568 Phil. 481

FIRST DIVISION

[G.R. No. 164299, February 12, 2008]

MANILA INTERNATIONAL AIRPORT AUTHORITY, Petitioner, vs. POWERGEN, INC., Respondent.

DECISION

CORONA, J.:

This petition for review on certiorari[1] assails the October 16, 2003 decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 76415 and its June 25, 2004 resolution[3] denying reconsideration. The decision affirmed the trial court's January 21, 2003 order for the issuance of preliminary injunction,[4] January 23, 2003 writ of preliminary mandatory injunction[5] and March 24, 2003 order[6] denying reconsideration.

The antecedent facts follow.

In the early 1990s, the entire Metro Manila, including the airport area, started experiencing daily power outages, split power interruptions, voltage fluctuations and power surges. All this impaired the efficient functioning of the airport facilities and equipment, and essential public services.

Consequently, petitioner Manila International Airport Authority (MIAA) (which was then totally dependent on the Manila Electric Company [MERALCO] for its power requirements) had to remedy the situation. Its management decided to install a baseload power plant to provide all airport facilities continuous and adequate electric supply. As petitioner lacked both expertise and capability to undertake such a project, its management solicited contractors to build and operate this power plant on a Build-Operate-Own scheme. Petitioner prepared the terms of reference[7] and conducted a public bidding for the construction of the proposed power plant.

Respondent Powergen, Inc. submitted its bid. On April 4, 1994, petitioner issued a notice of award[8] to respondent. Thereafter, petitioner and respondent entered into a Power Generation Agreement (PGA).[9] Article 7.3 of the PGA stated:

> 7.3 MIAA OBLIGATIONS
>
> (i) The purchase and the payment of [Powergen, Inc.] of the minimum guaranteed energy consumption of Four Million KWH (4,000,000) per month at the privilege discount rate
> (ii) The purchase and payment of the energy requirement of MIAA above the minimum guaranteed energy consumption in accordance with the Sixth Schedule.
> (iii) To answer for whatever amount supply (sic) MERALCO may

charge for the use on a standby basis of its power supply.

The agreement further provided that petitioner shall pay respondent energy fees based on the Sixth Schedule, to wit:

SIXTH SCHEDULE

DELIVERY OF POWER AND ENERGY

1. Obligations of Parties

   [Powergen, Inc.] hereby agrees to generate all the electric energy requirements of MIAA and MIAA hereby agrees to take at the high voltage side of the main transformer its electric-energy requirements delivered by [Powergen, Inc.] until the end of this Agreement.

2. Delivered Energy

   [Powergen, Inc.] shall generate electric energy and deliver it to MIAA, and MIAA shall take such electricity from [Powergen, Inc.]. The energy delivered shall be paid for by the MIAA pursuant to the terms and conditions as provided in No. 3 of this Schedule.

3. Terms of Payment

   MIAA will be billed on a monthly basis for the total consumed electrical energy taking into consideration the minimum guaranteed consumption whichever is higher.

   3.1 All Energy Fees payable to [Powergen, Inc.] by MIAA during the fifteen-year Cooperation Period, including the period of Testing/Commissioning, will be computed as per the MERALCO Billing System less Forty Percent (40%) discount. Thus:

   DISCOUNT RATE= MERALCO's Prevailing Rate at Time of the Billing x 0.60

   3.2 Guaranteed Minimum Energy Off-Take. The guaranteed minimum energy consumption of MIAA shall be 4,000,000 KWK/month and the corresponding energy fee will be computed as per the above formula.

On December 18, 1995, petitioner gave respondent a notice to proceed[10] which provided:

> With reference to the signed [PGA] between [MIAA] and [Powergen, Inc.], you are hereby notified to proceed with the above referenced Project in accordance with our Agreement, subject to the following conditions:

1. The construction of an initial 7.250 MW (2 x 3.625) Power Station that will service our priority circuits within the MIAA complex;

2. The above initial Power Station shall be part of the original bid proposal that was submitted to MIAA during the bidding and as such shall be subject to the conditions of the [PGA] with respect to pricing and other relevant provisions of it. Provided, however:

    1. That the maximum (sic) guaranteed energy consumption of Four Million (4,000,000) KWH per month of MIAA, stipulated in Article 7.3 of the said contract, shall be ignored and MIAA shall not be liable to the purchase of such guaranteed consumption. Meanwhile, only the actual energy consumed KWH by MIAA shall be the basis for the computation of the operating fees.
    2. That Article 7.3 shall be reimposed only when the KW capacity stipulated on the BOO Contract is attained.
    3. The [Powergen, Inc.] shall abide by the relevant terms stipulated in the contract and in the Notice of Award for the operation of the diesel power station.

On the same day, respondent, through its president, Luisito C. Magpayo, signed the "Certified Acknowledgment of Receipt and Acceptance."

Thereafter, the power station was constructed and operated by respondent, and petitioner paid the energy fees in accordance with the billings made by respondent. However, sometime in June 2000, petitioner discovered that MERALCO was charging a rate (P2.03 per KWH) lower than that respondent was collecting (P2.22 per KWH). Consequently, petitioner used the lower rate of P2.03 per KWH in its payments.

Complaining that petitioner did not comply with its contractual obligation under the PGA, respondent, on January 4, 2001, sued for reformation of contract in the Regional Trial Court of Pasig City, Branch 168. It asked the court to fix the rate at which petitioner should pay respondent; to reform the PGA and to direct petitioner to comply with the PGA and purchase from and pay to respondent the guaranteed minimum energy consumption of four million KWH in accordance with Article 7.3 of the PGA.[11] On July 24, 2001, respondent amended the complaint to include an application for temporary restraining order or preliminary injunction to enjoin petitioner from deducting from respondent's future billings the alleged "overpayments" on the energy charge until the court finally decided the case.[12] On November 12, 2002, respondent filed an urgent motion for issuance of preliminary injunction[13] to compel petitioner to comply with its obligation under Article 7.3 of the PGA vis-à-vis the guaranteed minimum four million KWH of energy from respondent.

On January 21, 2003, the trial court issued an order granting respondent's urgent motion.[14] Subsequently, on January 23, 2003, a writ of preliminary mandatory injunction was issued.[15]

Petitioner sought reconsideration with a motion to set aside the order of preliminary mandatory injunction and a motion to quash/lift the writ of preliminary injunction. It