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Supreme Court limits review of CIAC award only to legal questions

In its Decision on June 22, 2020 in G.R. No. 220045-48, *Wyeth Philippines, Inc. v. Construction Industry Arbitration Commission et al.*, the Supreme Court, Third Division held that in the review of an arbitral award of the Construction Industry Arbitration Commission ("CIAC"), courts, as a general rule, must defer to the CIAC's factual findings by reason of its technical expertise and irreplaceable experience in arbitration.

Wyeth

The dispute arose when Wyeth Philippines, Inc. ("Wyeth"), the project owner, terminated its contract with SKI Construction Group, Inc. ("SKI") for Dryer 3 and Wet Process Superstructure Works in Cabuyao, Laguna and called on the performance and surety bonds issued by Mapfre Insular Insurance Corp. ("Mapfre"). SKI filed a Complaint against Wyeth, which moved to implead Mapfre during the preliminary conference before the CIAC.

On December 23, 2010, the arbitral tribunal ruled in an award that the contract was validly terminated by Wyeth because of SKI's delay in the construction of the project. After offsetting the monetary claims awarded to each party, the tribunal declared SKI liable for the net amount of P55,119,852.56 due to Wyeth. The tribunal also determined Mapfre's maximum liability for each bond, subject to indemnification from SKI.

Wyeth, SKI, and Mapfre appealed the CIAC award to the Court of Appeals ("CA"). Wyeth also moved to execute the award, but it was denied by the CIAC. This prompted Wyeth to file a Petition for Mandamus, which was consolidated with the three Petitions for Review before the CA. The CA found no error on the tribunal's refusal to execute the award. However, the CA disagreed with the tribunal's factual findings and increased the monetary entitlements of the parties, including the amount of Mapfre's liability under the bonds.

Dissatisfied, Wyeth sought final recourse with the Supreme Court. In the Decision penned

WHAT'S INSIDE

Recent Supreme Court rulings on construction arbitration

By Remy Rose A. Alegre

Factual rulings in CIAC arbitral award are final and unappealable.

In the recent case of *Department of Public Works and Highways (DPWH) v. Italian-Thai Development Public Company, Ltd. (ITD) et al.*, G.R. No. 235853, July 13, 2020, the Supreme Court affirmed that arbitral awards of the Construction Industry Arbitration Commission (CIAC) are final and unappealable except on pure questions of law. In the absence of exceptional circumstances, the Supreme Court must uphold the integrity of the arbitration and ensure that parties do not undermine the process they voluntarily engaged themselves in.

In that case, DPWH engaged the services of ITD to construct the civil works related to the rehabilitation and widening of the Suyo-Cervantes Road Section for the original contract price of P1.164 billion. With the approval of DPWH, several variation orders were issued to implement project modifications that resulted in additional costs. ITD submitted its claim for overrun earthwork quantities but it was denied by the project consultant and engineer, Katahira & Engineers International (KEI).

The dispute was referred to the CIAC, where ITD claimed additional compensation on overrun earthwork quantities as well as miscellaneous works and legal expenses. DPWH and KEI countersued ITD for damages, attorney's fees, and litigation expenses. In its Final Award, the arbitral tribunal appointed by the CIAC found ITD entitled to its claim for overrun earthwork quantities and temperate damages, and denied DPWH's and KEI's respective counterclaims. On review, the Court of Appeals (CA) dismissed DPWH's petition and agreed with the arbitral tribunal.

DPWH elevated the matter to the Supreme Court through a Petition for Review under Rule 45 of the Rules of Court. DPWH claimed exception to the rule that only pure



questions of law may be raised under Rule 45 by arguing that the CA committed grave abuse of discretion in grossly misappreciating the facts and the evidence of the parties.

In denying DPWH's appeal, the First Division of the Supreme Court held that questions of fact relating to an arbitral award rendered under the aegis of the CIAC cannot be raised before it, following Rule 45 of the Rules of Court and Section 19 of Executive Order No. 1008 or the "Construction Industry Arbitration Law" ("E.O. 1008").

