Supreme Court E-Library

THIRD DIVISION

[G.R. No. 137796. July 15, 1999]

MONDRAGON LEISURE AND RESORTS CORPORATION, MONDRAGON INTERNATIONAL PHILIPPINES, INC. AND MONDRAGON SECURITIES, INC., *petitioners, vs.* **COURT OF APPEALS and CLARK DEVELOPMENT CORPORATION,** *respondents.*

SYNOPSIS

This is a petition for review on *certiorari* filed by Mondragon Leisure and Resorts Corporation questioning the decision of the Court of Appeals that set aside the restraining order issued by Judge Yturralde which prevented its ejectment from the property of Clark Development Corporation (CDC) and the restraining order issued by Judge Viola that prohibited the Philippine Amusement and Gaming Corporation (PAGCOR) to revoke the license to operate the Mimosa Regency Casino which is owned by Mondragon. However, pending resolution of this petition, Mondragon and CDC executed a Compromise agreement.

The Court ruled that it is apparent that the parties have managed to resolve the dispute among themselves, the only thing left being to put the Court's judicial imprimatur on the compromise agreement in accordance with Article 2037 of the Civil Code. Accordingly, the Compromise Agreement dated June 28, 1999 executed by Mondragon and CDC, not being contrary to law, morals, good customs, and public order and public policy was NOTED and the petition is DISMISSED.

SYLLABUS

REMEDIAL LAW; APPEAL; RENDERED MOOT AND ACADEMIC BY EXECUTION OF COMPROMISE AGREEMENT. — It is apparent that the parties have managed to resolve the dispute among themselves, the only thing left being to put our judicial imprimatur on the compromise agreement in accordance with Article 2037 of the Civil Code. Accordingly, the Compromise

Supreme Court E-Library

Agreement dated June 28, 1999 executed by Mondragon and CDC, not being contrary to law, morals, good customs, and public order and public policy is hereby noted and the petition is DISMISSED.

APPEARANCES OF COUNSEL

Ernesto B. Francisco, Jr. for petitioners.
Monica C. Pineda and *Francis A. Dimaliwat* for private respondent.

R E S O L U T I O N

ROMERO, *J.*:

On March 25, 1999, the Mondragon Leisure and Resorts Corporation (hereafter referred to as Mondragon) filed a petition for review on certiorari under Rule 45 with this Court. Said petition sought the reversal of the decision of the Court of Appeals dated March 19, 1999 setting aside (1) the temporary restraining orders dated December 15 and 16, 1998 issued by Judge Yturralde in Civil Case No. 9242; and (2) the restraining orders dated December 15, December 22, 1998 and January 4, 1999, as well as the order to comment, issued by Judge Viola in Civil Case 8970.

Mondragon is the lessee of a 152.25 has. area in what used to be Clark Air Base, having leased the same from private respondent Clark Development Corporation (hereafter CDC) for a period of fifty years. Due to alleged violations by Mondragon of the lease agreement it had with CDC, specifically, over what CDC claims to be Mondragon's non-payment of the proper rent over the leased property, the latter sought to eject the former from the premises. In the course of the dispute, personnel of the Philippine National Police set up barricades around the Mimosa Regency Casino, one of the establishments operated by Mondragon in the leased area.

In order to prevent its ejectment, Mondragon filed a complaint with the Regional Trial Court of Angeles City, docketed therein as Civil Case No. 9242. The complaint, which prayed for a

Supreme Court E-Library

temporary restraining order, was raffled off to the sala of Judge Yturralde. Said judge granted the prayer for a restraining order.

In the interim, the Philippine Amusement and Gaming Corporation (hereafter PAGCOR) likewise threatened to revoke Mondragon's authority to operate the Mimosa Regency Casino. Mondragon was, thus, constrained to file a complaint with the Regional Trial Court of Angeles City to restrain PAGCOR from revoking its license to operate a casino. The complaint, docketed as Civil Case No. 8970, was raffled off to the sala of Judge Viola, who issued a restraining order, not only against PAGCOR, but also against CDC.

Aggrieved by the issuance of these restraining orders, CDC brought the matter to the Court of Appeals. On March 19, 1999, the appellate court set aside said restraining orders, prompting Mondragon to appeal to this Court. Subsequent to Mondragon's filing of the present petition, the Court deputized the Philippine National Police, who were still deployed around the area, to prevent persons from entering or leaving the premises of the casino.

On May 13, 1999, CDC filed a manifestation with the Court stating that they were willing to negotiate with Mondragon for the possible amicable settlement of the case. On May 17, 1999, Mondragon responded thereto by filing a manifestation stating their sincere desire to have the case amicably settled. In view of this development, the Court issued a resolution, dated May 18, 1999, granting the parties a non-extendible period of twenty days within which to submit an amicable settlement.

On June 28, 1999, the parties submitted a joint manifestation and motion to this Court stating that the parties had reached an amicable settlement, as embodied in a Compromise Agreement executed by the parties on even date, as follows:

COMPROMISE AGREEMENT

This Compromise Agreement executed by and between —

CLARK DEVELOPMENT CORPORATION, and corporation duly organized and existing under Philippine laws with principal office address at Building 2127, E. Qurino Avenue cor. C.P. Garcia Avenue,

Supreme Court E-Library

Clark Field, Pampanga, represented herein by its President and Chief Executive Officer, *RUFO COLAYCO* (hereafter, "CDC");

and

MONDRAGON LEISURE AND RESORTS CORPORATION, a corporation duly organized and existing under Philippine laws and with principal office address at Mimosa Leisure Estate, Clark Field, Pampanga, represented herein by its Chairman of the Board and Chief Executive Officer, *JOSE ANTONIO U. GONZALEZ* (hereafter, "MLRC");

Witnesseth that —

WHEREAS, CDC and MLRC are presently involved in judicial disputes which are now pending before the Regional Trial Court in Angeles City, Branch 58, entitled "*Mondragon Leisure and Resorts Corporation," et al. vs. Clark Development Corporation,*" docketed as Civil Case No. 9242, and the Supreme Court entitled "*Mondragon Leisure Resorts Corporation, et al. vs. Clark Development Corporation,*" docketed as G.R. No. 137796-97;

WHEREAS, the Supreme Court, in its Resolution dated May 18, 1999, required MLRC and CDC to submit an amicable settlement within twenty (20) days from receipt thereof;

WHEREAS, on June 24, 1999, the parties entered into an Agreement to submit their disputes to a Board of Arbitrators;

WHEREAS, in the proceedings before the Board of Arbitrators on June 26, 1999 — after the parties had presented their position papers and fully and freely ventilated their respective submissions and arguments concerning the issues — a Compromise Agreement was eventually reached through the mediation of the Arbitrators, resolving the disputes to the parties' mutual satisfaction.

NOW THEREFORE, for and in consideration of the foregoing premises, the parties hereby agree that:

1. *Rentals in Arrears.* MLRC shall pay CDC the amount of THREE HUNDRED TWENTY FIVE MILLION PESOS (Php 325,000,000.00) by way of rentals in arrears as of June 30, 1999. MLRC shall pay CDC in installments, without need of demand, the amount of THREE HUNDRED TWENTY FIVE MILLION PESOS (Php 325,000.000.00) on or before the following dates as follows:

July 31, 1999	Php 50,000,000.00
August 31, 1999	Php 50,000,000.00
September 31, 1999	Php 50,000,000.00

Supreme Court E-Library

October 31, 1999	Php 50,000,000.00
November 31, 1999	Php 50,000,000.00
December 31, 1999	Php 50,000,000.00
June 30, 2000	Php 25,000,000.00

To secure the payment of the foregoing indebtedness of MLRC to CDC, MLRC shall open an irrevocable domestic letter of credit in favor of CDC from a reputable commercial or universal bank acceptable to CDC in the amount of THREE HUNDRED TWENTY FIVE MILLION PESOS (Php 325,000,000.00) and shall submit such letter of credit to CDC not later than thirty (30) days from the signing of this Compromise Agreement at the office of CDC at Building 2127, E. Quirino Avenue cor. C.P. Garcia Avenue, Clark Field, Pampanga.

2. *Minimum Guaranteed Lease Rentals.* The Minimum guaranteed Lease Rentals as provided in the Master Lease Agreement, the Supplemental Lease Agreements and other Lease Agreements are hereby consolidated and modified as follows:

1-Jul 1999 to 28-Feb 2000	73,333,333.33
1-Mar 2000 to 28-Feb 2001	121,000,000.00
1-Mar 2001 to 28-Feb 2002	133,100,000.00
1-Mar 2002 to 28-Feb 2003	146,410,000.00
1-Mar 2003 to 28-Feb 2004	161,051,000.00
1-Mar 2004 to 28-Feb 2005	177,156,100.00
1-Mar 2005 to 28-Feb 2006	194,871,710.00
1-Mar 2006 to 28-Feb 2007	214,358,881.00
1-Mar 2007 to 28-Feb 2008	235,794,769.10
1-Mar 2008 to 28-Feb 2009	259,374,246.01
1-Mar 2009 to 28-Feb 2010	285,311,670.61
1-Mar 2010 to 28-Feb 2011	313,842,837.67
1-Mar 2011 to 28-Feb 2012	345,227,121.44
1-Mar 2012 to 28-Feb 2013	379,749,833.58
1-Mar 2013 to 28-Feb 2014	417,724,816.94
1-Mar 2014 to 28-Feb 2015	457,408,674.55
1-Mar 2015 to 28-Feb 2016	500, 862,498.63
1-Mar 2016 to 28-Feb 2017	548,444,436.00
1-Mar 2017 to 28-Feb 2018	600,546,657.42
1-Mar 2018 to 28-Feb 2019	657,598,589.88
1-Mar 2019 to 28-Feb 2020	720,070,455.92
1-Mar 2020 to 28-Feb 2021	788,477,149.23
1-Mar 2021 to 28-Feb 2022	863,382,478.41

Supreme Court E-Library

1-Mar 2022 to 28-Feb 2023	945,403,813.86
1-Mar 2023 to 28-Feb. 2024	1,035,217,176.17
1-Mar 2024 to 28-Feb 2025	1,133,562,807.91
1-Mar 2025 to 28-Feb 2026	1,241,251,274.66
1-Mar 2026 to 28-Feb 2027	1,359,170,145.75
1-Mar 2027 to 28-Feb 2028	1,488,291,309.60
1-Mar 2028 to 28-Feb 2029	1,629,678,984.01
1-Mar 2029 to 28-Feb 2030	1,784,498,487.49
1-Mar 2030 to 28-Feb 2031	1,954,025,843.80
1-Mar 2031 to 28-Feb 2032	2,139,658,298.96
1-Mar 2032 to 28-Feb 2033	2,342,925,837.37
1-Mar 2033 to 28-Feb 2034	2,565,503,791.92
1-Mar 2034 to 28-Feb 2035	2,809,226,652.15
1-Mar 2035 to 28-Feb 2036	3,076,103,184.10
1-Mar 2036 to 28-Feb 2037	3,368,332,986.59
1-Mar 2037 to 28-Feb 2038	3,688,324,620.32
1-Mar 2038 to 28-Feb 2039	4,038,715,459.25
1-Mar 2039 to 28-Feb 2040	4,422,393,427.88
1-Mar 2040 to 28-Feb 2041	4,842,520,803.52
1-Mar 2041 to 28-Feb 2042	5,302,560,279.86
1-Mar 2042 to 28-Feb 2043	5,806,303,506.44
1-Mar 2043 to 28-Feb 2044	6,357,902,339.56

3. *Comparison of MGLR and PGR.* The parties shall compare the Percentage of Gross Revenues (PGR) derived by MLRC from its operations, and the Minimum Guaranteed Lease Rentals (MGLR), to determine whether such PGR is higher or lower than the MGLR set forth above, as provided for in the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements. The amount of rental due to CDC is the higher of the MGLR or PGR. The comparison of the PGR and MGLR shall be done on a monthly basis at MLRC's offices, starting on or before July 31, 1999. For such purpose, MLRC agrees to allow CDC or its authorized representatives to inspect all records, books of accounts and other accounting papers necessary for such comparison. Reconciliation of the MGLR and PGR for the purpose of determining which is higher for the year and making the necessary adjustments, shall be done by accounting representatives of each party not later May 31 of the succeeding year using the audited financial statements of MLRC prepared by a reputable accounting firm acceptable to CDC.

4. *Computation of PGR.* The gross revenues of all business activities within the Leased properties, including sub-leases and

Supreme Court E-Library

subsidiaries (within the Leased Properties), shall be included in the computation of the PGR; provided that the gross revenues of the casino operations shall be determined in accordance with the next succeeding paragraph.

5. *Revenues from Casino Operations.* In the determination of the PGR for the casino operations within the Mimosa Leisure Estate, the formula being used by the Philippine Amusement and Gaming Corporation (PAGCOR) in the determination of casino gross revenues as defined under Article I of the existing Agreement dated July 27, 1995 between MLRC and PAGCOR shall apply.

6. *Sub-leases.* Sub-leases shall be allowed by CDC in the Leased Properties provided that MLRC shall remit to CDC the amount equivalent to twenty (20%) percent of the excess of the rental income received by MLRC from sub-leases over the PGR.

7. *Compliance.* The parties agree that upon the failure of MLRC to pay any monthly rental based on either the MGLR or PGR, or upon MLRC's failure to comply with any of its obligations under this Compromise Agreement, upon MLRC's receipt of CDC's demand and after the expiration of thirty (30) day period from such receipt of demand without MLRC's complying with said obligation(s), CDC shall have the right to cancel and terminate this Compromise Agreement upon which MLRC shall leave, abandon any and all premises leased to MLRC by CDC under the Master Lease Agreement, the Supplemental Lease Agreements and other Lease Agreements as modified by this Compromise Agreement.

8. Return of Certain Leased Properties. MLRC shall return to CDC the following leased properties under the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements:

— The parcels of land identified as B,C,D and F under the map/sketch attached as Annex "A" hereof and duly signed by the parties' counsels and representatives;

— The parcel of land commonly known as Wagner under the Lease Agreement dated August 1, 1996 and the existing improvements thereon;

— All lands and improvements along the parade grounds, except the lands where the Mimosa Regency Casino and Chi Restaurant are situated, as shown in the shaded/

Supreme Court E-Library

colored portions marked as nos. 2077, 2052, 2054, 2055 and 2056 of the sketch/map attached hereto as Annex "B" and duly signed by the parties' representatives and counsels; provided that CDC shall allocate the vacant lot next to the Chi Restaurant to the Office of the President of the Philippines;

Any future design, development or improvements on the areas at the back of the Casino and Chi Restaurant premises facing the parade grounds shall be subject to the approval of CDC.

9. *Notice to MLRC.* CDC shall immediately inform MLRC of any offer involving any and all of the properties identified as B, C, D, and F of Annex "A", without having to disclose the nature of the offer.

10. *Construction of the Water Park.* Within six (6) months from the acceptance of the irrevocable domestic Letter of Credit by CDC, MLRC, without need of demand, shall complete the design and financing of the Water Park and submit such design to CDC. The actual construction of the Water Park based on such design shall commence within six (6) months thereafter. The Water Park shall be constructed, completed and operational within Twenty-Four (24) months from the said acceptance of the Letter of Credit, without need of demand. For purposes of this Agreement, a month shall mean thirty (30) consecutive days.

11. *Construction of the Additional Hotel.* Within Twelve (12) months from the acceptance of the Letter of Credit, MLRC shall complete the design and financing of one (1) de luxe hotel as provided in Article I, Section 1 of the Master Lease Agreement and submit such design to CDC. The construction of such de luxe hotel shall be completed and the hotel shall be operational within Thirty-six (36) months from the said acceptance of the Letter of Credit.

12. *Additional Casinos.* CDC agrees that MLRC may construct and establish additional casinos within the Leased Properties, subject to approval by the appropriate government agencies, including CDC, obtained in writing. Such approval shall not be unreasonably withheld by CDC.

13. *Water Rights.* CDC reserves the right to promulgate such reasonable rules and regulations to govern the utilization of water inside the Clark Special Economic Zone, including the deep wells already constructed by MLRC, which may include but shall not be

Supreme Court E-Library

limited to the imposition of such reasonable fees for water consumption, which rules and regulations shall apply to all locators including MLRC.

14. *Interpretation.* This Compromise Agreement shall modify and amend the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements previously entered into by the parties. All other provisions of the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements are not otherwise inconsistent with the provisions of this Compromise Agreement, shall remain valid, binding and enforceable on the parties herein. In the event of any conflict or inconsistency between the provisions of the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements and this compromise Agreement, the terms and conditions of this Compromise Agreement shall prevail and supersede the provisions of the Master Lease Agreement, Supplemental Lease Agreements and other Lease Agreements.

15. *Quitclaim.* The parties hereto, including all its directors, officers, and employees hereby waive, remise, abandon, and forever discharge any and all rights; interest(s), claim(s), demands for damages, or cause(s) of action whatsoever in law, which directly or indirectly stemmed from any acts or ommissions (sic) of the other, its officers, directors, employees, agents or representatives, including but not limited to (a) the filing of any action before any court or administrative body in the Philippines, such as Civil Case No. 9242 and the G.R. No. L-137796-97; (b) the termination/cancellation of any contract or agreement between the parties; (c) the stoppage of or constraint placed by either party on any business operations or activities of the other party its officers, directors, employees, agents or representatives; (d) the closure of the Mimosa Regency Casino; (e) any damage which either party may have incurred as a result of actions taken by any third party including banks and financial institutions.

16. *Liabilities to PAGCOR and BIR.* MLRC undertakes to settle its liabilities to PAGCOR and the Bureau of Internal Revenue (BIR) within thirty (30) days from the signing of this Compromise Agreement.

17. *Privileges and Permits.* Immediately upon the signing of this Compromise Agreement, MLRC shall be fully restored to all its rights and privileges as a locator in the Clark Special Economic Zone, except those related to the operations of the Mimosa Regency Casino.

18. *Opening of the Casino.* Immediately upon receipt of the irrevocable domestic Letter of Credit by CDC, MLRC may re-open

Supreme Court E-Library

and resume normal operations of the Mimosa Regency Casino and it (MLRC) shall have full access to, and disposition of, its premises and facilities consistent with this Compromise Agreement. CDC shall not interpose any objection to MLRC's plan to reopen and resume normal operations as may be allowed by the Philippine legal processes.

19. *Joint Motion for the Casino Clean-up and Maintenance.* The parties shall jointly move for the Supreme Court to allow CDC and MLRC personnel, not exceeding twenty-five (25) personnel each, to conduct a general clean-up and maintenance of the casino premises. For this purpose, CDC and MLRC shall designate their respective responsible officers to supervise the general clean-up and maintenance activities.

20. *Withdrawal of Pending Cases.* Upon receipt of the irrevocable Letter of Credit by CDC, the parties shall jointly move for the dismissal of all pending cases, with prejudice.

IN WITNESS WHEREOF, the parties, assisted by their respective counsels, together with the members of the Board of Arbitrators hereby set their hand this 28th day of June 1999 at Malacañang Palace, Manila.

From the foregoing, it is apparent that the parties have managed to resolve the dispute among themselves, the only thing left being to put our judicial imprimatur on the compromise agreement, in accordance with Article 2037[1] of the Civil Code.

ACCORDINGLY, the Compromise Agreement dated June 28, 1999 executed by Mondragon and CDC, not being contrary to law, morals, good customs, and public order and public policy is hereby *NOTED* and the petition is *DISMISSED*.

SO ORDERED.

Vitug, Panganiban, Purisima, and *Gonzaga-Reyes, JJ.,* concur.

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[1] Article 2037. A compromise has upon the parties the effect and authority of *res judicata,* but there shall be no execution except in compliance with a judicial compromise.