



Republic of the Philippines
Supreme Court
Manila

EN BANC

E.L.
CONSTRUCTION,

SANIEL
Petitioner,

G.R. No. 260013 [Formerly
UDK 17349]

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.
MARQUEZ,
DIMAAMPAO,
KHO, JR., and
SINGH,* JJ.

- versus -

COMMISSION ON AUDIT
and PNO C SHIPPING AND
TRANSPORT
CORPORATION (PSTC),
Respondents.

Promulgated:

August 13, 2024

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DECISION

INTING, J.:

Before the Court is a Petition for *Certiorari*¹ under Rule 64 in relation to Rule 65 of the Rules of Court filed by petitioner E.L. Sanial Construction

* On official leave.
¹ *Rollo*, pp. 3–33.

(E.L. Saniel) assailing Decision No. 2016-397² dated December 27, 2016, Resolution No. 2020-294³ dated January 31, 2020, and the Notice of Finality of Decision No. 2021-072⁴ dated May 19, 2021, all issued by the Commission on Audit (COA). The COA denied E.L. Saniel's money claim in the amount of PHP 4,529,601.65 representing failed accountabilities of respondent PNOC Shipping and Transport Corporation (PSTC) for the additional construction works rendered by E.L. Saniel.

The Antecedents

PSTC is a wholly owned subsidiary of the Philippine National Oil Company (PNOC) engaged in the business of marine transport of petroleum products.

E.L. Saniel was awarded the project for the rehabilitation of PSTC Limay Office (Rehabilitation Project) for the bid price of PHP 4,980,000.00 on January 5, 2010.⁵ Thereafter, the project for the design and construction of slope protection/riprap at PSTC's Limay Office (Riprap Project) was also awarded to E.L. Saniel for the bid price of PHP 1,350,000.00 on September 22, 2010.⁶ Both projects have been fully paid by PSTC.

According to E.L. Saniel, it discovered during the construction of the projects that the terrain where the Limay Office was situated posed a particular condition requiring additional constructions. Thus, E.L. Saniel performed additional works resulting in the following additional billings:

Particulars	Amount
<i>Riprap Project</i>	
Riprap and additional works ⁷	PHP 2,412,736.42
<i>Rehabilitation Project</i>	69,608.97
Construction of sewer and drain canal ⁸	
Revise trusses and roofing ⁹	257,829.00
Backfilling and compaction ¹⁰	222,768.00
<i>Total</i>	<i>PHP 2,962,942.39</i>

² *Id.* at 34–40. Signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito and attested by Nilda B. Plaras, Director IV, Commission Secretariat.

³ *Id.* at 41–48. Signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc and attested by Nilda B. Plaras, Director IV, Commission Secretariat.

⁴ *Id.* at 86–87. Signed by Director IV Bresilo R. Sabaldan.

⁵ *Id.* at 67.

⁶ *Id.* at 52.

⁷ *Id.* at 53–68.

⁸ *Id.* at 69.

⁹ *Id.* at 70.

¹⁰ *Id.* at 72.

E.L. Saniels' billings for the additional works have remained unpaid by PSTC.

On February 7, 2013, the PNOC Board of Directors issued Resolution No. 2111, Series of 2013,¹¹ which shortened the corporate life of PSTC until March 15, 2013, due to the continuous deterioration of its financial condition. The dissolution, which was approved by the President of the Philippines in a Memorandum dated July 5, 2013, resulted in the cessation of PSTC's business operations.¹²

Accordingly, the PNOC Board created the PSTC Disposal Committee to handle the disposition of PSTC's assets. However, in a letter dated May 19, 2014, Atty. Joseph John M. Literal, Chairman of the PSTC Disposal Committee, directed all suppliers and contractors to file their respective petitions for money claim with the COA for settlement pursuant to Rule VIII, Section 2 of the 2009 COA Revised Rules of Procedure.¹³

On June 23, 2014, PSTC issued a Certification of Non-Payment¹⁴ in the total gross invoice amount of PHP 26,928.88, certifying that only the


¹¹ *Id.* at 34.

¹² *Id.*

¹³ SECTION 2. *Money claim.* — A money claim against the government shall be filed directly with the Commission Secretary in accordance with the following:

- a) *Petition.* — A claimant for money against the Government, whose claim is cognizable by the Commission Proper, may file a petition. The party seeking relief shall be referred to as "Petitioner" and the government agency or instrumentality against whom a claim is directed shall be referred to as "Respondent". The petition shall also be assigned a docket number as provided in these Rules.
- b) *Contents of Petition.* — The petition shall contain the personal circumstances or juridical personality of the petitioner, a concise statement of the ultimate facts constituting his cause of action, a citation of the law and jurisprudence upon which the petition is based and the relief sought. The petition shall be accompanied by certified true copies of documents referred therein and other relevant supporting papers.
- c) *Filing of Petition.* — The petition shall be filed with the Commission Secretary, a copy of which shall be served on the respondent. Proof of service of the petition on the respondent together with proof of the payment of filing fee shall be attached to the petition.
- d) *Order to Answer.* — Upon the receipt of the petition, the Commission Secretary shall issue an Order requiring respondent to answer the petition within fifteen (15) days from receipt thereof.
- e) *Answer.* — Within fifteen (15) days from receipt of the said Order, the respondent shall file with the Commission Secretary an Answer to the petition. The answer shall be accompanied by certified true copies of documents referred to therein together with other supporting papers. The answer shall (a) point out insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed or granted. Copy of the answer shall be served on the petitioner and the proof of service thereof shall be attached to the answer.
- f) *Reply.* — Petitioner may file a Reply, copy furnished the respondent, within fifteen (15) days from receipt of the Answer.
- g) *Comment by Concerned Offices.* — Money claims, except court-adjudicated claims, shall first be assigned by the Commission Secretary to the appropriate Central or Regional Office, for comment and recommendation prior to referral to the Legal Services Sector for preparation of the decision and formal deliberation by the Commission Proper.

¹⁴ *Rollo*, pp. 74–75.



aforementioned amount is reflected as the outstanding liability in the records and books of PSTC.

Consequently, E.L. Saniel filed a Petition to be Paid Money Claims¹⁵ on November 5, 2014, to demand for the payment of the unpaid principal amount of PHP 2,962,942.39, plus PHP 1,066,659.26 in terms of accrued interest, and attorney's fees of PHP 500,000.00.

The Ruling of the COA

In its Decision No. 2016-397¹⁶ dated December 17, 2016, the COA dismissed the petitions for money claim filed by various suppliers and contractors, including E.L. Saniel's money claim, for payment of goods and services delivered or rendered following the dissolution of PSTC.

The *fallo* of the Decision provides:

WHEREFORE, premises considered, the money claims of the various suppliers and contractors for payment of goods and services delivered/rendered, following the dissolution of PNOC-Shipping and Transport Corporation (PSTC), *are hereby DISMISSED without prejudice to the conduct of post-audit activities on the settlement by PSTC of the money claims*, to be undertaken by the Corporate Government Sector during the terminal audit of the accounts and transactions of PSTC.¹⁷ (Emphasis supplied.)

The COA ruled that the disposition of PSTC's assets and settlement of its obligations rest upon the PSTC Disposal Committee and only those unbooked and/or contested obligations should be brought as money claims under the COA's jurisdiction, to wit:

The disposition of PSTC's assets and settlement of its obligations rests upon the Disposal Committee created by the Board of Directors. Hence, the primary and fiscal responsibility of determining the legitimate creditors and the amount to be distributed among them from the corporate assets, taking into consideration the limited resources of PSTC and the preferential rights of creditors, among others, rest upon the sound judgment of the Disposal Committee.

In line with this, in the process of settling PSTC's obligations, only those unbooked and/or contested obligations should be brought as money claims under the jurisdiction of this Commission. Trade payable

¹⁵ *Id.* at 76–82.

¹⁶ *Id.* at 34–40.

¹⁷ *Id.* at 39.

transactions entered into in the ordinary course of PSTC's business, which are duly recognized in its books, do not require the approval of this Commission for their payment. Requiring each creditor to file their booked/uncontested claims before this Commission will not only delay the process of liquidation but would require this Commission to perform a pre-audit activity which is the fiscal responsibility of PSTC.¹⁸

The COA found that the various claims filed before it appeared to be booked trade payables arising from PSTC's ordinary course of business and thus refused to give due course to the individual money claims.¹⁹

On May 11, 2017, E.L. Saniel filed a Motion for Reconsideration.²⁰ It contended that the subject money claims are not booked claims as evidenced by the Certification from PSTC stating that its claims were not reflected in its books.²¹

In Resolution No. 2020-294²² dated January 31, 2020, the COA found the Motion for Reconsideration without merit. The dispositive portion thereof states:

WHEREFORE, premises considered, the Motion for Reconsideration of E.L. Saniel Construction of Commission on Audit Decision No. 2016-397 dated December 27, 2016, which dismissed its money claim in the amount of 4,529,601.65, is hereby *DENIED for lack of merit*. (Emphasis supplied)

The COA noted that E.L. Saniel received a copy of the COA Decision on January 30, 2017, but it filed its Motion for Reconsideration only on May 11, 2017, or 101 days from the date of receipt. In the interest of substantial justice, however, the COA decided to rule on the merits of the case.²³

The COA opined that pursuant to Annex "E"²⁴ of the Implementing Rules and Regulations Part A (IRR-A)²⁵ of Republic Act No. 9184,²⁶ Variation Orders may be issued by the procuring entity in exceptional cases where it is urgently necessary to complete the original scope of work, but such must not

¹⁸ *Id.* at 38.

¹⁹ *Id.* at 38-39.

²⁰ *Id.* at 83-85.

²¹ *Id.* at 84.

²² *Id.* at 41-48.

²³ *Id.* at 41.

²⁴ Titled "Contract Implementation Guidelines for the Procurement of Infrastructure Projects."

²⁵ Implementing Rules and Regulations Part A of Republic Act No. 9184 (2003).

²⁶ Titled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes," Approved on January 10, 2003 and took effect on January 26, 2003.

exceed 20% of the original contract price. In claiming for any Variation Order, a notice should first be given to the head of the procuring entity (HOPE) or the HOPE's duly authorized representative within seven calendar days after the commencement of additional works or within 28 calendar days after the circumstances or reasons for justifying a claim for extra cost shall have occurred; failure to provide timely notices constitutes a waiver for any claim against the procuring entity.²⁷

The COA found that (1) the Riprap Project started on November 8, 2010, and was completed on January 7, 2011; (2) PSTC received E.L. Sanial's letter-request for additional work on June 6, 2011, or five months after the project completion; (3) E.L. Sanial failed to justify its failure to file the request for additional work scope within the period required; and (4) the Bids and Awards Committee of PSTC denied E.L. Sanial's letter-request in its letter dated July 6, 2011, on the ground that the scope of work and actual area of the rip-rapped portion were more than the estimated and awarded costs of the project.²⁸

For E.L. Sanial's failure to justify its belated filing of the request for additional work scope, the COA denied the Motion for Reconsideration for lack of merit.

On May 19, 2021, the COA issued a Notice of Finality of Decision²⁹ stating that Decision No. 2016-397 has become final and executory pursuant to Rule X, Section 9 of the 2009 Revised Rules of Procedure of COA.

E.L. Sanial contends, however, that it did not receive COA Resolution No. 2020-294 until a copy was released upon its request on September 2, 2021.³⁰

Aggrieved, E.L. Sanial filed the present Petition.