The settled rule is that the factual findings of the CIAC, which possesses the required expertise in the field of construction arbitration, are final and conclusive and are not reviewable by the Supreme Court on appeal. While there are recognized exceptions to the rule, none existed in this case. The High Court clarified that with respect to grave abuse of discretion as an exception, the party alleging it must, at the very least, show that it was deprived of a fair opportunity to present its position before the CIAC or that the award was obtained through fraud or corruption of arbitrators.

The Supreme Court also discussed that E.O. 1008 was enacted to encourage the early and expeditious settlement of disputes in the construction industry, which is necessary and important for the realization of national development goals. The animating purpose behind CIAC arbitration requires the Supreme Court to ensure that an appeal does not undermine the integrity of the arbitration or conveniently set aside the conclusions made by the arbitral tribunal. Based on this, the Supreme Court will not review the factual findings of the CIAC even on the allegation that the tribunal misapprehended the facts.

CIAC has no jurisdiction over a non-contracting party’s claim for damages.

In its Decision issued on February 12, 2020 in G.R. No. 217151, *Drs. Reynaldo Ang and Susan Cucio-Ang v. Rosita De Venecia et al.*, the Second Division of the Supreme Court stressed that while there is a state policy in favor of arbitration, it does not apply when the dispute is clearly outside the jurisdiction of the arbitral tribunal and the parties object to arbitration. Since arbitration is essentially contractual in nature, an arbitral tribunal cannot acquire jurisdiction if a party does not agree to submit the dispute to the arbitral process.

Claiming that their house was damaged by the construction activities on their neighboring lot, the spouses Reynaldo Ang and Susan Cucio Ang (“Spouses Ang”) filed a complaint for damages before the Regional Trial Court, Makati City (RTC) against the owners of the adjoining five-storey commercial building and lot, together with the latter’s architects and the City Engineer of Makati (collectively, “respondents”). Pending trial, the RTC dismissed the case in view of Office of the Court Administrator Circular No. 111-2014, which directed the dismissal of all pending construction disputes for referral to the Construction Industry Arbitration Commission (CIAC). The Spouses Ang disagreed and elevated the matter to the Supreme Court.

Among the issues raised before the High Court was whether the Spouses Ang’s suit for damages fall within the jurisdiction of the CIAC. In the decision penned by Reyes, Jr., *J.*, the Supreme Court reversed the RTC and held that CIAC jurisdiction did not apply because there was no construction contract between the Spouses Ang and respondents. The construction contract was only between the owners of the adjoining building and lot and their architects.

The Supreme Court discussed the three requisites for acquisition of jurisdiction by the CIAC: (1) a dispute arising from or connected with a construction contract; (2) such contract must have been entered into by parties involved in construction in the Philippines; and (3) an agreement by the parties to submit their dispute to arbitration.

In this case, the Spouses Ang’s cause of action did not enforce a right under a construction contract. Rather, they were enforcing their right to be compensated from the alleged damage inflicted upon their property by the nearby construction work. The Supreme Court conceded that CIAC may have jurisdiction over non-contractual disputes, e.g., tortious breach of contract. But these disputes must still arise



from or be connected with a construction contract entered into by parties in the Philippines who agree to submit to arbitration.

Although Sections 35 and 21 of the Alternative Dispute Resolution Act of 2004 confirm CIAC’s jurisdiction over construction disputes regardless of whether or not they arise from a contract, the Supreme Court noted that Section 21 only contemplates “matters arising from all relationships of a commercial nature.” Here, the relationship between the parties can hardly be considered commercial in nature, the only relation being that they are adjoining lot owners. The spouses also do not have relation to the architects other than that involving the alleged damage to the Spouses Ang residence.

The Supreme Court also discussed that factual matters are best ventilated before the trial court, which has ample means of handling technical matters involved in a suit. 🇵🇭



About the Author

Atty. Remy Rose A. Alegre is an Associate Solicitor at the Office of the Solicitor General (OSG). Before joining the OSG, Atty. Alegre was a senior litigation associate of Castillo Laman Tan Pantaleon & San Jose. She is a trained arbitrator of the Philippine Dispute Resolution Center, Inc. and currently teaches Appropriate Dispute Resolution at the San Sebastian College-Recoletos, College of Law.

MEMBER SPOTLIGHT



Atty. Ignatius Michael Ingles

Atty. Ignatius Michael Ingles is an expert in sports and tax law.

He studied management at the Ateneo de Manila University, where he graduated in 2006 as a consistent Dean's Lister. He was the team captain of the Ateneo men's football team that won three consecutive University Athletics Association of the Philippines (UAAP) championships from 2003 to 2006. He was the UAAP Scholar-Athlete of the Year for 2006.

After obtaining his undergraduate degree, he pursued law and graduated salutatorian of his class at the Ateneo Law School in 2012. He was also conferred the St. Thomas More Most Distinguished Graduate Award upon graduation.

He placed first out of 5,343 examinees in the 2012 Philippine Bar examinations.

After topping the Philippine Bar, he worked as an associate from 2013 to 2014 at Salvador, Llanillo & Bernardo Law Firm, before taking up his Master of Laws at the Georgetown University Law Center in Washington D.C., U.S.A., and graduating in 2016. He was admitted to the New York Bar in 2017.

Upon his return to the Philippines, he joined his father's law firm, Ingles Lauren Calderon, where he provides tax, corporate, and business registration advice and handles sports law engagements.

Since 2013, he has been a fulltime professor at Ateneo Law School, teaching Constitutional Law, Sports Law, Tax Law, and Artificial Intelligence, Robots and the Law. He was also an adjunct professor at Far Eastern University Institute of Law from 2013 to 2018, where he taught Tax Law I and II and Tax Law Review.

He is a sports law contributor at Rappler.com and Spin.ph, a member of the Editorial Board of LawInSport, and the Editor-in-Chief of Batas Sportiva. He has also published numerous books and law journal articles on sports, taxation, artificial intelligence, social media use, and constitutional rights, including *Laws for Sports and the Sporty*, which is the definitive sports law textbook in the Philippines. [📄](#)

Supreme Court limits review of CIAC award only to legal questions

by Leonen, J., the High Court reinstated the factual findings and monetary awards of the tribunal, which was in a better position to adjudicate and determine the claims and rights of the parties. In disturbing the award, the CA based its modification on neither a legal question nor any exceptional ground requiring it to look into factual issues.

The Supreme Court stressed that a CIAC arbitral award may be appealed only on pure questions of law, and its factual findings should be respected and upheld. To warrant a review, exceptions must pertain to the tribunal's conduct and the qualifications of the arbitrator, and not to its errors of fact and law, misappreciation of evidence, or conflicting findings of fact. Without a showing of any of the exceptional circumstances justifying factual review, the dispute is better left to the CIAC, a quasi-judicial body with the technical competence to resolve construction disputes.

As noted by the High Court, most of the issues raised by Wyeth were questions of fact prohibited in a Rule 45 petition. Any review of the CIAC's factual findings would require the Supreme Court—which is not a trier of facts—to conduct its own ocular inspection, hire its own experts, and provide its own interpretations of the findings of a highly technical agency.

Accordingly, the Supreme Court held that Mapfre was solidarily liable with SKI up to the amount awarded by the tribunal.

On the sole question of law for resolution, the Supreme Court upheld the CIAC's denial of Wyeth's motion for execution pending appeal. Based on the 2019 CIAC Revised Rules of Procedure Governing Construction Arbitration, a motion for execution filed by a prevailing party may be granted, unless the award or any portion of it was appealed by any or both parties. (*Remy A. Alegre*) [📄](#)

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