



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **February 20, 2023**, which reads as follows:*

**G.R. No. 259195 – PAOLO ANTONIO M. CRISTOBAL, MERCEDES A. MARILAO, and ANNA MARIEL M. CRISTOBAL, petitioners, versus THE CONSTRUCTION INDUSTRY ARBITRATION COMMISSION, composed of ATTY. DAPHNE T. JEREZA, JOVEN B. JOAQUIN and ELISEO EVANGELISTA, and FPG INSURANCE CO., INC., respondents.** The Court resolves to **DISPENSE** with petitioners' submission of a clearly legible duplicate original or a certified true copy of the assailed decision, and a verified declaration of electronic submission of the filed soft copy of the petition for review on *certiorari*, as required in the Resolution dated September 19, 2022.

After a careful review of the records of the case, the Court **AFFIRMS** the Decision<sup>1</sup> dated January 6, 2021 of the Court of Appeals (CA) Special Twelfth Division in CA-GR. SP No. 149979, and the Resolution<sup>2</sup> dated November 24, 2021 of the CA Former Special Twelfth Division in the same case.

Preliminarily, the Court notes that the authority to rule upon jurisdictional challenges before the Construction Industry Arbitration Commission (CIAC), particularly on motions to dismiss on the ground of lack thereof, lies with the arbitral tribunal, as provided for under Section 2.4.1, Rule 2 of the CIAC Revised Rules of Procedure Governing Construction Arbitration<sup>3</sup> (CIAC Revised Rules of Procedure):

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<sup>1</sup> *Rollo*, pp. 34-45. Penned by Associate Justice Geraldine C. Fiel-Macaraig with Associate Justices Danton Q. Bueser and Carlito B. Calpatura concurring.

<sup>2</sup> *Id.* at 47-48.

<sup>3</sup> Dated August 15, 2011.

SECTION 2.4 *Jurisdictional Challenge*. — A motion to dismiss based on lack of jurisdiction shall be resolved by the appointed arbitral tribunal.

2.4.1 **The Arbitral Tribunal shall have full authority to resolve all issues raised in the Motion to Dismiss for lack of jurisdiction on the grounds that the dispute is not a construction dispute, or that the Respondent was represented by one without capacity to enter into a binding arbitration agreement, or that said agreement or submission is not valid for some other reasons, or does not cover the particular dispute sought to be arbitrated, or other issues of interpretation or non-fulfillment of pre-conditions to arbitration that are raised therein.** (Emphasis supplied)

The CIAC was therefore well within its authority when it ruled on petitioners' Motion to Dismiss before it on the ground that the CIAC did not have valid jurisdiction over them as parties to the arbitration.

On the more paramount question of whether the CIAC correctly ruled that it had jurisdiction over petitioners, and consequently, that the CA committed no error when it affirmed the same, the statutory basis that is central to resolving the question of the full breadth of jurisdiction of the CIAC is Section 4 of Executive Order No. 1008, otherwise known as the "Construction Industry Arbitration Law"<sup>4</sup> (E.O. 1008) and it is unequivocal, to wit:

**Sec. 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. (Emphasis and underscoring supplied)

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<sup>4</sup> Dated February 4, 1985.

Still more specifically, Section 2.2, Rule 2 of the CIAC Revised Rules of Procedure clearly delineates the coverage of CIAC's jurisdiction, thus:

**RULE 2**

*Jurisdiction*

SECTION 2.1 *Jurisdiction*. — **The CIAC shall have original and exclusive jurisdiction over construction disputes, which arose from, or [are] connected with contracts entered into by parties involved in construction in the Philippines** whether the dispute[s] arose before or after the completion of the contract[s], or after the abandonment or breach thereof. These disputes may involve government or private contracts.

2.1.1 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 provisions; amount of damages and penalties; commencement time and delays; maintenance and defects; payment default of employer or contractor and changes in contract cost.

SECTION 2.2 *Coverage*. — **Construction dispute 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.

2.2.1 The CIAC shall continue to exercise original and exclusive jurisdiction over construction disputes although the arbitration is commercial pursuant to Section 21 of R.A. 9285 or the Alternative Dispute Resolution Act of 2004.

2.2.2 Excluded from the coverage of this Rules are disputes arising from employer-employee relationships, which shall continue to be covered by the Labor Code of the Philippines. (Emphasis and underscoring supplied)

Based on the foregoing provisions, as applied to the undisputed facts of this case, the CA is correct in affirming the CIAC's ruling that while the Indemnity Agreements executed by petitioners in favor of FPG Insurance Co., Inc. (FPG) were not among the documents cited in the General Conditions of Contract, the Indemnity Agreements were themselves the very condition which moved FPG to issue the Performance and Payment Bonds which secured the compliance of Pacific Summit Corporation Group, Inc. (Pacific) with the terms of its Subcontract Agreements with Makati Development Corporation (MDC).

It is *apropos* that the Court remind that an indemnity contract provides for the terms and conditions which constitute the measure of the insurer's liability and compliance therewith is a condition precedent to the insured's right to recovery from the insurer.<sup>5</sup> As applied to this case, petitioners undertook to make themselves liable to FPG in the event that FPG will need to deliver on the Performance and Payment Bonds it issued in behalf of Pacific in favor of MDC.

In other words, the Subcontract Agreements would not have been completed between Pacific and MDC without the said Performance and Payment Bonds issued by FPG, and FPG would not have issued the said Performance and Payment Bonds without, or were it not for, the necessary assurance of indemnity as embodied in the Indemnity Agreements executed by petitioners. The Indemnity Agreements entered into by petitioners in favor of FPG were, therefore, inextricably linked with the Subcontract Agreements which were validly submitted for arbitration. The Indemnity Agreements were, in the words of E.O. 1008, "connected with"<sup>6</sup> the subject construction contracts, and petitioners were those who, in the language of the CIAC Revised Rules of Procedure, "are otherwise bound by, an arbitration agreement, directly or by reference,"<sup>7</sup> by virtue of the Indemnity Agreements which they do not dispute having entered into in favor of FPG.

**WHEREFORE**, the instant petition<sup>8</sup> is hereby **DENIED**. The Decision dated January 6, 2021 of the Court of Appeals Special Twelfth Division in CA-GR. SP No. 149979, and the Resolution dated November 24, 2021 of the CA Former Special Twelfth Division in the same case are hereby **AFFIRMED**.

**SO ORDERED.**

By authority of the Court:

*Mis-DCBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
*6/12/23*

Atty. Edward S. Carino  
Counsel for Petitioners  
CHING MENDOZA BIOLENA & PARTNERS LAW FIRM  
Suite 2503-2504 25/F Atlanta Centre  
31 Annapolis St., Greenhills  
1502 San Juan City

<sup>5</sup> *Enriquez v. The Mercantile Insurance*, 838 Phil. 816, 838 (2018).

<sup>6</sup> E.O. 1008, Sec. 4.

<sup>7</sup> CIAC REVISED RULES OF PROCEDURE, Rule 2, Sec. 2.2.

<sup>8</sup> *Rollo*, pp. 16- 35.

COURT OF APPEALS  
CA G.R. SP No. 149979  
1000 Manila

ASTORGA & REPOL LAW OFFICES  
Counsel for Private Respondent  
Unit 2105 Philippine AXA Life Centre  
Sen. Gil Puyat cor. Ayala Avenues  
1200 Makati City

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
1229 Legaspi Village, Makati City

Legal Division  
CONSTRUCTION INDUSTRY ARBITRATION  
COMMISSION  
2/F Executive Bldg. Center  
369 Sen. Gil Puyat Avenue  
cor. Makati Avenue  
1200 Makati City

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**G.R. No. 259195**

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