Petitioner's Arguments

E.L. Sanial maintains that the COA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it arbitrarily disregarded (1) the relevant facts and circumstances surrounding the Certification of

²⁷ *Rollo*, pp. 46-47.

²⁸ *Id.* at 47.

²⁹ *Id.* at 86-87. Signed by Director IV Bresilo Sabaldan.

³⁰ *Id.* at 11.

Non-Payment³¹ recommending the settlement of claim based on a revised computation for additional work, which entirely cured the defect cited by the COA in its Decision; and (2) the necessity and urgency of these additional constructions performed. E.L. Sanial pointed out that the government, through the PSTC, clearly benefitted from the construction works, and to deny it of compensation for the construction of the additional works is unjustified and would constitute unjust enrichment on the part of the government and its employees, who derived benefits at its expense.³²

Citing *Royal Trust Construction v. Commission on Audit*,³³ E.L. Sanial further maintains that the principle of *quantum meruit* applies in allowing its recovery, such that the mere absence of formal documents required for the additional works would not necessarily rule out the possibility of the contractor receiving payment for services already rendered to the government.³⁴

Respondents' Arguments

Respondent COA, through the Office of the Solicitor General, contends that E.L. Sanial lost its right to file the Petition for *Certiorari* for failing to file it within the reglementary period provided under Section 3, Rule 64 of the Revised Rules of Court.³⁵ The COA further contends that E.L. Sanial's reliance on *Royal Trust Construction* is mistaken, the application of the principle of *quantum meruit* is unfounded,³⁶ and its claim for attorney's fees is without basis and unjustified.³⁷

Meanwhile, respondent PSTC maintains that the principle of *quantum meruit* finds no application in the case of E.L. Sanial because the latter failed to obtain prior approval before commencing the additional works.³⁸

The Issues

The issues for the Court's resolution are as follows: (1) whether the Petition for *Certiorari* was filed on time; and (2) whether the COA acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying E.L. Sanial's money claims for the additional works it rendered in the

³¹ *Id.* at 74.

³² *Id.* at 16.

³³ G.R. No. 84202, November 23, 1988 [Unsigned Resolution, *En Banc*].

³⁴ *Rollo*, pp. 18–19.

³⁵ *Id.* at 221–223.

³⁶ *Id.* at 225.

³⁷ *Id.* at 226–227.

³⁸ *Id.* at 450–451.

Riprap Project and Rehabilitation Project of the PSTC Limay Office.

The Ruling of the Court

The Court resolves to deny the Petition.

Timeliness of the Petition

Respondent COA contends that the assailed COA Resolution No. 2020-294 was received by E.L. Sanieel on September 8, 2020, as evidenced by a Philippine Postal Corporation Registry Return Receipt;³⁹ thus, the filing of the present Petition for *Certiorari* on September 20, 2021, was made beyond the 30-day reglementary period under the Revised Rules of Court.

On the other hand, E.L. Sanieel claims that it received a copy of the assailed COA Decision denying its money claim on May 9, 2017.⁴⁰ Thus, it had 30 days or until June 8, 2017, to file the petition for *certiorari*, unless a motion for reconsideration is filed which shall interrupt the prescriptive period. On May 11, 2017, E.L. Sanieel filed a Motion for Reconsideration.

In its Comment dated June 23, 2022,⁴¹ E.L. Sanieel admits that while the assailed COA Resolution denying its Motion for Reconsideration may have been sent to its counsel on September 8, 2020, it learned of its issuance and obtained a copy thereof only on September 2, 2021.⁴² Accordingly, petitioner avers that it had 28 remaining days, or until September 30, 2021, within which to file the instant Petition for *Certiorari*; hence, it timely filed the present Petition on September 20, 2021.

The Court finds for respondents.

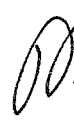
Under Rule 64, Section 3 of the Rules of Court, a party may file a petition for *certiorari* within 30 days from notice of the COA's judgment. The filing of a motion for reconsideration or new trial shall interrupt the period. However, when the motion is denied, the aggrieved party may file the petition within the remaining period, which shall not be less than five days in any event, reckoned from the notice of denial. Accordingly, the petition must show when the notice of the assailed judgment or order or resolution was received,

³⁹ *Id.* at 221.

⁴⁰ *Id.* at 5.

⁴¹ *Id.* at 262–296. Comment to Respondent's Commission on Audit's Comment Made Through the Office of the Solicitor General.

⁴² *Id.* at 277.



when the motion for reconsideration was filed, and when the notice of its denial was received. The rationale for requiring a complete statement of material dates is to determine whether the petition is timely filed.⁴³

The Court notes that E.L. Saniei was served a copy of COA Decision No. 2016-397 on January 30, 2017, as shown in the Commission Secretariat Certificate of Service No. 397-16 dated December 27, 2016.⁴⁴ What is more, E.L. Saniei failed to state the material date showing when it received the Decision No. 2016-397 in its Motion for Reconsideration.

On this score alone, the COA could have denied E.L. Saniei's Motion for Reconsideration for being filed out of time. Nonetheless, the COA ruled on the merits of E.L. Saniei's money claims in the interest of substantial justice.

Be that as it may, E.L. Saniei had five days from the notice of denial of the motion for reconsideration to file the petition for *certiorari*.

Case law instructs that when a litigant is represented by counsel, notice to counsel serves as notice to the litigant. In the absence of a notice of withdrawal or substitution of counsel, the court will rightly assume that the counsel of record continues to represent their client. This is so because notice to counsel is an effective notice to the client, while notice to the client and not their counsel is not notice in law. Receipt of notice by the counsel of record is the reckoning point of the reglementary period.⁴⁵

From the preceding discussion, it is clear that E.L. Saniei's period to file the present Petition commenced to run upon receipt by its counsel of record, Atty. Ernesto P. Tabao (Atty. Tabao), of COA Resolution No. 2020-294.⁴⁶

While it is true that the administration of justice and access to legal remedies were severely disrupted by the lockdowns during the COVID-19 pandemic, the Court finds no compelling reason to justify relaxation of the rules in the present case. The Philippine Postal Corporation Registry Return Receipt shows that Atty. Tabao indeed received the assailed Resolution on

⁴³ *Angeles v. Commission on Audit*, 891 Phil. 44, 47-48 (2020).

⁴⁴ *Rollo*, p. 41. This is contrary to the latter's statement in the present Petition that it received a copy of the COA Decision No. 2016-397 on May 9, 2017, and timely filed its Motion for Reconsideration dated April 11, 2017, on May 11, 2017, *id.* at 11.

⁴⁵ *Dr. Mendez v. Honorable Justice Sorongon*, G.R. No. 248379, June 26, 2023 [Notice] at 3. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

⁴⁶ Evidenced by the Philippine Postal Corporation Registry Return Receipt addressed to Atty. Tabao, COA records, p. 154.

September 8, 2020.⁴⁷ With only five days remaining to file pursuant to Rule 64, Section 3 of the Rules of Court, the Petition for *Certiorari* was belatedly filed on September 20, 2021, and thus, the assailed COA issuances had already attained finality.

Verily, E.L. Sanieel overlooked procedural rules more than once. The procedural lapses alone warrant the outright dismissal of the instant Petition.

The Court has always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.⁴⁸ It must be stressed, however, that “invocation of substantial justice is not a magical incantation that will automatically compel this Court to suspend procedural rules.”⁴⁹

In view of the foregoing, it is well to point out that with E.L. Sanieel’s delayed filing of the Petition for *Certiorari*, the challenged COA Decision has already attained finality and may no longer be reviewed by this Court. When a decision becomes final and executory, the court loses jurisdiction over the case and not even an appellate court will have the power to review the said judgment.⁵⁰

Payment on the basis of quantum meruit

The dismissal of the Petition is likewise warranted for lack of merit.

Respondents COA and PSTC maintain that E.L. Sanieel failed to obtain prior approval before it commenced the additional works, in violation of the mandatory requirements under Annex “E” of IRR-A of Republic Act No. 9184 for Variation Orders. Respondents submit that E.L. Sanieel effectively waived its claim when it failed to notify the respondent PSTC of the need to conduct additional works within the mandatory periods.

On the other hand, E.L. Sanieel maintains that its failure to obtain prior approval for the additional works is justified under the circumstances that “changes are inevitable in every construction project, even if carefully studied and planned, and that it has been its practice in the past projects to

⁴⁷ *Id.* The Registry Return Receipt was signed by one Michael Rana on September 8, 2020, on behalf of Atty. Ernesto Tabao.

⁴⁸ *Heirs of Dr. Deleste v. Land Bank of the Philippines*, 666 Phil. 350, 372 (2011).

⁴⁹ *Ng Ching Ting v. Philippine Business Bank, Inc.*, 835 Phil. 965, 977 (2018).

⁵⁰ *Macawiag v. Judge Balindong*, 533 Phil. 735, 747 (2006).

immediately act on problems that arise during construction to prevent delays and deliver quality work,”⁵¹ citing Section 3.2 of Annex “E” of the IRR-A of Republic Act No. 9184:

3.2. However, under any of the following conditions, the procuring entity’s representative/Project Engineer may, subject to the availability of funds and within the limits of his delegated authority, allow the immediate start of work under any Change Order or Extra Work Order:

- i) *In the event of an emergency where the prosecution of the work is urgent to avoid detriment to public service, or damage to life and/or property; and/or*
- ii) *When time is of the essence[.]* (Emphasis supplied)

Petitioner is grasping at straws.

The scope of the Court’s jurisdiction in a petition for *certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, is limited to errors of jurisdiction. Stated differently, E.L. Sanieel must show that the COA acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying its money claims.

Grave abuse of discretion has been defined as a whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.⁵² In the process of determining the existence of grave abuse of discretion, the Court looks into: (1) whether the act involved was done contrary to the Constitution, the law or jurisprudence; or (2) whether it was executed whimsically, capriciously or arbitrarily out of malice, ill will or personal bias.⁵³ Unless it is firmly established that the assailed COA Decision and Resolution were tainted with grave abuse of discretion, the Court would not interfere with its decision.

Here, the Court finds that COA did not err, much less acted with grave abuse of discretion, when it denied E.L. Sanieel’s money claims.

Annex “E” of the IRR-A of Republic Act No. 9184 provides that Variation Orders may be issued by the procuring entity in *exceptional cases* where it is urgently necessary to complete the original scope of work, but such

⁵¹ *Rollo*, p. 460.

⁵² *Agravante v. Commission on Elections*, G.R. No. 264029, August 8, 2023 at 7. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

⁵³ *Id.*

*must not exceed 20% of the original contract price.*⁵⁴ In claiming for any Variation Order, a notice should first be given to the HOPE or their duly authorized representative within seven calendar days after the commencement of additional works or within 28 calendar days after the circumstances or reasons for justifying a claim for extra cost shall have occurred—failure to timely provide notices constitutes waiver for any claim against the procuring entity.⁵⁵ It was further stressed therein that under no circumstances shall a contractor proceed to commence work under any Variation Order unless it has been approved by HOPE or their duly authorized representative.⁵⁶

However, as an exception to the rule, the Court has allowed money claims for construction contracts entered by the government, even when the contracts were considered void due to technical reasons. As in the cases cited by E.L. Sanieel, the Court did not withhold the grant of compensation to a contractor notwithstanding the dearth of necessary documents, provided that the contractor shows performance of its obligation under the contract.⁵⁷

Nevertheless, E.L. Sanieel failed to consider that in each of the cases cited in its Petition for *Certiorari*, there was either an express approval or an implied authorization through subsequent acts from the procuring entity, despite the procedural defects and incomplete documentation. The Court in *F.L. Hong Architects and Associates v. Armed Forces of the Philippines* pronounced:⁵⁸

In cases where the Supreme Court granted relief on the basis of *quantum meruit*, the knowledge and consent of the contracting office or agency for the subject works were clearly established. Actual work and delivery of results were likewise acknowledged by the parties, or at least clear from the case records. Thus, in *EPG Construction Co. v. Hon. Vigilar*, the Court allowed a contractor to recover for additional constructions in a public works housing project of the Ministry of Public Works and Highways for the Ministry of Human Settlement, notwithstanding the absence of supplemental contracts and appropriate funding. In the interest of substantial justice and under the principle of *quantum meruit*, the Court declared EPG Construction entitled to compensation under an implied contract for additional works that was recognized by the Department of Public Works and Highways (DPWH) Assistant Secretary for Legal Services. (Emphasis supplied)


⁵⁴ Implementing Rules and Regulation of Republic Act No. 9184, IRR-A, Annex “E”, sec. 1.4.

⁵⁵ *Id.* at sec. 1.5.

⁵⁶ *Id.* at sec. 3.1.

⁵⁷ *RG Cabrera Corporation, Inc. v. Department of Public Works and Highways and Commission on Audit*, 894 Phil. 734, 745 (2021).

⁵⁸ G.R. No. 214245, September 19, 2017 [Notice, *En Banc*].



Unlike the circumstances in the jurisprudence cited by E.L. Sanial, a clear justification for the application of the principle of *quantum meruit* is wanting in the present case. At the very least, E.L. Sanial should have shown sufficient evidence of an implied contract with PSTC for the additional works, its completion and delivery of the subject thereof, and the manifest benefit to the PSTC or the public of the alleged services, as were the case in jurisprudence where the *quantum meruit* principle was recognized by the Court to be applicable. E.L. Sanial miserably failed in this regard.

It is undisputed that PSTC was only notified of the additional works when it received E.L. Sanial's letter-request on June 6, 2011, or five months after the completion of the projects.⁵⁹ Evidently, E.L. Sanial *unilaterally* decided to proceed with the additional works, let alone at 179% more than the original contract price of the Riprap Project, without notifying PSTC, which is a gross violation of Annex "E" of IRR-A of Republic Act No. 9184.

IRR-A, Section 17.7 of Republic Act No. 9184 is likewise pertinent to the case, viz.:

17.7. Responsibility of Prospective or Eligible Bidder

17.7.1. A prospective or eligible bidder shall be responsible for:

- a) Having taken steps to carefully examine all of the bidding documents;
- b) *Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;*
- c) Having made an estimate of the facilities available and needed for the contract to be bid, if any; and
- d) Having complied with his responsibility as provided for under Section 22.5.1.

Failure to observe any of the above responsibilities shall be at the risk of the prospective bidder or eligible bidder concerned. For this purpose, a bidder shall execute a sworn statement attesting to the foregoing responsibilities, to be submitted by the bidder as an annex to its technical proposal.

17.7.2. *It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of the contract, project or work; (b) climatic conditions; (c) transportation facilities; for the procurement of*

⁵⁹ Rollo, p. 47.



infrastructure projects, nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project or work.

In the case of procurement of infrastructure projects, the bidder, by the act of submitting its bid, shall be deemed to have inspected the site and determined the general characteristics of the contract works and the conditions indicated above. The BAC shall require an affidavit of such site inspection from the eligible bidder.

