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# [ GR NO. 158253, Mar 02, 2007 ]

## REPUBLIC v. CARLITO LACAP

## *DECISION*

546 Phil. 87

**AUSTRIA-MARTINEZ, J.:**

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court assailing the Decision[1] dated April 28, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 56345 which affirmed with modification the Decision[2] of the Regional Trial Court, Branch 41, San Fernando, Pampanga (RTC) in Civil Case No. 10538, granting the complaint for Specific Performance and Damages filed by Carlito Lacap (respondent) against the Republic of the Philippines (petitioner).

The factual background of the case is as follows:

The District Engineer of Pampanga issued and duly published an "Invitation To Bid" dated January 27, 1992. Respondent, doing business under the name and style Carwin Construction and Construction Supply (Carwin Construction), was pre-qualified together with two other contractors. Since respondent submitted the lowest bid, he was awarded the contract for the concreting of Sitio 5 Bahay Pare.[3] On November 4, 1992, a Contract Agreement was executed by respondent and petitioner.[4] On September 25, 1992, District Engineer Rafael S. Ponio issued a Notice to Proceed with the concreting of Sitio 5 Bahay Pare.[5] Accordingly, respondent undertook the works, made advances for the purchase of the materials and payment for labor costs.[6]

On October 29, 1992, personnel of the Office of the District Engineer of San Fernando, Pampanga conducted a final inspection of the project and found it 100% completed in accordance with the approved plans and specifications. Accordingly, the Office of the District Engineer issued Certificates of Final Inspection and Final Acceptance.[7]

Thereafter, respondent sought to collect payment for the completed project.[8] The DPWH prepared the Disbursement Voucher in favor of petitioner.[9] However, the DPWH withheld payment from respondent after the District Auditor of the Commission on Audit (COA) disapproved the final release of funds on the ground that the contractor's license of respondent had expired at the time of the execution of the contract. The District Engineer sought the

opinion of the DPWH Legal Department on whether the contracts of Carwin Construction for various Mount Pinatubo rehabilitation projects were valid and effective although its contractor's license had already expired when the projects were contracted.[10]

In a Letter-Reply dated September 1, 1993, Cesar D. Mejia, Director III of the DPWH Legal Department opined that since Republic Act No. 4566 (R.A. No. 4566), otherwise known as the Contractor's License Law, does not provide that a contract entered into after the license has expired is void and there is no law which expressly prohibits or declares void such contract, the contract is enforceable and payment may be paid, without prejudice to any appropriate administrative liability action that may be imposed on the contractor and the government officials or employees concerned.[11]

In a Letter dated July 4, 1994, the District Engineer requested clarification from the DPWH Legal Department on whether Carwin Construction should be paid for works accomplished despite an expired contractor's license at the time the contracts were executed.[12]

In a First Indorsement dated July 20, 1994, Cesar D. Mejia, Director III of the Legal Department, recommended that payment should be made to Carwin Construction, reiterating his earlier legal opinion.[13] Despite such recommendation for payment, no payment was made to respondent.

Thus, on July 3, 1995, respondent filed the complaint for Specific Performance and Damages against petitioner before the RTC.[14]

On September 14, 1995, petitioner, through the Office of the Solicitor General (OSG), filed a Motion to Dismiss the complaint on the grounds that the complaint states no cause of action and that the RTC had no jurisdiction over the nature of the action since respondent did not appeal to the COA the decision of the District Auditor to disapprove the claim.[15]

Following the submission of respondent's Opposition to Motion to Dismiss, [16] the RTC issued an Order dated March 11, 1996 denying the Motion to Dismiss.[17] The OSG filed a Motion for Reconsideration[18] but it was likewise denied by the RTC in its Order dated May 23, 1996.[19]

On August 5, 1996, the OSG filed its Answer invoking the defenses of non-exhaustion of administrative remedies and the doctrine of non-suability of the State.[20]

Following trial, the RTC rendered on February 19, 1997 its Decision, the dispositive portion of which reads as follows:

WHEREFORE, in view of all the foregoing consideration, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter, thru its District Engineer at Sindalan, San Fernando, Pampanga, to pay the following:

a) P457,000.00 - representing the contract for the concreting project of Sitio 5 road, Bahay Pare, Candaba, Pampanga plus interest at 12% from demand until fully paid; and

b) The costs of suit.

SO ORDERED.[21]

The RTC held that petitioner must be required to pay the contract price since it has accepted the completed project and enjoyed the benefits thereof; to hold otherwise would be to overrun the long standing and consistent pronouncement against enriching oneself at the expense of another.[22]

Dissatisfied, petitioner filed an appeal with the CA.[23] On April 28, 2003, the CA rendered its Decision sustaining the Decision of the RTC. It held that since the case involves the application of the principle of estoppel against the government which is a purely legal question, then the principle of exhaustion of administrative remedies does not apply; that by its actions the government is estopped from questioning the validity and binding effect of the Contract Agreement with the respondent; that denial of payment to respondent on purely technical grounds after successful completion of the project is not countenanced either by justice or equity.

The CA rendered herein the assailed Decision dated April 28, 2003, the dispositive portion of which reads:

WHEREFORE, the decision of the lower court is hereby AFFIRMED with modification in that the interest shall be six percent (6%) per annum computed from June 21, 1995.

SO ORDERED.[24]

Hence, the present petition on the following ground:

THE COURT OF APPEALS ERRED IN NOT FINDING THAT RESPONDENT HAS NO CAUSE OF ACTION AGAINST PETITIONER, CONSIDERING THAT:

(a) RESPONDENT FAILED TO EXHAUST ADMINISTRATIVE REMEDIES; AND

(b) IT IS THE COMMISSION ON AUDIT WHICH HAS THE

PRIMARY JURISDICTION TO RESOLVE RESPONDENT'S MONEY CLAIM AGAINST THE GOVERNMENT.[25]

123Petitioner contends that respondents recourse to judicial action was premature since the proper remedy was to appeal the District Auditor's disapproval of payment to the COA, pursuant to Section 48, Presidential Decree No. 1445 (P.D. No. 1445), otherwise known as the Government Auditing Code of the Philippines; that the COA has primary jurisdiction to resolve respondent's money claim against the government under Section 2(1),[26] Article IX of the 1987 Constitution and Section 26[27] of P.D. No. 1445; that non-observance of the doctrine of exhaustion of administrative remedies and the principle of primary jurisdiction results in a lack of cause of action.

Respondent, on the other hand, in his Memorandum[28] limited his discussion to Civil Code provisions relating to human relations. He submits that equity demands that he be paid for the work performed; otherwise, the mandate of the Civil Code provisions relating to human relations would be rendered nugatory if the State itself is allowed to ignore and circumvent the standard of behavior it sets for its inhabitants.

The present petition is bereft of merit.

The general rule is that before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes.[29] The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.[30]

Corollary to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction; that is, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.[31]

Nonetheless, the doctrine of exhaustion of administrative remedies and the corollary doctrine of primary jurisdiction, which are based on sound public policy and practical considerations, are not inflexible rules. There are many accepted exceptions, such as: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make

the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice;[32] (f) where judicial intervention is urgent; (g) when its application may cause great and irreparable damage; (h) where the controverted acts violate due process; (i) when the issue of non-exhaustion of administrative remedies has been rendered moot;[33] (j) when there is no other plain, speedy and adequate remedy; (k) when strong public interest is involved; and, (l) in quo warranto proceedings.[34] Exceptions (c) and (e) are applicable to the present case.

Notwithstanding the legal opinions of the DPWH Legal Department rendered in 1993 and 1994 that payment to a contractor with an expired contractor's license is proper, respondent remained unpaid for the completed work despite repeated demands. Clearly, there was unreasonable delay and official inaction to the great prejudice of respondent.

Furthermore, whether a contractor with an expired license at the time of the execution of its contract is entitled to be paid for completed projects, clearly is a pure question of law. It does not involve an examination of the probative value of the evidence presented by the parties. There is a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and not as to the truth or the falsehood of alleged facts.[35] Said question at best could be resolved only tentatively by the administrative authorities. The final decision on the matter rests not with them but with the courts of justice. Exhaustion of administrative remedies does not apply, because nothing of an administrative nature is to be or can be done.[36] The issue does not require technical knowledge and experience but one that would involve the interpretation and application of law.

Thus, while it is undisputed that the District Auditor of the COA disapproved respondent's claim against the Government, and, under Section 48[37] of P.D. No. 1445, the administrative remedy available to respondent is an appeal of the denial of his claim by the District Auditor to the COA itself, the Court holds that, in view of exceptions (c) and (e) narrated above, the complaint for specific performance and damages was not prematurely filed and within the jurisdiction of the RTC to resolve, despite the failure to exhaust administrative remedies. As the Court aptly stated in Rocamora v. RTC-Cebu (Branch VIII):[38]

> The plaintiffs were not supposed to hold their breath and wait until the Commission on Audit and the Ministry of Public Highways had acted on the claims for compensation for the lands appropriated by the government. The road had been completed; the Pope had come and gone; but the plaintiffs had yet to be paid for the properties taken from them. Given this official indifference, which apparently would continue indefinitely, the private respondents had to act to assert and protect their interests.[39]

On the question of whether a contractor with an expired license is entitled to be paid for completed projects, Section 35 of R.A. No. 4566 explicitly provides:

> SEC. 35. Penalties. Any contractor who, for a price, commission, fee or wage, submits or attempts to submit a bid to construct, or contracts to or undertakes to construct, or assumes charge in a supervisory capacity of a construction work within the purview of this Act, without first securing a license to engage in the business of contracting in this country; or who shall present or file the license certificate of another, give false evidence of any kind to the Board, or any member thereof in obtaining a certificate or license, impersonate another, or use an expired or revoked certificate or license, shall be deemed guilty of misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than five hundred pesos but not more than five thousand pesos. (Emphasis supplied)

The "plain meaning rule" or verba legis in statutory construction is that if the statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without interpretation.[40] This rule derived from the maxim Index animi sermo est (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intention or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by use of such words as are found in the statute.[41] Verba legis non est recedendum, or from the words of a statute there should be no departure.[42]

The wordings of R.A. No. 4566 are clear. It does not declare, expressly or impliedly, as void contracts entered into by a contractor whose license had already expired. Nonetheless, such contractor is liable for payment of the fine prescribed therein. Thus, respondent should be paid for the projects he completed. Such payment, however, is without prejudice to the payment of the fine prescribed under the law.

Besides, Article 22 of the Civil Code which embodies the maxim Nemo ex alterius incommode debet lecupletari (no man ought to be made rich out of another's injury) states:

> Art. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

This article is part of the chapter of the Civil Code on Human Relations, the provisions of which were formulated as "basic principles to be observed for the rightful relationship between human beings and for the stability of the social order, x x x designed to indicate certain norms that spring from the fountain of good conscience, x x x guides human conduct [that] should run as

golden threads through society to the end that law may approach its supreme ideal which is the sway and dominance of justice."[43] The rules thereon apply equally well to the Government.[44] Since respondent had rendered services to the full satisfaction and acceptance by petitioner, then the former should be compensated for them. To allow petitioner to acquire the finished project at no cost would undoubtedly constitute unjust enrichment for the petitioner to the prejudice of respondent. Such unjust enrichment is not allowed by law.

WHEREFORE, the present petition is DENIED for lack of merit. The assailed Decision of the Court of Appeals dated April 28, 2003 in CA-G.R. CV No. 56345 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.
Callejo, Sr., J., on leave.

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[1] Penned by Associate Justice Rosmari D. Carandang and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Mercedes Gozo-Dadole, CA rollo, p. 167.

[2] Original Records, p. 120.

[3] Id. at 7.

[4] Id. at 8.

[5] Id. at 12.

[6] CA rollo, p. 268.

[7] Original Records, p. 12-A.

[8] Id. at 13.

[9] Id. at 14.

[10] Id. at 15.

[11] Ibid.

[12] Id. at 16.

[13] Id.

[14] Id. at 1.

[15] Id. at 37.

[16] Id. at 48.

[17] Id. at 50.

[18] Id. at 58.

[19] Id. at 67.

[20] Id. at 78.

[21] Id. at 125.

[22] Id. at 124-125.

[23] CA rollo, p. 17.

[24] Id. at 273.

[25] Id. at 33.

[26] SEC. 2 (1) The Commission on Audit shall have the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commission and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

[27] Section 26. General jurisdiction. - The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all debts and claims of any sort due from or owing the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donation through the government, those required to pay levies of government share, and those which the government has put up a counterpart fund or those partly funded by the government.

[28] Rollo, p. 152.

[29] ACWS, Ltd. v. Dumlao, 440 Phil. 787, 801-802 (2002); Zabat v. Court of Appeals, 393 Phil. 195, 206 (2000).

[30] ACWS case, id. at 802.

[31] Paloma v. Mora, G.R. No. 157783, September 23, 2005, 470 SCRA 711, 725; Fabia v. Court of Appeals, 437 Phil. 389, 403 (2002).

[32] Rocamora v. Regional Trial Court-Cebu (Branch VIII), No. L-65037, November 23, 1988, 167 SCRA 615, 623.

[33] Carale v. Abarintos, 336 Phil. 126, 137 (1997).

[34] Castro v. Sec. Gloria, 415 Phil. 645, 651-652 (2001).

[35] Castro v. Sec. Gloria case, id. at 652.

[36] Espina v. Court of Appeals, 356 Phil. 15, 21 (1998); Prudential Bank v. Gapultos, G.R. Nos. 41835 & 49293, January 19, 1990, 181 SCRA 159, 168.

[37] Section 48. Appeal from the decision of auditors. - Any person aggrieved by the decision of an auditor of any government agency in the settlement of account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

[38] Supra note 32.

[39] Id. at 624-625.

[40] Commissioner of Internal Revenue v. Central Luzon Drug Corporation, G.R. No. 159647, April 15, 2005, 456 SCRA 414, 443; National Federation of Labor v. National Labor Relations Commission, 383 Phil. 910, 918 (2000); Ruben E. Agpalo, Statutory Construction, 2003 Ed., p. 124.

[41] Southern Cross Cement Corporation v. Philippine Cement Manufacturers Corporation, G.R. No. 158540, July 8, 2004, 434 SCRA 65, 93; Republic v. Court of Appeals, 359 Phil. 530, 602 (2000).

[42] Enjay, Inc. v. National Labor Relations Commission, 315 Phil. 648, 656 (1995); Globe-Mackay Cable and Radio Corporation v. National Labor Relations Commission, G.R. No. 82511, March 3, 1992, 206 SCRA 701, 711.

[43] Advanced Foundation Construction Systems Corporation v. New World Properties and Ventures, Inc., G.R. Nos. 143154 & 143177, June 21, 2006, 491 SCRA 557, 578; Security Bank & Trust Co. v. Court of Appeals, 319 Phil. 312, 317 (1995), citing Report of the Code Commission, p. 39, cited in Padilla, Ambrosio, Civil Code Annotated, Vol. 1, 1975.

[44] Palma Development Corp. v. Municipality of Malangas, Zamboanga Del Sur, 459 Phil. 1042, 1050 (2003); Republic v. Court of Appeals, No. L-31303-04, May 31, 1978, 83 SCRA 453, 480.