**EN BANC**

**G.R. No. 230112 – GLOBAL MEDICAL CENTER OF LAGUNA, INC.,** *Petitioner,* **v. ROSS SYSTEMS INTERNATIONAL, INC.,** *Respondent.*

**G.R. No. 230119 – ROSS SYSTEMS INTERNATIONAL, INC.,** *Petitioner,* **v. GLOBAL MEDICAL CENTER OF LAGUNA, INC.,** *Respondent.*

**Promulgated:**

May 11, 2021

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## SEPARATE OPINION

**LEONEN, *J.*:**

I concur with Associate Justice Alfredo Benjamin S. Caguioa's *ponencia*. These consolidated cases are an opportune time for this Court, sitting *en banc*, to "untangl[e] the relevant laws and case pronouncements on the extent of judicial review of [Construction Industry Arbitration Commission (CIAC)] arbitral awards[,] [and come to] a decisive harmonization of the standing laws on CIAC review[.]"[1]

With this opportunity, I write separately to amplify points previously articulated in *CE Construction Corporation v. Araneta Center, Inc.*[2] and other decisions in which I had served as *ponente*. These had been referenced by the present *ponencia* as informing its conclusions.

An immense degree of deference is due to the findings of arbitral tribunals of the Construction Industry Arbitration Commission (CIAC). The law that created the CIAC, Executive Order No. 1008, otherwise known as the Construction Industry Arbitration Law, delineates appellate jurisdiction from rulings of CIAC arbitral tribunals. It stipulates that appeals from such rulings may only be entertained on pure questions of law and only before this Court.

Thus, Rule 43 of the 1997 Rules of Civil Procedure—a provision of procedural, and not of substantive law, which is ill-equipped to vest jurisdiction—is mistaken in allowing appeals to be taken to the Court of Appeals.

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1 *Ponencia*, p. 8.

2 816 Phil. 221 (2017) [Per J. Leonen, Second Division].

Still, CIAC arbitral tribunals' factual findings are not entirely beyond the reach of judicial review. The capacity to pass upon any "grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government"[3] is a constitutionally-enshrined, inalienable dimension of judicial power. Thus, a petition for review on certiorari under Rule 65—over which the Court of Appeals has jurisdiction—can touch upon factual findings in CIAC arbitral tribunal rulings.

Nevertheless, entertaining Rule 65 petitions must entail an extraordinarily narrow conception of grave abuse of discretion committed by CIAC arbitral tribunals. Entertaining such petitions must be consistent with our general framework on vacating arbitral awards, as seminally expressed in Section 24 of Republic Act No. 876, otherwise known as the Arbitration Law.[4]

Thus, in the context of a Rule 65 petition, the Court of Appeals can review the factual findings of CIAC arbitral tribunals only "in instances when the integrity of the arbitral tribunal itself has been put in jeopardy."[5]

In addition, because of the basic primacy of the Constitution and the imperative of harmonious application of laws, the Court of Appeals may also review factual findings when there is grave abuse of discretion made by way of violation of the Constitution or our laws. Review of factual findings on any ground which goes into considerations other than the very integrity of a CIAC arbitral tribunal (as contemplated in Section 24 of Republic Act No. 876) or those tribunals' outright violation of the Constitution or laws is an excessive, invalid review via certiorari.

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3 CONST., art. VIII, sec. 1, par. 2.

4 Republic Act No. 876 (1953), sec. 24 states:
Section 24. Grounds for vacating award. - In any one of the following cases, the court must make an order vacating the award upon the petition of any party to the controversy when such party proves affirmatively that in the arbitration proceedings:
(a) The award was procured by corruption, fraud, or other undue means; or
(b) That there was evident partiality or corruption in the arbitrators or any of them; or
(c) That the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; that one or more of the arbitrators was disqualified to act as such under section nine hereof, and wilfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or
(d) That the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.
Where an award is vacated, the court, in its discretion, may direct a new hearing either before the same arbitrators or before a new arbitrator or arbitrators to be chosen in the manner provided in the submission or contract for the selection of the original arbitrator or arbitrators, and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the court's order.
Where the court vacates an award, costs, not exceeding fifty pesos and disbursements may be awarded to the prevailing party and the payment thereof may be enforced in like manner as the payment of costs upon the motion in an action.

5 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 229 (2017) [Per J. Leonen, Second Division].

## I

The CIAC serves the interest not only of speedy dispute resolution, but also of *authoritative* dispute resolution.[6] It was created with a particular view of enabling "early and expeditious settlement of disputes[,]"[7] aware of the exceptional role of construction to "the furtherance of national development goals."[8] *CE Construction* detailed the legal framework within which the CIAC operates:

> The Construction Industry Arbitration Commission was a creation of Executive Order No. 1008, otherwise known as the Construction Industry Arbitration Law. At inception, it was under the administrative supervision of the Philippine Domestic Construction Board which, in turn, was an implementing agency of the Construction Industry Authority of the Philippines (CIAP). The CIAP is presently attached to the Department of Trade and Industry.
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> The CIAC was created with the specific purpose of an "early and expeditious settlement of disputes" cognizant of the exceptional role of construction to "the furtherance of national development goals."
>
> Section 4 of the Construction Industry Arbitration Law spells out the jurisdiction of the CIAC:
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> > Section 4. Jurisdiction. — The CIAC shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines, whether the dispute arises before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts. For the Board to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration.
> >
> > The jurisdiction of the CIAC may include but is not limited to violation of specifications for materials and workmanship; violation of the terms of agreement; interpretation and/or application of contractual time and delays; maintenance and defects; payment, default of employer or contractor and changes in contract cost.
> >
> > Excluded from the coverage of this law are disputes arising from employer-employee relationships which shall continue to be covered by the Labor Code of the Philippines.

Though created by the act of a Chief Executive who then exercised legislative powers concurrently with the Batasang Pambansa, the creation, continuing existence, and competence of the CIAC have since been

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6 Id. at 253.

7 Executive Order No. 1008 (1995), sec. 2.

8 Executive Order No. 1008 (1995), Third Whereas Clause.

validated by acts of Congress.

Republic Act No. 9184 or the Government Procurement Reform Act, enacted on January 10, 2003, explicitly recognized and confirmed the competence of the CIAC:

> Section 59. Arbitration. — Any and all disputes arising from the implementation of a contract covered by this Act shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law": Provided, however, That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in the contract that will be executed pursuant to the provisions of this Act: Provided, That by mutual agreement, the parties may agree in writing to resort to alternative modes of dispute resolution.