17.7.3. The procuring entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity.

17.7.4. *Before submitting their bids, the bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way. However, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations or other acts of Government promulgated after the date of bidding, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis, provided such is not covered by the contract provisions on price adjustment. (Emphasis supplied)*

Evidently, the bidder, by the act of submitting its bid, shall be deemed to have inspected the site and determined the general characteristics of the contract works and the conditions pertaining thereto.⁶⁰ Thus, E.L. Saniei cannot now claim ignorance of the actual physical condition of the terrain until the construction of the project commenced.

The Court emphasizes that where government contracts are involved, an award on the basis of *quantum meruit* should always be treated as a mere exception to the general rule that requires the full satisfaction of legal requirements, including documentation and appropriations. It can only be justified by the demands of substantial justice and equity, founded on the rule that no one shall unjustly enrich himself at the expense of another.⁶¹ In the instant case, an award on the basis of *quantum meruit* for the alleged additional work is unwarranted.

⁶⁰ Republic Act No. 9184, IRR-A, sec. 17.7.2.

⁶¹ *Supra* note 57, at 11. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

To stress, E.L. Saniel cannot rely on the principle of *quantum meruit* to charge the government over and above the consideration agreed upon for its construction services.

In *Movertrade Corp. v. Commission on Audit*,⁶² the Court ruled that the COA did not gravely abuse its discretion when it denied money claims representing additional dredging works due to lack of approval from the project engineer/HOPE, in violation of the contract agreement therein.

In fine, the COA did not act with grave abuse of discretion when it denied E. L. Saniel's money claims due to its failure to secure prior approval of the additional works—a gross violation of Annex "E" of IRR-A of Republic Act No. 9184. Accordingly, E.L. Saniel's prayer for attorney's fees is denied.

WHEREFORE, the Petition is **DISMISSED**. Decision No. 2016-397 dated December 27, 2016, Resolution No. 2020-294 dated January 31, 2020, and the Notice of Finality of Decision dated May 19, 2021, of the Commission on Audit are **AFFIRMED**.

SO ORDERED.




HENRI JEAN PAUL B. INTING
Associate Justice

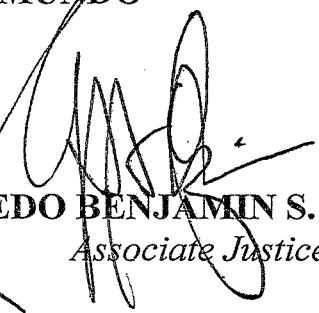
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice




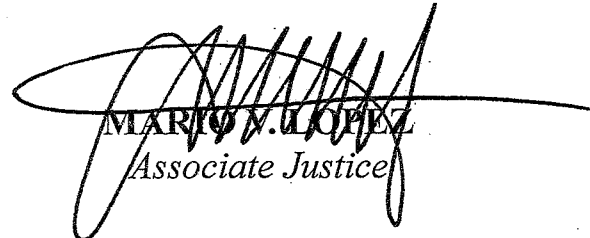


MARVIC M.V.F. LEONEN
Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

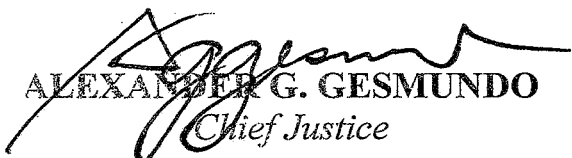
⁶² 913 Phil. 615, 624 (2021).


RAMON PAUL E. HERNANDO
Associate Justice
AMY C. LAZARO-JAVIER
Associate Justice
RODIL V. ZALAMEDA
Associate Justice
MARIO V. LOPEZ
Associate Justice
SAMUEL H. GAERLAN
Associate Justice
RICARDO R. ROSARIO
Associate Justice
JHOSEP V. LOPEZ
Associate Justice
JAPAR B. DIMAAMPAO
Associate Justice
JOSE MIDAS P. MARQUEZ
Associate Justice
ANTONIO T. KHO, JR.
Associate Justice

On official leave
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice