

SECOND DIVISION

[G.R. No. 185066, October 02, 2009]

**PHILIPPINE CHARTER INSURANCE CORPORATION, PETITIONER,
VS. PHILIPPINE NATIONAL CONSTRUCTION CORPORATION,
RESPONDENT.**

R E S O L U T I O N

BRION, J.:

Petitioner Philippine Charter Insurance Corporation (*PCIC*) submits the present motion for the reconsideration^[1] of our Resolution dated December 17, 2008, which denied due course to its petition for review on *certiorari*.^[2] It seeks to reinstate the petition and effect a reversal of the Court of Appeals (*CA*) Decision^[3] and Resolution^[4] dated January 7, 2008 and October 29, 2008, respectively, in CA-G.R. CV No. 86948. In its petition, the petitioner imputes reversible error on the appellate court for ruling that it is liable under PCIC Bond No. 27547 and under PCIC Bond No. 27546, as the latter bond was not covered by the complaint for collection of sum of money filed by respondent Philippine National Construction Corporation (*PNCC*).^[5]

The facts, as drawn from the records, are briefly summarized below.

PNCC is engaged in the construction business and tollway operations. On October 16, 1997, PNCC conducted a public bidding for the supply of labor, materials, tools, supervision, equipment, and other incidentals necessary for the fabrication and delivery of 27 tollbooths to be used for the automation of toll collection along the expressways. Orlando Kalingo (*Kalingo*) won in the bidding and was awarded the contract.

On November 13, 1997, PNCC issued - in favor of Kalingo - Purchase Order (*P.O.*) No. 71024L for 25 units of tollbooths for a total of P2,100,000.00, and P.O. No. 71025L for two units of tollbooths amounting to P168,000.00. These issuances were subject to the condition, among others, that each P.O. shall be covered by a surety bond equivalent to 100% of the total down payment (50% of the total cost reflected on the P.O.), and that the surety bond shall continue in full force until the supplier shall have complied with all the undertakings and covenants to the full satisfaction of PNCC.

Kalingo, hence, posted surety bonds - Surety Bond Nos. 27546 and 27547 - issued by the PCIC and whose terms and conditions read:

Surety Bond No. 27546

To supply labor, materials, tools, supervision equipment, and other incidentals

necessary for the fabrication and delivery of Two (2) Units Toll Booth at San Fernando Interchange SB Entry as per Purchase Order No. 71025L, copy of which is attached as Annex "A." This bond also guarantees the repayment of the down payment or whatever balance thereof in the event of failure on the part of the Principal to finish the project due to his own fault.

It is understood that the liability of the Surety under this bond shall in no case exceed the sum of P84,000.00, Philippine Currency.^[6]

Surety Bond No. 27547

To supply labor, materials, tools, supervision equipment, and other incidentals necessary for the fabrication and delivery of Twenty-five (25) Units Toll Booth at designated Toll Plaza as per Purchase Order No. 71024L, copy of which is attached as Annex "A." This bond also guarantees the repayment of the down payment or whatever balance thereof in the event of failure on the part of the Principal to finish the project due to his own fault.

It is understood that the liability of the Surety under this bond shall in no case exceed the sum of P1,050,000.00, Philippine Currency.^[7]

To illustrate, the PCIC surety bonds are in the amounts corresponding to down payments on each P.O., as follows:

Surety Bond No.	Purchase Order	Units Covered	Total Cost	Surety Amount (equivalent to 50% down payment)
Bond No. 27547	P.O. No. 71024L	25	P2,100,000	P1,050,000
Bond No. 27546	P.O. No. 71025L	2	P 168,000	P84,000

Both surety bonds also contain the following conditions: (1) the liability of PCIC under the bonds expires on March 16, 1998; and (2) **a written extrajudicial demand must first be tendered to the surety, PCIC, within 15 days from the expiration date; otherwise PCIC shall not be liable thereunder and the obligee waives the right to claim or file any court action to collect on the bond.** The following stipulation appears in the last paragraph of these bonds:

The liability of PHILIPPINE CHARTER INSURANCE CORPORATION under this bond will expire on March 16, 1998. Furthermore, it is hereby agreed and understood that **PHILIPPINE CHARTER INSURANCE CORPORATION will not be liable for any claim not presented to it in writing within FIFTEEN (15) DAYS from the expiration of this bond, and that the Obligee hereby waives its right to claim or file any court action against the Surety after the termination of FIFTEEN (15) DAYS from the time its cause of action accrues.**^[8]
(Emphasis supplied.)

PNCC released two checks to Kalingo representing the down payment of 50% of the total project cost, which were properly receipted by Kalingo.^[9] Kalingo in turn submitted the two PCIC surety bonds securing the down payments, which bonds were accepted by PNCC.

On March 3, 4, and 5, 1998, Kalingo made partial/initial delivery of four units of tollbooths under P.O. No. 71024L. However, the tollbooths delivered were incomplete or were not fabricated according to PNCC specifications. Kalingo failed to deliver the other 23 tollbooths up to the time of filing of the complaint; despite demands, he failed and refused to comply with his obligation under the POs.

On March 9, 1998, six days before the expiration of the surety bonds and after the expiration of the delivery period provided for under the award, PNCC filed a **written extrajudicial claim** against PCIC notifying it of Kalingo's default and demanding the repayment of the down payment on P.O. No. 71024L as secured by **PCIC Bond No. 27547**, in the amount of P1,050,000.00. The claim went unheeded despite repeated demands. For this reason, on April 24, 2001, PNCC filed with the Regional Trial Court (RTC), Mandaluyong City a complaint for collection of a sum of money against Kalingo and PCIC.^[10] PNCC's complaint against PCIC called solely on PCIC Bond No. 27547; **it did not raise or plead collection under PCIC Bond No. 27546 which secured the down payment of P84,000.00 on P.O. No. 71025L.**

PCIC, in its answer, argued that the partial delivery of four out of the 25 units of tollbooth by Kalingo under P.O. No. 71024L should reduce Kalingo's obligation.

The RTC, by Decision of October 31, 2005, ruled in favor of PNCC and ordered PCIC and Kalingo to jointly and severally pay the latter P1,050,000.00, representing the value of PCIC Bond No. 27547, plus legal interest from last demand, and P50,000.00 as attorney's fees. Reconsideration of the trial court's decision was denied. **The trial court made no ruling on PCIC's liability under PCIC Bond No. 27546, a claim that was not pleaded in the complaint.**

On appeal, the CA, by Decision^[11] of January 7, 2008, held that the RTC erred in ruling that PCIC's liability is limited only to the payment of P1,050,000.00 under PCIC Bond No. 27547 which secured the down payment on P.O. No. 71024L. **The appellate court held that PCIC, as surety, is liable jointly and severally with Kalingo for the amount of the two bonds securing the two POs to Kalingo; thus, the CA also held PCIC liable under PCIC Bond No. 27546 which secured the P84,000.00 down payment on P.O. No. 71025L.**

Reconsideration having been denied by the appellate court in its Resolution^[12] of October 29, 2008, the PCIC lodged a petition for review on *certiorari*^[13] before this Court.

The Court, by Resolution of December 17, 2008, denied due course to the petition.^[14] Hence, the PCIC filed the present motion for reconsideration submitting the following issues for our resolution:

- I. WHETHER THE APPELLATE COURT ERRED IN RULING THAT PCIC SHOULD ALSO BE HELD LIABLE UNDER BOND NO. 27546, COLLECTION UNDER WHICH WAS NOT SUBJECT OF RESPONDENT

PNCC's COMPLAINT FOR COLLECTION OF SUM OF MONEY;

II. WHETHER THE CHECKS ISSUED IN "1997" BY RESPONDENT PNCC TO KALINGO WERE GIVEN 10 MONTHS PRIOR TO THE AWARD OF THE PROJECT AND AMOUNTS TO CONCEALMENT OF MATERIAL FACT VITIATING THE SURETY BONDS ISSUED BY THE PETITIONER; and

III. WHETHER THE APPELLATE COURT ERRED IN HOLDING PETITIONER PCIC LIABLE FOR ATTORNEY'S FEES.

The second issue is a factual matter not proper in proceedings before this Court. The PCIC's position that the checks were issued 10 months prior to the award had already been rejected by both the RTC and the CA; both found that the year "1997" appearing on the checks was a mere typographical error which should have been written as "1998."^[15] Consequently, we shall no longer discuss the PCIC's allegation of material concealment; the factual findings of the RTC, as affirmed by the CA, are conclusive on us.

Our consideration shall focus on the remaining two issues.

The PCIC presents, as its first issue, the argument that "[w]hen the Court of Appeals rendered judgment on Bond No. 27546, which was not subject of respondent's complaint, on the ground that respondent was incorrect in not filing suit for Bond No. 27546, the Court of Appeals virtually acted as lawyer for respondent."^[16]

We find the PCIC's position meritorious.

The issue before us calls for a discussion of a court's basic appreciation of allegations in a complaint. The fundamental rule is that reliefs granted a litigant are limited to those specifically prayed for in the complaint; other reliefs prayed for may be granted only when related to the specific prayer(s) in the pleadings and supported by the evidence on record. Necessarily, any such relief may be granted only where a cause of action therefor exists, based on the complaint, the pleadings, and the evidence on record.

Section 2, Rule 2 of the 1997 Rules of Civil Procedure defines a cause of action as the act or omission by which a party violates the right of another. It is the delict or the wrongful act or omission committed by the defendant in violation of the primary right of the plaintiff.^[17] Its essential elements are as follows:

1. A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
2. An obligation on the part of the named defendant to respect or not to violate such right; and
3. Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.^[18]