



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

CONSOLIDATED INDUSTRIAL
GASES, INC.,

Petitioner,

G.R. No. 181983

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

ALABANG MEDICAL CENTER,
Respondent.

Promulgated:

NOV 13 2013

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DECISION

REYES, J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Amended Decision² dated March 4, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 84988 which, among others, reversed the Decision³ dated June 30, 2004 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 213, finding respondent Alabang Medical Center (AMC) to have breached its contract with petitioner Consolidated Industrial Gases, Inc. (CIGI).

¹ Rollo, pp. 3-29.

² Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Andres B. Reyes, Jr. (now Presiding Justice of the Court of Appeals) and Jose C. Mendoza (now a member of this Court), concurring; id. at 49-69.

³ Issued by Judge Amalia F. Dy; records, pp. 253-271.

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The Antecedents

CIGI is a domestic corporation engaged in the business of selling industrial gases (*i.e.*, oxygen, hydrogen and acetylene) and installing centralized medical and vacuum pipeline system. Respondent AMC, on the other hand, is a domestic corporation operating a hospital business.

On August 14, 1995, CIGI, as contractor and AMC, as owner, entered into a contract⁴ whereby the former bound itself to provide labor and materials for the installation of a medical gas pipeline system for the first, second and third floors (*Phase 1 installation project*) of the hospital for the contract price of Nine Million Eight Hundred Fifty-Six Thousand Seven Hundred Twenty-Five Pesos and 18/100 (₱9,856,725.18) which AMC duly paid in full.

The herein legal controversy arose after the parties entered into another agreement on October 3, 1996 this time for the continuation of the centralized medical oxygen and vacuum pipeline system in the hospital's fourth & fifth floors (*Phase 2 installation project*) at the cost of Two Million Two Hundred Sixty-Seven Thousand Three Hundred Forty-Four Pesos and 42/100 (₱2,267,344.42). This second contract followed the same terms and conditions of the contract for the *Phase 1 installation project*. CIGI forthwith commenced installation works for Phase 2 while AMC paid the partial amount of One Million Pesos (₱1,000,000.00) with the agreement that the balance shall be paid through progress billing and within fifteen (15) days from the date of receipt of the original invoice sent by CIGI.⁵

On August 4, 1997, CIGI sent AMC Charge Sales Invoice No. 125847 as completion billing for the unpaid balance of ₱1,267,344.42 for the *Phase 2 installation project*. When the sales invoice was left unheeded, CIGI sent a demand letter to AMC on January 7, 1998. AMC, however, still failed to pay thus prompting CIGI to file a collection suit before the RTC on September 15, 1998.⁶

⁴ Id. at 174-184.

⁵ Id. at 185-189.

⁶ Id. at 2-5.

CIGI claimed that AMC's obligation to pay the outstanding balance of the contract price for the *Phase 2 installation project* is already due and demandable pursuant to Article II, page 4 of the contract stating that the project shall be paid through progress billing within fifteen (15) days from the date of receipt of original invoice.

In its Answer with Counterclaim,⁷ AMC averred that its obligation to pay the balance of the contract price has not yet accrued because CIGI still has not turned over a complete and functional medical oxygen and vacuum pipeline system. AMC alleged that CIGI has not yet tested Phases 1 and 2 which constitute one centralized medical oxygen and vacuum pipeline system of the hospital despite substantial payments already made. As counterclaim, AMC prayed for actual, moral and exemplary damages, and attorney's fees.

During trial, CIGI presented the testimonies of its officers, James Rodriguez Gillego (Gillego), Credit Manager and Marcelino Tolentino (Tolentino), Installation Manager. Gillego confirmed the unpaid balance of AMC as well as its additional liabilities for interest and penalty charges at 17% *per annum* and 2% per month, respectively.⁸

Tolentino, on the other hand, declared that CIGI failed to test the installed system because AMC did not supply the necessary electrical power.⁹ He claimed that they finished the installation project in October 1997 or within the period specified in the contract.¹⁰ CIGI verbally notified Dr. Anita Ty (Dr. Ty), AMC's Medical Director, on the need for electrical power for the test run but she did not respond. On August 23, 1999, they put the request in writing.¹¹

Tolentino also stated that Phase 2 is an extension of the *Phase 1 installation project* such that both phases are not independent of each other. If Phase 2 is not subjected to test run, Phase 1 will not run.¹² It was Mr. Gavino Pineda (Pineda), his supervisor, and not him, who personally informed Dr. Ty that CIGI is ready to conduct a test run.¹³

⁷ Id. at 21-23.

⁸ TSN, November 8, 1999, pp. 14-19.

⁹ TSN, January 24, 2000, p. 27, 37.

¹⁰ Id. at 46.

¹¹ Id. at 41-43.

¹² Id. at 30-34.

¹³ Id. at 71-73.

Tolentino admitted that, contrary to what was agreed in the contract, CIGI has not conducted commissioning and lecture on the proper operation and preventive maintenance of the installed system and that the said seminar/orientation does not require the use of electricity.¹⁴ However, the seminar can only be conducted once they have already fully turned over the system which can only happen after they have performed a test run, which likewise did not materialize because AMC did not supply the necessary electrical power.¹⁵

AMC presented Dr. Ty and Melinda Constantino (Constantino), account and administrative officer of AMC. Dr. Ty testified that the payment of the unpaid balance is not yet due because the project is incomplete, defective and non-functional.¹⁶ She claimed that CIGI failed to comply with its obligation under paragraph 12 of the October 3, 1996 contract for *Phase 2 installation project* stating that the scope of CIGI's work shall include pressure drop, leak testing, painting/color coding and test run of the installed centralized medical oxygen and vacuum pipeline system.¹⁷ On cross-examination, Dr. Ty asserted that as agreed, the balance of the contract price shall be paid once CIGI finishes its work under the contract.¹⁸ She denied receiving any request from CIGI regarding the installation of electricity for purposes of test run. She claimed that CIGI brought up the matter on electricity when it was already collecting the unpaid balance but no such request was made prior to their demand for payment.¹⁹ Before the hospital became operational, it was equipped with electrical facilities for construction which can adequately support the power need of a mere test run.²⁰

Constantino testified on the total payments already made by AMC to CIGI in the sum of ₱10,856,000.00 as shown by several Metropolitan Bank (Metrobank) checks payable to CIGI marked as Exhibits "5" to "5-I".²¹

¹⁴ Id. at 56-57.

¹⁵ Id. at 73-77.

¹⁶ TSN, May 27, 2002, p. 7.

¹⁷ Id. at 8-9.

¹⁸ TSN, June 24, 2002, p. 22-23.

¹⁹ Id. at 46-47.

²⁰ Id. at 45-46.

²¹ TSN, April 14, 2003, pp. 3-10.

CIGI submitted in evidence photographs of allegedly defective and incomplete parts of the installed medical oxygen and vacuum pipeline system, such as: (a) a rusting pendant which is supposed to be stainless and anti-rust; (b) incomplete assembly of alarm system; (c) incomplete assembly of isolation valve; and (d) incomplete electrical wiring of Pegasus and leaking oil.²²

On June 11, 2003, AMC filed a *Motion for Leave of Court to Admit Amended Answer with Counterclaims*²³ seeking, in addition, the rescission of the subject contracts, return of its payment of ₱10,856,000.00 for an unfinished project. AMC also asked that it be recompensed in the sum of ₱17,220,084.90 for interest expense on the loans obtained from Metrobank which were used to fund the installation projects. It further averred that CIGI's failure to complete the system is shown not only in its failure to conduct the agreed test run and orientation/seminar but also in the patently defective and incomplete parts of the installation.

In its Order²⁴ dated September 11, 2003, the RTC denied the motion because its admission will compel CIGI to substantially alter the presentation of its evidence and thus delay the resolution of the case. The RTC further reasoned that AMC's failure to amend its answer will not affect the result of the trial.

Ruling of the RTC

After the parties have submitted their respective memorandum, the RTC rendered its Decision²⁵ dated June 30, 2004, wherein it adjudged AMC to have breached the contract for failure to perform its obligation of paying the remaining balance of the contract price. CIGI, on the other hand, was found to have faithfully complied with its contractual obligations. In so ruling, the RTC relied on Tolentino's testimony that they were unable to test run the installed system because AMC failed to provide the necessary

²² Records, pp. 169-172.

²³ Id. at 152-154.

²⁴ Id. at 226-227.

²⁵ Id. at 253-271.

electrical power despite repeated requests made to Dr. Ty.²⁶ AMC's counterclaim for damages was dismissed. Accordingly, the decision disposed as follows:

Prescinding from the foregoing considerations, judgment is hereby rendered in favor of the [petitioner] CONSOLIDATED INDUSTRIAL GASES, INC., and against the [respondent] ALABANG MEDICAL CENTER represented by its owner/Chairman of the Board

²⁶

The following portions of the testimony were quoted in the RTC decision, viz:

“COURT: So that you are telling now the court that you have not actually completed the work for which you have been paid?

A: Yes.

Q: And your reason earlier on the direct testimonies that there is no electricity?

A: Yes, your honor.

Q: And you also said that you verbally informed the hospital of the required electricity, am I correct?

A: Yes, your honor.

Q: So that the test-run, the portion of the contract of which you prepared to be conducted. How many times, please recall, how many times you have told the hospital authorities that you need electricity in order to conduct the test-run?

A: I am very sorry your honor, I can't remember.

Q: Did you personally tell or inform the hospital that you're ready? That you need electricity?

A: No, your honor.

Q: Who did it?

A: Our supervisor.

Q: What is the name of the supervisor?

A: Mr. Gavino Pineda, which [sic] is not now connected at the hospital.

Q: How did you come to know then that Mr. Pineda informed the hospital of the necessity of electricity in order that you could complete the project?

A: Because Mr. Pineda is directly reporting to me.

Q: He reported to you that he told the hospital?

A: Yes.

Q: To whom did he tell this to the hospital? [sic]

A: To Dra. Anita Ty.”

[tsn dated January 24, 2000]

x x x x

“Q: After you have installed, according to you everything Mr. witness, after that something have been done or to be done after?

A: We need to test-run the system. We have already test-run the system, in order to have...

COURT: You have already?

A: Not yet, your honor.

COURT: Proceed.

Atty. BALMAS: Are those remaining activities dependent upon your department?

A: No, ma'am.

Q: Why?

A: Because the hospital need to supply the electricity or electrical power subject to test-run the system.

Q: Does the defendant Alabang Medical Center able to provide you this power which you have said.

A: To date, no.

Q: Who, where will the power come from exactly? Who is, who costed the production of the power which you have mentioned?

A: The Alabang Medical Center is to supply the power.

Q: Did you know whether Alabang Medical Center have been operational immediately after you have completed the project? To this date, did you know?

A: I really don't know.

x x x x”

[tsn, January 24, 2000, Direct-examination] Id. at 264-268.

Anita Ty. The counterclaim is likewise, accordingly ordered D[IS]MISSED.

As PRAYED FOR, the [respondent] is hereby ordered[:]

[a] To pay the amount of ONE MILLION TWO HUNDRED SIXTY[-]SEVEN THOUSAND THREE HUNDRED FORTY[-]FOUR AND 42/100 [Php 1,267,344.42] Philippine Currency, representing the balance of the principal obligations.

[b] To pay the corresponding legal interest until said obligation shall have been paid and settled and cost of suit.

SO ORDERED.²⁷

Ruling of the CA

AMC appealed to the CA which in its Decision²⁸ dated September 14, 2007 granted the appeal and reversed the RTC judgment. The CA ruled that it was CIGI who breached the contract when it failed to complete the project and to turn over a fully functional centralized medical oxygen and vacuum pipeline system. Consequently, the CA declared the complaint dismissed and ordered CIGI to correct/replace the defective parts installed. AMC was adjudged entitled to attorney's fees for CIGI's unfounded action. AMC's counterclaim for ₱17,220,084.90 as actual damages representing alleged interest payments on the loans it obtained from Metrobank was denied for lack of factual and legal basis. The decretal portion of the Decision reads:

WHEREFORE, the decision of the Regional Trial Court dated June 30, 2004 is hereby **REVERSED** and **SET ASIDE**. The complaint is hereby dismissed and CIGI is hereby ordered to pay AMC the sum of ₱50,000.00 by way of attorney's fees plus costs.

SO ORDERED.²⁹

AMC moved for partial reconsideration raising the propriety of its counterclaim for the refund of the ₱10,856,725.18 paid to CIGI since the project never became operational.³⁰

In its Comment³¹ and own Motion for Reconsideration³², CIGI countered that a refund will amount to rescission, an issue which was denied

²⁷ Id. at 270-271.

²⁸ *Rollo*, pp. 33-47.

²⁹ Id. at 47.

³⁰ Id. at 185-192.

deliberation by the RTC. As such, the same cannot be raised and threshed out for the first time on appeal. CIGI shifted the blame to AMC and claims that it could have easily conducted a test run on the system if the latter supplied the electricity needed in accordance with the contract. Anent the alleged defective parts, CIGI asserted that it is highly suspect for AMC to raise the same four years after the filing of the complaint. CIGI also stated that being idle and exposed to various elements, the condition of certain parts of the system will definitely deteriorate.

The CA re-examined its earlier decision and issued an Amended Decision³³ dated March 4, 2008. It took into consideration AMC's manifestation that it is willing to pay the balance of ₱1,267,344.42 on the condition that CIGI will turn over a fully functional centralized medical oxygen and vacuum pipeline system.³⁴ The CA found that CIGI reneged on its obligation under the contract when it failed to test run the installed system. The Amended Decision disposed as follows, *viz*:

WHEREFORE, this Amended Decision is rendered [PARTIALLY] GRANTING AMC's Partial Motion for Reconsideration dated 25 September 2007. Accordingly, CIGI is given a reasonable period of sixty (60) days from the finality of this Decision to correct and/or replace the defective parts mentioned in this Decision and turn over a fully functional centralized medical oxygen and vacuum pipeline system. AMC, in turn, is directed to provide the required facilities such as water and electricity during installation free of charge and to pay within five (5) days from the turn over the unpaid balance in the sum of ₱1,267,344.42 to CIGI. Failure of CIGI to turn over a fully functional centralized medical oxygen and vacuum pipeline system will result to the rescission of the contract. As a legal consequence, within ten (10) days from the rescission of the contract CIGI should return the sum of ₱10,856,725.18 to AMC and remove the materials and equipments it installed at AMC within ninety (90) days from the rescission of the contract, at its own expense.

