

## FIRST DIVISION

[ G.R. No. 212081, February 23, 2015 ]

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
(DENR), PETITIONER, VS. UNITED PLANNERS CONSULTANTS,  
INC. (UPCI), RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> is the Decision<sup>[2]</sup> dated March 26, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 126458 which dismissed the petition for *certiorari* filed by petitioner the Department of Environment and Natural Resources (petitioner).

#### The Facts

On July 26, 1993, petitioner, through the Land Management Bureau (LMB), entered into an Agreement for Consultancy Services<sup>[3]</sup> (Consultancy Agreement) with respondent United Planners Consultants, Inc. (respondent) in connection with the LMB's Land Resource Management Master Plan Project (LRMMP).<sup>[4]</sup> Under the Consultancy Agreement, petitioner committed to pay a total contract price of P4,337,141.00, based on a predetermined percentage corresponding to the particular stage of work accomplished.<sup>[5]</sup> In December 1994, respondent completed the work required, which petitioner formally accepted on December 27, 1994.<sup>[6]</sup> However, petitioner was able to pay only 47% of the total contract price in the amount of P2,038,456.30.<sup>[7]</sup>

On October 25, 1994, the Commission on Audit (COA) released the Technical Services Office Report<sup>[8]</sup> (TSO) finding the contract price of the Agreement to be 84.14% excessive.<sup>[9]</sup> This notwithstanding, petitioner, in a letter dated December 10, 1998, acknowledged its liability to respondent in the amount of P2,239,479.60 and assured payment at the soonest possible time.<sup>[10]</sup>

For failure to pay its obligation under the Consultancy Agreement despite repeated demands, respondent instituted a Complaint<sup>[11]</sup> against petitioner before the Regional Trial Court of Quezon City, Branch 222 (RTC), docketed as Case No. Q-07-60321.<sup>[12]</sup>

Upon motion of respondent, the case was subsequently referred to arbitration pursuant to the arbitration clause of the Consultancy Agreement,<sup>[13]</sup> which petitioner did not oppose.<sup>[14]</sup> As a result, Atty. Alfredo F. Tadiar, Architect Armando N. Alli, and Construction Industry Arbitration Commission (CIAC) Accredited Arbitrator Engr. Ricardo B. San Juan were appointed as members of the Arbitral

Tribunal. The court-referred arbitration was then docketed as Arbitration Case No. A-001.<sup>[15]</sup>

During the preliminary conference, the parties agreed to adopt the CIAC Revised Rules Governing Construction Arbitration<sup>[16]</sup> (CIAC Rules) to govern the arbitration proceedings.<sup>[17]</sup> They further agreed to submit their respective draft decisions in lieu of memoranda of arguments on or before April 21, 2010, among others.<sup>[18]</sup>

On the due date for submission of the draft decisions, however, only respondent complied with the given deadline,<sup>[19]</sup> while petitioner moved for the deferment of the deadline which it followed with another motion for extension of time, asking that it be given until May 11, 2010 to submit its draft decision.<sup>[20]</sup>

In an Order<sup>[21]</sup> dated April 30, 2010, the Arbitral Tribunal denied petitioner's motions and deemed its non-submission as a waiver, but declared that it would still consider petitioner's draft decision if submitted before May 7, 2010, or the expected date of the final award's promulgation.<sup>[22]</sup> Petitioner filed its draft decision<sup>[23]</sup> only on May 7, 2010.

The Arbitral Tribunal rendered its Award<sup>[24]</sup> dated May 7, 2010 (Arbitral Award) in favor of respondent, directing petitioner to pay the latter the amount of (a) P2,285,089.89 representing the unpaid progress billings, with interest at the rate of 12% per annum from the date of finality of the Arbitral Award upon confirmation by the RTC until fully paid; (b) P2,033,034.59 as accrued interest thereon; (c) ? 500,000.00 as exemplary damages; and (d) P150,000.00 as attorney's fees.<sup>[25]</sup> It also ordered petitioner to reimburse respondent its proportionate share in the arbitration costs as agreed upon in the amount of P182,119.44.<sup>[26]</sup>

Unconvinced, petitioner filed a motion for reconsideration,<sup>[27]</sup> which the Arbitral Tribunal merely noted without any action, claiming that it had already lost jurisdiction over the case after it had submitted to the RTC its Report together with a copy of the Arbitral Award.<sup>[28]</sup>

Consequently, petitioner filed before the RTC a Motion for Reconsideration<sup>[29]</sup> dated May 19, 2010 (**May 19, 2010 Motion for Reconsideration**) and a Manifestation and Motion<sup>[30]</sup> dated June 1, 2010 (**June 1, 2010 Manifestation and Motion**), asserting that it was denied the opportunity to be heard when the Arbitral Tribunal failed to consider its draft decision and merely noted its motion for reconsideration.<sup>[31]</sup> It also denied receiving a copy of the Arbitral Award by either electronic or registered mail.<sup>[32]</sup> For its part, respondent filed an opposition thereto and moved for the confirmation<sup>[33]</sup> of the Arbitral Award in accordance with the Special Rules of Court on Alternative Dispute Resolution (Special ADR Rules).<sup>[34]</sup>

In an Order<sup>[35]</sup> dated March 30, 2011, the RTC merely noted petitioner's aforesaid motions, finding that copies of the Arbitral Award appear to have been sent to the parties by the Arbitral Tribunal, including the OSG, contrary to petitioner's claim. On the other hand, the RTC confirmed the Arbitral Award pursuant to Rule 11.2 (A)<sup>[36]</sup> of the Special ADR Rules and ordered petitioner to pay respondent the costs of

confirming the award, as prayed for, in the total amount of P50,000.00. From this order, petitioner did not file a motion for reconsideration.

Thus, on June 15, 2011, respondent moved for the issuance of a writ of execution, to which no comment/opposition was filed by petitioner despite the RTC's directive therefor. In an Order<sup>[37]</sup> dated September 12, 2011, the RTC granted respondent's motion.<sup>[38]</sup>

Petitioner moved to quash<sup>[39]</sup> the writ of execution, positing that respondent was not entitled to its monetary claims. It also claimed that the issuance of said writ was premature since the RTC should have first resolved its May 19, 2010 Motion for Reconsideration and June 1, 2010 Manifestation and Motion, and not merely noted them, thereby violating its right to due process.<sup>[40]</sup>

### **The RTC Ruling**

In an Order<sup>[41]</sup> dated July 9, 2012, the RTC denied petitioner's motion to quash.

It found no merit in petitioner's contention that it was denied due process, ruling that its May 19, 2010 Motion for Reconsideration was a prohibited pleading under Section 17.2,<sup>[42]</sup> Rule 17 of the CIAC Rules. It explained that the available remedy to assail an arbitral award was to file a motion for correction of final award pursuant to Section 17.1<sup>[43]</sup> of the CIAC Rules, and not a motion for reconsideration of the said award itself.<sup>[44]</sup> On the other hand, the RTC found petitioner's June 1, 2010 Manifestation and Motion seeking the resolution of its May 19, 2010 Motion for Reconsideration to be defective for petitioner's failure to observe the three-day notice rule.<sup>[45]</sup> Having then failed to avail of the remedies attendant to an order of confirmation, the Arbitral Award had become final and executory.<sup>[46]</sup>

On **July 12, 2012**, petitioner received the RTC's Order dated July 9, 2012 denying its motion to quash.<sup>[47]</sup>

Dissatisfied, it filed on **September 10, 2012** a petition for *certiorari*<sup>[48]</sup> before the CA, docketed as CA-G.R. SP No. 126458, averring in the main that the RTC acted with grave abuse of discretion in confirming and ordering the execution of the Arbitral Award.

### **The CA Ruling**

In a Decision<sup>[49]</sup> dated March 26, 2014, the CA dismissed the *certiorari* petition on two (2) grounds, namely: (a) the petition **essentially assailed the merits of the Arbitral Award** which is prohibited under Rule 19.7<sup>[50]</sup> of the Special ADR Rules;<sup>[51]</sup> and (b) the petition was filed out of time, having been filed way beyond 15 days from notice of the RTC's July 9, 2012 Order, in violation of Rule 19.28<sup>[52]</sup> in relation to Rule 19.8<sup>[53]</sup> of said Rules which provide that a special civil action for *certiorari* must be filed before the CA **within 15 days from notice of the judgment, order, or resolution sought to be annulled or set aside (or until July 27, 2012).**

Aggrieved, petitioner filed the instant petition.

### **The Issue Before the Court**

The core issue for the Court's resolution is whether or not the CA erred in applying the provisions of the Special ADR Rules, resulting in the dismissal of petitioner's special civil action for *certiorari*.

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

The petition lacks merit.

#### **I.**

Republic Act No. (RA) 9285,<sup>[54]</sup> otherwise known as the Alternative Dispute Resolution Act of 2004," institutionalized the use of an Alternative Dispute Resolution System (ADR System)<sup>[55]</sup> in the Philippines. The Act, however, was without prejudice to the adoption by the Supreme Court of any ADR system as a means of achieving speedy and efficient means of resolving cases pending before all courts in the Philippines.<sup>[56]</sup>

Accordingly, A.M. No. 07-11-08-SC was created setting forth the Special Rules of Court on Alternative Dispute Resolution (referred herein as Special ADR Rules) that shall govern the procedure to be followed by the courts whenever *judicial intervention* is sought in ADR proceedings in the specific cases where it is allowed.<sup>[57]</sup>

Rule 1.1 of the Special ADR Rules lists down the instances when the said rules shall apply, namely: "(a) Relief on the issue of Existence, Validity, or Enforceability of the Arbitration Agreement; (b) **Referral to Alternative Dispute Resolution ("ADR")**; (c) Interim Measures of Protection; (d) Appointment of Arbitrator; (e) Challenge to Appointment of Arbitrator; (f) Termination of Mandate of Arbitrator; (g) Assistance in Taking Evidence; (h) Confirmation, Correction or Vacation of Award in Domestic Arbitration; (i) Recognition and Enforcement or Setting Aside of an Award in International Commercial Arbitration; (j) Recognition and Enforcement of a Foreign Arbitral Award; (k) Confidentiality/Protective Orders; and (l) Deposit and Enforcement of Mediated Settlement Agreements."<sup>[58]</sup>

Notably, the Special ADR Rules do not automatically govern the ***arbitration proceedings*** itself. A pivotal feature of arbitration as an alternative mode of dispute resolution is that it is a product of party autonomy or the freedom of the parties to ***make their own arrangements to resolve their own disputes***.<sup>[59]</sup> Thus, Rule 2.3 of the Special ADR Rules explicitly provides that "**parties are free to agree on the procedure to be followed in the conduct of arbitral proceedings**". Failing such agreement, the arbitral tribunal may conduct arbitration in the manner it considers appropriate."<sup>[60]</sup>

In the case at bar, the Consultancy Agreement contained an arbitration clause.<sup>[61]</sup> Hence, respondent, after it filed its complaint, moved for its referral to arbitration<sup>[62]</sup> which was not objected to by petitioner.<sup>[63]</sup> By its referral to

arbitration, the case fell within the coverage of the Special ADR Rules. However, with respect to the arbitration proceedings itself, the parties had agreed to adopt the CIAC Rules before the Arbitral Tribunal in accordance with Rule 2.3 of the Special ADR Rules.

On May 7, 2010, the Arbitral Tribunal rendered the Arbitral Award in favor of respondent. Under Section 17.2, Rule 17 of the CIAC Rules, no motion for reconsideration or new trial may be sought, but any of the parties may file a motion for correction<sup>[64]</sup> of the final award, which shall interrupt the running of the period for appeal,<sup>[65]</sup> based on any of the following grounds, to wit:

- a. an evident miscalculation of figures, a typographical or arithmetical error;
- b. an evident mistake in the description of any party, person, date, amount, thing or property referred to in the award;
- c. where the arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted;
- d. where the arbitrators have failed or omitted to resolve certain issue/s formulated by the parties in the Terms of Reference (TOR) and submitted to them for resolution, and
- e. where the award is imperfect in a matter of form not affecting the merits of the controversy.

The motion shall be acted upon by the Arbitral Tribunal or the surviving/remaining members.<sup>[66]</sup>

Moreover, the parties may appeal the final award to the CA through a petition for review under Rule 43 of the Rules of Court.<sup>[67]</sup>

Records do not show that any of the foregoing remedies were availed of by petitioner. Instead, it filed the May 19, 2010 Motion for Reconsideration of the Arbitral Award, which was a prohibited pleading under the Section 17.2,<sup>[68]</sup> Rule 17 of the CIAC Rules, thus rendering the same final and executory.

Accordingly, the case was remanded to the RTC for confirmation proceedings pursuant to Rule 11 of the Special ADR Rules which requires confirmation by the court of the final arbitral award. This is consistent with Section 40, Chapter 7 (A) of RA 9285 which similarly requires a judicial confirmation of a domestic award to make the same enforceable:

SEC. 40. *Confirmation of Award.* – The confirmation of a domestic arbitral award shall be governed by Section 23<sup>[69]</sup> of R.A. 876.<sup>[70]</sup>

**A domestic arbitral award when confirmed shall be enforced in**