Omnibus Motion petitioners filed their Opposition^[18] which merited JANCOM's Reply^[19] filed on August 19, 2002.

On August 21, 2002, Atty. Simeon M. Magdamit, on behalf of Jancom International, filed before the RTC an Entry of Special Appearance and Manifestation with Motion to Reject the Pending Omnibus Motion^[20] alleging that: (1) the Omnibus Motion was never approved by Jancom International; (2) the Omnibus Motion was initiated by lawyers whose services had already been terminated, hence, were unauthorized to represent it; and (3) the agreed judicial venue for dispute resolution relative to the implementation of the contract is the International Court of Arbitration in the United Kingdom pursuant to Article 16.1^[21] of said contract.

In the meantime, on November 3, 2002, the MMDA forwarded the contract to the Office of the President for appropriate action,^[22] together with MMDA Resolution No. 02-18^[23] dated June 26, 2002, "Recommending to her Excellency the President of the Republic of the Philippines to Disapprove the Contract Entered Into by the Executive Committee of the Presidential Task Force on Waste Management with Jancom Environmental Corporation and for Other Purposes."

By Order^[24] of November 18, 2002, the RTC noted the above-stated Entry of Special Appearance of Atty. Magdamit for Jancom International and denied the Motion to Reject Pending Omnibus Motion for lack of merit. Jancom International filed on December 9, 2002 a Motion for Reconsideration^[25] which was denied for lack of merit by Order^[26] of January 8, 2003.

Petitioners and respondents then filed their Memoranda^[27] on May 23, 2003 and May 26, 2003, respectively.

By Order^[28] of June 11, 2003, the RTC granted respondents' Omnibus Motion in part. The dispositive portion of the Order reads, quoted *verbatim*:

WHEREFORE, in view of the foregoing, let an Alias Writ of Execution immediately issue and the Clerk of Court and Ex-Oficio Sheriff or any o[f] her Deputies is directed to implement the same within sixty (60) days from receipt thereof.

Thus, any and all such bids or contracts entered into by respondent MMDA with third parties covering the waste disposal and management

within the Metro Manila after August 14, 2000 are hereby declared NULL and VOID. Respondents are henceforth enjoined and prohibited, with a stern warning, from entering into any such contract with any third party whether directly or indirectly, in violation of the contractual rights of petitioner JANCOM under the BOT Contract Award, consistent with the Supreme Court's Decision of January 30, 2002.

Respondent MMDA is hereby directed to **SUBMIT** the Amended Agreement concluded by petitioners with the previous MMDA officials, or in its discretion if it finds [it] more advantageous to the government, to require petitioners to make adjustments in the Contract in accordance with existing environmental laws and other relevant concerns, and thereafter forward the Amended Agreement for signature and approval by the President of the Philippines. The concerned respondents are hereby further directed to comply fully and in good faith with its institutional obligations or undertakings as provided in Article 18 of the BOT Contract.

Let a copy of this Order be furnished the Office of the Clerk of Court and the Commission on Audit for its information and guidance.

SO ORDERED.^[29] (Emphasis in the original)

On June 23, 2003 the RTC issued an Alias Writ of Execution^[30] reading:

WHEREAS, on **May 29, 2000**, a **Decision** was rendered by this Court in the above-entitled case, the pertinent portions of which is [sic] hereunder quoted as follows:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of petitioners JANCOM ENVIRONMENTAL CORP and JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY., LIMITED OF AUSTRALIAS [sic], and against respondents GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMM., and HON. ROBERTO N. AVENTAJADO, in his capacity as Chairman of the said Committee, METRO MANILA DEVELOPMENT AUTHORITY and HON. JEJOMAR C. BINAY, in his capacity as Chairman of said Authority, declaring the Resolution of respondent Greater Metropolitan Manila Solid Waste Management Committee disregarding petitioners' BOT Award Contract and calling for bids for and authorizing a new contract for the Metro Manila waste management **ILLEGAL** an[d] **VOID**.

Moreover, respondents and their agents are hereby **PROHIBITED** and **ENJOINED** from implementing the aforesaid Resolution and disregarding petitioners' BOT Award Contract and from making another award in its place.

Let it be emphasized that this Court is not preventing or stopping the government from implementing infrastructure projects as it is aware of the proscription under PD 1818. On

the contrary, the Court is paving the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country.

SO ORDERED.

WHEREAS, on **August 7, 2000**, petitioners through counsel filed a "**Motion for Execution**" which the Court **GRANTED** in **its Order dated August 14, 2000**;

WHEREAS, as a consequence thereof, a **Writ of Execution** was issued on **August 14, 2000** and was duly served upon respondents as per **Sheriff's Return** dated **August 27, 2000**;

WHEREAS, ON **July 29, 2002**, petitioners through counsel filed an "**Omnibus Motion**," praying, among others, for the issuance of an Alias Writ of Execution which the Court **GRANTED** in its **Order** dated **June 11, 2003**, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, let an Alias Writ of Execution immediately issue and the Clerk of Court and Ex-Oficio Sheriff or any of her Deputies is directed to implement the same within sixty (60) days from receipt thereof.

Thus, any and all such bids or contracts entered into by respondent MMDA [with] third parties covering the waste disposal and management within the Metro Manila after August 14, 2000 are hereby declared **NULL** and **VOID**. Respondents are henceforth enjoined and prohibited, with a stern warning, from entering into any such contract with any third party whether directly or indirectly, in violation of the contractual rights of petitioner Jancom under the BOT Contract Award, consistent with the Supreme Court's Decision of January 30, 2002.

Respondent MMDA is hereby directed to **SUBMIT** the Amended Agreement concluded by petitioners with the previous MMDA officials, or in its discretion if it finds [it] more advantageous to the government, to require petitioners to make adjustments in the Contract in accordance with existing environmental laws and other relevant concerns, and thereafter forward the Amended Agreement for signature and approval by the President of the Philippines. The concerned respondents are hereby further directed to comply fully and in good faith with its institutional obligations or undertakings as provided in Article 18 of the BOT Contract.

Let a copy of this Order be furnished the Office of the Clerk of Court and the Commission on Audit for its information and guidance.