

SECOND DIVISION

[G.R. No. 108869, May 06, 1997]

**REPUBLIC OF THE PHILIPPINES, (DEPARTMENT OF EDUCATION,
CULTURE AND SPORTS), PETITIONER, VS. SALVADOR SILERIO,
IN HIS CAPACITY AS PRESIDING JUDGE, BRANCH 8, REGIONAL
TRIAL COURT OF LEGAZPI CITY AND BIG BERTHA
CONSTRUCTION, AS REPRESENTED BY PEDRO LIM,
RESPONDENTS.
D E C I S I O N**

ROMERO, J.:

In the instant petition for *certiorari*, the government, on behalf of the Department of Education, Culture and Sports Pre/Post Qualification Bid and Awards Committee assails the November 20, 1992, December 11, 1992, December 15, 1992 and January 27, 1993 Orders of the Regional Trial Court in Legazpi City (Branch 8) as having been issued with grave abuse of discretion. The questioned Orders were issuances of a temporary restraining order, a preliminary injunction and a preliminary mandatory injunction commanding aforesaid Committee to award the contract to bidder Big Bertha Construction, herein private respondent, and a denial of the government's motion for reconsideration, respectively.

Private respondent Big Bertha Construction, through Pedro Lim, participated in the bidding conducted by the Department of Education, Culture and Sports in connection with the restoration, repair, electrical and civil works in Sorsogon College of Arts and Trades (SCAT-PATVEP) at Sorsogon, Sorsogon. Prospective bidders were required to submit two envelopes, envelope A containing the documentary requirements for the bidding and envelope B containing the actual bid price. Respondent Big Bertha Construction complied by submitting both envelopes sealed before ten o'clock in the morning of October 20, 1992.

The bidding was conducted by the Regional Pre-qualification Bid and Awards Committee (RPBAC) of the Department of Education, Culture and Sports (DECS). It was agreed that should a particular bidder's first envelope not contain the complete requirements, its second envelope would no longer be opened and considered.

Respondent construction company alleged that the bid committee opened its envelope A followed by envelope B because the company was found to have complied with the requirements in envelope A. However, Committee Chairman Miguel F. Garcia refused to announce Big Bertha's bid because it did not comply with the requirements, having submitted only one copy of the bid document and not triplicate copies as required by the rules. Mr. Pedro Lim was not present when the bids were being opened but his representative informed him soon after, because he returned as the bidding continued and publicly announced his protest. When the committee still refused to announce Big Bertha's bid, Mr. Lim announced that his bid was in the amount of P3,030,000.00 and that he was the lowest bidder. On the

same day, Mr. Lim filed a protest with RPBAC, the bid committee.

The RPBAC, defendant below, admitted Big Bertha Construction's participation in the bid for the rehabilitation and civil works at the Sorsogon College of Arts and Trade. According to the committee, when Big Bertha Construction's envelope was opened, it was found to be "complying," or containing all the required documents, for which reason the committee proceeded to open respondent's envelope B. However, as the second envelope was being opened, the Technical Committee apprised the Chairman that respondent was "non-complying" since envelope A contained only the original copy of the bid documents without the duplicate and triplicate copies thereof. Despite Mr. Lim's protest and public announcement of Big Bertha Construction's bid price, the committee did not yield. The latter reiterated its declaration that Big Bertha Construction's bid for civil works on the SCAT-PATVEP was "non-complying" according to Section I, IB 10.3 of Presidential Decree No. 1594.

Consequently, respondent company filed a formal, detailed protest of the proceedings on October 26, 1992, contesting the manner in which the proceedings were undertaken and the evaluation and decision of the bids committee. No action having been taken on said formal protest, respondent construction company sued the RPBAC for specific performance, injunction with preliminary injunction and/or preliminary mandatory injunction and damages with prayer for a temporary restraining order before the Regional Trial Court in Legazpi City on November 20, 1992.^[1]

On the same day, the Regional Trial Court issued the first of the assailed Orders, a twenty-day restraining order directing the PBAC to desist and refrain from declaring the bid of Sto. Niño Construction in the amount of P3,402,252.30 as winner and to desist from awarding the project until further orders from the court.^[2]

On December 11, 1992, the same court granted the issuance of the writ of preliminary injunction enjoining defendants below or any person acting in their behalf to desist from awarding or in any manner granting to any bidder the contract for the rehabilitation, repair and civil works of the Sorsogon College of Arts and Trades, upon filing and approval of a bond in the amount of P50,000.00.^[3] The Regional Trial Court held that under Section I IB 10.3 of Presidential Decree No. 1594, the government may even "waive the consideration of minor deviations in the bids received which do not affect the substance and validity of the bids." While there was in fact a defect in respondent's bid, the court considered this to be a "minor deviation" which did not in substance invalidate the bid. Respondent's claim as lowest bidder was un rebutted by defendants below. The court thus concluded that a right had been created in favor of Big Bertha Construction. Said right was violated by therein defendants when they refused to announce and award the contract to respondent as the lowest bidder; hence the latter was entitled to protection.

On December 15, 1992, the lower court approved the injunction bond filed by respondent construction company and ordered its Clerk of Court to issue a preliminary mandatory injunction commanding defendants below to declare Big Bertha Construction as winning bidder and to award it the contract for the repair and reconstruction of the Sorsogon College of Arts and Trades.^[4]

The DECS' Motion for Reconsideration having been denied on January 27, 1993 by

the same court,^[5] the Republic elevates the controversy for resolution in this petition for certiorari.

Petitioner filed an Urgent Motion for the Issuance of a Restraining Order on March 12, 1993, contending among other things, that courts should refrain from issuing a writ of preliminary injunction which effectively disposes of the main case without trial since Presidential Decree No. 1818 prohibits courts from issuing any restraining order or preliminary injunction in any case, dispute or controversy involving an infrastructure project, and that the delay in the project resulted in the possible withdrawal by the Australian International Development Assistance Bureau (AIDAB) of its assistance in terms of fifteen to seventeen million pesos worth of equipment for the Philippines-Australia Technical and Vocational Education Project (PATVEP) intended for Sorsogon College of Arts and Trades if the legal obstacles were not resolved by April 30, 1993.

On March 17, 1993, this Court issued a temporary restraining order effective on said date and continuing until further orders from the Court, enjoining respondent Judge from enforcing his orders of December 11, 1992 and December 15, 1992 issued in Civil Case No. 8666, "Big Bertha Construction v. Department of Education, Culture and Sports et. al." and from conducting further proceedings thereon.

Petitioner argues that the writs of *certiorari* and prohibition should issue in this case because the Regional Trial Court acted with grave abuse of discretion and in a manner designed solely to favor Pedro Lim. More specifically, petitioner contends that respondent Judge disregarded the express prohibition in Section 1 of Presidential Decree No. 1818 forbidding courts from issuing restraining orders, preliminary injunctions and preliminary mandatory injunctions in infrastructure projects; that the Government, through the PBAC, reserved the right to reject any or all bids in accordance with Presidential Decree No. 1594; that courts should not interfere with purely administrative and discretionary functions exercised by administrative agencies; that the RPBAC did not commit any arbitrariness; and that courts should refrain from issuing preliminary mandatory injunctions which dispose of the main case without trial.

Petitioner prays for the issuance of the writ of certiorari and the annulment of the aforesaid Orders in Civil Case No. 8666, the issuance of a writ of prohibition forbidding respondent Judge from proceeding with said civil case and ordering the dismissal of the same case.

The Court, after studying the issues raised in the pleadings, finds the petition meritorious. The writ of certiorari is rightfully granted in this case where the Orders assailed by petitioner were issued by the Regional Trial Court with grave abuse of discretion.

1. First, the lower court acted in excess of its jurisdiction when it issued the restraining order, as well as the preliminary injunction and preliminary mandatory injunction against the Department of Education, Culture and Sports Regional Pre-Bid Qualification and Award Committee. Section 1 of Presidential Decree No. 1818^[6] explicitly provides that: