



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

WT CONSTRUCTION, INC., G.R. No. 208984
Petitioner,

- versus -

THE PROVINCE OF CEBU,
Respondent.

X-----X

PROVINCE OF CEBU, G.R. No. 209245
Petitioner,

Present:

- versus -

WT CONSTRUCTION, INC.,
Respondent.

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

Promulgated:

SEP 16 2015

X-----X

DECISION

PERLAS-BERNABE, J.:

Before this Court are consolidated petitions for review on *certiorari*¹ assailing the Decision² dated December 19, 2012 and the Resolution³ dated August 8, 2013 of the Court of Appeals (CA) in CA-G.R. CEB-CV No.

¹ Rollo (G.R. No. 208984), pp. 15-36; *rollo* (G.R. No. 209245), pp. 9-24.

² Rollo (G.R. No. 208984), pp. 39-46; *rollo* (G.R. No. 209245), pp. 25-32. Penned by Associate Justice Ramon Paul L. Hernando with Associate Justices Carmelita Salandanan-Manahan and Maria Elisa Sempio Diy concurring.

³ Rollo (G.R. No. 208984), pp. 47-48; *rollo* (G.R. No. 209245), pp. 33-34.

03791, which affirmed the Order⁴ dated September 22, 2009 of the Regional Trial Court of Cebu City, Branch 6 (RTC) in Civil Case No. CEB-34012 finding the Province of Cebu liable to pay WT Construction, Inc. (WTCI) the amount of ₱257,413,911.73, but reduced the legal interest rate imposable thereon from 12% to 6% per annum.

The Facts

Sometime in 2005, the Province of Cebu was chosen by former President Gloria Macapagal-Arroyo to host the 12th Association of Southeast Asian Nations (ASEAN) Summit scheduled on December 10, 2006. To cater to the event, it decided to construct the Cebu International Convention Center (CICC or the project) at the New Mandaue Reclamation Area, Mandaue City, Cebu, which would serve as venue for the ASEAN Summit.⁵

Accordingly, the Province of Cebu conducted a public bidding for the project and, on February 22, 2006, WTCI emerged as the winning bidder for the construction of Phase I thereof which consists of the substructure of CICC. On July 26, 2006, after completing Phase I and receiving payment therefor, WTCI again won the bidding for Phase II of the project involving the adjacent works on CICC.⁶

As Phase II neared completion, the Province of Cebu caused WTCI to perform additional works on the project which included site development, and additional structural, architectural, electric, and plumbing works (additional works). Cognizant of the need to complete the project in time for the ASEAN Summit, and with the repeated assurances that it would be promptly paid, WTCI agreed to perform the additional works notwithstanding the lack of public bidding.⁷

In November 2006, weeks before the scheduled ASEAN Summit, WTCI completed the project, including the additional works and, accordingly, demanded payment therefor.⁸ In a letter⁹ dated February 8, 2007, WTCI billed the Province of Cebu the amount of ₱175,951,478.69 corresponding to the added cost for the site development and extended structural and architectural works. In a separate letter dated February 12, 2007,¹⁰ WTCI billed the Province of Cebu the amount of ₱85,266,407.97 representing the cost for the additional electrical and plumbing works. The Province of Cebu, however, refused to pay,¹¹ thereby prompting WTCI to

⁴ *Rollo* (G.R. No. 208984), pp. 165-169; *rollo* (G.R. No. 209245), pp. 78-82. Penned by Presiding Judge Ester M. Veloso.

⁵ See *rollo* (G.R. No. 208984), pp. 40 and 135; and *rollo* (G.R. No. 209245), pp. 26 and 55.

⁶ See *rollo* (G.R. No. 208984), pp. 20 and 135-136; and *rollo* (G.R. No. 209245), pp. 26 and 55-56.

⁷ See *rollo* (G.R. No. 208984), pp. 20 and 136; and *rollo* (G.R. No. 209245), pp. 26 and 56.

⁸ See *rollo* (G.R. No. 208984), p. 136; and *rollo* (G.R. No. 209245), p. 56.

⁹ *Rollo* (G.R. No. 208924), p. 68.

¹⁰ *Id.* at 77.

¹¹ See *rollo* (G.R. No. 208984), pp. 40 and 136; and *rollo* (G.R. No. 209245), pp. 26 and 56.

send a Final Billing¹² dated February 21, 2007 where it demanded payment of the aggregate sum of ₱261,217,886.66.

In the letters dated March 20, 2007¹³ and September 11, 2007,¹⁴ WTCI again reiterated its demand for payment but the Province of Cebu still refused to pay. Thus, on January 22, 2008, WTCI filed a complaint¹⁵ for collection of sum of money before the RTC which was docketed as Civil Case No. CEB-34012.

For its defense, the Province of Cebu admitted the existence of the additional works but maintained that there was no contract between it and WTCI therefor. It also claimed that the additional works did not undergo public bidding as required by Republic Act No. (RA) 9184,¹⁶ otherwise known as the “Government Procurement Reform Act.”¹⁷ Upon joint verification by the parties, the value of the additional works was pegged at ₱263,263,261.41.¹⁸

The RTC Ruling

In a Judgment¹⁹ dated May 20, 2009, the RTC ruled in favor of WTCI and ordered the Province of Cebu to pay the following amounts: (a) ₱263,263,261.41 representing the cost of the additional works, with legal interest at the rate of 12% per annum computed from the filing of the complaint on January 22, 2008 until fully paid; (b) ₱50,000.00 as attorney’s fees; and (c) costs of suit.²⁰ The RTC found that there was a perfected oral contract between the parties for the additional works on CICC, and that WTCI must be duly compensated therefor under the doctrine of *quantum meruit*; otherwise, the Province of Cebu would be unjustly enriched.²¹

The Province of Cebu sought a reconsideration²² of the foregoing and argued that its valuation of the additional works was only ₱257,413,911.73.²³ Further, it maintained that it was not liable to pay interests as WTCI performed the additional works at its own risk, given that there was no public bidding.²⁴

¹² *Rollo* (G.R. No. 208984), p. 96.

¹³ *Id.* at 97.

¹⁴ *Id.* at 98.

¹⁵ *Rollo* (G.R. No. 208984), pp. 51-63; *rollo* (G.R. No. 209245), pp. 35-46.

¹⁶ Entitled “AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION OF THE PROCUREMENT ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES” (approved on January 10, 2003).

¹⁷ See *rollo* (G.R. No. 208984), pp. 106-107; and *rollo* (G.R. No. 209245), pp. 52-53.

¹⁸ *Id.* at 140.

¹⁹ *Rollo* (G.R. No. 208984), pp. 135-145; and *rollo* (G.R. No. 209245), pp. 55-65.

²⁰ *Rollo* (G.R. No. 208984), p. 145; and *rollo* (G.R. No. 209245), p. 65.

²¹ See *rollo* (G.R. No. 208984), pp. 143-144; and *rollo* (G.R. No. 209245), pp. 63-64.

²² See motion for reconsideration dated May 29, 2009; *rollo* (G.R. No. 208984), pp. 146-157; and *rollo* (G.R. No. 209245), pp. 66-77.

²³ See *rollo* (G.R. No. 208984), pp. 148-150; and *rollo* (G.R. No. 209245), pp. 68-70.

²⁴ See *rollo* (G.R. No. 208984), pp. 153-154; and *rollo* (G.R. No. 209245), pp. 73-74.

WTCI, on the other hand, neither filed an appeal nor a motion for reconsideration of the May 20, 2009 Judgment of the RTC.

