



Republic of the Philippines  
 Supreme Court  
 Manila

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC OPERATIONS OFFICE  
**RECEIVED**  
 FEB 01 2016  
 BY: JORDAN  
 TIME: 2:19

FIRST DIVISION

**FILINVEST ALABANG, INC.,**  
 Petitioner,

**G.R. No. 213229**

- versus -

Present:

**CENTURY IRON WORKS,**  
**INC.,**  
 Respondent.

SERENO, C.J., Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

Promulgated:

**DEC 09 2015**

X-----X

**DECISION**

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated December 27, 2013 and the Resolution<sup>3</sup> dated June 25, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 97025, which affirmed with modification the Decision<sup>4</sup> dated August 3, 2010 of the Regional Trial Court of Pasig City (assigned in the City of San Juan), Branch 264 (RTC) in Civil Case No. 68850 and, accordingly, ordered petitioner Filinvest Alabang, Inc. (petitioner) to pay respondent Century Iron Works, Inc. (respondent) the aggregate amount of ₱1,392,088.68, plus legal interest at the rate of twelve percent (12%) per annum from the time of default until full payment thereof.

<sup>1</sup> *Rollo*, pp. 11-28.

<sup>2</sup> *Id.* at 34-43. Penned by Associate Justice Sesinando E. Villon with Associate Justices Florito S. Macalino and Zenaida T. Galapate-Laguilles concurring.

<sup>3</sup> *Id.* at 45.

<sup>4</sup> *Id.* at 46-58. Penned by Presiding Judge Leoncio M. Janolo, Jr.

N

### The Facts

Sometime in 1997 and 1998, petitioner awarded various contracts to respondent, including a contract for the completion of the metal works requirement of Filinvest Festival Supermall amounting to ₱29,000,000.00, as evidenced by the Agreement for Construction<sup>5</sup> executed by both parties (subject contract), as well as the General Conditions of Contract<sup>6</sup> (General Conditions) which supplements the subject contract. After the completion of said project, respondent tried to fully settle its credit with petitioner, but the latter, despite demands, allegedly withheld without any reasonable ground the payment of the aggregate amount of ₱1,392,088.68, broken down as follows: (a) balance of the retention fee amounting to ₱40,880.00; (b) additional deduction of ₱227,500.00 from the latter's total payments; and (c) the cost of an additional scenic elevator enclosure amounting to ₱1,123,708.68. This prompted respondent to file the instant case for sum of money with damages against petitioner before the RTC, docketed as Civil Case No. 68850.<sup>7</sup>

In defense, petitioner maintained that: (a) it had the right to retain the amounts of ₱40,880.00 and ₱227,500.00 as they represented damages arising from respondent's substandard workmanship; and (b) the subject contract is lump sum in nature, hence, it cannot be liable for the amount representing the additional scenic elevator enclosure absent any instruction authorizing the construction of the same.<sup>8</sup>

### The RTC Ruling

In a Decision<sup>9</sup> dated August 3, 2010, the RTC granted respondent's claim for the amount of ₱227,500.00 plus legal interest, but denied the rest of the latter's claims.<sup>10</sup>

The RTC found that petitioner is already estopped from claiming damages purportedly arising from respondent's substandard workmanship, considering its issuance of a Certificate of Completion and Acceptance<sup>11</sup> signifying its acceptance of respondent's work as up to par. As such, petitioner must remit the amount of ₱227,500.00 to respondent.<sup>12</sup> However, the RTC held that since the subject contract is lump sum in nature, petitioner cannot be held liable for the cost of the additional scenic elevator enclosure

---

<sup>5</sup> Id. at 59-63.

<sup>6</sup> Id. at 81-92.

<sup>7</sup> See id. at 34-36.

<sup>8</sup> See id. at 36.

<sup>9</sup> Id. at 46-58.

<sup>10</sup> Id. at 57.

<sup>11</sup> Records, Vol. 1, pp. 387-388

<sup>12</sup> See *rollo*, p. 57.

amounting to ₱1,123,708.68 as its liability is already fixed at the lump sum contract price of ₱29,000,000.00.<sup>13</sup>

Aggrieved, respondent appealed<sup>14</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>15</sup> dated December 27, 2013, the CA affirmed the RTC ruling with modification, ordering petitioner to pay respondent the amounts of ₱40,880.00 and ₱1,123,708.68 as well, both with legal interest at the rate of twelve percent (12%) per annum from the time of default until full payment.<sup>16</sup>

The CA agreed with the RTC that petitioner is estopped from asserting respondent's poor workmanship in view of its issuance of a Certificate of Completion and Acceptance. As such, petitioner must pay not only the amount of ₱227,500.00 initially ordered by the RTC, but also the amount of ₱40,880.00 withheld by petitioner on account of respondent's purported defective works, which was overlooked by the RTC in its ruling.<sup>17</sup>

However, contrary to the RTC's finding, the CA held that the subject contract is not fixed lump sum in nature and, thus, petitioner's liability over the subject contract cannot be limited to ₱29,000,000.00 as stipulated. Hence, the parties may stipulate on additional works beyond what was specified in the subject contract, as in this case where they agreed on the installation of an additional scenic elevator enclosure which cost ₱1,123,708.68. In this light, respondent must be paid the cost for the additional elevator; otherwise, it will constitute unjust enrichment on the part of petitioner.<sup>18</sup>

Dissatisfied, petitioner moved for reconsideration,<sup>19</sup> which was, however, denied in a Resolution<sup>20</sup> dated June 25, 2014; hence, this petition.

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

The issue for the Court's resolution is whether or not the CA correctly ordered petitioner to pay the following amounts to respondent: (a) balance of the retention fee amounting to ₱40,880.00; (b) additional deduction of

---

<sup>13</sup> See *id.* at 56.

<sup>14</sup> See Brief for the Appellant dated February 22, 2012; *id.* at 165-182.

<sup>15</sup> *Id.* at 34-43.

<sup>16</sup> *Id.* at 42.

<sup>17</sup> See *id.* at 41-42.

<sup>18</sup> See *id.* at 37-41.

<sup>19</sup> See motion for reconsideration dated January 21, 2014; CA *rollo*, pp. 143-154.

<sup>20</sup> See *rollo*, p. 45.

₱227,500.00 due to purported substandard work of the latter; and (c) the cost of an additional scenic elevator enclosure amounting to ₱1,123,708.68.

### The Court's Ruling

The petition is denied.

At the outset, it must be stressed that a petition for review under Rule 45 of the Rules of Court covers only questions of law. Questions of fact are not reviewable,<sup>21</sup> absent any of the exceptions recognized by case law.<sup>22</sup> This rule is rooted on the doctrine that findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored.<sup>23</sup> Hence, absent any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts, especially when affirmed by the CA, are binding and conclusive upon this Court.<sup>24</sup>

In the instant case, both the RTC and the CA found that petitioner had issued to respondent a Certificate of Completion and Acceptance<sup>25</sup> signifying that it had already accepted respondent's work as up to par. As correctly pointed out by the RTC and the CA, this factual finding already estops petitioner from withholding the amounts due to respondent's purported substandard workmanship. It is settled that "[w]henever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be

---

<sup>21</sup> See *Uyboco v. People*, G.R. No. 211703, December 10, 2014, citing *Microsoft Corp. v. Maxicorp, Inc.*, 481 Phil. 550, 561 (2004).

<sup>22</sup> "As a rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court. In many instances, however, this Court has laid down exceptions to this general rule, as follows:

- (1) When the factual findings of the [CA] and the trial court are contradictory;
- (2) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (3) When the inference made by the [CA] from its findings of fact is manifestly mistaken, absurd or impossible;
- (4) When there is grave abuse of discretion in the appreciation of facts;
- (5) When the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) When the judgment of the [CA] is premised on misapprehension of facts;
- (7) When the [CA] failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;
- (8) When the findings of fact are themselves conflicting;
- (9) When the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) When the findings of fact of the [CA] are premised on the absence of evidence but such findings are contradicted by the evidence on record."

(*Treñas v. People*, 680 Phil. 368, 378 [2012], citing *Salcedo v. People*, 400 Phil. 1302, 1308-1309 [2000].)

<sup>23</sup> See *Uyboco v. People*, supra note 21, citing *Navallo v. Sandiganbayan*, G.R. No. 97214, July 18, 1994, 234 SCRA 175, 185-186.

<sup>24</sup> See *id.*, citing *Plameras v. People*, G.R. No. 187268, September 4, 2013, 705 SCRA 104, 122.

<sup>25</sup> Records, Vol. 1, pp. 387-388.

permitted to falsify it,”<sup>26</sup> as in this case. Therefore, it is but proper that petitioner remit to respondent the amounts of ₱40,880.00 and ₱227,500.00 it withheld from the latter.

On the other hand, anent the issue of whether or not petitioner is liable to respondent in the amount of ₱1,123,708.68 representing the cost of an additional scenic elevator enclosure, the RTC and the CA had different factual findings which then led to different conclusions. As already adverted to, the RTC found the subject contract to be fixed lump sum in nature and, thus, adjudged petitioner liable only for the amount of ₱29,000,000.00; on the other hand, the CA held otherwise, resulting in its ruling that petitioner should be held liable for the cost of the additional scenic elevator enclosure. In view of the conflicting factual findings of the RTC and the CA on this matter, the Court is constrained to make its own determination as to whether or not the subject contract is fixed lump sum in nature, and thereafter, resolve if petitioner is indeed liable for the amount of ₱1,123,708.68.<sup>27</sup>

Fixed lump sum contracts are governed by Article 1724 of the Civil Code, which reads:

Art. 1724. The contractor who undertakes to build a structure or any other work for a stipulated price, in conformity with plans and specifications agreed upon with the landowner, can neither withdraw from the contract nor demand an increase in the price on account of the higher cost of labor or materials, save when there has been a change in the plans and specifications, provided:

(1) Such change has been authorized by the proprietor in writing; and

(2) The additional price to be paid to the contractor has been determined in writing by both parties.

In a fixed lump sum contract, the project owner agrees to pay the contractor a specified amount for completing a scope of work involving a variety of unspecified items of work without requiring a cost breakdown. The contractor estimates the project cost based on the scope of work and schedule and considers probable errors in measurement and changes in the price of materials.<sup>28</sup> Otherwise stated, in fixed lump sum contracts, the project owner’s liability to the contractor is ***generally*** limited to what is stipulated therein.

---

<sup>26</sup> *Pasion v. Melegrito*, 548 Phil. 302, 311 (2007), citing Section 2 (a), Rule 131 of the Rules of Court.

<sup>27</sup> “Under Rule 45 of the Rules of Court, jurisdiction is generally limited to the review of errors of law committed by the appellate court. The Supreme Court is not obliged to review all over again the evidence which the parties adduced in the court *a quo*. Of course, the general rule admits of exceptions, such as where the factual findings of the CA and the trial court are conflicting or contradictory.” (*Miro v. Mendoza Vda. de Erederos*, G.R. Nos. 172532 and 172544-45, November 20, 2013, 710 SCRA 371, 386, citing *Recio v. Heirs of Spouses Altamirano*, G.R. No. 182349, July 24, 2013, 702 SCRA 137, 147.)

<sup>28</sup> *Leighton Contractors Phils., Inc. v. CNP Industries, Inc.*, 628 Phil. 547, 560 (2010).

However, it must be clarified that Article 1724 of the Civil Code does not preclude the parties from stipulating on additional works to the project covered by said fixed lump sum contract which would entail added liabilities on the part of the project owner. In fact, the said provision allows contractors to recover from project owners additional costs in fixed lump sum contracts, as well as the increase in price for any additional work due to a subsequent change in the original plans and specifications, provided that there exists: (a) a written authority from the developer or project owner ordering or allowing the written changes in work; ***and*** (b) written agreement of the parties with regard to the increase in price or cost due to the change in work or design modification. Jurisprudence instructs that compliance with these two (2) requisites is a ***condition precedent*** for recovery and hence, the absence of one or the other condition bars the claim for additional costs. Notably, neither the authority for the changes made nor the additional price to be paid therefor may be proved by any evidence other than the written authority and agreement as above-mentioned.<sup>29</sup>

In the instant case, pertinent portions of the subject contract read:

#### ARTICLE I – SCOPE OF WORK

- 1.1 The CONTRACTOR shall furnish **all materials, labor, equipment, supervision and all other accessories, fixings and incidentals necessary to complete the Supply and Installation of Metal Works Requirements** (referred to either as the “Contract Works” or the “Works”) and hand-over the works to Filinvest in accordance with the Approved Plans, Technical Specifications, General Conditions of Contract and other Bid Documents all included in the Notice of Award dated 30 April 1997 (Annex A hereof) inclusive of all its attachments and Annexes all of which are made integral parts of this Agreement by reference.

#### ARTICLE II – CONTRACT PRICE

- 2.1 **For and in consideration of the services to be rendered by the CONTRACTOR as herein above specified, FILINVEST shall pay the CONTRACTOR the Lump Sum Contract Price of PESOS: TWENTY NINE MILLION AND 00/100 (₱29,000,000.00)**, inclusive of Value Added Tax (VAT), in the manner set forth under Article III hereof (the “Manner of Payment”).

x x x<sup>30</sup> (Emphases and underscoring supplied)

In this relation, key provisions of the General Conditions state:

#### ARTICLE IX – VARIATION ORDERS

<sup>29</sup> See *The President of the Church of Jesus Christ of Latter Day Saints v. BTL Construction Corporation*, G.R. No. 176439, January 15, 2014, 713 SCRA 455, 466-467.

<sup>30</sup> *Rollo*, p. 60.

- 1.0 Site Instruction: Variation or Change Orders and Extra Works shall be performed by the CONTRACTOR only upon the issuance of official Site Instruction from the Engineer or from any duly designated representative of FILINVEST. Before issuing an official variation instruction, FILINVEST may require the CONTRACTOR to submit within ten (10) days a detailed account of the time and cost implications of complying with the proposed variation order. FILINVEST has the sole prerogative to award the variation order to the CONTRACTOR, or to any other party, whichever is advantageous to FILINVEST. Any work performed without any accompanying official site instruction and which is not part of the original scope of work shall not be paid by FILINVEST.

x x x x

- 3.0 Valuation of Variation or Change Orders: The value of all variations shall be initiated by the CONTRACTOR subject to acceptance and approval by FILINVEST in accordance with the following guidelines:

- 3.1. Where a Schedule of Rates (upon which the Lump Sum Price or Unit Priced Contract Sum was based) has been made part of the Contract, the prices in the said Unit Rates be used in the valuation of variation orders.

x x x x<sup>31</sup> (Emphases and underscoring supplied)

A reading of the subject contract clearly reveals that it is fixed lump sum in nature as the parties agreed that respondent shall “furnish all materials, labor, equipment, supervision and all other accessories, fixings and incidentals necessary to complete the Supply and Installation of Metal Works Requirements” of petitioner’s Filinvest Festival Supermall. In exchange for such works, respondent shall be remunerated “the Lump Sum Contract Price of PESOS: TWENTY NINE MILLION AND 00/100 (₱29,000,000.00).”

As already explained above, the fixed lump sum nature of the subject contract did not preclude the parties from agreeing on additional works and/or changes to the project. Pursuant to the rule laid down by Article 1724 of the Civil Code, the General Conditions allowed the parties to stipulate on extra works through the issuance of Site Instructions, as what happened in this case when petitioner issued two (2) Site Instructions, dated August 1, 1997<sup>32</sup> and January 23, 1998,<sup>33</sup> pertaining to the construction of an additional scenic elevator enclosure in the project. In this regard, and as correctly pointed out by the CA, the valuation of this additional work was lifted from the Bill of Quantities<sup>34</sup> previously agreed upon by the parties and

<sup>31</sup> Id. at 88.

<sup>32</sup> Records, Vol. 2, p. 622.

<sup>33</sup> Id. at 622-A.


<sup>34</sup> Id. at 626-627.

was put into writing as evidenced by the Cost Breakdown for Claim of Change Orders<sup>35</sup> and the Material Quantity Breakdown for Scenic Elevator Enclosure<sup>36</sup> submitted by respondent to petitioner. The foregoing shows that: (a) there was a written authority from petitioner for respondent to proceed with the construction of the additional scenic elevator enclosure; and (b) the parties have a written agreement as to the proper valuation of such additional works to be made on the project. As the construction of an additional scenic elevator enclosure was covered by a valid extra work order to the subject contract, respondent is entitled to recover from petitioner the cost of the same amounting to ₱1,123,708.68.


On a final note, all the amounts due to respondent – namely the: (a) balance of the retention fee amounting to ₱40,880.00; (b) additional deduction of ₱227,500.00 due to purported substandard work of the latter; and (c) the cost of an additional scenic elevator enclosure amounting to ₱1,123,708.68 – should be subject to legal interest at the rate of twelve percent (12%) per annum from extrajudicial demand until June 30, 2013 and six percent (6%) per annum thereafter until full payment, in accordance with recent jurisprudence.<sup>37</sup>

**WHEREFORE**, the petition is **DENIED**. Accordingly, the Decision dated December 27, 2013 and the Resolution dated June 25, 2014 of the Court of Appeals in CA-G.R. CV No. 97025 are hereby **AFFIRMED** with **MODIFICATION** imposing legal interest at the rate of twelve percent (12%) per annum on all monetary awards from extrajudicial demand until June 30, 2013 and six percent (6%) per annum thereafter until full payment.

**SO ORDERED.**

  
ESTELA M. PERLAS-BERNABE  
Associate Justice

**WE CONCUR:**

  
MARIA LOURDES P. A. SERENO  
Chief Justice  
Chairperson

  
TERESITA J. LEONARDO-DE CASTRO  
Associate Justice


  
LUCAS P. BERSAMIN  
Associate Justice

<sup>35</sup> Id. at 624.

<sup>36</sup> Id. at 625.

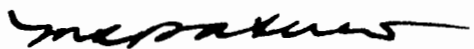
<sup>37</sup> See *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 456.



  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice