



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROBERT PASCUA, doing
business under the name and style
TRI-WEB CONSTRUCTION,
Petitioner,

G.R. No. 196383

Present:

VELASCO, JR., *J.*, Chairperson,
LEONARDO-DE CASTRO,^{*}
PERALTA,
ABAD, and
MENDOZA, *JJ.*

- versus -

Promulgated:

G & G REALTY CORPORATION,
Respondent.

15 October 2012

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DECISION

PERALTA, J.:

This resolves the Petition for Review on *Certiorari* filed by petitioner under Rule 45 of the Rules of Court which assails the Amended Decision¹ dated March 15, 2010 of the Court of Appeals in CA-G.R. CV No. 89480.

The factual antecedents follow:

On October 15, 1999, an Agreement was entered into between petitioner and respondent for the construction of a four-storey commercial

^{*} Designated Acting Member, per Special Order No. 1343 dated October 9, 2012.

¹ Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario, concurring; *rollo*, pp. 39-50.

building and two-storey kitchen with dining hall. Under said Agreement, petitioner undertook to provide all materials and adequate labor, technical expertise and supervision for the said construction, while respondent obligated itself to pay the amount of Eleven Million One Hundred Thousand Pesos (₱11,100,000.00).

During the course of the construction project, respondent required petitioner to undertake several additional works and change order works which were not covered by the original agreement. Since respondent required petitioner to prioritize the change order and additional works, the construction of the four-storey building had to be temporarily halted.

Sometime in 2000, petitioner was able to finish the construction of the four-storey building and two-storey kitchen with dining hall, albeit behind the scheduled turnover date.

The parties then proceeded to punch list the minor repair works on the project. However, after completing all punch listing requirements, respondent refused to settle its outstanding obligation to petitioner. Hence, petitioner filed a Complaint for Sum of Money with Damages before the Regional Trial Court of Pasig City.

After trial on the merits, the trial court ruled in favor of petitioner, *viz.*:

Based on the evidence presented by plaintiff, this Court is convinced that the delay incurred by the plaintiff in the completion of the construction project was reasonable, and does not merit the defendant's claim for payment of Php5,000.00 penalty per day of delay. **Although plaintiff does not dispute that the work was completed beyond the given deadline, he has sufficiently explained that the cause of delay were the additional works and change order works undertaken by the construction corporation in accordance with the instructions of defendant.** Defendant did not deny the existence of the said additional works. Plaintiff cannot be faulted in any shortage in the supply of labor, since the additional works are not contemplated in the original agreement of the parties.

That the punch listed repairs have been completed by the plaintiff is likewise sufficiently proved by the plaintiff through testimonial and documentary evidence. If there were remaining defects and uncompleted works, defendant should have pointed out the same when it received the list of the accomplished repairs.

X X X X

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff ROBERT PASCUA, doing business under the name and style of TRI-WEB CONSTRUCTION, and against defendant G & G REALTY CORPORATION, ordering the latter to pay plaintiff the following:

- 1.) The remaining balance of the contract price, less the cost of government permits and taxes which may have been shouldered by defendant, subject to documentary proof;
- 2.) Php50,000.00 by way of attorney's fees; and
- 3.) Cost of suit.

SO ORDERED.² (Emphasis supplied)

On appeal, the Court of Appeals (*appellate court*) affirmed the trial court's ruling in a Decision³ dated May 11, 2009. The *fallo* of said decision states:

WHEREFORE, the instant appeal is **AFFIRMED WITH MODIFICATION** in that defendant-appellant G & G Realty Corporation is ordered to pay plaintiff-appellee Robert Pascua: (1) the remaining balance of the contract price, less the **penalty and other incidental expenses spent *vis-à-vis* the violations cited by BFP and Maynilad**, as well as the cost of government permits and taxes which may have been shouldered by defendant-appellant G & G in relation to said violations; and (2) costs of suit. The award of attorney's fees is **DELETED** for lack of basis.

SO ORDERED.⁴

Upon respondent's motion for reconsideration, the appellate court reconsidered and vacated its original decision.

² RTC Decision dated January 31, 2007, *rollo*, pp. 69-71.

³ *Id.* at 52-65.

⁴ *Id.* at 64-65. (Emphasis in the original)

In its Amended Decision, the appellate court ruled in favor of respondent. It held that petitioner is not entitled to the unpaid balance of the contract price, since the cause of delay in the construction of the four-storey commercial building and two-storey kitchen with dining hall was due to petitioner's acceptance of two new other contracts for repair works. The dispositive portion of said decision states:

WHEREFORE, Our May 11, 2009 Decision is RECONSIDERED and VACATED. Setting aside the assailed Decision of the RTC of Pasig City, Branch 67 dated January 31, 2007, judgment is hereby rendered directing plaintiff-appellee Robert Pascua to pay defendant-appellant G & G Realty Corporation:

1. the amount of ₱160,107.07 as penalty and other incidental expenses *vis-à-vis* the violations cited by the BFP and Maynilad;
2. the amount of ₱177,360.10 as total refundable balance due G & G; and
3. Costs of suit.

SO ORDERED.⁵

Not satisfied with the appellate court's Amended Decision, petitioner appealed to this Court raising the following issues:

- I. **THE COURT OF APPEALS COMMITTED A SERIOUS ERROR WHEN IT OVERTURNED AND REVERSED ITS ORIGINAL DECISION DATED 11 MAY 2009 AND, INSTEAD, DECLARED PETITIONER LIABLE TO RESPONDENT DESPITE THE EXISTENCE OF OVERWHELMING PROOF SUPPORTING PETITIONER'S CLAIM FOR THE UNPAID BALANCE OF THE CONTRACT PRICE.**
- II. **THE COURT OF APPEALS GROSSLY MISCONSTRUED AND MISINTERPRETED THE FACTS OF THE CASE, WHILE COMMITTING A SERIOUS MISAPPRECIATION OF THE EVIDENCE AS BORNE BY THE RECORDS, WHEN IT RENDERED JUDGMENT INCONSISTENT WITH, IF NOT CONTRADICTORY TO, THE APPLICABLE RULINGS OF THE SUPREME COURT.**

⁵ *Id.* at 49. (Emphasis in the original)

- III. THE AMENDED DECISION IS UNJUST, ERRONEOUS, OPPRESSIVE AND CONTRARY TO LAW, JURISPRUDENCE, AND THE FACTS OF THE CASE INsofar AS IT FOUND THAT THE DELAYS ON THE COMPLETION OF THE CONSTRUCTION PROJECT WERE CAUSED BY THE PETITIONER.**
- IV. THE COURT OF APPEALS VIOLATED THE RULES OF EVIDENCE WHEN IT ADMITTED HEARSAY TESTIMONY IN ARRIVING AT A FINDING THAT PETITIONER IS NOT ENTITLED TO THE PAYMENT OF THE UNPAID BALANCE OF THE CONTRACT PRICE.**
- V. THE COURT OF APPEALS COMMITTED A PALPABLE ERROR WHEN IT GRANTED RESPONDENT'S APPEAL NOTWITHSTANDING THE LACK OF AUTHORITY ON THE PART OF RESPONDENT CORPORATION TO INTERPOSE THE SAME.**
- VI. THE COURT OF APPEALS COMMITTED A SERIOUS AND REVERSIBLE ERROR WHEN IT MADE A JUDGMENT AWARD FOR THE BFP AND MAYNILAD PENALTIES DESPITE THE FACT OF NON-PAYMENT OF THE REQUIRED FILING FEES COVERING RESPONDENT'S PERMISSIVE COUNTERCLAIMS.⁶**

In the main, the issue to be resolved is whether or not petitioner is entitled to the payment of the outstanding balance of the contract price.

Petitioner insists that respondent should pay the remaining balance on the contract price. It asserts that the testimonies and documentary evidence presented before the trial court sufficiently prove that it was respondent's additional works and change orders which caused the delay in the completion of the proposed project.

For its part, respondent anchors its non-payment of the remaining balance primarily on the defects and delays incurred by petitioner in the completion of the construction project. It argues that it was petitioner's undertaking of two new other contracts for repair works that caused the delay in the completion of the subject project.

⁶

Id. at 8-9. (Emphasis in the original)

We find merit in the present petition.

A close perusal of the records would show that there is no reason for this Court to deviate from the factual findings of the trial court. It was unnecessary for the appellate court to depart from the factual findings of the trial court as the same is supported by the evidence on record.

Here, the trial court correctly found that respondent's additional works and change order works caused the delay in the construction of the subject project. Based on testimonial and documentary evidence gathered by the trial court, it found that –

During the course of the construction project, defendant required plaintiff to undertake several additional works and change order works. Defendant, through Dra. Germar, ordered the construction of a roof deck, installation of aluminum windows, insulation, narra parquet, additional lights, doors, confort rooms and air conditioning unit, etc., all of which were not covered by the original agreement (Exhs. "J" to "Q"). **Said works were done in the same area covered by the Agreement. Because defendant told plaintiff to prioritize the change order and additional works, plaintiff had to stop the construction of the four-storey building.** The access to the roof deck was only 1.5 meters, hence, plaintiff had to stop the construction of the building in order to allow the materials to pass through.⁷

Time and again, this Court has also ruled that factual findings of trial courts are entitled to great weight and respect on appeal, especially when established by unrebutted testimonial and documentary evidence,⁸ as in this case.

Withal, there is no more need for the appellate court to deviate from its original decision as its factual findings were already supported by testimonies and evidence on record. As stated in its original decision, it held

⁷ RTC Decision dated January 31, 2007, *rollo*, p. 21. (Emphasis supplied)

⁸ *Liberty Construction & Development Corporation v. Court of Appeals*, G.R. No. 106601, June 28, 1996, 257 SCRA 696, 701; 327 Phil. 490, 495 (1996).

that the evidence on record categorically showed that the alluded delay in the completion of the subject project were traceable to the series of additional works and change order works required by respondent which were not part of the original agreement. Hence, in reversing its own decision, the appellate court completely disregarded the testimonial and documentary evidence adduced below, and engaged in piecemeal evaluation of the case by arriving at a decision which is supported by hearsay evidence.

All told, we are not persuaded with respondent's bare claim that petitioner caused the delay in the completion of the project. On the contrary, testimonial and documentary proof strongly show that the delay was caused by the additional works and change order works required by respondent which were not part of the original Agreement.

Apropos, *Dieparine, Jr. v. Court of Appeals*⁹ states that "a construction contract necessarily involves reciprocal obligations, as it imposes upon the contractor the obligation to build the structure subject of the contract, and upon the owner the obligation to pay for the project upon its completion.

Pursuant to the aforementioned contractual obligations, petitioner completed the construction of the four-storey commercial building and two-storey kitchen with dining hall. Thus, this Court finds no legal basis for respondent to not comply with its obligation to pay the balance of the contract price due the petitioner.

What's more, in *Heirs of Ramon Gaite v. The Plaza, Inc.*,¹⁰ this Court held that "under the principle of *quantum meruit*, a contractor is allowed to recover the reasonable value of the thing or service rendered in order to avoid unjust enrichment. *Quantum meruit* means that in an action for work

⁹ G.R. No. 96643, April 23, 1993, 221 SCRA 503, 512-513.

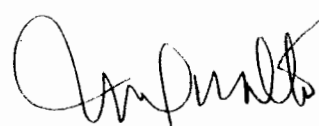
¹⁰ G.R. No. 177685, January 26, 2011, 640 SCRA 576, 594.

and labor, payment shall be made in such amount as the plaintiff reasonably deserves. To deny payment for a building almost completed and already occupied would be to permit unjust enrichment at the expense of the contractor.”

As in this case, petitioner already completed the construction of the project. Hence, it would be the height of injustice to allow respondent to enjoy the fruits of petitioner’s labor without paying the contract price.


WHEREFORE, the instant petition is **GRANTED**. The Amended Decision dated March 15, 2010 of the Court of Appeals is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.



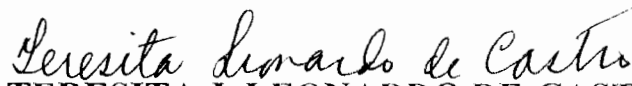
DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:

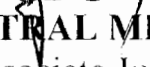


PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson



TERESITA J. LEONARDO DE-CASTRO
Associate Justice


ROBERTO A. ABAD
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

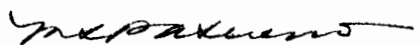
ATTESTATION

I attest 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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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