In an Order²⁵ dated September 22, 2009, the RTC granted in part the motion for reconsideration and reduced the amount of actual damages from ₱263,263,261.41 to ₱257,413,911.73, in accordance with the cost standards for the year 2006 provided by the Commission on Audit (COA), the National Statistics Office (NSO), the Department of Trade and Industry (DTI), and the Province of Cebu itself. On all other points, including the award of 12% legal interest from the filing of the complaint, as well as the award of attorney's fees and costs of suit, the RTC sustained its earlier ruling.²⁶

Dissatisfied, the Province of Cebu appealed²⁷ to the CA.

The CA Ruling

In a Decision²⁸ dated December 19, 2012, the CA affirmed the RTC's Order dated September 22, 2009 but reduced the interest rate to 6% per annum.²⁹ It remarked that the issue of whether or not a contract existed between the parties for the additional works has been rendered immaterial in view of the admission by the Province of Cebu that it was liable for the amount of ₱257,413,911.73, and that it had paid the same to WTCI; hence, only the award of interest, attorney's fees, and costs of suit are at issue.³⁰ In this regard, the CA pointed out that the reduction of the interest rate from 12% to 6% per annum is warranted given that the liability of the Province of Cebu did not arise from a loan or forbearance of money but from the non-payment of services rendered by WTCI.³¹ Anent the award of attorney's fees and costs of suit, the CA affirmed the same after finding that the Province of Cebu acted maliciously and in bad faith when it refused to pay the value of the additional works.³²

On January 24, 2013, the Province of Cebu moved for reconsideration³³ which was, however, denied by the CA in a Resolution³⁴ dated August 8, 2013.

WTCI, on the other hand, did not seek for a reconsideration of the CA's December 19, 2012 Decision but filed, on November 13, 2013, a

²⁵ *Rollo* (G.R. No. 208984), pp. 165-169; *rollo* (G.R. No. 209245), pp. 78-82.

²⁶ See *rollo* (G.R. No. 208984), pp. 168-169; and *rollo* (G.R. No. 209245), pp. 81-82.

²⁷ See Notice of Partial Appeal; *rollo* (G.R. No. 209245), pp. 83-85.

²⁸ *Rollo* (G.R. No. 208984), pp. 39-46; *rollo* (G.R. No. 209245), pp. 25-32.

²⁹ See *rollo* (G.R. No. 208984), pp. 45-46; and *rollo* (G.R. No. 209245), pp. 31-32.

³⁰ See *rollo* (G.R. No. 208984), p. 43; and *rollo* (G.R. No. 209245), p. 29.

³¹ See *rollo* (G.R. No. 208984), p. 44; and *rollo* (G.R. No. 209245), p. 30.

³² See *rollo* (G.R. No. 208984), p. 45; and *rollo* (G.R. No. 209245), p. 31.

³³ *Rollo* (G.R. No. 208984), pp. 170-185; *rollo* (G.R. No. 209245), pp. 88-103.

³⁴ *Rollo* (G.R. No. 208984), pp. 47-48; *rollo* (G.R. No. 209245), pp. 33-34.

petition for review on *certiorari*³⁵ before this Court, docketed as G.R. No. 208984. In said petition, WTCI maintained that the obligation is one for forbearance of money since its performance of the additional works was a mere financial accommodation to the Province of Cebu, thereby warranting the imposition of legal interest at the rate of 12% per annum, as originally decreed by the RTC.³⁶ It further claimed that the interest should be computed from the date of extrajudicial demand, *i.e.*, from the date of receipt of the Province of Cebu of its February 8 and 12, 2007 billing letters.³⁷

On November 13, 2013, the Province of Cebu filed its own petition for review on *certiorari*³⁸ before this Court, docketed as G.R. No. 209245. It contended that there was no perfected contract between the parties and that even if there was, the same is void for lack of public bidding as required under RA 9184.³⁹ While it admitted paying ₱257,413,911.73 to WTCI, the Province of Cebu averred that it did so only under the principle of *quantum meruit*,⁴⁰ adding too that it could not be held liable for interest, attorney's fees, and costs of suit because there was no valid contract and that, at any rate, even if it wanted to pay WTCI sooner, it could not do so owing to the lack of documentation.⁴¹

In a Resolution⁴² dated December 4, 2013, the Court consolidated the present petitions.

The Issues Before the Court

The issues for the resolution of the Court are: (a) whether or not the liability of the Province of Cebu is in the nature of a loan or forbearance of money; and (b) whether or not the interest due should be computed from the date of the filing of the complaint or from the time extrajudicial demand was made.

The Court's Ruling

At the outset, it must be pointed out that a determination of whether or not there was a perfected oral contract between the Province of Cebu and WTCI is a question of fact which is beyond the scope of the Court's power in a petition for review on *certiorari*, subject to certain exceptions which do not obtain in this case. It is a settled rule that questions of law may be

³⁵ Dated October 16, 2013. *Rollo* (G.R. No. 208984), pp. 15-36.

³⁶ See *id.* at 27-31.

³⁷ See *id.* at 31-32.

³⁸ Dated October 30, 2013. *Rollo* (G.R. No. 209245), pp. 15-24.

³⁹ See *id.* at 15-18.

⁴⁰ See *id.* at 16.

⁴¹ See *id.* at 18-20.

⁴² *Rollo* (G.R. No. 208984), pp. 219-220; *rollo* (G.R. No. 209245), p. 105-106.

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brought before this Court on petition for review on *certiorari* under Rule 45 of the Rules of Court. This Court is not a trier of facts and factual findings of the RTC, when affirmed by the CA, as in this case, are entitled to great weight and respect by this Court and are deemed final and conclusive when supported by the evidence on record.⁴³ Accordingly, the Court affirms the liability of the Province of Cebu to WTCI in the amount of ₱257,413,911.73 which corresponds to the value of the additional works.

The Court now proceeds to determine the nature of the liability of the Province of Cebu to WTCI.

There is no question that the present case does not involve an obligation arising from a loan; what is at issue is whether the liability of the Province of Cebu involves a forbearance of money, based on WTCI's claim that it merely advanced the cost of the additional works. In *Sunga-Chan v. CA*,⁴⁴ the Court characterized a transaction involving forbearance of money as follows:

The term "forbearance," within the context of usury law, has been described as a contractual obligation of a lender or creditor to refrain, during a given period of time, from requiring the borrower or debtor to repay the loan or debt then due and payable.⁴⁵

In *Estores v. Supangan*,⁴⁶ the Court explained that forbearance of money, goods, or credit refers to arrangements other than loan agreements where a person acquiesces to the temporary use of his money, goods or credits pending the happening of certain events or fulfilment of certain conditions such that if these conditions are breached, the said person is entitled not only to the return of the principal amount given, but also to compensation for the use of his money equivalent to the legal interest since the use or deprivation of funds is akin to a loan.⁴⁷

Applying the foregoing standards to the case at hand, the Court finds that the liability of the Province of Cebu to WTCI is not in the nature of a forbearance of money as it does not involve an acquiescence to the temporary use of WTCI's money, goods or credits. Rather, this case involves WTCI's performance of a particular service, *i.e.*, the performance of additional works on CICC, consisting of site development, additional structural, architectural, plumbing, and electrical works thereon.

Verily, the Court has repeatedly recognized that liabilities arising from construction contracts do not partake of loans or forbearance of money

⁴³ See *Guevarra v. People*, G.R. No. 170462, February 5, 2014, 715 SCRA 384, 394-395.

⁴⁴ 578 Phil. 262 (2008).

⁴⁵ *Id.* at 276.

⁴⁶ G.R. No. 175139, April 18, 2012, 670 SCRA 95.

⁴⁷ *Id.* at 105-106.