The motion for reconsideration dated 08 October 2007 filed by CIGI is **DENIED** for lack of merit.

The Decision dated 30 June 2004 of the Regional Trial Court is hereby **REVERSED** and **SET ASIDE**. The complaint is dismissed and CIGI is ordered to pay AMC the sum of ₱50,000.00 by way of attorney's fees plus costs.

SO ORDERED.³⁵

³¹ Id. at 194-205.

³² Id. at 171-183.

³³ Id. at 49-69.

³⁴ Id. at 193.

³⁵ Id. at 68-69.

Dismayed, CIGI interposed the present recourse alleging, in the main, that the CA committed misapprehension of facts. CIGI maintained that AMC refused to provide the necessary electrical facilities for the test run and that under the contract, CIGI was merely required to provide labor and materials. CIGI averred that the CA erred in relying on the testimony of Tolentino because he never specifically declared that CIGI did not complete the project. CIGI prayed that the decision of the RTC ordering AMC to pay the balance of the contract price be reinstated.

The Issue

The core issue for resolution is whether or not CIGI's demand for payment upon AMC is proper.

Ruling of the Court

Primarily, the arguments proffered by CIGI involve questions of fact which are beyond the scope of the Court's judicial review under Rule 45 of the Rules of Court. It is a settled rule that the Court examines only questions of law on appeal and not questions of facts. However, jurisprudence has recognized several exceptions in which factual issues may be resolved by the Court, such as when the factual findings of the courts *a quo* are conflicting,³⁶ as in this case.

The incongruity in the findings of the RTC and CA is conspicuous. On one hand, the RTC granted CIGI's complaint for sum of money and adjudged AMC as the defaulting party. On the other hand, the CA, while sustaining AMC's liability for CIGI's monetary claim, held the latter as the party who breached the installation contracts. A review of the contradicting findings of the courts *a quo* is thus in order so as to finally settle the conflicting claims of the parties.

The subject installation contracts bear the features of reciprocal obligations.

“Reciprocal obligations are those which arise from the same cause, and [in] which each party is a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. They are to be performed simultaneously, so that the performance of one is

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Spouses Yao v. Matela, 531 Phil. 529, 534-535 (2006).

conditioned upon the simultaneous fulfillment of the other.”³⁷ In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfils his obligation, delay by the other begins.³⁸

Under the subject contracts, CIGI as contractor bound itself to install a centralized medical oxygen and vacuum pipeline system for the first to fifth floors of AMC, which in turn, undertook to pay the contract price therefor in the manner prescribed in the contract. Being reciprocal in nature, the respective obligations of AMC and CIGI are dependent upon the performance of the other of its end of the deal such that any claim of delay or non-performance can only prosper if the complaining party has faithfully complied with its own obligation.

Here, CIGI complains that AMC refused to abide by its undertaking of full payment. While AMC does not dispute its liability to pay the balance of ₱1,267,344.42 being claimed by CIGI, it asserts, however that the same is not yet due because CIGI still has not turned over a complete and functional medical oxygen and vacuum pipeline system. CIGI is yet to conduct a test run of the installation and an orientation/seminar of AMC employees who will be involved in the operation of the system. CIGI, on the other hand, does not deny that it failed to conduct the agreed orientation/seminar and test run but it blames AMC for such omission and asserts that the latter failed to heed CIGI’s request for electrical facilities necessary for the test run. CIGI also contends that its obligation is merely to provide labor and installation.

The Court has painstakingly evaluated the records of the case and based thereon, there can be no other conclusion than that CIGI’s allegations failed to muster merit. The Court finds that CIGI did not faithfully complete its prestations and hence, its demand for payment cannot prosper based on the following grounds: (a) under the two installation contracts, CIGI was bound to perform more prestations than merely supplying labor and

³⁷ *Cortes v. Court of Appeals*, 527 Phil. 153, 160 (2006), citing *Asuncion v. Evangelista*, 375 Phil. 328, 356 (1999).

³⁸ CIVIL CODE OF THE PHILIPPINES, Article 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

However, the demand by the creditor shall not be necessary in order that delay may exist:

- (1) When the obligation or the law expressly so declares; or
- (2) When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or
- (3) When demand would be useless, as when the obligor has rendered it beyond his power to perform.

In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins. (Emphasis ours)

materials; and (b) CIGI failed to prove by substantial evidence that it requested AMC for electrical facilities as such, its failure to conduct a test run and orientation/seminar is unjustified.

A. Under the installation contracts, CIGI was bound to perform more prestations than merely supplying labor and materials.

It is hornbook doctrine in the law on contracts that the parties are bound by the stipulations, clauses, terms and conditions they have agreed to provided that such stipulations, clauses, terms and conditions are not contrary to law, morals, public order or public policy.³⁹ In the present case, we find no legal proscription infringed by the terms and conditions of the contracts between AMC and CIGI. As such, the said terms and conditions must be held to be the law between them⁴⁰ and the parties are bound to fulfill what has been stipulated.

Both of the installation contracts clearly show that CIGI undertook to carry out more prestations than merely supplying labor and materials for the medical oxygen and vacuum pipeline system. CIGI agreed also: (a) to perform a pressure drop, leak testing, test run, painting/color coding of the installed centralized medical oxygen, vacuum and nitrous oxide pipeline system; and (b) to conduct orientation, seminars and training for the AMC employees who will be involved in the operation of the centralized pipeline system before the formal turnover of the project. This is evident from the herein reproduced provisions of the installation contracts.

Article I of the Phase 1 installation contract enumerates the following undertakings of CIGI, *viz*:

1.1 Preparation and delivery of materials, tools and equipment from CIGI, Mandaluyong, to Alabang Medical Center's site of installation.

1.2 Degreasing and proper cleaning of deoxidized hard seamless copper tubes, fittings, valves and other parts prior to installations.

1.3 Supply, fabrication and installation of necessary brackets and clamps to comply with the standard Medical gas pipeline and other equipment installation.

³⁹ *Barredo v. Leaño*, G.R. No. 156627, June 4, 2004, 431 SCRA 106, 113-114.

⁴⁰ CIVIL CODE OF THE PHILIPPINES, Article 1159. Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.

1.4 Chiseling, boring and re-plastering of affected concrete walls for pipeline route.

[1.5 -1. 23 Supply and installation of various structures and parts of the medical oxygen and vacuum pipeline system].

1.24 Pressure drop, leak testing, test-run, painting/color coding of the installed centralized medical oxygen, vacuum and nitrous oxide pipeline system.⁴¹ (Emphasis ours)

Meanwhile, Phase 2 installation contract, which follows the same terms and conditions of the Phase 1 installation contract, itemizes the prestations due from CIGI as follows:

1. Preparation and delivery of materials, tools and equipment from CIGI-Head Office to Alabang Medical Center site of installation.
2. Degreasing and proper cleaning of deoxidized hard seamless copper tubes, fittings, valves and other parts prior to installation.
3. Chiselling, boring and replastering of affected concrete walls for pipeline route.
4. Supply, fabrication and installation necessary brackets and clamps to comply with the standard medical gases pipeline and other equipment installation.
5. Supply, layout and installation of deoxidized hard seamless copper tubes and fittings and to be tapped from the existing riser of medical oxygen and vacuum pipeline system installed at third floor.
6. Supply and installation of two (2) units OHMEDA flush mount wall type isolation valve panel, each equipped with shut-off valve for oxygen and vacuum pipeline with corresponding pressure indicator.
7. Supply and installation of sixty[-]nine (69) sets OHMEDA flush mount wall type medical Oxygen and Vacuum Outlets, each consist of rough-in and finish assembly.

x x x x

8. Supply and installation of sixty[-]nine (69) sets MEDAES DISS III flush mount wall type medical vacuum outlets, each consists of rough in and finish assembly.
9. Supply and installation of sixty[-]nine (69) sets MEDAES stainless steel surface mount wall type vacuum bottle slides each complete with stainless mounting screw.

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Records, pp. 175-178.

- 10. Supply and installation of two (2) sets MEDAES Area Line Pressure Alarm for Oxygen and Vacuum Pipeline System, each equipped with pressure switch, pressure indicator, lights indicator for each gas supply status and necessary electrical wiring materials which are to be installed at the Nurses station of Fourth Floor.
- 11. Supply of [certain] secondary equipments[.]

x x x x

- 12. **Pressure drop, leak testing, painting/color coding and test run of the installed centralized medical oxygen and vacuum pipeline system.**⁴² (Emphasis ours)

Anent the conduct of orientation/seminar on the operation of the centralized medical oxygen and vacuum pipeline system, both contracts state:

Article 10 of Phase 1 installation contract:

10. SEMINARS/TRAINING:

The **CONTRACTOR** shall conduct orientation, seminars and training to the center’s employees involve[d] in the operation of the centralized pipeline system before the formal turn-over of the project. Such training includes proper operation and preventive maintenance of the system.⁴³

Articles VI(c) and VII(3) of Phase 2 installation contract:

c. Seminars/Training

CIGI shall conduct orientation, seminars and training to AMC’s empl[o]yees involve[d] in the operation of the centralized pipeline system before the formal turn-over of the project. Such training includes proper operation and preventive[sic]

x x x x

- 3. CIGI to execute all necessary commissioning and lecture re-proper operation and preventive maintenance of the installed system and shall hand-over to Alabang Medical Center fully operational.⁴⁴

⁴² Id. at 185-187.
⁴³ Id. at 183.
⁴⁴ Id. at 189.

Clearly, CIGI's reciprocal obligation was not merely to supply labor and materials for the project. It is unmistakable from the foregoing contractual provisions that CIGI agreed to carry out a test run of the installation as well as to conduct an orientation/seminar of AMC employees who will be involved in its operation. CIGI cannot be permitted to disregard the binding effect of the contracts it voluntarily assumed by conveniently renouncing its above-mentioned contractual commitments. Otherwise, the sanctity of its contracts with AMC will be defiled.

B. CIGI failed to prove by substantial evidence that it requested AMC for electrical facilities as such, its failure to conduct a test run and orientation/seminar is unjustified.

CIGI failed to amply support its allegation that it requested for electrical facilities from AMC. Tolentino, CIGI's installation manager, testified that on August 23, 1999 they requested in writing for the electrical facilities but no evidence of such document was submitted. It is but a self-serving allegation, which by law is not equivalent to proof.⁴⁵ In addition, Pineda, the one who actually sent the request was not presented as witness thereby making Tolentino's statement mere hearsay evidence bearing no probative value.

Settled is the rule that a witness can testify only to those facts which he knows of his personal knowledge, which means those facts which are derived from his own perception. A witness may not testify as to what he merely learned from others either because he was told or read or heard the same. Such testimony is considered hearsay and may not be received as proof of the truth of what he has learned.⁴⁶

While Tolentino's testimony may be considered as independently relevant statement and may be admitted as to the fact that Pineda made utterances to him about the request for electricity, it is still inadequate to support the claim that AMC reneged on its obligation to provide electrical facilities. Admissibility of testimony should not be equated with its weight and sufficiency. Admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade.⁴⁷ Here, the Court finds

⁴⁵ See *Real v. Sangu Philippines, Inc.*, G.R. No. 168757, January 19, 2011, 640 SCRA 67, 85.

⁴⁶ *Gulam v. Spouses Santos*, 532 Phil. 168, 178 (2006).

⁴⁷ *Id.* at 179, citing *People v. Manhuyod, Jr.*, 352 Phil. 866, 885 (1998) and *People v. Navarro*, 357 Phil. 1010, 1031 (1998).

no reason to doubt and overturn the CA's evaluation of Tolentino's testimony.

Even assuming that CIGI indeed made such request, it is unbelievable for AMC not to furnish electrical facilities. As correctly observed by the CA, it is unlikely for AMC not to spend minimal amount for the test run and risk the completion of its multi-million peso medical oxygen and vacuum pipeline system. Further, the language of Article VII(2) of the Phase 2 installation contract, which embodies AMC's duty to provide electrical facilities for the test run, indicates the availability of electrical facilities in the installation site such that AMC needed only to allow CIGI personnel/technicians to use or access the same, *viz*:

2. Alabang Medical Center to allow CIGI personnel/technicians to utilize the required facilities such as water and power during installation free of charge.⁴⁸

It is thus highly improbable for AMC to deny CIGI personnel and technicians mere access to already existing electrical facilities and thereby jeopardize the operations of the hospital.

From the foregoing, it is clear that AMC's obligation to pay and CIGI's right to demand the unpaid balance for the *Phase 2 installation project* have not yet accrued.

For failure to prove that it requested for electrical facilities from AMC, the undisputed matter remains – CIGI failed to conduct the stipulated test run and seminar/orientation. Consequently, the dismissal of CIGI's collection suit is imperative as the balance of the contract price is not yet demandable. For having failed to perform its correlative obligation to AMC under their reciprocal contract, CIGI cannot unilaterally demand for the payment of the remaining balance by simply sending an invoice and billing statement to the former. Its right to demand for and collect payment will only arise upon its completion of **ALL** its prestations under the subject contracts.

In reciprocal obligations, before a party can demand the performance of the obligation of the other, the former must also perform its own obligation.⁴⁹ For its failure to turn over a complete project in accordance

⁴⁸ Records, p. 189.

⁴⁹ *Subic Bay Metropolitan Authority v. CA*, G.R. No. 192885, July 4, 2012, 675 SCRA 758, 766.

with the terms and conditions of the installation contracts, CIGI cannot demand for the payment of the contract price balance from AMC, which, in turn, cannot legally be ordered to pay. Otherwise, AMC will be effectively forced to accept an incomplete performance contrary to Article 1248 of the Civil Code which states that “(u)nless there is an express stipulation to that effect, the creditor cannot be compelled partially to receive the prestations in which the obligation consists.”

Considering that AMC’s obligation to pay the balance of the contract price did not accrue, the stipulated interest thereon also did not begin to run.

CIGI also failed to fully comply with its prestations under the Phase 1 installation contract.

It must be noted that, although *Phases 1 and 2 installation projects* are covered by separate contracts, they nonetheless comprise one centralized medical oxygen system such that the agreed test run and seminar/orientation under the Phase 1 contract cannot be performed unless and until the *Phase 2 installation project* is finished and completed.⁵⁰ In other words, both phases will have to undergo a single and simultaneous test run and orientation on their manner of operation.

As such, while the subject of the herein complaint for sum of money pertained only to the Phase 2 installation contract, the violations committed by CIGI that prevented its cause of action to accrue broadly affected the initially non-issue Phase 1 contract.

It having been established that CIGI’s avowed but infringed duty to perform a test run and orientation/seminar was contained in both Phases 1 and 2 installation contracts, it is imperative to declare that it is liable not only for the herein subject Phase 2 contract but under the Phase 1 contract as well so as to arrive at an absolute and comprehensive resolution of the impasse between the parties.

Hence, regardless of whether or not the *Phases 1 and 2 installation projects* are independent of each other, CIGI violated the terms of the individual contracts for both.

⁵⁰

TSN, January 24, 2000, pp. 30-34.

The foregoing pronouncement notwithstanding, the Court finds that the breach committed by CIGI does not justify the rescission of the installation contracts.

The denial of AMC's amended counterclaim specifically praying for rescission does not bar a discussion of such issue on appeal. Rescission was pleaded in AMC's original Answer with Counterclaim when it implored the RTC for "other reliefs and remedies consistent with law and equity are prayed for."⁵¹ The standing rule is that "[t]he prayer in the complaint for other reliefs equitable and just in the premises justifies the grant of a relief not otherwise specifically prayed for."⁵² This rule conveys the inference that reliefs not specifically pleaded but included in a general prayer for other equitable reliefs may be threshed out by the courts.

The Court, however, finds that AMC has no legal basis to demand the rescission of the installation contracts. "[R]escission of a contract will not be permitted for a slight or casual breach, but only for such substantial and fundamental violations as would defeat the very object of the parties in making the agreement. Whether a breach is substantial is largely determined by the attendant circumstances."⁵³ The provisions on the test run of and seminar on the medical oxygen system are not essential parts of the installation contracts as they do not constitute a vital fragment/part of the centralized medical oxygen system.

Further, the allegedly defective and incomplete parts cannot substantiate rescission. The photographs submitted by AMC are not adequate to establish that certain parts of the installed system are indeed defective or incomplete especially so that the installation never became operational. Unless and until the medical oxygen and vacuum pipeline actually runs, there is no way of conclusively verifying that some of its parts are defective or incomplete. In addition, AMC failed to allege much less show whether the alleged defects and incomplete components were caused by factory defect, negligence on the part of CIGI or ordinary wear and tear.

At any rate, the parties have specified clauses in the subject contracts to answer for such contingency. Article VI(b) of the Phase 2 installation contract provides:

⁵¹ Records, p. 23.

⁵² *Primelink Properties & Development Corporation v. Lazatin-Magat*, 526 Phil. 394, 414 (2006), citing *Arroyo, Jr. v. Taduran*, 466 Phil. 173, 180 (2004).

⁵³ *Viloria v. Continental Airlines, Inc.*, G.R. No. 188288, January 16, 2012, 663 SCRA 57, 86-87, citing *Barredo v. Leaño*, 431 Phil. 106, 115 (2004) and *Central Bank of the Philippines v. Spouses Bichara*, 385 Phil. 553, 565 (2000).

VI. CONDITIONS:

x x x x

b. Warranty

CIGI guarantees all materials involved against factory defect for one (1) year period from the date of project completion. CIGI shall also provide maintenance services for this pipeline project after the one (1) year warranty period provided that Alabang Medical Center shall purchase its Medical Gases requirements exclusively to CIGI. [sic]

During the lifetime of the Supply of Medical Gases Contract, CIGI shall undertake the maintenance of the system on a semi-annual basis which shall include visual leak testing and minor repairs and spare parts for replacement shall be “Free of Charge”. Major repairs and spare parts for replacement shall be charged to [A]labang Medical Center on a cost plus basis.⁵⁴ [sic]

Article 4.1 of the Phase 1 installation contract contains similar terms, viz:

- 4.1 The **CONTRACTOR** guarantees all materials involved against factory defect for one (1) year period from the date of project completion. **CONTRACTOR** shall also provide maintenance services for this pipeline project after the one (1) year warranty period provided that the ‘OWNER’ shall purchase its Medical gases requirements exclusively to the **CONTRACTOR**. [sic]

During the lifetime of the **SUPPLY CONTRACT**, the **CONTRACTOR** shall undertake the maintenance of the system on semi-annual basis which shall include visual leak testing and minor repairs which shall be “**Free of Charge**”. Major repairs and spare parts for replacement shall be charged to Customer on a cost plus basis.⁵⁵

Since, as discussed above, the agreed test run and orientation/seminar for both *Phases 1 and 2 installation projects* were yet to be performed, both projects are not yet complete and the one year warranty period has not yet commenced to run.

In view of the fact that rescission is not permissible, the installation contracts of the parties stand and the terms thereof must be duly fulfilled. CIGI is obliged to comply with its undertakings to conduct a test run and hold a seminar/orientation of concerned AMC employees, after which, turn over the system fully functional and operational to AMC. Simultaneously

⁵⁴ Records, p. 188.

⁵⁵ Id. at 182.

with the turnover, AMC shall pay the remaining balance of ₱1,267,344.42 to CIGI.

Also, the Court finds it proper that after CIGI has turned over a complete and functional medical oxygen and vacuum pipeline system, it must be given the opportunity to inspect the allegedly defective and incomplete parts. The results of such inspection will in turn determine which part of the aforementioned warranty clauses shall govern.

AMC is not entitled to actual damages.

AMC is not entitled to actual damages representing interest payments on the loan it obtained from Metrobank in order to fund the installation projects. For damages to be recovered, the best evidence obtainable by the injured party must be presented. Actual or compensatory damages cannot be presumed, but must be proved with reasonable degree of certainty. The Court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered and on evidence of the actual amount. If the proof is flimsy and unsubstantial, no damages will be awarded.⁵⁶

AMC failed to prove by substantial evidence any direct correlation between the interest charges on its loan and CIGI's failure to perform a test run of, conduct seminar on and turn over the oxygen system. AMC presented no evidence except bare allegations, which by law, do not amount to competent proof of actual pecuniary loss.⁵⁷ What is actually borne out by the records is that the interest charges are imposed on the loan and were payable by AMC regardless of the progress of the installation projects.

Moreover, the CA was correct in finding that such loan was not exclusively devoted to the installation projects but was also utilized in financing the construction and air-conditioning system of AMC. It would be certainly unfair to reimburse AMC for such interest payments absent any factual proof of its fraction that pertains to the installation projects themselves. "[O]ne is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved."⁵⁸

⁵⁶ *Pacific Basin Securities Co., Inc. v. Oriental Petroleum and Minerals Corp.*, 558 Phil. 425, 446 (2007), citing *Development Bank of the Philippines v. CA*, 319 Phil. 447, 457 (1995).

⁵⁷ *Macasaet v. R. Transport Corporation*, 561 Phil. 605, 617 (2007).

⁵⁸ *Financial Building Corporation v. Rudlin International Corporation*, G.R. No. 164186, October 4, 2010, 632 SCRA 18, 47.

WHEREFORE, all the foregoing considered, the Amended Decision dated March 4, 2008 of the Court of Appeals in CA-G.R. CV No. 84988 is **SET ASIDE**. Consolidated Industrial Gases, Inc. is hereby **ORDERED** to faithfully comply, within a period of sixty (60) days, with **ALL** its obligations under the installation contracts, including but not limited to the following: (a) perform a "pressure drop, leak testing, test run, painting/color coding of the installed centralized medical oxygen, vacuum and nitrous oxide pipeline system"; (b) conduct orientation, seminars and training of Alabang Medical Center employees who will be involved in the operation of the centralized medical oxygen, vacuum and nitrous oxide pipeline system; and (c) turn over a fully functional and fully operational centralized medical oxygen, vacuum and nitrous oxide pipeline system to Alabang Medical Center.


Alabang Medical Center is hereby **ORDERED** to (a) allow the personnel/technicians of Consolidated Industrial Gases, Inc. to access and utilize, free of charge, the hospital's electrical facilities in such a manner and quantity necessary for the complete performance of its above-enumerated undertakings, and (b) pay the balance of ₱1,267,344.42 upon and simultaneously with the turnover of a fully functional and fully operational centralized medical oxygen, vacuum and nitrous oxide pipeline system by Consolidated Industrial Gases, Inc.

The award of attorney's fees in favor of Alabang Medical Center is deleted.

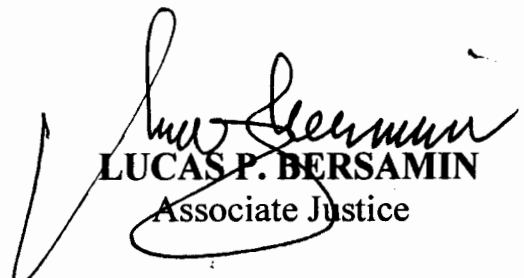
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

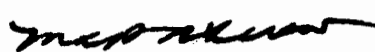

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
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