

FIRST DIVISION

[G.R. No. 141009, July 02, 2002]

**BATAAN SEEDLING ASSOCIATION, INC. AND CARLOS VALENCIA,
PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES,
REPRESENTED BY THE DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES, RESPONDENT.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court which seeks to set aside the Decision promulgated on October 14, 1998 by the Court of Appeals in CA-G.R. CV No. 52545,^[1] affirming with modification the decision of the Regional Trial Court of Quezon City. The dispositive portion of the assailed Decision reads:

"IN THE LIGHT OF ALL THE FOREGOING, the Decision appealed from is AFFIRMED with the following modifications:

1. The Appellants are hereby ordered to pay, jointly and severally, to the Republic of the Philippines, the principal amount of P56,290.69, with interest thereon at the rate of 12% per annum, from January 27, 1994 until the said amount is paid in full;
2. The Appellant BSAI is hereby ordered to pay to the appellant Republic of the Philippines the amount of P50,000.00 as and by way of exemplary damages.

No pronouncement as to cost.

SO ORDERED."^[2]

Petitioner Bataan Seedling Association, Inc. (BSAI for brevity) entered into a Community Based Reforestation Contract on October 26, 1990 with the Republic of the Philippines, represented by the Department of Environment and Natural Resources (DENR). Under said contract, BSAI, in consideration of the amount of Nine Hundred Seventy Five Thousand One Hundred Twenty Six Pesos and Sixty One Centavos (P975,126.61), bound itself to undertake the reforestation of a fifty-hectare open/denuded forest land in Barangay Liyang, Pilar, Bataan within a period of three (3) years.^[3] BSAI likewise undertook to report to the DENR any event or condition which delays or may delay or prevent completion of the work,^[4] and submit progress billings and accomplishment reports.^[5] Concomitant with the contract is the Project Development Plan and the Approved Schedule of Progress Payments detailing the annual cash flow and schedule of activities within the three-year period,^[6] and the Contract of Undertaking providing for the mobilization fund

in the amount of Seventy Five Thousand Fifty Four Pesos and Sixty Six Centavos (P75,054.66).^[7] Said fund was allotted and released by respondent to enable BSAI to start with the project, but the fund was to be returned to respondent upon completion of the project or deducted from the periodic release of moneys to petitioners.^[8]

Believing that petitioners failed to comply with their obligations under the contract, respondent sent a notice of cancellation dated July 31, 1992 to petitioner Carlos Valencia, President of BSAI, asking the latter to show cause why the contract should not be terminated on the following grounds:

"1. Willful violation of the material terms and conditions, stipulations and covenants of the Contract, to wit: a) The association failed to fully plant/establish the whole 50-hectare contracted area during the first year of operations as provided for in the Contract; b) The seedlings raised in the nursery were disposed of to other contractors and the seedlings left were practically overgrown indicating lack of proper care and maintenance; c) In spite of the fact that a forest fire occurred sometime in December, 1991, no report was ever made to the DENR in violation of Article 1.1.5 of the Contract; d) The Association even failed to submit to the DENR accomplishment reports and other relevant information required and expected from it.

"2. Abandonment of the project area. The PENRO/CENRO monitoring and Evaluation Team which inspected the project area on March 18, 25 and 31, 1992 reported that except for the family that actually resides in the bunkhouse, no laborers were observed at the project area during the time of the field inspections. Even you failed to show up despite written and verbal notices served to you. Finally, the photodocuments taken on the plantation illustrates clearly the abandoned project area."^[9]

Due to their failure to respond to the notice of cancellation, as well as return the mobilization fund, respondent filed a Complaint for Damages against petitioners,^[10] praying that the latter jointly and solidarily pay actual damages in the amount of Seventy Five Thousand Fifty Four Pesos and Twenty Five Centavos (P75,054.25) representing the portion of the mobilization fund released to them, and Sixty Two Thousand Pesos Four Hundred Fifty Pesos and Twenty Two Centavos (P62,450.22) as the amount paid under the accomplishment bills, totaling One Hundred Thirty Seven Thousand Five Hundred Four Pesos and Forty Seven Centavos (P137,504.47). Respondent also sought liquidated damages equivalent to 0.1% of the total contract cost due to BSAI's delay in the performance of its obligations, and exemplary damages in the amount of Fifty Thousand Pesos (P50,000.00).^[11]

In their Amended Answer, petitioners deny the allegations, arguing that: (1) the whole area was totally destroyed by a forest fire in December 1991 without their fault and negligence, which incident was duly reported to respondent, and (2) the cancellation was arbitrary.^[12]

The Regional Trial Court of Quezon City, Branch 217, rendered its decision ordering petitioners to pay the amount of Fifty Thousand Pesos (P50,000.00) as exemplary damages.^[13] The trial court held that respondent had sufficient grounds to cancel

the contract but saw no reason why the “mobilization fund” and the advance payments should be refunded, or that petitioners should be liable for liquidated damages.