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but are in the nature of contracts of service. In *Federal Builders, Inc. v. Foundation Specialists, Inc.*,⁴⁸ the Court ruled that the liability arising from the non-payment for the construction works, specifically the construction of a diaphragm wall, capping beam, and guide walls of the Trafalgar Plaza in Makati City, do not partake of a loan or forbearance of money but is more in the nature of a contract of service.⁴⁹ The Court, therefore, sustains the CA's ruling that the rate of legal interest imposable on the liability of the Province of Cebu to WTCI is 6% per annum, in accordance with the guidelines laid down in *Eastern Shipping Lines, Inc. v. Court of Appeals*⁵⁰ (*Eastern Shipping Lines, Inc.*), viz.:

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

2. When an obligation, **not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum.** No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be **12% per annum from such finality until its satisfaction**, this interim period being deemed to be by then an equivalent to a forbearance of credit.⁵¹ (Emphases supplied)

The foregoing guidelines have been updated in *Nacar v. Gallery Frames*⁵² (*Nacar*), pursuant to Bangko Sentral ng Pilipinas (BSP) Circular

⁴⁸ G.R. Nos. 194507 and 194621, September 8, 2014, 734 SCRA 379.

⁴⁹ See *id.* at 396-397.

⁵⁰ G.R. No. 97412, July 12, 1994, 234 SCRA 78.

⁵¹ *Id.* at 95-97.

⁵² G.R. No. 189871, August 13, 2013, 703 SCRA 439.

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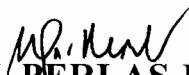
No. 799, series of 2013, which reduced the rate of legal interest for loans or transactions involving forbearance of money, goods, or credit from 12% to 6% per annum.⁵³ Nevertheless, the rate of legal interest for obligations not constituting loans or forbearance such as the one subject of this case remains unchanged at 6% per annum.

Coming now to the issue of whether the RTC and the CA erred in computing the interest due WTCI from the time of the filing of the complaint, the Court finds merit in WTCI's argument that the same should be reckoned from the time WTCI made the extrajudicial demand for the payment of the principal, *i.e.*, upon receipt of the Province of Cebu of WTCI's February 8, 2007 and February 12, 2007 letters demanding payment for the additional structural and architectural works, and additional electrical and plumbing works, respectively. The Court observes, however, that WTCI **neither appealed from nor sought a reconsideration** of the May 20, 2009 Judgment of the RTC which awarded interest to it computed from the time of the *filing of the complaint* on January 22, 2008. Accordingly, the RTC's determination of the interest's reckoning point had already become final as against WTCI since it was not one of the assigned errors considered on appeal. It is settled that a decision becomes final as against a party who does not appeal the same.⁵⁴ Consequently, the present petition of WTCI questioning the RTC's determination on the reckoning point of the legal interest awarded can no longer be given due course. The Court is, therefore, constrained to uphold the rulings of the RTC and the CA that the legal interest shall be computed from the time of the filing of the complaint.

Lastly, the Court agrees with the CA that the legal interest rate of 6% shall be imposed from the finality of the herein judgment until satisfaction thereof. This is in view of the principle that in the interim, the obligation assumes the nature of a forbearance of credit which, pursuant to *Eastern Shipping Lines, Inc.* as modified by *Nacar*, is subject to legal interest at the rate of 6% per annum.

WHEREFORE, the petitions are **DENIED**. The Decision dated December 19, 2012 and the Resolution dated August 8, 2013 of the Court of Appeals in CA-G.R. CEB-CV No. 03791 are hereby **AFFIRMED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

⁵³ See *id.* at 454-458.

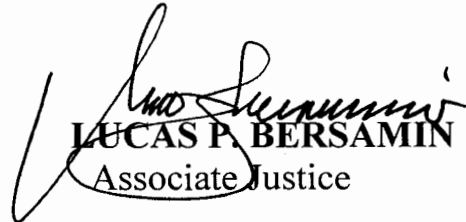
⁵⁴ See *Singh v. Liberty Insurance Corp.*, 118 Phil. 532, 535 (1963).

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



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 cases were assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice