

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 11, 2015, which reads as follows:

“G.R. No. 200967 (*Eastern Assurance & Surety Corporation v. Bangko Sentral ng Pilipinas*). – The Court resolves to:

- (1) **GRANT** petitioner’s motion to file and admit attached reply to respondent’s comment/opposition to petitioner’s motion for reconsideration of the Resolution dated July 28, 2014 which denied the petition for review on certiorari; and
- (2) **NOTE** said reply.

On July 28, 2014, the Court issued a Resolution denying Eastern Assurance & Surety Corporation’s (*EASCO*) Petition for Review for failure to show that the Court of Appeals (*CA*) committed any reversible error in affirming the ruling of the trial court with modification on the award of damages.

Bangko Sentral ng Pilipinas (*BSP*) had filed a complaint for sum of money and damages against Roberto D. Tuazon, doing business under the name “R. D. Tuazon Construction,” impleading *EASCO* as surety, for Tuazon’s failure to finish the construction of *BSP*’s Regional Unit Building at the time agreed upon in their contract.

On August 22, 2006, the Regional Trial Court (*RTC*) held that Tuazon was clearly in default in the performance of his obligation and that *EASCO*, as surety under a performance and surety bond, was liable, jointly and severally, with Tuazon for damages suffered by *BSP*. As a result, it ordered Tuazon and *EASCO*, jointly and severally, to pay *BSP* the sum of ₱15,092,492.97 as actual and compensatory damages, apart from other damages.

On appeal, the CA, on September 30, 2011, affirmed the RTC's decision with modification, reducing the amount of exemplary damages and attorney's fees to ₱50,000.00. It held that the trial court correctly awarded ₱15,092,492.97 as actual and compensatory damages because had Tuazon completed the construction of the project within the agreed time frame, BSP would not have been forced to hire another contractor. The appellate court also ruled that EASCO cannot allege denial of due process for it had been given many opportunities to present its evidence. As to EASCO's contention that it cannot be made liable for the overpayment since its liability is determined by the contract of suretyship which cannot be extended beyond the terms thereof, the CA rejected the same for the performance bond clearly states that EASCO's liability is co-terminus with the final acceptance of the project. Thus, while there is no proof that it agreed to the time extensions, it would not negate its liability until the final acceptance of the project. Similarly, EASCO was held jointly and severally bound for the overpayment under the surety bond for the same is "callable on demand and shall remain valid and in full force until the amount is fully amortized and liquidated."

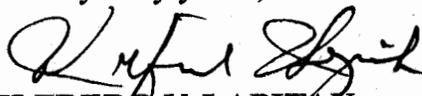
On September 1, 2014, EASCO filed a Motion for Reconsideration, basically reiterating its arguments in its Petition for Review, adding an assertion that granting its liability under the subject bonds, it should not be held liable for the full amount of ₱15,092,492.97 but only ₱11,092,480.79, representing the sum of ₱9,044,503.68 stipulated under the performance bond and the alleged overpayment of ₱2,047,977.11, as determined by the CA, under the surety bond. In its Comment filed on December 11, 2014, BSP opposed EASCO's additional argument for being belatedly and erroneously raised before the Court for being a question of fact.

After a review of EASCO's Motion for Reconsideration, the Court finds no compelling reason to depart from its assailed Resolution. EASCO's belated attempt to alter the amount of its liability, which has already been meticulously computed by the trial court and affirmed by the appellate court, cannot possibly be taken into consideration at this late stage of the proceedings. For asserting the claim only on Motion for Reconsideration before the Court, despite having ample opportunity to do so during the previous proceedings, EASCO cannot now be allowed to impute error on a factual determination arrived at by the courts below.

WHEREFORE, the Motion for Reconsideration is **DENIED WITH FINALITY**.

SO ORDERED.”

Very truly yours,


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Division Clerk of Court
2/11/15

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The Presiding Judge
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Branch 40, 1000 Manila
(Civil Case No. 00-99070)

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