

## SECOND DIVISION

[ G.R. No. 198998, June 19, 2019 ]

**YOUNG BUILDERS CORPORATION, PETITIONER, V. BENSON INDUSTRIES, INC., RESPONDENT.**

### RESOLUTION

**CAGUIOA, J:**

This is a petition for review on *certiorari*<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court (Rules) filed by petitioner Young Builders Corporation (YBC) assailing the Decision<sup>[2]</sup> dated June 28, 2011 and Resolution<sup>[3]</sup> September 14, 2011 of the Court of Appeals<sup>[4]</sup> (CA) in CA-G.R. CEB-CV No. 02984, reversing the Decision<sup>[5]</sup> dated November 21, 2008 of the Regional Trial Court, Branch 21, Cebu City (RTC) in Civil Case No. CEB- 22526, and dismissing the complaint against Benson Industries, Inc. (BII).

#### Facts

The Decision of the CA states the facts as follows:

On 13 August 1998, plaintiff-appellee Young Builders Corporation (YBC for brevity) filed before the Regional Trial Court in Cebu City (RTC) a complaint for collection of sum of money against defendant-appellant Benson Industries, Inc. [(BII)]. In its complaint, YBC claimed that it was contracted by [BII] sometime in 1994 for the purpose of constructing [BII]'s commercial building located at Escario St., corner F. Ramos Extension, Cebu City, pursuant to an accomplishment billing basis. As of 18 May 1998, YBC alleged that it had accomplished works on the main contract amounting to Php54,022,551.39, of which only Php40,678,430 was paid by [BII] leaving a balance of Php13,344,121.39. In addition, [BII] required YBC to do extra works amounting to Php11,839,110.99 which, after deducting Php350,880 for the water cistern, resulted in a total collectible of Php24,832,352.38 both on the main contract and the extra works as per accomplishment billing dated 18 May 1998. However, despite demand, [BII] failed to pay its account constraining YBC to file the collection case.

In its Answer, [BII] admitted that it contracted YBC to construct the former's building but denied that it was on an accomplishment billing basis. On the contrary, [BII] averred that the construction was pursuant to a timetable with which YBC failed to comply. Objecting to YBC's monetary claims, [BII] asserted that YBC committed prior breaches in the agreement particularly the latter's delay and eventual abandonment of the construction as well as its defective and inferior workmanship and materials which unduly affected the usefulness and value of the building. [BII] also denied YBC's claim for extra works, maintaining that those

were remedial not additional works. Even assuming that YBC still has a collectible, [BII] contended that the same has been offset against YBC's liability as a result of the latter's default and its substandard work. [BII] consequently prayed for the dismissal of the complaint.

After pre-trial, trial on the merits ensued. For the plaintiff-appellee, it presented its lone witness, architect Nelson Go Yu as the Vice President of the corporation, who testified on the material allegations in the complaint.

After YBC rested its case and formally offered its exhibits, [BII] tiled a Demurrer to Evidence dated 12 March 2002 and a Supplemental Motion on Demurrer to Evidence dated 20 March 2002. YBC, in turn, filed its Opposition.

In an Order dated 16 July 2002, the RTC denied [BII]'s Demurrer to Evidence, ruling that there was an imperative need for [BII] to present countervailing evidence against YBC.

[BII] filed a Motion for Reconsideration but this was to no avail as evidenced by the court *a quo*'s Order dated 29 August 2002.

Subsequently, [BII] presented its evidence in chief. Five (5) witnesses took the witness stand, particularly: 1) Engr. Diego Bariquet, [BII]'s representative in the construction; 2) Frank Yap, [BII]'s Assistant Vice President; 3) Leonardo Guco, a liaison officer of [BII]; 4) Atty. Josh Carol Ventura, a representative of the Department of Trade and Industry (DTI); and 5) Ramon Abella, finance officer of the Dakay Group of Companies under which [BII] belongs.

On 21 November 2008, the RTC resolved the case in favor of YBC, thus:

"WHEREFORE, in view of the foregoing premises, judgment is rendered in favor of the plaintiff and hereby orders the defendant to pay the plaintiff:

(a) the amount of Php24,832,352.38 plus interest at the legal rate from the filing of this case until the said amount shall have been fully paid;

(b) Php500,000.00 as attorney's fees; and

(c) Php100,000.00 as litigation expenses.

SO ORDERED."<sup>[6]</sup>

Aggrieved, [BII] filed [an] appeal [to the CA] assailing the RTC's decision finding it liable to YBC. [BII] aver[red] that contrary to the court *a quo*'s finding, YBC never actually completed the construction of the building since YBC failed to substantiate its claims by presenting the approved plans and building permits for the construction of the 8-storey building it had committed to build. Accusing YBC of legal default, [BII] claim[ed] that YBC miserably failed to complete the construction of the 8-storey building within the 360-day timeframe agreed upon by the parties. Since the original agreement cited the amount of Php36,900,000 as the total

contract price, [BII] maintain[ed] that the same amount [should] stand in the absence of any written contract saying otherwise. Considering that no written authority was given by [BII] regarding the changes in the construction contract, [BII] argue[d] that YBC [was] precluded from claiming additional costs pursuant to Article 1724 of the Civil Code and the ruling in *Powton Conglomerate vs. Agcolicol* (400 SCRA 523). Moreover, [BII] insist[ed] that full payment, if not overpayment, was already complied with since YBC was able to collect over Php40 million which [was] much more than the original contract price. Finally, [BII] question[ed] the admissibility and probative value of the private documents submitted by YBC in support of its monetary claim specifically Exhibits "B" to "F."<sup>[7]</sup>

The CA ruled that BII's appeal was impressed with merit, finding that YBC failed to prove that it was entitled to collect any balance from BII.<sup>[8]</sup>

The CA noted that the only evidence showing YBC's alleged monetary claims against BII was its Accomplishment Billing (Exhibit "B") which showed BII's purported balance of P13,344,121.39 on the main contract and P11,488,230.89 on the extra works.<sup>[9]</sup> The CA ruled that apart from the Accomplishment Billing, which was self-serving, YBC failed to submit other credible evidence to prove the actual expenses and amount of work it claimed to have accomplished such as receipts, payrolls or other similar documents.<sup>[10]</sup> The CA further ruled that the Accomplishment Billing, which was a private document, could not be given probative weight considering that its due execution and authenticity was not duly proven in accordance with procedural rules.<sup>[11]</sup> The CA excluded Exhibit "B" as evidence because of YBC's failure to authenticate it.<sup>[12]</sup> With the exclusion of the Accomplishment Billing, the CA concluded that YBC's cause of action for collection no longer had any leg to stand on.<sup>[13]</sup>

The dispositive portion of the CA Decision states:

**WHEREFORE**, in view of the foregoing premises, the present petition is GRANTED. The assailed Decision dated 21 November 2008 rendered by the Regional Trial Court, Branch 21 in Cebu City in Civil Case No. CEB-22526 is REVERSED and SET ASIDE. Consequently, the x x x complaint of plaintiff-appellee is dismissed.

**SO ORDERED.**<sup>[14]</sup>

YBC filed a Motion for Reconsideration,<sup>[15]</sup> which was denied by the CA in its Resolution<sup>[16]</sup> dated September 14, 2011.

Hence, the present Petition. BII filed a Comment<sup>[17]</sup> dated April 20, 2012. YBC filed a Reply<sup>[18]</sup> dated October 17, 2012.

### **The Issues**

YBC raises the following issues in its Petition:

1. Whether the CA erred in setting aside the formal requirements of law on specific denial by not giving probative value to YBC's Accomplishment Billing

(Exhibit "B") even though it was offered by BII as its own evidence (Exhibit "2");

2. Whether the CA erred when it held that the letter of BII's Ernesto Dacay, Sr. (Exhibit "F") was not duly authenticated; and
3. Whether the CA erred when it reversed the judgment of the RTC on the basis of its ruling that:
  - a. YBC's Accomplishment Billing has no probative value;
  - b. The letter of BII's Ernesto Dacay, Sr. (Exhibit "F") was not duly authenticated.
  - c. The Certification of BII (Exhibit "E") that the subject building was completed was contradicted by YBC's own evidence.<sup>[19]</sup>

### **The Court's Ruling**

The Petition is without merit.

The Rules require that only questions of law should be raised in a *certiorari* petition filed under Rule 45.<sup>[20]</sup> The Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are "final, binding or conclusive on the parties and upon this Court."<sup>[21]</sup> Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to the Court.<sup>[22]</sup>

The Rules however do admit exceptions.<sup>[23]</sup> A close reading of the present Petition shows that what the Court is being asked to resolve is, what should prevail — the findings of fact of the RTC or the findings of fact of the CA. Considering that the findings of fact of both courts are obviously conflicting, the review of which is an admitted exception, the Court will proceed to rule on the present Petition.<sup>[24]</sup>

To prove its monetary claims, YBC presented the following documents: (1) the revised cost proposal dated October 17, 1995 wherein the parties agreed on the construction of the initial five-story building at a cost of P36,900,000.00 (Exhibit "A"); (2) the cost breakdown for the additional works in the building bearing the conformity of BII's representatives (Exhibit "C"); and (3) the Accomplishment Billing dated May 18, 1998 showing P24,832,352.38 as YBC's total collectible both on the main contract and the extra works (Exhibit "B").<sup>[25]</sup>

The CA correctly pointed out that while Exhibits "A" and "C" provide bases for the agreed cost in the construction of the building, it cannot be determined from those documents alone the amount or extent of work actually accomplished by YBC (and accepted by BII or if unaccepted by BII, conformed with agreed specifications) which would entitle it to collect from BII.<sup>[26]</sup>

The Accomplishment Billing is thus crucial to YBC's cause of action. Its purpose, as duly acknowledged by the CA, was precisely to show the progress of the work done and the expenses incurred as a result thereof.<sup>[27]</sup>

*YBC's Accomplishment Billing dated  
May 18, 1998 (Exhibit "B"/Exhibit "2")*

YBC is of the position that there is no longer the need to prove the genuineness and due execution of the Accomplishment Billing because it is an actionable document that was attached to the complaint and not specifically denied under oath by BII.<sup>[28]</sup> YBC argues that BII's denial in its Answer was insufficient because it did not specifically deny the genuineness and due execution of the Accomplishment Billing.<sup>[29]</sup>

To recall, YBC's complaint alleged, among others, that:

3. That sometime in 1994, the defendant contracted the services of plaintiff for the purpose of constructing its commercial building located at Escario St. corner F. Ramos Extension, Cebu City on an accomplishment billing basis;
4. As of May 18, 1998, on the main contract, the plaintiff has accomplished works in the total amount of P54,022,551.39;
5. Of said accomplished work in the main contract, the defendant has paid the total amount of P40,678,430.00, leaving a balance of P13,344,121.39;
6. The defendant also required the plaintiff to do extra works on said building in the amount of P11,839,110.99;
7. That of said amount, the amount of P350,880.00 for the water cistern has been deducted, leaving a balance of P11,488,230.89;
8. Thus the plaintiff has a collectible amount of P24,832,352.38 from the defendant on both the main contract and extra works per accomplishment billing hereto attached as Annex "A";
9. That the plaintiff demanded payment of said amount from the defendant, but despite demand, the defendant has failed to pay its account with the plaintiff, prompting the filing of the present action[.]<sup>[30]</sup>

On the other hand, BII responded in its Answer, under oath, that:

4. It specifically denies paragraph 4 of the complaint as to the value of plaintiff's alleged accomplishment as the same appears to be bloated and exaggerated.
5. It admits the allegation in paragraph 5 of the complaint that defendant has paid at least P40,768,430.00 but denies the allegation therein that there is an unpaid balance. Considering plaintiffs actual accomplishments, the quality (or lack thereof) of its workmanship, and its delay in the completion of the construction, the amount already paid to plaintiff is more than enough.
6. It specifically denies paragraph 6 of the complaint. Plaintiff has not done extra works. The supposed extra works were actually remedial works, which were necessitated by plaintiff's defective workmanship and construction inadequacies.