Not satisfied, both respondent and petitioners appealed the decision to the Court of Appeals. The appellate court affirmed with modification the decision of the trial court, adjudicating the balance of the mobilization fund refunded by petitioners in the amount of Fifty Six Thousand Two Hundred Ninety Pesos and Sixty Nine Centavos (P56,290.69) with 12% interest.^[14]

Hence, the petition for review on certiorari.

Petitioners submit that the issues to be resolved are as follows:

- “1. Whether the unilateral cancellation by the respondent of the Community-Based Reforestation Contract is invalid, being without factual and legal basis.
- “2. Whether the order to refund the amount of P56,290.69 with interest at the rate of 12% per annum, representing the balance of the mobilization fund, is palpably erroneous as being contrary to the facts.” ^[15]

At the outset, it must be stated that the foregoing issues and the respective arguments in support thereof have been raised by the parties and passed upon by both the trial court and the appellate court.

Petitioners deny that they were bound to fully plant the fifty (50) hectares during the first (1st) year of the program as their commitment under clause 1.1.9 of the Reforestation Contract was to “turn-over to the DENR at the end of the third (3rd) year the contracted area of fifty hectares, fully planted and properly maintained.” Petitioners also refute the finding that they abandoned the project area, arguing that the investigation conducted by the PENCO/CENRO Monitoring and Evaluation Team is suspect; and that its report ignored the fact that a forest fire occurred sometime in December 1991 destroying the plants and seedlings already introduced in the area. Petitioners further claim that their failure to immediately report the fire and submit progress reports is not a substantial breach of their undertaking to warrant the cancellation of the contract; and that they cannot be made to refund the balance of the mobilization fund because these correspond to the work already done in the area. Finally, petitioners object to the award of exemplary damages for being without legal and factual basis.^[16]

On the issue of whether or not respondent had sufficient basis to cancel the contract, both the trial and appellate courts found that there was basis for the cancellation. A perusal of the records of this case confirms such finding.

True, under the reforestation contract, petitioners were to turn over at the end of the third year the project area fully planted and properly maintained.^[17] However, the Project Development Plan, appended and made integral part of the contract,^[18] specifically defines and details petitioners’ undertaking. Under the Plan, the following tasks were to be completed during the first year of the project: (1) survey

and mapping of the whole fifty (50) hectares; (2) nursery operations for fast-growth, medium-growing, and slow-growth species; (3) plantation establishment, including site preparation, spot hoeing, staking, holing, and planting and seed transporting of 83,333 pieces, medium-sized seedlings and sucklers in planting holes; and (4) infrastructure work, including the development of footpath, graded trail, plantation road, bunkhouse and look-out tower.^[19] Spread out during the three-year period is the annual maintenance, protection, administration and supervision, and, monitoring and evaluation of the project area.^[20] Clearly, based on said schedule, petitioners were to undertake the principal task of planting the fifty (50) hectare-project area during the 1st year of the project. What is to be carried out during the entire 3-year period is the maintenance and aftercare of the project site, and petitioners were to turn over the project at the end of the third year fully planted and established. Therefore, petitioners' argument that they are not bound to fully plant/establish the whole fifty (50) hectares during the 1st year of operations is without merit.

Moreover, contrary to petitioners' posture, there was a material breach of the contract warranting its cancellation. One (1) year after the commencement of the project or sometime in December, 1991, a fire razed the reforestation area. As admitted by petitioners, they failed to inform respondent of said incident. Neither did they attempt to submit progress reports on the project, which duties were expressly required of them under the contract. Thus, the appellate court correctly observed, viz.:

"x x x The Appellant BSAI unabashedly admitted failing to establish/plant the project area. Under Section 1.1.5 of the Contract, the Appellant BSAI was obliged to report to the DENR any event or condition which delayed or may delay the progress or prevent the completion, of the work under the time-table set forth under the contract or any relevant facts known to the Appellant BSAI. A fire in the area which gutted the improvements in contract area occurred in December, 1991. However, the Appellant BSAI never informed the DENR of said fire. Worse, the Appellant BSAI did not anymore conduct any replanting activities on the area, thus accounting, **in part**, for the failure of the said Appellant to submit periodic progress reports on its activities in said area. Even before the fire occurred, in December 1991, the Appellant BSAI already failed to submit any periodic reports of progress of its activities in the area. This prompted the DENR to conduct an on the site inspection of the subject project area. Indeed, Carlos Valencia and Hernani Salaya Jr., even ignored the requests of DENR for them to be present during the said inspections. The DENR inspection team found and discovered that the Appellant BSAI failed to fully establish planting on the subject project area. Instead of planting the seedlings on the project area, the Appellant BSAI sold some of the seedlings because of its failure to pay the nursery owner, Anilao Satellite Nursery, located in Pilar, Bataan for said seedlings. x x x"^[21]

Petitioners attempt to trivialize their lapse, but the Court believes that this is not merely a slight or casual breach, but a substantial one giving sanction to the cancellation. Under Clause 4.1 of the contract, respondents "*shall* have the right to suspend, terminate or cancel" the contract upon petitioners' substantial failure to fulfill their obligations, or a willful violation of the material conditions, stipulations and covenants thereof. It can be concluded from the tenor of said clause that the