Arbitration of construction disputes through the CIAC was formally incorporated into the general statutory framework on alternative dispute resolution through Republic Act No. 9285, the Alternative Dispute Resolution Act of 2004 (ADR Law). Chapter 6, Section 34 of ADR Law made specific reference to the Construction Industry Arbitration Law, while Section 35 confirmed the CIAC's jurisdiction:

> CHAPTER 6
> ARBITRATION OF CONSTRUCTION DISPUTES
>
> Section 34. Arbitration of Construction Disputes: Governing Law. – The arbitration of construction disputes shall be governed by Executive Order No. 1008, otherwise known as the Construction Industry Arbitration Law.
>
> Section 35. Coverage of the Law. – Construction disputes which fall within the original and exclusive jurisdiction of the Construction Industry Arbitration Commission (the "Commission") shall include those between or among parties to, or who are otherwise bound by, an arbitration agreement, directly or by reference whether such parties are project owner, contractor, subcontractor, fabricator, project manager, design professional, consultant, quantity surveyor, bondsman or issuer of an insurance policy in a construction project.
>
> The Commission shall continue to exercise original and exclusive jurisdiction over construction disputes although the arbitration is "commercial" pursuant to Section 21 of this Act.[9] (Citations omitted)

The CIAC is a statutory creation. It was created by an executive order promulgated by then President Ferdinand E. Marcos (President Marcos) in

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9 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 250–253 (2017) [Per J. Leonen, Second Division].

the exercise of legislative powers which were then lodged in him. The statute that created it spelled out not only the CIAC's jurisdiction in its Section 4, but also the finality of CIAC decisions and mode of appeal in its Section 19.[10]

*CE Construction* detailed the intricacies of the CIAC as a statutory creation, even though President Marcos did not use the usual modality (i.e., presidential decree) of his legislative enactments:

> Though nominally an "executive order," the Construction Industry Arbitration Law is a statute.
>
> Jurisprudence has clarified that, in exercising legislative powers, then President Marcos did not only use the modality of presidential decrees, but also of executive orders and letters of instruction. Though, this is not to say that all executive orders and letters of instruction issued by him are statutes.
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> In *Parong, et al. v. Enrile*:
>
> > To form part of the law of the land, the decree, order or [letter of instruction] must be issued by the President in the exercise of his extraordinary power of legislation as contemplated in Section 6 of the 1976 amendments to the Constitution, whenever in his judgment, there exists a grave emergency or a threat or imminence thereof, or whenever the interim Batasan[g] Pambansa or the regular National Assembly fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action.
>
> Associate Justice Irene Cortes noted that certain executive orders and letters of instruction have indeed been on par with President Marcos' more commonly used mode of legislation (i.e., presidential decrees):
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> > Another problem arises from lack of precision in the appropriate use of one form of issuance as against another. A presidential decree is equivalent to a statute enacted by the legislature, and is thus superior to implementing rules issued as executive orders or letter of instructions. But, it is not unheard of for an executive order to amend or repeal a presidential decree or a letter of instructions to amend an executive order, or lay down a rule of law.
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> Associate Justice Cortes specifically cited as an example Exec. Order No. 543 (1979), which abolished the Philippine Center for Advanced Studies, a creation of Pres. Decree No. 342 (1973). In disproving that Exec. Order No. 543 was issued merely as an implementing rule, she explained that its object – a state university – could not have fallen under the scope of the President's reorganization powers,

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[10] Executive Order No. 1008 (1995), sec. 19 states:
SECTION 19. Finality of Awards. — The arbitral award shall be binding upon the parties. It shall be final and inappealable except on questions of law which shall be appealable to the Supreme Court.

for which an executive order issued merely as an implementing rule was sufficient.

The Construction Industry Arbitration Law's own nomenclature reveals the intent that it be a statute. Its whereas clauses and declaration of policy reveal the urgency that impelled immediate action for the President to exercise his concurrent legislative powers.

Any doubt on the statutory efficacy of the Construction Industry Arbitration Law is addressed by Congress' own, voluntary and repeated reference to and affirmation of it as such a law. (See Rep. Act No. 9184 and Rep. Act No. 9285). Rep. Act No. 9285 did not only validate the Construction Industry Arbitration Law, it also incorporated it into the general statutory framework of alternative dispute resolution.

Jurisprudence, too, has repeatedly and consistently referred to it as such a "law."[11]

*CE Construction* further discussed:

The creation of a special adjudicatory body for construction disputes presupposes distinctive and nuanced competence on matters that are conceded to be outside the innate expertise of regular courts and adjudicatory bodies concerned with other specialized fields.[12]

It drew attention to how the CIAC is a "quasi-judicial, administrative agency equipped with technical proficiency that enables it to efficiently and promptly resolve conflicts."[13] *CE Construction* explained:

The CIAC does not only serve the interest of speedy dispute resolution, it also facilitates *authoritative* dispute resolution. Its authority proceeds not only from juridical legitimacy but equally from technical expertise. The creation of a special adjudicatory body for construction disputes presupposes distinctive and nuanced competence on matters that are conceded to be outside the innate expertise of regular courts and adjudicatory bodies concerned with other specialized fields. The CIAC has the state's confidence concerning the entire technical expanse of construction, defined in jurisprudence as "referring to all on-site works on buildings or altering structures, from land clearance through completion including excavation, erection and assembly and installation of components and equipment."

Jurisprudence has characterized the CIAC as a quasi-judicial, administrative agency equipped with technical proficiency that enables it to efficiently and promptly resolve conflicts:

> [The CIAC] is a quasi-judicial agency. A quasi-judicial agency or body has been defined as an organ of government other than a court and other than a legislature, which affects the rights of private parties through either

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11 Id. at 250–251. *See* fn. 105.
12 Id. at 253.
13 Id.

> adjudication or rule-making. The very definition of an administrative agency includes its being vested with quasi-judicial powers. The ever increasing variety of powers and functions given to administrative agencies recognizes the need for the active intervention of administrative agencies in matters calling for technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts. The CIAC's primary function is that of a quasi-judicial agency, which is to adjudicate claims and/or determine rights in accordance with procedures set forth in E.O. No. 1008.

The most recent jurisprudence maintains that the CIAC is a quasi-judicial body. This Court's November 23, 2016 Decision in *Fruehauf Electronics v. Technology Electronics Assembly and Management Pacific* distinguished construction arbitration, as well as voluntary arbitration pursuant to Article 219(14) of the Labor Code, from commercial arbitration. It ruled that commercial arbitral tribunals are *not* quasi-judicial agencies, as they are purely ad hoc bodies operating through contractual consent and as they intend to serve private, proprietary interests. In contrast, voluntary arbitration under the Labor Code and construction arbitration operate through the statutorily vested jurisdiction of government instrumentalities that exist independently of the will of contracting parties and to which these parties submit. They proceed from the public interest imbuing their respective spheres:

> Voluntary Arbitrators resolve labor disputes and grievances arising from the interpretation of Collective Bargaining Agreements. These disputes were specifically excluded from the coverage of both the Arbitration Law and the ADR Law.
>
> Unlike purely commercial relationships, the relationship between capital and labor are heavily impressed with public interest. Because of this, Voluntary Arbitrators authorized to resolve labor disputes have been clothed with quasi-judicial authority.
>
> On the other hand, commercial relationships covered by our commercial arbitration laws are purely private and contractual in nature. Unlike labor relationships, they do not possess the same compelling state interest that would justify state interference into the autonomy of contracts. Hence, commercial arbitration is a purely private system of adjudication facilitated by private citizens instead of government instrumentalities wielding quasi-judicial powers.
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> Moreover, judicial or quasi-judicial jurisdiction cannot be conferred upon a tribunal by the parties alone. The Labor Code itself confers subject-matter jurisdiction to Voluntary Arbitrators.
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> *Notably, the other arbitration body listed in Rule 43 — the Construction Industry Arbitration Commission (CIAC) — is also a government agency attached to the Department of Trade and Industry. Its jurisdiction is*

> *likewise conferred by statute. By contrast, the subject-matter jurisdiction of commercial arbitrators is stipulated by the parties.*[14] (Emphasis in the original, citations omitted)

Attesting to the primacy of technical expertise in enabling the CIAC's competence, *CE Construction* noted that technical proficiency is the foremost consideration in being an arbitrator in the CIAC:

> Consistent with the primacy of technical mastery, Section 14 of the Construction Industry Arbitration Law on the qualification of arbitrators provides:
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> > Section 14. Arbitrators. — A sole arbitrator or three arbitrators may settle a dispute.
> >
> > . . . .
> >
> > Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. They shall not be permanently employed with the CIAC. Instead, they shall render services only when called to arbitrate. For each dispute they settle, they shall be given fees.
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> Section 8.1 of the Revised Rules of Procedure Governing Construction Arbitration establishes that the foremost qualification of arbitrators shall be technical proficiency. It explicitly enables not only lawyers but also "engineers, architects, construction managers, engineering consultants, and businessmen familiar with the construction industry" to serve as arbitrators:
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> > Section 8.1 General Qualification of Arbitrators. — The Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. *They shall be technically qualified to resolve any construction dispute expeditiously and equitably.* The Arbitrators shall come from different professions. They may include engineers, architects, construction managers, engineering consultants, and businessmen familiar with the construction industry and lawyers who are experienced in construction disputes. (Emphasis supplied)
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> Of the 87 CIAC-accredited arbitrators as of January 2017, only 33 are lawyers. The majority are experts from construction-related professions or engaged in related fields.
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> Apart from arbitrators, technical experts aid the CIAC in dispute resolution. Section 15 of the Construction Industry Arbitration Law provides:
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> > Section 15. Appointment of Experts. — The services of technical or legal experts may be utilized in the settlement of disputes if requested by any of the parties or by the

[14] Id. at 253–256.

> Arbitral Tribunal. If the request for an expert is done by either or by both of the parties, it is necessary that the appointment of the expert be confirmed by the Arbitral Tribunal.
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> Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders service. When only one party makes the request, it shall deposit the whole amount required.[15] (Citations omitted)

## II

In view of the CIAC's unique technical expertise, primacy and immense deference is accorded to CIAC arbitral tribunal decisions. This means that there can only be "a very narrow room for assailing [their] rulings."[16] Accordingly, Section 19 of the Construction Industry Arbitration Law provides that CIAC arbitral awards cannot be assailed, except on pure questions of law and only before this Court:

> SECTION 19. Finality of Awards. — The arbitral award shall be binding upon the parties. It shall be final and inappealable except on questions of law which shall be appealable to the Supreme Court.

Since the Construction Industry Arbitration Law's adoption in 1985, procedural law and related jurisprudence have made it appear that appeals may also be taken to the Court of Appeals. There, the factual findings of CIAC arbitral tribunals may supposedly be assailed. This has been an unfortunate mistake. The Court of Appeals' supposed appellate jurisdiction to freely review factual issues finds no basis in substantive law.

On February 27, 1991, this Court adopted Circular No. 1-91, "Prescribing the Rules Governing Appeals to the Court of Appeals from a Final Order or Decision of the Court of Tax Appeals and Quasi-Judicial Agencies."

Section 3 of Circular No. 1-91 enabled appeals from decisions of quasi-judicial agencies to be taken to the Court of Appeals on questions of fact, questions of law, or both questions of fact and law. Section 1 made this recourse available in all cases where appeals were "allowed by statute to the Court of Appeals or the Supreme Court." Further, Section 1 also listed some quasi-judicial agencies whose decisions may be appealed to the Court of Appeals. This enumeration did not include the CIAC. Sections 1, 2, and 3 of Circular No. 1-91 read:

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[15] Id. at 256–257.
[16] Id. at 257.

> 1. Scope. — These rules shall apply to appeals from final orders or decision of the Court of Tax Appeals. They shall also apply from final orders or decisions on any quasi-judicial agency from which an appeal is now allowed by statute to the Court of Appeals or the Supreme Court. Among these agencies are the Securities and Exchange Commission, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Secretary of Agrarian Reforms and Special Agrarian Courts under RA 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission and Philippine Atomic Energy Commission.
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> 2. Case not covered. — These rules shall not apply to decisions and interlocutory orders of the National Labor Relations Commission or the Secretary of Labor and Employment under the Labor Code of the Philippines, the Central Board of Assessment Appeals, and other quasi-judicial agencies from which no appeal to the courts is prescribed or allowed by statute.
>
> 3. Who may appeal and where to appeal. — The appeal of a party affected by a final order, decision, or judgment of the Court of Tax Appeals or of a quasi-judicial agency shall be taken to the Court of Appeals within the period in the manner herein provided, whether the appeal involved questions of fact or of law or mixed questions of fact and law. From final judgments or decisions of the Court of Appeals, the aggrieved party may appeal by certiorari to the Supreme Court as provided in Rule 45 of the Rules of Court.

Republic Act No. 7902, amending Batas Pambansa Blg. 129 or the Judiciary Reorganization Act of 1980, was approved on February 23, 1995. It stated that the exclusive original jurisdiction of the Court of Appeals includes "all final judgments, decisions, resolutions, orders or awards of... quasi-judicial agencies... *except those falling within the appellate jurisdiction of the Supreme Court[:]*"

> SECTION 1. Section 9 of Batas Pambansa Blg. 129, as amended, known as the Judiciary Reorganization Act of 1980, is hereby further amended to read as follows:
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> "Sec. 9. Jurisdiction. — The Court of Appeals shall exercise:
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> . . . .
>
> "(3) *Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of* Regional Trial Courts and *quasi-judicial agencies*, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, *except those falling*

> *within the appellate jurisdiction of the Supreme Court in accordance with the Constitution,* the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.
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> . . . . (Emphasis supplied)

On May 16, 1995, this Court adopted Circular No. 1-95, revising Circular No. 1-91. Unlike Circular No. 1-91, Circular No. 1-95 explicitly included the CIAC as among those quasi-judicial agencies whose awards and judgments may be appealed to the Court of Appeals. Section 1 of Circular No. 1-95 reads:

> 1. SCOPE. — These rules shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. *Among these agencies are the* Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Land Registration Authority, Social Security Commission, Office of the President, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, and *Construction Industry Arbitration Commission.* (Emphasis supplied)

The rules stated in Circular No. 1-95 were formally included in the 1997 Rules of Civil Procedure. Rule 43, Sections 1, 2, 3, and 5 substantially reproduced[17] Sections 1, 2, 3, and 5 of Circular No. 1-95.[18] As with Circular

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[17] RULES OF COURT, Rule 43, secs. 1, 2, 3, and 5 state:
Section 1. Scope. — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Invention Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law. (n)
Section 2. Cases not covered. — This Rule shall not apply to judgments or final orders issued under the Labor Code of the Philippines. (n)
Section 3. Where to appeal. — An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law. (n)
. . . .
Section 5. How appeal taken. — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency a quo. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

No. 1-95, Rule 43, Section 1 expressly includes the CIAC as among those quasi-judicial agencies whose awards and judgments may be appealed to the Court of Appeals.

This Court's 2001 Decision in *Metro Construction v. Chatham Properties*[19] offers a rationalization for why CIAC awards may supposedly be appealed to the Court of Appeals. There, this Court alluded to a "procedural mutation" from Circular No. 1-91, to Circular No. 1-95, and through to the 1997 Rules of Civil Procedure. It also cited Republic Act No. 7902 as statutory basis:

> Through Circular No. 1-91, the Supreme Court intended to establish a uniform procedure for the review of the final orders or decisions of the Court of Tax Appeals and other quasi-judicial agencies provided that an appeal therefrom is then allowed under existing statutes to either the Court of Appeals or the Supreme Court. The Circular designated the Court of Appeals as the reviewing body to resolve questions of fact or of law or mixed questions of fact and law.
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> It is clear that Circular No. 1-91 covers the CIAC. In the first place, it is a quasi-judicial agency. A quasi-judicial agency or body has been defined as an organ of government other than a court and other than a legislature, which affects the rights of private parties through either adjudication or rule-making. The very definition of an administrative agency includes its being vested with quasi-judicial powers. The ever increasing variety of powers and functions given to administrative agencies recognizes the need for the active intervention of administrative agencies in matters calling for technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts. The CIAC's primary function is that of a quasi-judicial agency, which is to adjudicate claims and/or determine rights in accordance with procedures set forth in E.O. No. 1008.
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> In the second place, the language of Section 1 of Circular No. 1-91 emphasizes the obvious inclusion of the CIAC even if it is not named in the enumeration of quasi-judicial agencies. The introductory words "[a]mong these agencies are" preceding the enumeration of specific quasi-judicial agencies only highlight the fact that the list is not exclusive or conclusive. Further, the overture stresses and acknowledges the existence of other quasi-judicial agencies not included in the enumeration but should be deemed included. In addition, the CIAC is obviously excluded in the catalogue of cases not covered by the Circular and mentioned in Section 2 thereof for the reason that at the time the Circular took effect, E.O. No.

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[18] In addition to sec. 1 of Circular No 1-95 (previously quoted), secs. 2, 3, and 5 provide:

2. CASES NOT COVERED. — These rules shall not apply to judgments or final orders issued under the Labor Code of the Philippines.

3. WHERE TO APPEAL. — An appeal under these rules may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law.

. . . .

5. HOW APPEAL TAKEN. — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency a quo. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

[19] 418 Phil. 176 (2001) [Per C.J. Davide, Jr., First Division].

1008 allows appeals to the Supreme Court on questions of law.

In sum, under Circular No. 1-91, appeals from the arbitral awards of the CIAC may be brought to the Court of Appeals, and not to the Supreme Court alone. The grounds for the appeal are likewise broadened to include appeals on questions of facts and appeals involving mixed questions of fact and law.

The jurisdiction of the Court of Appeals over appeals from final orders or decisions of the CIAC is further fortified by the amendments to B.P. Blg. 129, as introduced by R.A. No. 7902. With the amendments, the Court of Appeals is vested with appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, except "those within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948."

. . . .

Any remaining doubt on the procedural mutation of the provisions on appeal in E.O. No. 1008, vis-à-vis Circular No. 1-91 and R.A. No. 7902, was completely removed with the issuance by the Supreme Court of Revised Administrative Circular No. 1-95 and the 1997 Rules of Civil Procedure. Both categorically include the CIAC in the enumeration of quasi-judicial agencies comprehended therein. Section 3 of the former and Section 3, Rule 43 of the latter, explicitly expand the issues that may be raised in an appeal from quasi-judicial agencies or instrumentalities to the Court of Appeals within the period and in the manner therein provided. Indisputably, the review of the CIAC award may involve either questions of fact, of law, or of fact and law.

In view of all the foregoing, we reject MCI's submission that Circular No. 1-91, B.P. Blg. 129, as amended by R.A. 7902, Revised Administrative Circular 1-95, and Rule 43 of the 1997 Rules of Civil Procedure failed to efficaciously modify the provision on appeals in E.O. No. 1008. We further discard MCI's claim that these amendments have the effect of merely changing the forum for appeal from the Supreme Court to the Court of Appeals.[20] (Citations omitted)

It is opportune to repudiate the mistaken notion that appeals on questions of fact of CIAC awards may be coursed through the Court of Appeals. No statute actually vests jurisdiction on the Court of Appeals to entertain petitions for review emanating from the CIAC.

*Metro Construction*'s reference to a "procedural mutation" effected by Circular No. 1-91, Circular No. 1-95, and Rule 43 of the 1997 Rules of Civil Procedure does not broaden the jurisdiction of the Court of Appeals. Neither do the amendments introduced to Batas Pambansa Blg. 129 by Republic Act

[20] Id. at 202–205.

No. 7902 broaden the Court of Appeals' appellate jurisdiction as to extend it to a factual review of CIAC arbitral awards.

It is elementary that jurisdiction is a matter of substantive law, not of procedural law:

> [J]urisdiction is "the power to hear and determine cases of the general class to which the proceedings in question belong." Jurisdiction is a matter of substantive law. Thus, *an action may be filed only with the court or tribunal where the Constitution or a statute says it can be brought.*[21] (Emphasis supplied)

The Construction Industry Arbitration Law—through its Section 19, in relation to this Court's constitutionally-established appellate jurisdiction[22]—is the *only* substantive law which pronounces which court has appellate jurisdiction over CIAC arbitral awards: "It shall be final and inappealable *except on questions of law which shall be appealable to the Supreme Court.*"

Its pronouncement on how appellate jurisdiction exclusively resided in this Court was not modified or otherwise affected by Republic Act No. 7902.

Batas Pambansa Blg. 129 had long been in force when the Construction Industry Arbitration Law was adopted in 1985. Prior to its amendment in 1995, Section 9(3) of Batas Pambansa Blg. 129 already vested the then Intermediate Appellate Court with exclusive appellate jurisdiction over "final judgments, decisions, resolutions, orders, or awards... quasi-judicial agencies... except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution," just as Republic Act No. 7902 did with the Court of Appeals:

> SECTION 9. Jurisdiction. — The Intermediate Appellate Court shall exercise:
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> . . . .
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial

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21 *City of Lapu-Lapu v. Phil. Economic Zone Authority*, 748 Phil. 473, 522 (2014) [Per J. Leonen, Second Division] citing *Villagracia v. Fifth (5th) Shari'a District Court*, 734 Phil. 239 (2014) [Per J. Leonen, Third Division]; and *Nocum v. Tan*, 507 Phil. 620, 626 (2005) [Per J. Chico-Nazario, Second Division]. [Per J Leonen, Second Division].

22 CONST., art. VIII, sec. 5(2)(e) states:
Section 5. The Supreme Court shall have the following powers:
. . . .
(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
. . . .
(e) All cases in which only an error or question of law is involved.

> Courts and quasi-judicial agencies, instrumentalities, boards, or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Construction Industry Arbitration Law could not have been ignorant of the then Intermediate Appellate Court's appellate jurisdiction. When the Construction Industry Arbitration Law made appeals on questions of law exclusive to this Court, it was with a complete awareness that regular appeals could have otherwise also been made available through the Intermediate Appellate Court. Still, it deliberately elected to make no such appeal available.

Section 19 of the Construction Industry Arbitration Law calculatedly made Batas Pambansa Blg. 129, Section 9(3)—a counterpart statutory provision on appellate jurisdiction—ineffectual to appeals involving factual review of CIAC arbitral awards.

Republic Act No. 7902 did amend Batas Pambansa Blg. 129, Section 9(3). However, its amendments added only two statements: first, an enumeration of examples of quasi-judicial agencies whose decisions were subject to the Court of Appeals' appellate jurisdiction;[23] and second, a reference to the Labor Code in its consideration of the exceptions to the Court of Appeals' exclusive appellate jurisdiction.[24]

Thus, despite Republic Act No. 7902's amendments, Batas Pambansa Blg. 129, Section 9(3)'s operative clause remained unchanged, that is, that the renamed Court of Appeals would exercise "[e]xclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of . . . quasi-judicial agencies . . . except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution":

| Batas Pambansa Blg. 129 | Republic Act No. 7902 |
|---|---|
| SECTION 9. Jurisdiction. — The Intermediate Appellate Court shall exercise:<br><br>....<br><br>(3) *Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of* Regional Trial Courts and *quasi-judicial* | Sec. 9. Jurisdiction. — The Court of Appeals shall exercise:<br><br>....<br><br>(3) *Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of* Regional Trial Courts and *quasi-judicial* |

[23] It inserted the phrase, "including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission[.]"

[24] It inserted the phrase, "the Labor Code of the Philippines under Presidential Decree No. 442, as amended[.]"

| | |
|---|---|
| *agencies*, instrumentalities, boards, or commissions, | *agencies*, instrumentalities, boards or commissions, |
| | including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, |
| *except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution,* | *except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution,* |
| | the Labor Code of the Philippines under Presidential Decree No. 442, as amended, |
| the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948. | the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948. |
| .... | .... |

If, in 1985, this operative clause did not sway the Construction Industry Arbitration Law to enable regular factual appeals to the Intermediate Appellate Court, then, neither should its verbatim restatement, in 1995, enable appeals on factual issues to the Court of Appeals.

With the inefficacy of Republic Act No. 7902, *Metro Construction*'s proffered "procedural mutation" is left with nothing to rely on except, as its own terminology implies, mere provisions of procedural law: first, Circular No. 1-91; second, Circular No. 1-95; and third, Rule 43, Section 1 of the 1997 Rules of Civil Procedure.

Still, these are not constitutional or statutory substantive law provisions. Thus, they fail to vest appellate jurisdiction over CIAC awards in the Court of Appeals. Contrary to what *Metro Construction* stated, they could not have "broadened"[25] appellate jurisdiction over CIAC awards, or "expand[ed] the issues"[26] (i.e., the subject matter) that may be considered in appeals of CIAC awards.

While there seemed to have been basis for expanding appeals, there has also been an apparent basis for totally restricting appeals.

Another seeming basis for concluding that appellate jurisdiction over CIAC Awards has been altered is A.M. No. 07-11-08-SC, the Special Rules

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25 *Metro Construction, Inc. v. Chatham Properties, Inc.*, 418 Phil. 176, 203 (2001) [Per C.J. Davide, Jr., First Division].

26 Id. at 204.

of Court on Alternative Dispute Resolution (the Special ADR Rules). Rule 19.7 of these Rules precludes parties who submit themselves to arbitration from questioning arbitral awards, whether by appeal or by certiorari:

> Rule 19.7. No appeal or certiorari on the merits of an arbitral award. - An agreement to refer a dispute to arbitration shall mean that the arbitral award shall be final and binding.
>
> Consequently, a party to an arbitration is precluded from filing an appeal or a petition for certiorari questioning the merits of an arbitral award.

The disallowance of appeals under the Special ADR Rules is consistent with the ADR Law. While Section 46 of the ADR Law contemplates appeals subsequent to arbitration proceedings, it pertains only to appeals from regional trial court decisions "confirming, vacating, setting aside, modifying or correcting an arbitral award," not to appeals from an arbitral award itself:

> SECTION 46. Appeal from Court Decisions on Arbitral Awards. — A decision of the Regional Trial Court confirming, vacating, setting aside, modifying or correcting an arbitral award may be appealed to the Court of Appeals in accordance with the rules of procedure to be promulgated by the Supreme Court.
>
> The losing party who appeals from the judgment of the court confirming an arbitral award shall be required by the appellate court to post a counterbond executed in favor of the prevailing party equal to the amount of the award in accordance with the rules to be promulgated by the Supreme Court.

*Fruehauf Electronics Philippines Corporation v. Technology Electronics Assembly and Management Pacific Corporation*[27] confirms that appeals are not a remedy against arbitral awards:

> The errors of an arbitral tribunal are not subject to correction by the judiciary. As a private alternative to court proceedings, arbitration is meant to be an end, not the beginning, of litigation. Thus, the arbitral award is final and binding on the parties by reason of their contract — the arbitration agreement.[28] (Citations omitted)

However, the same *Fruehauf* Decision has settled that construction arbitration through the quasi-judicial mechanism of the CIAC must be distinguished from general commercial arbitration through contractually established arbitral tribunals. This, even as the ADR Law—in Chapter 6—references construction arbitration. *Fruehauf* clearly states that "as a quasi-judicial body, the CIAC's awards are specifically made appealable to this

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27 800 Phil. 721 (2016) [Per J. Brion, Second Division].

28 Id. at 742–743.

Court by law[.]"[29]

Thus, the mechanics of appeals, as originally spelled out by the Construction Industry Arbitration Law in 1985, remain unaltered. Appeals have not been expanded to possibly be coursed through the Court of Appeals, *and* there raise factual issues, as *Metro Construction* and Rule 43 of the 1997 Rules on Civil Procedure state. Neither have they been restricted or entirely negated, as the Special ADR Rules suggest.

## III

*CE Construction* explained the practical import of Rule 43 of the 1997 Rules of Civil Procedure. It emphasized that Rule 43 did not abandon the exclusiveness of appeals to questions of law:

> Rule 43 of the 1997 Rules of Civil Procedure standardizes appeals from quasi-judicial agencies. Rule 43, Section 1 explicitly lists the CIAC as among the quasi-judicial agencies covered by Rule 43. Section 3 indicates that appeals through Petitions for Review under Rule 43 are to "be taken to the Court of Appeals . . . whether the appeal involves questions of fact, of law, or mixed questions of fact and law."
>
> This is not to say that factual findings of CIAC arbitral tribunals may now be assailed before the Court of Appeals. Section 3's statement "whether the appeal involves questions of fact, of law, or mixed questions of fact and law" merely recognizes variances in the disparate modes of appeal that Rule 43 standardizes: there were those that enabled questions of fact; there were those that enabled questions of law, and there were those that enabled mixed questions fact and law. Rule 43 emphasizes that though there may have been variances, all appeals under its scope are to be brought before the Court of Appeals. However, in keeping with the Construction Industry Arbitration Law, any appeal from CIAC arbitral tribunals must remain limited to questions of law.
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> *Hi-Precision Steel Center, Inc. v. Lim Kim Steel Builders, Inc.* explained the wisdom underlying the limitation of appeals to pure questions of law:
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> > Section 19 makes it crystal clear that questions of fact cannot be raised in proceedings before the Supreme Court — which is not a trier of facts — in respect of an arbitral award rendered under the aegis of the CIAC. Consideration of the animating purpose of voluntary arbitration in general, and arbitration under the aegis of the CIAC in particular, requires us to apply rigorously the above principle embodied in Section 19 that the Arbitral Tribunal's findings of fact shall be final and unappealable.
> >
> > Voluntary arbitration involves the reference of a dispute to an impartial body, the members of which are

[29] Id. at 749. *See* fn. 109 and sec. 19 of the Construction Industry Arbitration Law.

> chosen by the parties themselves, which parties freely consent in advance to abide by the arbitral award issued after proceedings where both parties had the opportunity to be heard. The basic objective is to provide a speedy and inexpensive method of settling disputes by allowing the parties to avoid the formalities, delay, expense and aggravation which commonly accompany ordinary litigation, especially litigation which goes through the entire hierarchy of courts. [The Construction Industry Arbitration Law] created an arbitration facility to which the construction industry in the Philippines can have recourse. The [Construction Industry Arbitration Law] was enacted to encourage the early and expeditious settlement of disputes in the construction industry, a public policy the implementation of which is necessary and important for the realization of national development goals.

Consistent with this restrictive approach, this Court is duty-bound to be extremely watchful and to ensure that an appeal does not become an ingenious means for undermining the integrity of arbitration or for conveniently setting aside the conclusions that arbitral processes make. Appeals are not an artifice for the parties to undermine the process they voluntarily elected to engage in. To prevent this Court from being a party to such perversion, this Court's primordial inclination must be to uphold the factual findings of arbitral tribunals:

> Aware of the objective of voluntary arbitration in the labor field, in the construction industry, and in any other area for that matter, the Court will not assist one or the other or even both parties in any effort to subvert or defeat that objective for their private purposes. *The Court will not review the factual findings of an arbitral tribunal upon the artful allegation that such body had "misapprehended the facts" and will not pass upon issues which are, at bottom, issues of fact, no matter how cleverly disguised they might be as "legal questions."* The parties here had recourse to arbitration and chose the arbitrators themselves; they must have had confidence in such arbitrators. *The Court will not, therefore, permit the parties to relitigate before it the issues of facts previously presented and argued before the Arbitral Tribunal*, save only where a very clear showing is made that, in reaching its factual conclusions, the Arbitral Tribunal committed an error so egregious and hurtful to one party as to constitute a grave abuse of discretion resulting in lack or loss of jurisdiction. Prototypical examples would be factual conclusions of the Tribunal which resulted in deprivation of one or the other party of a fair opportunity to present its position before the Arbitral Tribunal, and an award obtained through fraud or the corruption of arbitrators. *Any other, more relaxed, rule would result in setting at naught the basic objective of a voluntary arbitration and would reduce arbitration to a largely inutile institution.*[30] (Emphasis supplied, citations omitted)

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30 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 258–260 (2017) [Per J. Leonen, Second Division].

Section 19 of the Construction Industry Arbitration Law's limitation of appeals to questions of law echoes Section 29 of Republic Act No. 876, the Arbitration Law that had previously been in effect:

> SECTION 29. Appeals. - An appeal may be taken from an order made in a proceeding under this Act, or from a judgment entered upon an award through certiorari proceedings, *but such appeals shall be limited to questions of law*. The proceedings upon such an appeal, including the judgment thereon shall be governed by the Rules of Court in so far as they are applicable. (Emphasis supplied)

However, despite Section 29, Republic Act No. 876 also provided grounds for vacating arbitral awards. These grounds concern "instances when the integrity of the arbitral tribunal itself has been put in jeopardy":[31]

> SECTION 24. Grounds for vacating award. - In any one of the following cases, the court must make an order vacating the award upon the petition of any party to the controversy when such party proves affirmatively that in the arbitration proceedings:
>
> (a) The award was procured by corruption, fraud, or other undue means; or
>
> (b) That there was evident partiality or corruption in the arbitrators or any of them; or
>
> (c) That the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; that one or more of the arbitrators was disqualified to act as such under section nine hereof, and wilfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or
>
> (d) That the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.
>
> Where an award is vacated, the court, in its discretion, may direct a new hearing either before the same arbitrators or before a new arbitrator or arbitrators to be chosen in the manner provided in the submission or contract for the selection of the original arbitrator or arbitrators, and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the court's order.
>
> Where the court vacates an award, costs, not exceeding fifty pesos and disbursements may be awarded to the prevailing party and the payment thereof may be enforced in like manner as the payment of costs upon the motion in an action.

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31 Id. at 229.

Echoing the four highly exceptional grounds stipulated by Section 24 of Republic Act No. 876, jurisprudence has recognized extremely restrictive grounds for revisiting factual issues involved in an arbitral tribunal's decision. Citing *Spouses David v. Construction Industry and Arbitration Commission*,[32] *CE Construction* explained:

> Thus, even as exceptions to the highly restrictive nature of appeals may be contemplated, these exceptions are only on the narrowest on grounds. Factual findings of CIAC arbitral tribunals may be revisited not merely because arbitral tribunals may have erred, not even on the already exceptional grounds traditionally available in Rule 45 Petitions. Rather, *factual findings may be reviewed only in cases where CIAC arbitral tribunals conducted their affairs in a haphazard, immodest manner that the most basic integrity of the arbitral process is imperiled.* In *Spouses David v. Construction Industry and Arbitration Commission*:
>
> > We reiterate the rule that factual findings of construction arbitrators are final and conclusive and not reviewable by this Court on appeal, except when the petitioner proves affirmatively that: (1) the award was procured by corruption, fraud or other undue means; (2) there was evident partiality or corruption of the arbitrators or of any of them; (3) the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; (4) one or more of the arbitrators were disqualified to act as such under section nine of Republic Act No. 876 and willfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or (5) the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.[33] (Emphasis supplied, citations omitted)

More recently, in 2019, *Tondo Medical Center v. Rante*[34] again cited *Spouses David* and explained:

> Thus, questions on whether the CIAC arbitral tribunals conducted their affairs in a haphazard and immodest manner that the most basic integrity of the arbitral process was imperiled are not insulated from judicial review. Thus:
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> > x x x We reiterate the rule that factual findings of construction arbitrators are final and conclusive and not reviewable by this Court on appeal, except when the petitioner proves affirmatively that: (1) the award was

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32 479 Phil. 578 (2004) [Per J. Puno, Second Division].

33 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 260–262 (2017) [Per J. Leonen, Second Division].

34 G.R. No. 230645, July 1, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65469> [Per J. Reyes, Jr., Second Division].

> procured by corruption, fraud or other undue means; (2) there was evident partiality or corruption of the arbitrators or of any of them; (3) the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; (4) one or more of the arbitrators were disqualified to act as such under section nine of Republic Act No. 876 and willfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or (5) the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.[35] (Citations omitted)

Thus, there may still be factual review of findings made by CIAC arbitral tribunals, but only under very narrow grounds relating to the integrity of the arbitral tribunal.

Rule 65 of the 1997 Rules of Civil Procedure enables the correction of actions in excess of jurisdiction or grave abuse of discretion by bodies or officers exercising judicial or quasi-judicial functions. Rule 65 is a means of operationalizing the constitutionally-enshrined, inalienable dimension of judicial power "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."[36]

Since the CIAC is a "quasi-judicial, administrative agency equipped with technical proficiency that enables it to efficiently and promptly resolve conflicts[,]"[37] a petition for certiorari should rightly be available as a means of redress from the CIAC.

However, the availability of petitions for certiorari as a remedy does not stand by its lonesome. The possibility of relief through such modality must be viewed through the lens of how arbitration under the CIAC exists within the larger, general framework of arbitration put in place, initially by Republic Act No. 876 (the ADR Law), and eventually by Republic Act No. 9285 (the Alternative Dispute Resolution Act of 2004).

To recall, *CE Construction* explained how "[a]rbitration of construction disputes through the CIAC was formally incorporated into the general statutory framework on alternative dispute resolution through [Sections 34 and 35 of] Republic Act No. 9285[.]"[38] Even prior to Republic Act No. 9285, Republic Act No. 9184 (the Government Procurement

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35 Id.

36 CONST., art. VIII, sec. 1, par. 2.

37 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 253 (2017) [Per J. Leonen, Second Division].

38 Id. at 252.

Reform Act) referenced Republic Act No. 876 in affirming and delineating the competence of the CIAC.

It is with this lens that acknowledges the delimiting statutory framework of Republic Act No. 876 and Republic Act No. 9285 that jurisprudence has maintained that "factual findings of construction arbitrators are final and conclusive and not reviewable"[39] except "in [those] instances when the integrity of the arbitral tribunal itself has been put in jeopardy."[40] *Spouses David* identifies five prototypical instances when an arbitral tribunal's award have been put in jeopardy:

> (1) the award was procured by corruption, fraud or other undue means; (2) there was evident partiality or corruption of the arbitrators or of any of them; (3) the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; (4) one or more of the arbitrators were disqualified to act as such under section nine of Republic Act No. 876 and willfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or (5) the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.[41]

In view of these, I join the *ponencia* in maintaining that the CIAC's findings of fact may be reviewed by the Court of Appeals on certiorari, that is, on grave abuse of discretion. However, in the unique context of reviewing CIAC arbitral tribunal awards, a calibrated understanding of grave abuse of discretion must govern, that is, the very narrow grounds that go into the integrity of the CIAC arbitral tribunal, and, in addition, outright violations of the Constitution or laws.

To be clear, this calibrated understanding of grave abuse of discretion in the specific context of review via certiorari of CIAC arbitral tribunal awards *does not* undermine the integrity of the remedy of certiorari. The remedial vehicle of a petition for certiorari under Rule 65 was created by this Court pursuant, in particular, to its rule-making power under Article VIII, Section 5(5) of the 1987 Constitution. This power to "[p]romulgate rules concerning... pleading, practice, and procedure in all courts" proceeds from judicial power in general.

Judicial power pertains to our capacity to authoritatively read and interpret laws. Rule 65, then, is an expression of this Court's interpretative authority, one that is applicable to general circumstances involving grave

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39 *Spouses David v. Construction Industry and Arbitration Commission*, 479 Phil. 578, 590 (2004) [Per J. Puno, Second Division].

40 *CE Construction Corp. v. Araneta Center, Inc.*, 816 Phil. 221, 229 (2017) [Per J. Leonen, Second Division].

41 *Spouses David v. Construction Industry and Arbitration Commission*, 479 Phil. 578, 590–591 (2004) [Per J. Puno, Second Division].

abuse of discretion. In appropriate situations, such an expression may be refined or adjusted, given this Court's peculiar appreciation of facts and laws. This calibration of grave abuse of discretion and the availability of certiorari vis-à-vis CIAC arbitral awards (which I join the ponencia in advancing) is one such situation of a proper refinement or adjustment of how a procedural rule, i.e., Rule 65, previously laid out by this Court should apply.

Beyond the narrow grounds for review on certiorari (i.e., grounds that go into the integrity of the CIAC arbitral tribunal, or outright violations of the Constitution or laws), rulings of the CIAC may be reviewed only by this Court on purely legal questions raised through petitions for review on certiorari. As the *ponencia* explains:

> A harmonization of these conflicting rules leaves the Court with the conclusion that the inclusion of CIAC under Rule 43 appeals is without footing in the legal history of CIAC, and therefore must be unequivocally reversed.
>
> More specifically, the Court holds that the direct recourse of an appeal of a CIAC award on questions of law directly to this Court is the rule, pursuant to E.O 1008 and R.A. 9285, notwithstanding Rule 43 on CA's jurisdiction over quasi-judicial agencies, and Rule 45 in its exclusive application to lower courts. Thus, an appeal from an arbitral award of CIAC may take either of two tracks, as determined by the subject matter of the challenge.
>
> On the one hand, if the parties seek to challenge a finding of law of the tribunal, then the same may be appealed only to the Supreme Court under Rule 45. To determine whether or not a question is one of law which may be brought before the Court under Rule 45, it is useful to recall that a question of a question of law involves a doubt or controversy as to what the law is on a certain state of facts, as opposed to a question of fact which involves a doubt or difference that arises as to the truth or falsehood of facts, or when the query necessarily calls for a review and reevaluation of the whole evidence, including the credibility of witnesses, existence of specific surrounding circumstances, and the decided probabilities of the situation. The test here is not the party's characterization of the question before the court, but whether the court may resolve the issue brought to it by solely inquiring as to whether the law was properly applied and without going into a review of the evidence.
>
> On the other hand, if the parties seek to challenge CIAC's finding of fact, the same may only be allowed under either of two premises, namely assailing the very integrity of the composition of the tribunal, or alleging the arbitral tribunal's violation of the Constitution or positive law, in which cases the appeal may be filed before the CA on these limited grounds through the special civil action of a petition for certiorari under Rule 65, in accordance with Section 4 in relation to Section 1, Rule 65 of the Rules of Civil Procedure:
>
> . . . .

> The resort to Rule 65, instead of Rule 43, further finds support in the very nature of the factual circumstances which trigger said exceptional factual review – those that center not on the actual findings of fact but on the integrity of the tribunal that makes these findings, or their compliance with the Constitution or positive law, i.e., any of the following factual allegations: (1) the award was procured by corruption, fraud or other undue means; (2) there was evident partiality or corruption of the arbitrators or of any of them; (3) the arbitrators were guilty of misconduct in refusing to hear evidence pertinent and material to the controversy; (4) one or more of the arbitrators were disqualified to act as such under Section nine of Republic Act No. 876 or the Arbitration Law (R.A. 876), and willfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or (5) the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.[42]

The approach outlined by the *ponencia* is consistent with the primacy accorded to arbitral awards, fundamentally, because of arbitration's nature as a dispute resolution mechanism animated by the parties' free and voluntary intent to engage an arbitrator's expertise free from the rigidities of the conventional court system. "Arbitration is a creature of contract[,]"[43] devised precisely to be free of the restraints of litigating in court. This makes it both economically efficient and equitable.

As a creature of contract, arbitration internalizes and limits the cost of dispute resolution between the parties. It is equitable in that, it will free the dockets of courts (which, through taxpayers money is a subsidized means of dispute resolution) enabling them to devote more time, energy, and resources to those conflicts with a more pronounced public interest, such as those where power relations suffer from a greater deficit (e.g., rape and sexual abuse, labor disputes, cases raising questions of social justice, and skewed commercial relations such as consumer grievances), public interest cases (such as those raising constitutional issues), and matters of social order (e.g., criminal cases).

The understanding of arbitration as a creature of contract facilitating the parties' realization of their private ends has particularly ripened in international commercial arbitration:

> In international law, the basic theory of arbitration is simple and rather elegant. Arbitral jurisdiction is entirely consensual. As in Roman law and the systems influenced by it, arbitration is a creature of contract. The arbitrator's powers are derived from the parties' contract. Hence, in the classic sense, an arbitrator is not entitled to do anything unauthorized by the parties: *arbiter nihil extra compromissum facere potest.* An arbitral award rendered within the framework of the common agreement of the

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42 *Ponencia*, pp. 40–43.

43 W. Michael Reisman, *The Breakdown of the Control Mechanism in ICSID Arbitration*, 1989 DUKE L.J. 739, 745 (1989).

> parties is itself part of the contract and hence binding on them. Conversely, a purported award which is accomplished in ways inconsistent with the shared contractual expectations of the parties is something to which they had not agreed. The arbitrator has exceeded his power or, to use the technical term, committed an *exces de pouvoir*. If the allegation of such an excess can be sustained, the putative award is null, and may be ignored by the "losing" party.
>
> Arbitration is advantageous to parties because it gives them an additional contractual option for resolving disputes without engaging community structures. It is also advantageous to the community: it allows economical resolution of private disputes that are often diversions from productive activity, without more general disruption and without direct cost to the community. The doctrine of *exces de pouvoir* functions as an indispensable control mechanism in this scheme. Without it, arbitration would lose its character of restrictive delegation and the arbitrator would become a decisionmaker with virtually absolute discretion; whatever limits may have been prescribed by the parties would become meaningless because the arbitrator would be answerable effectively to no one. *Exces de pouvoir* thus is the conceptual foundation of control for arbitration.[44] (Citations omitted)

Another author keenly discussed the particular utility of arbitration in commercial relationships. His discussion also explored how the "contractarian model" animated the United States' Federal Arbitration Act's pioneering delineation of the distinctly restrictive grounds for vacating arbitral awards. Quite notably, our own pioneering Arbitral Law, Republic Act No. 876, would adopt in its Section 24 precisely the same restrictive grounds spelled out by the Federal Arbitration Act:

> The contractarian model made sense when applied to commercial relationships because the merchants who employed it typically subscribed to a common set of business practices. When they had disputes, they wanted neutrals grounded in those practices to make decisions based on custom and mutual interest They did not want anyone, whether a genuine judge or a minor league one, to mechanically apply fixed legal rules.
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> With [Julius Henry] Cohen as its champion, the American Bar Association's Committee on Commerce, Trade, and Commercial Law succeeded in pushing the [Federal Arbitration Act] through Congress. The [Federal Arbitration Act] ... seems clearly to assume a role for the arbitrator consistent with the contractarian model. That perspective comes through in the provisions for judicial review of awards. Section 10 of the [Federal Arbitration Act] contains a list of four grounds for vacating arbitral awards:
>
> (1) [W]here the award was procured by corruption, fraud, or undue means;
> (2) [W]here there was evident partiality or corruption in the arbitrators, or either of them;
> (3) [W]here the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in

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[44] Id. at 745–746.

> refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or
> (4) [W]here the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.[45] (Citations omitted)

It would be regressive, both for contracting parties in arbitration and to society in general, for this Court to insist on expansive judicial review of arbitral awards. Unduly expansive judicial review undermines an otherwise effective, self-contained mechanism for dispute resolution. Any form of conflict resolution will see the losing party dissatisfied. Yet it must, at some point, have a definite ending. *Interest rei publicae ut sit finis litium.*[46] The further continuation of otherwise settled conflicts, particularly for those which are distinctly private in character, must be pursued only when there are compelling, ineluctable grounds.

When a private conflict may otherwise be put to rest by the mechanism specifically devised by the parties for it, it is a disservice to the larger community to compel a court to have that conflict be an exclusionary object of its attention. This is what it means to not disturb arbitral awards, lest the integrity of the arbitral tribunal itself be compromised. As, when an arbitral tribunal is wanting in integrity, what are committed are not mere mistakes by erstwhile experts, but a definite offense against fairness and truth; there is then a miscarriage of justice.

Ultimately, the *ponencia* is correct in concluding that the "[Court of Appeals] misapplied its appellate function when it delved into settling the factual matters, and modified the mathematical computation of the CIAC with respect to the presence or absence of an outstanding balance payable to [Ross Systems International, Inc.]"[47] It being error for the Court of Appeals to abandon the CIAC arbitral tribunal's award, the assailed Court of Appeals Decision must be reversed, and the arbitral tribunal's award reinstated.

**ACCORDINGLY**, I vote that the Petition subject of G.R. No. 230112 be **PARTIALLY GRANTED** and the assailed October 28, 2016 Decision of the Court of Appeals in CA-G.R. SP No. 145753 be reversed with respect to Ross Systems International, Inc.'s entitlement to ₱1,088,214.83. The May 10, 2016 Final Award of the arbitral tribunal of the Construction Industry Arbitration Commission must be reinstated subject to

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45 Paul F. Kirgis, *Judicial Review and the Limits of Arbitral Authority: Lessons from the Law of Contract*, 81 ST. JOHN'S L. REV. 99, 100–101 (2007). Note that Kirgis pursued a critical analysis of the narrowing of grounds for judicial review of arbitral awards, and ultimately maintained the need for "[s]ome modest level of judicial review[.]" (Id. at 121.)

46 W. Michael Reisman, *The Breakdown of the Control Mechanism in ICSID Arbitration*, 1989 DUKE L.J. 739, 744 (1989).

47 *Ponencia*, p. 57.

the need for petitioner Global Medical Center of Laguna, Inc. to furnish respondent Ross Systems International, Inc. the pertinent BIR Form 2307.

**MARVIC M.V.F. LEONEN**
Associate Justice