

FIRST DIVISION

[G.R. Nos. 147933-34, December 12, 2001]

**PUBLIC ESTATES AUTHORITY, PETITIONER, VS. ELPIDIO S. UY,
DOING BUSINESS UNDER THE NAME AND STYLE EDISON
DEVELOPMENT & CONSTRUCTION, AND THE COURT OF APPEALS,
RESPONDENTS.**

DECISION

YNARES-SANTIAGO, J.:

This is a petition for review of the Joint Decision dated September 25, 2000^[1] and the Joint Resolution dated April 25, 2001^[2] of the Court of Appeals in the consolidated cases CA-G.R. SP Nos. 59308 and 59849.

Petitioner Public Estates Authority is the government agency tasked by the Bases Conversion Development Authority to develop the first-class memorial park known as the Heritage Park, located in Fort Bonifacio, Taguig, Metro Manila. On November 20, 1996, petitioner executed with respondent Elpidio S. Uy, doing business under the name and style Edison Development & Construction, a Landscaping and Construction Agreement, whereby respondent undertook to perform all landscaping works on the 105-hectare Heritage Park. The Agreement stipulated that the completion date for the landscaping job was within 450 days, commencing within 14 days after receipt by respondent from petitioner of a written notice to proceed. Due to delays, the contracted period was extended to 693 days. Among the causes of the delay was petitioner's inability to deliver to respondent 45 hectares of the property for landscaping, because of the existence of squatters and a public cemetery.

Respondent instituted with the Construction Industry Arbitration Commission an action, docketed as CIAC Case No. 02-2000, seeking to collect from petitioner damages arising from its delay in the delivery of the entire property for landscaping. Specifically, respondent alleged that he incurred additional rental costs for the equipment which were kept on stand-by and labor costs for the idle manpower. Likewise, the delay incurred by petitioner caused the topsoil at the original supplier to be depleted, which compelled respondent to obtain the topsoil from a farther source, thereby incurring added costs. He also claims that he had to mobilize water trucks for the plants and trees which have already been delivered at the site. Furthermore, it became necessary to construct a nursery shade to protect and preserve the young plants and trees prior to actual transplanting at the landscaped area.

On May 16, 2000, the CIAC rendered a decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the Claimant Contractor **ELPIDIO S. UY** and **Award** is hereby made on its monetary claim as follows:

Respondent **PUBLIC ESTATES AUTHORITY** is directed to pay the Claimant the following amounts:

P19,604,132.06 --- for the cost of idle time of equipment.

2,275,721.00 --- for the cost of idled manpower.

6,050,165.05 --- for the construction of the nursery shade net area.

605,016.50 --- for attorney's fees.

Interest on the amount of **P6,050,165.05** as cost for the construction of the nursery shade net area shall be paid at the rate of 6% per annum from the date the Complaint was filed on 12 January 2000. Interest on the total amount of **P21,879,853.06** for the cost of idled manpower and equipment shall be paid at the same rate of 6% per annum from the date this Decision is promulgated. After finality of this Decision, interest at the rate of **12%** per annum shall be paid on the total of these 3 awards amounting to **P27,930,018.11** until full payment of the awarded amount shall have been made, *"this interim period being deemed to be at that time already a forbearance of credit"* (*Eastern Shipping Lines, Inc. v. Court of Appeals, et al.*, 243 SCRA 78 [1994]; *Keng Hua Paper Products Co., Inc. v. Court of Appeals*, 286 SCRA 257 [1998]; *Crismina Garments, Inc. v. Court of Appeals*, G.R. No. 128721, March 9, 1999).

SO ORDERED.^[3]

Both petitioner and respondent filed petitions for review with the Court of Appeals. In CA-G.R. SP No. 59308, petitioner contested the monetary awards given by the CIAC. On the other hand, respondent filed CA-G.R. SP No. 59849, arguing that the CIAC erred in awarding a reduced amount for equipment stand-by costs and for denying his claims for additional costs for topsoil hauling and operating costs of water trucks.

The two petitions were consolidated. On September 25, 2000, the Court of Appeals rendered the now assailed Joint Decision, dismissing the petitions, to wit:

WHEREFORE, premises considered, the petitions in CA-G.R. SP No. 59308, entitled **"Public Estates Authority v. Elpidio S. Uy, doing business under the name and style of Edison Development & Construction,"** and CA-G.R. SP No. 59849, **"Elpidio S. Uy, doing business under the name and style of Edison Development & Construction v. Public Estates Authority,"** are both hereby DENIED DUE COURSE and accordingly, DISMISSED, for lack of merit.

Consequently, the Award/Decision issued by the Construction Industry Arbitration Commission on May 16, 2000 in CIAC Case No. 02-200, entitled **"Elpidio S. Uy, doing business under the name and style of**

Edison Development & Construction v. Public Estates Authority,"
is hereby AFFIRMED in toto.

No pronouncement as to costs.

SO ORDERED.^[4]

Both parties filed motions for reconsideration. Subsequently, petitioner filed with the Court of Appeals an Urgent Motion for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeking to enjoin the CIAC from proceeding with CIAC Case No. 03-2001, which respondent has filed. Petitioner alleged that the said case involved claims by respondent arising from the same Landscaping and Construction Agreement, subject of the cases pending with the Court of Appeals.

On April 25, 2001, the Court of Appeals issued the assailed Joint Resolution, thus:

WHEREFORE, the present Motion/s for Reconsideration in CA-G.R. SP No. 59308 and CA-G.R. SP No. 59849 are hereby both DENIED, for lack of merit.

Accordingly, let an injunction issue permanently enjoining the Construction Industry Arbitration Commission from proceeding with CIAC Case No. 03-2001, entitled ***ELPIDIO S. UY, doing business under the name and style of EDISON DEVELOPMENT & CONSTRUCTION v. PUBLIC ESTATES AUTHORITY and/or HONORABLE CARLOS P. DOBLE.***

SO ORDERED.^[5]

Hence, this petition for review, raising the following arguments:

I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DENYING DUE COURSE PETITIONER'S (SIC) PETITION FILED PURSUANT TO RULE 43 OF THE 1997 RULES OF CIVIL PROCEDURE APPEALING THE ADVERSE DECISION OF THE CIAC A QUO

II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DENYING THE HEREIN PETITIONER'S MOTION FOR RECONSIDERATION ON THE JOINT DECISION PROMULGATED ON SEPTEMBER 25, 2000.

III

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT ALLOWING THE APPEAL ON THE MERITS TO BE THRESHED OUT PURSUANT TO EXISTING LAWS AND JURISPRUDENCE ALL IN INTEREST OF DUE PROCESS,.

IV

THE HONORABLE COURT OF APPEALS ERRED IN DENYING PETITIONER'S CLAIM FOR UNRECOUPED BALANCE IN THE 15% ADVANCE PAYMENT; UNRECOUPED BALANCE ON PRE-PAID MATERIALS, AND OVERPAYMENT BASED ON ACTUAL PAYMENT MADE AS AGAINST PHYSICAL ACCOMPLISHMENTS.

V

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE CIAC DECISION FINDING RESPONDENT ENTITLED TO ATTORNEY'S FEES IN THE AMOUNT OF P605,096.50 - WHICH IS 10% OF THE AMOUNT AWARDED FOR THE CLAIM OF NURSERY SHADE CONSTRUCTION WHILE DENYING PETITIONER'S COUNTERCLAIM FOR ATTORNEY'S FEES.

VI

THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT PETITIONER'S OBLIGATION, IF ANY, HAS BEEN EFFECTIVELY EXTINGUISHED.

VII

THE HONORABLE COURT OF APPEALS ERRED IN NOT ORDERING THE RESPONDENT TO REIMBURSE THE PETITIONER THE AMOUNT OF P345,583.20 THE LATTER PAID TO THE CONSTRUCTION INDUSTRY ARBITRATION COMMISSION.^[6]

After respondent filed its comment^[7] on August 20, 2001, this Court issued a resolution dated September 3, 2001^[8] requiring petitioner to file its reply within ten days from notice. Despite service of the resolution on petitioner and its counsel on October 1, 2001, no reply has been filed with this Court to date. Therefore, we dispense with the filing of petitioner's reply and decide this case based on the pleadings on record.

The petition is without merit.

Petitioner assails the dismissal of its petition by the Court of Appeals based on a technicality, *i.e.*, the verification and certification of non-forum shopping was signed by its Officer-in-Charge, who did not appear to have been authorized by petitioner to represent it in the case. Petitioner moreover argues that in an earlier resolution, the First Division of the Court of Appeals gave due course to its petition. Despite this, it was the Seventeenth Division of the Court of Appeals which rendered the Joint Decision dismissing its petition.

The contention is untenable. Petitioner, being a government owned and controlled corporation, can act only through its duly authorized representatives. In the case of *Premium Marble Resources, Inc. v. Court of Appeals*,^[9] which the Court of Appeals cited, we made it clear that in the absence of an authority from the board of directors, no person, not even the officers of the corporation, can validly bind the corporation.^[10] Thus, we held in that case: