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THIRD DIVISION

[G.R. No. 141833. March 26, 2003.]

LM POWER ENGINEERING CORPORATION, *petitioner, vs.* **CAPITOL INDUSTRIAL CONSTRUCTION GROUPS, INC.,** *respondent.*

SYNOPSIS

Petitioner LM Power Engineering Corporation and respondent Capitol Industrial Construction Groups, Inc. entered into a subcontract agreement involving electrical work at the Third Port of Zamboanga.

Due to petitioner's failure to complete the work on schedule, respondent took over some of petitioner's work items. Thus, when petitioner completed its task under the contract, respondent refused to pay petitioner's billings, and contested the billable accomplishments. The petitioner sued the respondent for collection of sum of money with the RTC. The RTC subsequently ordered the respondent to give full payment for the work completed by petitioner. The CA, however, reversed the decision, and ordered the parties to present their dispute to arbitration in accordance with the arbitral clause provided in their subcontract agreement.

The Supreme Court affirmed the CA decision, ruling: that any doubt should be resolved in favor of arbitration because aside from unclogging judicial dockets, arbitration also hastens the resolution of disputes; that the instant case involves technical discrepancies in the application of their agreement that are better left to an arbitral body that has expertise in those areas; that under Sec. 1 Art. III of the new Rules of Procedure, there is no more need to file a request with the Construction Industry Arbitration Commission (CIAC) in order to vest it with jurisdiction to decide a construction dispute. As long as the parties agree to submit to voluntary arbitration, regardless of what forum they may choose, they may invoke the CIAC jurisdiction ; that parties are expected to abide by the arbitral clause in the agreement in good faith; and that since petitioner has already filed a complaint with the RTC without prior recourse to arbitration, the proper procedure is to request the suspension

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of such action as provided under RA 876 (the Arbitration Law) to enable the CIAC to decide on the dispute.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; VOLUNTARY ARBITRATION; ARBITRATION CLAUSES SHOULD BE LIBERALLY CONSTRUED.** – Being an inexpensive, speedy and amicable method of settling disputes, arbitration — along with mediation, conciliation and negotiation — is encouraged by the Supreme Court. Aside from unclogging judicial dockets, arbitration also hastens the resolution of disputes, especially of the commercial kind. It is thus regarded as the "wave of the future" in international civil and commercial disputes. Brushing aside a contractual agreement calling for arbitration between the parties would be a step backward. Consistent with the above-mentioned policy of encouraging alternative dispute resolution methods, courts should liberally construe arbitration clauses. Provided such clause is susceptible of an interpretation that covers the asserted dispute, an order to arbitrate should be granted. Any doubt should be resolved in favor of arbitration.

2. **ID.; ID.; ID.; ID.; RESOLUTION OF TECHNICAL DISCREPANCIES ARE BETTER LEFT TO AN ARBITRAL BODY; CASE AT BAR.** – Clearly, the resolution of the dispute between the parties herein requires a referral to the provisions of their Agreement. Within the scope of the arbitration clause are discrepancies as to the amount of advances and billable accomplishments, the application of the provision on termination, and the consequent set-off of expenses. A review of the factual allegations of the parties reveals that they differ on the following questions: (1) Did a take-over/termination occur? (2) May the expenses incurred by respondent in the take-over be set off against the amounts it owed petitioner? (3) How much were the advances and billable accomplishments? The resolution of the foregoing issues lies in the interpretation of the provisions of the Agreement. . . The instant case involves technical discrepancies that are better left to an arbitral body that has expertise in those areas.

3. **ID.; ID.; ID.; CONSTRUCTION INDUSTRY ARBITRATION COMMISSION (CIAC); HAS JURISDICTION TO DECIDE A CONSTRUCTION DISPUTE WHEN CONSTRUCTION**

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CONTRACT HAS AN ARBITRAL CLAUSE; CASE AT BAR. – Section 1 of Article II of the *old* Rules of Procedure Governing Construction Arbitration indeed required the submission of a request for arbitration. . . On the other hand, Section 1 of Article III of the *new* Rules of Procedure Governing Construction Arbitration has dispensed with this requirement and recourse to the CIAC may now be availed of whenever a contract "contains a clause for the submission of a future controversy to arbitration,". . . Clearly, there is no more need to file a request with the CIAC in order to vest it with jurisdiction to decide a construction dispute.

4. ID.; ID.; ID.; PARTIES ARE EXPECTED TO ABIDE BY THE ARBITRAL CLAUSE IN GOOD FAITH; CASE AT BAR. — The arbitral clause in the Agreement is a commitment on the part of the parties to submit to arbitration the disputes covered therein. Because that clause is binding, they are expected to abide by it in good faith. And because it covers the dispute between the parties in the present case, either of them may compel the other to arbitrate. Since petitioner has already filed a Complaint with the RTC without prior recourse to arbitration, the proper procedure to enable the CIAC to decide on the dispute is to request the stay or suspension of such action, as provided under RA 876 [the Arbitration Law].

APPEARANCES OF COUNSEL

E.G. Ferry Law Offices for petitioner.
Catindig Tiongko & Nibungco for private respondent.

D E C I S I O N

PANGANIBAN, *J.*:

Alternative dispute resolution methods or ADRs — like arbitration, mediation, negotiation and conciliation — are encouraged by the Supreme Court. By enabling parties to resolve their disputes amicably, they provide solutions that are less time-consuming, less tedious, less confrontational, and more productive of goodwill and lasting relationships.[1]

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[1] See Panganiban, *A Centenary of Justice*, 2001 ed., p. 83.

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The Case

Before us is a Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court, seeking to set aside the January 28, 2000 Decision of the Court of Appeals[3] (CA) in CA-GR CV No. 54232. The dispositive portion of the Decision reads as follows:

"WHEREFORE, the judgment appealed from is REVERSED and SET ASIDE. The parties are ORDERED to present their dispute to arbitration in accordance with their Sub-contract Agreement. The surety bond posted by [respondent] is [d]ischarged."[4]

The Facts

On February 22, 1983, Petitioner LM Power Engineering Corporation and Respondent Capitol Industrial Construction Groups Inc. entered into a "Subcontract Agreement" involving electrical work at the Third Port of Zamboanga.[5]

On April 25, 1985, respondent took over some of the work contracted to petitioner.[6] Allegedly, the latter had failed to finish it because of its inability to procure materials.[7]

Upon completing its task under the Contract, petitioner billed respondent in the amount of ₱6,711,813.90.[8] Contesting the accuracy of the amount of advances and billable accomplishments listed by the former, the latter refused to pay. Respondent also took refuge in the termination clause of the Agreement.[9] That clause allowed it to set off the cost of the work that petitioner

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[2] *Rollo*, pp. 7–17.

[3] Seventh Division. Written by Justice Portia Aliño-Hormachuelos and concurred in by Justices Corona Ibay-Somera (Division chairman) and Wenceslao I. Agnir Jr. (member).

[4] Assailed CA Decision, pp. 21–22; *rollo*, pp. 40–41.

[5] See Pay Item Nos. 7.01 to 7.26 of the Bill of Quantities; Records, pp. 16–25.

[6] See Letters dated March 15, 1985 and April 25, 1985, pp. 63–64.

[7] See Letter dated March 7, 1985, p. 62.

[8] See Letter dated September 30, 1986, p. 65.

[9] Records, pp. 68–69.

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had failed to undertake — due to termination or take-over — against the amount it owed the latter.

Because of the dispute, petitioner filed with the Regional Trial Court (RTC) of Makati (Branch 141) a Complaint [10] for the collection of the amount representing the alleged balance due it under the Subcontract. Instead of submitting an Answer, respondent filed a Motion to Dismiss,[11] alleging that the Complaint was premature, because there was no prior recourse to arbitration.

In its Order[12] dated September 15, 1987, the RTC denied the Motion on the ground that the dispute did not involve the interpretation or the implementation of the Agreement and was, therefore, not covered by the arbitral clause.[13]

After trial on the merits, the RTC[14] ruled that the take-over of some work items by respondent was not equivalent to a termination, but a mere modification, of the Subcontract. The latter was ordered to give full payment for the work completed by petitioner.

Ruling of the Court of Appeals

On appeal, the CA reversed the RTC and ordered the referral of the case to arbitration. The appellate court held as arbitrable the issue of whether respondent's take-over of some work items had been intended to be a termination of the original contract under Letter "K" of the Subcontract. It ruled likewise on two other issues: whether petitioner was liable under the warranty clause of the Agreement, and whether it should reimburse respondent for the work the latter had taken over.[15]

Hence, this Petition.[16]

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[10] *Id.*, pp. 1–3.

[11] *Id.*, pp. 32–34.

[12] Presided by Judge Phinney C. Araquil.

[13] Records, p. 41.

[14] Transferred to Makati, Branch 64. Presided by Judge Delia H. Panganiban.

[15] Assailed CA Decision, pp. 20–21; *rollo*, pp. 39–40.

[16] This case was deemed submitted for decision on October 25, 2001, upon this Court's receipt of respondent's Memorandum signed by Atty. Henry

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The Issues

In its Memorandum, petitioner raises the following issues for the Court's consideration:

"A

Whether or not there exist[s] a controversy/dispute between petitioner and respondent regarding the interpretation and implementation of the Sub-Contract Agreement dated February 22, 1983 that requires prior recourse to voluntary arbitration;

"B

In the affirmative, whether or not the requirements provided in Article III [1] of CIAC Arbitration Rules regarding request for arbitration ha[ve] been complied with[.]"[17]

The Court's Ruling

The Petition is unmeritorious.

First Issue: Whether Dispute Is Arbitrable

Petitioner claims that there is no conflict regarding the interpretation or the implementation of the Agreement. Thus, without having to resort to prior arbitration, it is entitled to collect the value of the services it rendered through an ordinary action for the collection of a sum of money from respondent. On the other hand, the latter contends that there is a need for prior arbitration as provided in the Agreement. This is because there are some disparities between the parties' positions regarding the extent of the work done, the amount of advances and billable accomplishments, and the set off of expenses incurred by respondent in its take-over of petitioner's work.

We side with respondent. Essentially, the dispute arose from the parties' incongruent positions on whether certain provisions of their Agreement could be applied to the facts. The instant

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S. Rojas. Petitioner's Memorandum, filed on October 10, 2001, was signed by Atty. Eleazar G. Ferry.

[17] Petitioner's Memorandum, p. 5; *rollo*, p. 223. Original in upper case.

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case involves technical discrepancies that are better left to an arbitral body that has expertise in those areas. In any event, the inclusion of an arbitration clause in a contract does not *ipso facto* divest the courts of jurisdiction to pass upon the findings of arbitral bodies, because the awards are still judicially reviewable under certain conditions.[18]

In the case before us, the Subcontract has the following arbitral clause:

"6. The Parties hereto agree that *any dispute or conflict as regards to interpretation and implementation of this Agreement* which cannot be settled between [respondent] and [petitioner] amicably shall be *settled by means of arbitration* xxx" [19]

Clearly, the resolution of the dispute between the parties herein requires a referral to the provisions of their Agreement. Within the scope of the arbitration clause are discrepancies as to the amount of advances and billable accomplishments, the application of the provision on termination, and the consequent set-off of expenses.

A review of the factual allegations of the parties reveals that they differ on the following questions: (1) Did a take-over/ termination occur? (2) May the expenses incurred by respondent in the take-over be set off against the amounts it owed petitioner? (3) How much were the advances and billable accomplishments?

The resolution of the foregoing issues lies in the interpretation of the provisions of the Agreement. According to respondent, the take-over was caused by petitioner's delay in completing the work. Such delay was in violation of the provision in the Agreement as to time schedule:

"G. *TIME SCHEDULE*

"[Petitioner] shall adhere strictly to the schedule related to the WORK and complete the WORK within the period set forth in Annex C hereof. NO time extension shall be granted by [respondent] to

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[18] *Bengson v. Chan*, 78 SCRA 113, July 29, 1977.

[19] Subcontract Agreement, p. 10; *rollo*, p. 52. Italics supplied.

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[petitioner] unless a corresponding time extension is granted by [the Ministry of Public Works and Highways] to the CONSORTIUM."[20]

Because of the delay, respondent alleges that it took over some of the work contracted to petitioner, pursuant to the following provision in the Agreement:

"K. TERMINATION OF AGREEMENT

"[Respondent] has the *right to terminate and/or take over* this Agreement for any of the following causes:

xxx xxx xxx

'6.If despite previous warnings by [respondent], [petitioner] does not execute the WORK in accordance with this Agreement, or *persistently or flagrantly neglects to carry out [its] obligations under this Agreement.*"[21]

Supposedly, as a result of the "take-over," respondent incurred expenses in excess of the contracted price. It sought to set off those expenses against the amount claimed by petitioner for the work the latter accomplished, pursuant to the following provision:

"If the total direct and indirect cost of completing the remaining part of the WORK exceed the sum which would have been payable to [petitioner] had it completed the WORK, the amount of such excess [may be] claimed by [respondent] from either of the following:

"1. Any amount due [petitioner] from [respondent] at the time of the termination of this Agreement."[22]

The issue as to the correct amount of petitioner's advances and billable accomplishments involves an evaluation of the manner in which the parties completed the work, the extent to which they did it, and the expenses each of them incurred in connection therewith. Arbitrators also need to look into the computation of foreign and local costs of materials, foreign and local advances, retention fees and letters of credit, and taxes and duties as set

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[20] Subcontract Agreement, p. 6; *rollo*, p. 47.

[21] *Id.*, pp. 7–8 & 48–49. Italics supplied.

[22] *Id.*, pp. 8 & 49.

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forth in the Agreement. These data can be gathered from a review of the Agreement, pertinent portions of which are reproduced hereunder:

"C. CONTRACT PRICE AND TERMS OF PAYMENT

xxx xxx xxx

"All progress payments to be made by [respondent] to [petitioner] shall be subject to a retention sum of ten percent (10%) of the value of the approved quantities. Any claims by [respondent] on [petitioner] may be deducted by [respondent] from the progress payments and/or retained amount. Any excess from the retained amount after deducting [respondent's] claims shall be released by [respondent] to [petitioner] after the issuance of [the Ministry of Public Works and Highways] of the Certificate of Completion and final acceptance of the WORK by [the Ministry of Public Works and Highways].

xxx xxx xxx

"D. *IMPORTED MATERIALS AND EQUIPMENT*

"[Respondent shall open the letters of credit for the importation of equipment and materials listed in Annex E hereof after the drawings, brochures, and other technical data of each items in the list have been formally approved by [the Ministry of Public Works and Highways]. However, petitioner will still be fully responsible for all imported materials and equipment.

"All expenses incurred by [respondent], both in foreign and local currencies in connection with the opening of the letters of credit shall be deducted from the Contract Prices.

xxx xxx xxx

"N. *OTHER CONDITIONS*

xxx xxx xxx

"2. All customs duties, import duties, contractor's taxes, income taxes, and other taxes that may be required by any government agencies in connection with this Agreement shall be for the sole account of [petitioner]."[23]

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[23] *Id.*, pp. 3–10 & 44–51.

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Being an inexpensive, speedy and amicable method of settling disputes,[24] arbitration — along with mediation, conciliation and negotiation — is encouraged by the Supreme Court. Aside from unclogging judicial dockets, arbitration also hastens the resolution of disputes, especially of the commercial kind.[25] It is thus regarded as the "wave of the future" in international civil and commercial disputes.[26] Brushing aside a contractual agreement calling for arbitration between the parties would be a step backward.[27]

Consistent with the above-mentioned policy of encouraging alternative dispute resolution methods, courts should liberally construe arbitration clauses. Provided such clause is susceptible of an interpretation that covers the asserted dispute, an order to arbitrate should be granted.[28] Any doubt should be resolved in favor of arbitration.[29]

Second Issue:
Prior Request for Arbitration

According to petitioner, assuming *arguendo* that the dispute is arbitrable, the failure to file a formal request for arbitration with the Construction Industry Arbitration Commission (CIAC) precluded the latter from acquiring jurisdiction over the question. To bolster its position, petitioner even cites our ruling in *Tesco Services Incorporated v. Vera.*[30] We are not persuaded.

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[24] *Del Monte Corporation-USA v. Court of Appeals*, 351 SCRA 373, February 7, 2001; *Eastboard Navigation, Ltd. v. Juan Ysmael and Co., Inc.*, 102 Phil. 1, September 10, 1957.

[25] *Home Bankers Savings and Trust Company v. Court of Appeals,* 318 SCRA 558, November 19, 1999.

[26] *Heirs of Augusto L. Salas Jr. v. Laperal Realty Corporation*, 320 SCRA 610, December 13, 1999; *BF Corporation v. Court of Appeals*, 288 SCRA 267, March 27, 1998.

[27] *Ibid.*

[28] *Seaboard Coastline Railroad Co. v. National Rail Passenger Corporation*, 554 F2d 657 (US Court of Appeals, 5th Circuit), June 22, 1977.

[29] *Moses H. Cone Hospital v. Mercury Construction Co.*, 460 US 1, February 23, 1983; *Metro Industrial Painting Corp. v. Terminal Construction Co.*, 287 F2d 382 (US Court of Appeals, 2nd Circuit), February 16, 1961.

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Section 1 of Article II of the *old* Rules of Procedure Governing Construction Arbitration indeed required the submission of a request for arbitration, as follows:

"SECTION 1. Submission to Arbitration — Any party to a construction contract wishing to have recourse to arbitration by the Construction Industry Arbitration Commission (CIAC) shall submit its Request for Arbitration in sufficient copies to the Secretariat of the CIAC; PROVIDED, that in the case of government construction contracts, all administrative remedies available to the parties must have been exhausted within 90 days from the time the dispute arose."

Tesco was promulgated by this Court, using the foregoing provision as reference.

On the other hand, Section 1 of Article III of the *new* Rules of Procedure Governing Construction Arbitration has dispensed with this requirement and recourse to the CIAC may now be availed of whenever a contract "contains a clause for the submission of a future controversy to arbitration," in this wise:

"SECTION 1. *Submission to CIAC Jurisdiction* — An arbitration clause in a construction contract or a submission to arbitration of a construction dispute shall be deemed an agreement to submit an existing or future controversy to CIAC jurisdiction, notwithstanding the reference to a different arbitration institution or arbitral body in such contract or submission. When a contract contains a clause for the submission of a future controversy to arbitration, it is not necessary for the parties to enter into a submission agreement before the claimant may invoke the jurisdiction of CIAC."

The foregoing amendments in the Rules were formalized by CIAC Resolution Nos. 2-91 and 3-93.[31]

The difference in the two provisions was clearly explained in *China Chang Jiang Energy Corporation (Philippines) v. Rosal Infrastructure Builders et al.*[32] (an extended unsigned Resolution)

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[30] 209 SCRA 440, May 29, 1992.

[31] These were promulgated by the CIAC on June 21, 1991 and August 25, 1993, respectively.

[32] GR No. 125706, September 30, 1996.

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and reiterated in *National Irrigation Administration v. Court of Appeals*,[33] from which we quote thus:

"Under the present Rules of Procedure, for a particular construction contract to fall within the jurisdiction of CIAC, it is merely required that the parties agree to submit the same to voluntary arbitration Unlike in the original version of Section 1, as applied in the *Tesco* case, the law as it now stands does not provide that the parties should agree to submit disputes arising from their agreement specifically to the CIAC for the latter to acquire jurisdiction over the same. Rather, it is plain and clear that as long as the parties agree to submit to voluntary arbitration, regardless of what forum they may choose, their agreement will fall within the jurisdiction of the CIAC, such that, even if they specifically choose another forum, the parties will not be precluded from electing to submit their dispute before the CIAC because this right has been vested upon each party by law, *i.e.*, E.O. No. 1008."[34]

Clearly, there is no more need to file a request with the CIAC in order to vest it with jurisdiction to decide a construction dispute.

The arbitral clause in the Agreement is a commitment on the part of the parties to submit to arbitration the disputes covered therein. Because that clause is binding, they are expected to abide by it in good faith.[35] And because it covers the dispute between the parties in the present case, either of them may compel the other to arbitrate.[36]

Since petitioner has already filed a Complaint with the RTC without prior recourse to arbitration, the proper procedure to enable the CIAC to decide on the dispute is to request the stay or suspension of such action, as provided under RA 876 [the Arbitration Law].[37]

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[33] 318 SCRA 255, November 17, 1999.

[34] *Id.*, p. 268, per Davide Jr., *C.J.*

[35] *Toyota Motor Philippines Corporation v. Court of Appeals*, 216 SCRA 236, December 7, 1992.

[36] See §6 of RA 876.

[37] "SEC. 7. *Stay of Civil Action.* — If any suit or proceeding be brought upon an issue arising out of an agreement providing for the arbitration thereof,

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WHEREFORE, the Petition is *DENIED* and the assailed Decision *AFFIRMED*. Costs against petitioner.

SO ORDERED.

Puno (Chairman), *Sandoval-Gutierrez, Corona*, and *Carpio Morales, JJ.*, concur.

THIRD DIVISION

[G.R. No. 142403. March 26, 2003.]

ALEJANDRO GABRIEL and ALFREDO GABRIEL, *petitioners, vs.* **SPOUSES PABLO MABANTA AND ESCOLASTICA COLOBONG, DEVELOPMENT BANK OF THE PHILIPPINES (Isabela Branch) and ZENAIDA TAN-REYES,** *respondents.*

SYNOPSIS

Spouses Pablo Mabanta, the registered owners of the subject lots, sold said lots to petitioner Alejandro Gabriel and subsequently to respondent Zenaida Reyes who had the previous titles covering said lots cancelled and in lieu thereof, another one issued in her name. Alejandro filed a complaint for specific performance, reconveyance and damages. The trial court sustained Alejandro's right over the lot. The CA, however, reversed the decision and ruled in favor of Reyes on the ground that a person dealing with registered land may simply rely on the correctness of the title, in the absence of anything to engender suspicion.

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the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration, shall stay the action or proceeding until an arbitration has been had in accordance with the terms of the agreement: Provided, That the applicant for the stay is not in default in proceeding with such arbitration."