



Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

G.R. Nos. 180631-33 **February 22, 2012**

PHILIPPINE CHARTER INSURANCE CORPORATION, Petitioner,
vs.

CENTRAL COLLEGES OF THE PHILIPPINES and DYNAMIC PLANNERS AND CONSTRUCTION CORPORATION, Respondents.

DECISION

MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure challenging the June 29, 2007 Decision¹ and November 19, 2007 Resolution² of the Court of Appeals (CA) in the consolidated cases CA-G.R. SP Nos. 90361, 90383 and 90384.

THE FACTS

On May 16, 2000, Central Colleges of the Philippines (CCP), an educational institution, contracted the services of Dynamic Planners and Construction Corporation (DPCC) to be its general contractor for the construction of its five (5)-storey school building at No. 39 Aurora Boulevard, Quezon City, with a total contract price of P248,000,000.00. As embodied in a Contract Agreement,³ the construction of the entire building would be done in two phases with each phase valued at P124,000,000.00.

To guarantee the fulfillment of the obligation, DPCC posted three (3) bonds, all issued by the Philippine Charter Insurance Corporation (PCIC), namely: (1) Surety Bond No. PCIC-45542, dated June 25, 2003, amounting to P7,031,460.74;⁴ (2) Performance Bond No. PCIC-45541⁵ in the amount of P2,929,775.31 which was subsequently increased to P6,199,999.99 through Bond Endorsement No. E-2003/12527;⁶ and (3) Performance Bond No. PCIC-46172 for P692,890.74.⁷ All the bonds were callable on demand and set to expire on October 30, 2003.

The Phase 1 of the project was completed without issue. Thereafter, CCP paid DPCC P14,880,000.00 or 12% of the agreed price of P124,000,000.00 with a check dated March 14, 2002 as downpayment for the Phase 2 of the project.

The Phase 2 of the project, however, encountered numerous delays. When CCP audited DPCC on July 25, 2003, only 47% of the work to be done was actually finished.

Thus, in a letter dated October 29, 2003 addressed to DPCC and PCIC, CCP informed them of the breach in the contract and its plan to claim on the construction bonds. Pertinent portions of the letter are herein quoted:

You are both hereby NOTIFIED that the Bonds referred to above for the faithful performance of a Contract, dated 16 May 2000 for the construction of CCP EXTENSION BLDG. (Phase 2) at 39 Aurora Blvd., Quezon City, Metro Manila and the Variation Order No. 2 has been breached by the CONTRACTOR for which reason, the CENTRAL COLLEGES OF THE PHILIPPINES, as owner, hereby gives NOTICE that it will file an action on the said performance and surety bonds.⁸

On November 6, 2003, CCP notified DPCC and PCIC that only 51% of the project was completed, which was way behind the construction schedule, prompting it to declare the occurrence of default against DPCC. It formally requested PCIC to remit the proceeds of the bonds.⁹

On November 14, 2003, DPCC wrote PCIC confirming the finding that Phase 2 was only 51% finished and, at the same time, requesting for the extension of its performance and surety bonds because the supposed revision of

the plans would require more days.¹⁰

In a letter dated November 21, 2003, CCP notified PCIC that because of DPCC's inability to complete the project on time, it decided to terminate its contract with the latter and to continue the construction on its own. The full text of the letter is herein reproduced:

We acknowledge the receipt of your letter dated November 14, 2003 and we are in the process of compiling the documents you requested. The said documents will be submitted as soon as possible.

Furthermore, we would like to reiterate that your principal, the Dynamic Planners & Construction Corporation has breached the Contract of Agreement dated May 16, 2000 by having completed only an estimated 51% of the construction of the 5-storey CCP Extension Building, Phase 2 and has therefore failed to perform the work within the agreed schedule.

In view thereof, as stated in our earlier letter of 6 November 2003, we were compelled to declare the occurrence of a default on the part of your principal, and have terminated their contract. Please remit to us the proceeds of the captioned Bonds within the earliest possible time.

The Central Colleges of the Philippines will complete the construction of the 5-storey CCP Extension Building, Phase 2 on its own.¹¹

Meanwhile, on December 5, 2003, PCIC informed DPCC that it had approved its request for extension of the bonds.¹²

Eventually, negotiations to continue on with the construction between CCP and DPCC reached a dead end. CCP hired another contractor to work on the school site.

On August 13, 2004, CCP sent a letter to PCIC of its final demand for the payment of P13,924,351.47 as indicated in the bonds.¹³

On August 20, 2004, PCIC denied CCP's claims against the three bonds.¹⁴

Thus, on October 28, 2004, CCP filed a complaint with request for arbitration before the Construction Industry Arbitration Commission (CIAC) against DPCC and PCIC.¹⁵ In its complaint, CCP prayed that CIAC hold DPCC and PCIC, jointly and severally liable, against the following bonds:

1. Under Surety Bond No. 45542, the amount of Php7,031,460.74 plus legal interest from the date of demand until full payment thereof;
2. Under Performance Bond Nos. PCIC-45541 [Bond Endorsement Nos. E-2003/12527] and PCIC-46172, the amount of Php6,892,890.73 plus legal interest from the date of demand until full payment thereof; and
3. Php100,000.00 as and for attorney's fees.¹⁶

In their Answer,¹⁷ DPCC and PCIC denied any liability and proffered that CCP unlawfully withheld the materials, equipment, formworks and scaffoldings left at the premises amounting to P4,232,264.12.

On June 3, 2005, the CIAC rendered a decision in favor of CCP. It gave the following reasons:

1. Claimant was legally justified in terminating the Contract;
2. On the issue of whether claimant faithfully complied with its contractual obligation in respect of (a) the release of the downpayment, (b) the delivery of the drawings for construction, and (c) the payment of progress billings, there is no record that Dynamic protested the delay in the delivery of the site, the delay in the submission of technical plans and demanded as a result thereof the corresponding adjustment of the Contract Period or the Contract Price. The issue of delay in the reduction of the down payment is moot since Dynamic acquiesced in the reduction of the down payment from 15% to 12% and the issue of payment of the 12th progress billing arose as a consequence of a legitimate issue as to the percentage of completion of the work by Dynamic as of August 2003.
3. Dynamic's percentage of accomplishment as of the date of the termination of the Contract was 57.33% at P71,089,200.
4. The original Contract Price was P124,000,000. To this amount shall be added the price of Variation Order No. 2 of P13,857,814.87 or an adjusted Contract Price of P137,857,814.87. Deducting P110,000,792.87, the overpayment to Dynamic is P27,779,022.00. However, Claimant is entitled to an award not exceeding the amount of its claims in its Complaint and in the Terms of Reference.

5. Dynamic failed to produce evidence to show that it was not paid the balance of the Contract Price for Phase 1 of the Project.
6. Surety is liable to Claimant under the Performance and Surety Bonds it issued in favor of Claimant. The liability of Surety is to indemnify Claimant for the un-recouped down payment [which] shall not exceed P7,031,460.74 under the Surety Bond and for not more than P6,892,890.73 under the Performance Bonds.
7. If Surety is obliged to pay these amounts to Claimant, it is entitled, on its cross-claim, to indemnity from Dynamic.
8. Claimant's claims under the Surety and Performance Bonds are not time-barred.
9. Surety is not barred by estoppel from denying liability under the Surety and Performance Bonds.
10. Claimant's request to Dynamic to extend the term of these bonds, Dynamic's request to Surety to extend their terms and Surety's grant of the extension requested have no adverse legal effect upon the rights and obligations of the parties.
11. The contractual time-bar embodied in the bonds is valid and binding.
12. Dynamic is entitled to its claims for the payment of P1,732,264.14 for materials and of P2,500,000.00 for the equipment, formworks and scaffolding left at the site.
13. The claims for payment of moral, exemplary and temperate damages and for attorney's fees are denied.
14. The parties shall bear their own cost of arbitration.¹⁸

Thus, CIAC disposed of the case finding DPCC liable to pay CCP P7,031,460.74 from the Surety Bond representing the unrecouped downpayment and P6,892,890.73 from its Performance Bond for a total of P13,924,351.47. The CIAC likewise ordered CCP to pay DPCC P1,732,264.12 corresponding to the construction materials left at the site and P2,500,000.00 for the cost of equipment, formworks and scaffoldings appropriated by CCP or a total of P4,232,264.12. The *falla* reads:

WHEREFORE, award is hereby made against Respondent Dynamic Planners and Construction Corporation and Respondent Philippine Charter Insurance Corporation, ordering them, jointly and severally, to pay Claimant, Central Colleges of the Philippines the amount of P7,031,460.74 under the Surety Bond as un-recouped down payment, and the amount of P6,892,890.73 under the Performance Bond or the total amount of P13,924,351.47.

Award is likewise made against Claimant, Central Colleges of the Philippines, ordering the latter to pay Respondent Dynamic Planners and Construction Corporation, the amount of P1,732,264.12 for the latter's materials left at the Project Site and the amount of P2,500,000.00 as the cost of its equipment, formworks and scaffoldings which were appropriated by the former or the total amount of P4,232,264.12.

Offsetting the amount due claimant Central Colleges of the Philippines from Respondent Dynamic Planners and Construction Corporation and that due the latter from the former, there is a net amount of P9,692,087.37 which Respondent Dynamic Planners and Construction Corporation is hereby ordered to pay Claimant Central Colleges of the Philippines with interest at the rate of 6% per annum from the date of this Final Award and 12% per annum from the time this Final Award becomes final and executory and until it is fully paid in accordance with Eastern Shipping Lines, Inc. vs. Court of Appeals (1994) 234 SCRA 78.

The joint and several liability of Respondent Philippine Charter Insurance Corporation with Respondent Dynamic Planners and Construction Corporation is accordingly reduced to P9,692,087.37. In the event of payment by Respondent Philippine Charter Insurance Corporation, the latter is entitled to indemnity from its co-Respondent Dynamic Planners and Construction Corporation up to the full amount of such payment. In the event of delay in making payment to indemnify Respondent Philippine Charter Insurance Corporation, Respondent Dynamic Planners Charter Insurance Corporation shall pay interest at the rate of 21% per annum in accordance with the Indemnity Agreement between them.

All other claims, counterclaims and cross-claims not otherwise determined in this Final Award are deemed denied for lack of merit.

SO ORDERED.¹⁹

All the parties appealed the CIAC decision to the CA. PCIC's appeal was docketed as CA-G.R. SP No. 90361;²⁰ CCP's appeal was docketed as CA-G.R. SP No. 90383;²¹ and DPCC's appeal was docketed as CA-G.R. SP No. 90384.²² Eventually, the cases were consolidated.²³

On June 29, 2007, the CA modified CIAC's earlier decision.²⁴ The CA found that DPCC was already in delay for managing to complete only 51% of the construction work necessary to finish the Phase 2 of the project. It held that due to DPCC's inexcusable delay, CCP was legally within its rights to terminate the contract with it. It likewise did not give weight to PCIC's defense that Bond No. 46172 was already released because the said issue was never raised before the CIAC and was raised for the first time on appeal.²⁵ The CA, however, deleted the award of cost of the materials, equipment, formworks and scaffoldings allegedly left by DPCC at the work site for its failure to prove the actual costs of said materials.²⁶ It added, "In any event, the cost of such materials, equipment, formworks and scaffoldings cannot be deducted from Philippine Charter's liability on the bond, as the credit does not belong to the latter but to Dynamic."²⁷ Accordingly, the decretal portion of the CA decision reads:

WHEREFORE, the Final Award, dated 03 June 2005, of the Construction Industry Arbitration Commission (CIAC) in CIAC Case No. 36-2004 is AFFIRMED with MODIFICATION, in that the award to Dynamic Planners and Construction Corporation of its counterclaim for materials, equipment, formworks and scaffoldings left at the work site in the total amount of P4,232,264.12 is DELETED.

Philippine Charter Insurance Corporation and Dynamic Planners and Construction Corporation are ORDERED jointly and severally to pay Central Colleges of the Philippines the total amount of P13,924,351.47 under Surety Bond No. PCIC-45542, Performance Bond No. PCIC-45541 (as modified by Bond Endorsement No. E-2003/12527), and Performance Bond No. PCIC-46172. Said amount shall bear interest at the rate of 6% per annum from the date of demand made on 29 October 2003. However, for any amount not yet paid after the date of the finality of this decision, the rate of interest on the payable amount shall be increased to 12% per annum from the date when this decision becomes final and executory until it is fully paid.

SO ORDERED.²⁸

PCIC moved for the reconsideration of the said decision, but the CA disposed of it with a denial in its November 19, 2007 Resolution.

Hence, this petition.²⁹

In its Memorandum,³⁰ PCIC submits the following issues for resolution:

1st Issue: Whether or not the CA grossly erred in sustaining the CIAC award finding petitioner liable to respondent CCP under the performance bonds and the surety bond?

2nd Issue: Whether or not the CA grossly erred in upholding the CIAC award pronouncing respondent CCP as rightfully and justifiably entitled to terminate the contract agreement?

3rd Issue: Whether or not the CA grossly erred in deleting the counterclaim of respondent DPCC covering the costs of materials, equipment, formworks and scaffoldings left at site and in denying petitioner to benefit from the counterclaim?³¹

PCIC argues that the CA erred in sustaining the award of P692,890.74 representing Performance Bond PCIC-46172 because the obligation guaranteed by said performance bond was already completed, therefore, no liability should attach against the said bond.³²

In this regard, the petitioner has a point.

Although this particular issue was not expressly raised in the parties' Terms of Reference,³³ nevertheless, the issue on Performance Bond PCIC- 46172 was extensively discussed during the arbitral tribunal's hearing of February 21, 2005. To accurately reflect what transpired on said hearing, relevant portions of the transcript of stenographic notes are herein quoted:

ATTY. G. Q. ENRIQUEZ:³⁴

I am calling your attention to Bond PCIC-45542.

MR. CRISPINO P. REYES:³⁵

You are calling my attention where?

ATTY. G. Q. ENRIQUEZ:

In the terms of Reference, can we please get the copy of that so that we can be reminded?

ATTY. B.G. FAJARDO:

There are only two, Counsel-the Performance and the Surety Bond.

ATTY. G. Q. ENRIQUEZ:

Performance Bond in the amount of-

MR. CRISPINO P. REYES:

We're interested in 45542 and we're interested in 45541. What we're no longer interested in, we have to be candid to this Honorable Tribunal, we are no longer interested, [we] no longer want to collect on Performance Bond 46172.

ATTY. A.V. CAMARA:³⁶

At this point in time, we would like to be of record that although that Bond 46172 covering the amount of P692,890.74 per their declaration had already been satisfied that is why only two bonds now are being...

ATTY. J.N. RABOCA:

May I make a qualification with that, your Honor? It's not that it was satisfied. It's that the Claimant is not claiming anymore because all the works under this bond were already accomplished.

ATTY. G. Q. ENRIQUEZ:

Yes, because you have already a Certificate of Acceptance.

ATTY. J.N. RABOCA:

Correct.

ATTY. G. Q. ENRIQUEZ:

So, we're just narrowing down into two bonds.

ATTY. A.V. CAMARA:

The two bonds.

ATTY. G. Q. ENRIQUEZ:

Okay.

ATTY. A.V. CAMARA:

Then therefore the liability on 46172 should be released. They are only covered by the pleadings especially the Complaint.

MR. CRISPINO P. REYES:

We do not dispute this.³⁷ [Emphases supplied]

It is clear from the testimony of Crispino P. Reyes, CCP's President, that the school no longer wants to collect on Performance Bond PCIC 46172 (with a value of P692,890.74). This statement before the arbitral tribunal is a judicial admission effectively settling the issue with respect to PCIC 46172. Section 4, Rule 129 of the Rules of Court provides:

Sec. 4. Judicial admissions. – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

A party may make judicial admissions in (a) the pleadings; (b) during the trial, either by verbal or written manifestations or stipulations; or (c) in other stages of the judicial proceeding.³⁸ It is an established principle that judicial admissions cannot be contradicted by the admitter who is the party himself³⁹ and binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it.⁴⁰

Since CCP, through its President, judicially admitted that it is no longer interested in pursuing PCIC-46172, the scope of its claim will just be confined to Surety Bond No. PCIC-45542 and Performance Bond No. PCIC-45541.

PCIC claims that DPCC was already in default as early as September 4, 2003,⁴¹ hence, the ten-day reglementary period to file a claim on the bonds should have been reckoned from such date and filed on September 14, 2003. PCIC claims that CCP notified them only on October 29, 2003 which is already beyond the limitation that any claim on the bonds should be presented in writing within ten (10) days from the expiration of the bond or from the occurrence of the default or failure of the principal, whichever is earliest.⁴²

The Court finds itself unable to agree. Article 1169 of the New Civil Code provides:

Art. 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

The civil law concept of delay or default commences from the time the obligor demands, judicially or extrajudicially, the fulfillment of the obligation from the obligee. In legal parlance, demand is the assertion of a legal or procedural right.⁴³ Hence, DPCC incurred delay from the time CCP called its attention that it had breached the contract and extrajudicially demanded the fulfillment of its commitment against the bonds.

It is the obligor's culpable delay, not merely the time element, which gives the obligee the right to seek the performance of the obligation. As such, CCP's cause of action accrued from the time that DPCC became in culpable delay as contemplated in the surety and performance bonds. In fact, Surety Bond PCIC-45542,⁴⁴ Performance Bond PCIC-45541⁴⁵ and PCIC-46172 each specified how claims should be made against it:

Surety Bond PCIC-45542⁴⁶

The liability of PHILIPPINE CHARTER INSURANCE CORPORATION, under this bond will expire on October 30, 2003; Furthermore, it is hereby agreed and understood that PHILIPPINE CHARTER INSURANCE CORPORATION will not be liable for any claim not presented to it in writing within FIFTEEN (15) DAYS from the expiration of this bond, and that the Obligee hereby waives its right to claim or file any court action against the surety after the termination of FIFTEEN (15) DAYS from the time its cause of action accrues.

Performance Bond PCIC-45541⁴⁷ and PCIC-46172:⁴⁸

The liability of PHILIPPINE CHARTER INSURANCE CORPORATION, under this bond will expire on October 30, 2003; Furthermore, it is hereby agreed and understood that PHILIPPINE CHARTER INSURANCE CORPORATION will not be liable for any claim not presented to it in writing within TEN (10) DAYS from the expiration of this bond or from the occurrence of the default or failure of the Principal, whichever is the earliest, and the Obligee hereby waives its right to file any claims against the Surety after termination of the period of ten (10) DAYS above mentioned after which time this bond shall definitely terminate and be deemed absolutely cancelled.

Thus, DPCC became in default on October 29, 2003 when CCP informed it in writing of the breach of the contract agreement and demanded the fulfillment of its obligation against the bonds. Consequently, the November 6, 2003 letter that CCP sent to PCIC properly complied with the notice of claim requirement set forth in the said bonds.

Upon notice of default of obligor DPCC, PCIC's liability, as surety, was already attached. A surety under Article 2047 of the New Civil Code solidarily binds itself with the principal debtor to assure the fulfillment of the obligation:

Art. 2047. By guaranty a person, called the guarantor, binds himself to the creditor to fulfill the obligation of the principal debtor in case the latter should fail to do so.

If a person binds himself solidarily with the principal debtor, the provisions of Section 4, Chapter 3, Title I of this Book shall be observed. **In such case the contract is called a suretyship.** [Emphasis supplied]

The case of *Asset Builders Corporation v. Stronghold Insurance Company, Inc.*⁴⁹ explains how a surety agreement works:

As provided in Article 2047, the surety undertakes to be bound solidarily with the principal obligor. That undertaking makes a surety agreement an ancillary contract as it presupposes the existence of a principal contract. Although the contract of a surety is in essence secondary only to a valid principal obligation, the surety becomes liable for the debt or duty of another although it possesses no direct or personal interest over the obligations nor does it receive any benefit therefrom.⁵⁰ Let it be stressed that notwithstanding the fact that the surety contract is secondary to the principal obligation, the surety assumes liability as a regular party to the undertaking.⁵¹

Stronghold Insurance Company, Inc. v. Republic-Asahi Glass Corporation,⁵² reiterating the ruling in *Garcia v. Court of Appeals*,⁵³ expounds on the nature of the surety's liability:

x x x. The surety's obligation is not an original and direct one for the performance of his own act, but merely accessory or collateral to the obligation contracted by the principal. Nevertheless, although the contract of a surety is in essence secondary only to a valid principal obligation, his liability to the creditor or promisee of the principal is said to be **direct, primary and absolute**; in other words, he is directly and equally bound with the principal.

Suretyship, in essence, contains two types of relationship – the principal relationship between the obligee and the obligor, and the accessory surety relationship between the principal and the surety. In this arrangement, the obligee accepts the surety's solidary undertaking to pay if the obligor does not pay. **Such acceptance, however, does not change in any material way the obligee's relationship with the principal obligor. Neither does it make the surety an active party to the principal obligee-obligor relationship. Thus, the acceptance does not give the surety the right to intervene in the principal contract. The surety's role arises only upon the obligor's default, at which time, it can be directly held liable by the obligee for payment as a solidary obligor.**⁵⁴ [Emphases supplied]

Having acted as a surety, PCIC is duty bound to perform what it has guaranteed on its surety and performance bonds, all of which are callable on demand, occasioned by its principal's default.

PCIC also proffers that CCP did not file any claim against the bonds after its extension.⁵⁵

The Court is not persuaded. CCP need not file another claim as to the supposed extended bonds because the October 29, 2003 letter was sufficient notice to PCIC and DPCC of the latter's default and its intention to proceed against the surety and performance bonds. Moreover, the extension of the bonds was only approved and relayed by PCIC to DPCC on December 5, 2003 or after the October 29, 2003 Notice of Default.

As to whether CCP was legally warranted in terminating the contract with DPCC for its failure to comply with its obligation, the Court affirms the CA's disquisition. The option to terminate the contract is clearly apparent in the parties' agreement. Specifically, Article 16 of the Contract Agreement provides:

ARTICLE 16 Termination

16.1 The OWNER shall have the right to terminate this CONTRACT after giving fifteen (15) days notice in writing for any of the following causes:

16.1.1. Substantial failure on the part of the CONTRACTOR in fulfilling its obligation;

16.1.2. Assignment or sub-contracting of any of the works herein by the CONTRACTOR without approval by the OWNER;

16.1.3 The CONTRACTOR is willfully violating any of the material conditions, stipulations and covenants of this CONTRACT and/or the attachments hereto. In the event of termination of this CONTRACT pursuant to the above, any amount owing to the CONTRACTOR at the time of such termination for services already rendered and/or materials delivered and taken over by the OWNER shall be withheld by the OWNER pending the determination of value of damages sustained by the OWNER by reason of such termination and payment of such damages by the CONTRACTOR.

The Court also finds nothing improper in the deletion by the CA of the award of actual damages in favor of DPCC. Actual or compensatory damages means the adequate compensation for pecuniary loss suffered and for profits the obligee failed to obtain. To be entitled to actual or compensatory damages, it is basic that there must be pleading and proof of actual damages suffered.⁵⁶ Equally vital to the fact that the amount of loss must be capable of proof, such loss must also be actually proven with a reasonable degree of certainty, premised upon competent proof or the best evidence obtainable.⁵⁷ The burden of proof of the damage suffered is, consequently, imposed on the party claiming it⁵⁸ who, in turn, should present the best evidence available in support of his claim. It could include sales and delivery receipts, cash and check vouchers and other pieces of documentary evidence of the same nature pertaining to the items he is seeking to recover. In the absence of corroborative evidence, it has been held that self-serving statements of account are not sufficient basis for an award of actual damages.⁵⁹ Moreover, a claim for actual damages cannot be predicated on flimsy, remote, speculative, and insubstantial proof.⁶⁰ Thus, courts are required to state the factual bases of the award.⁶¹

In this case, DPCC was not able to establish that it is entitled to the actual damages that it prayed for in its counterclaim. As the CA put it, "while Dynamic (DPCC) presented receipts issued by its suppliers of materials, equipment, formworks and scaffoldings, it failed to prove that the items in the receipts correspond to the items allegedly left at the work site."⁶² Besides, the Court cannot grant a relief in its favor because DPCC did not appeal the decision of the CA.

WHEREFORE, the petition is **PARTLY GRANTED**. The June 29, 2007 Decision of the Court of Appeals in CA-G.R. SP Nos. 90361, 90383 and 90384 is **MODIFIED** to read as follows:

Philippine Charter Insurance Corporation and Dynamic Planners and Construction Corporation are ordered to, jointly and severally, pay Central Colleges of the Philippines the total amount of ₱13,231,460.73 under Surety Bond No. PCIC-45542 and Performance Bond No. PCIC-45541 (as modified by Bond Endorsement No. E-2003/12527). Said amount shall bear interest at the rate of 6% per annum from the date of demand made on October 29, 2003. For any amount not yet paid after the date of the finality of this decision, however, the rate of interest on the payable amount shall be increased to 12% per annum from the date when this decision becomes final and executory until it is fully paid.

SO ORDERED.

JOSE CATRAL MENDOZA

Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.

Associate Justice

Chairperson

DIOSDADO M. PERALTA

Associate Justice

ROBERTO A. ABAD

Associate Justice

ESTELA M. PERLAS-BERNABE

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.

Associate Justice

Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

RENATO C. CORONA

Chief Justice

Footnotes

¹ Rollo, pp. 8-12. Penned by Associate Justice Ricardo R. Rosario, with Associate Justice Rebecca De Guia-Salvador and Associate Justice Magdangal de Leon, concurring.

² Id. at 46-47.

³ Id. at 183-192.

⁴ Id. at 195.

⁵ Id. at 196.

⁶ Id. at 198.

⁷ Id. at 199.

⁸ Id. at 200.

- 9 Id. at 201.
- 10 Id. at 234.
- 11 Id. at 238.
- 12 Id. at 203.
- 13 Id. at 205.
- 14 Id. at 240.
- 15 Id. at 173-182.
- 16 Id. at 178.
- 17 Id. at 212-230.
- 18 Id. at 169-170.
- 19 Id. at 170-171.
- 20 Id. at 464-522.
- 21 Id. at 523-541.
- 22 Id. at 542-569.
- 23 Id. at 913.
- 24 Id. at 12-44.
- 25 Id. at 27.
- 26 Id. at 37.
- 27 Id. at 38.
- 28 Id. at 42-43.
- 29 Id. at 50-125.
- 30 Id. at 900-972.
- 31 Id. at 916.
- 32 Id. at 917.
- 33 Id. at 338-347.
- 34 Counsel for Dynamic Planners and Construction Corporation (DPCC).
- 35 President of Central Colleges of the Philippines (CCP).
- 36 Counsel for Philippine Charter Insurance Corporation (PCIC).
- 37 Records I, pp. 418-420, TSN, February 21, 2005, pp. 84-86.
- 38 *Binarao v. Plus Builders, Inc.*, 524 Phil. 361, 365 (2006).
- 39 Regalado, *Remedial Law Compendium, Volume II, 7th Revised Edition, 1995*, p. 651, citing *Granada v. PNB*, 124 Phil. 561 (1966).
- 40 *Yulionsiu v. PNB*, 130 Phil. 575, 580 (1968).

- ⁴¹ *Rollo*, p. 933.
- ⁴² *Id.* at 204.
- ⁴³ Black's Law Dictionary, Abridged 8th ed., 2005, p. 364.
- ⁴⁴ *Rollo*, p. 195.
- ⁴⁵ *Id.* at 196.
- ⁴⁶ *Id.* at 195.
- ⁴⁷ *Id.* at 196.
- ⁴⁸ *Id.* at 199.
- ⁴⁹ G.R. No. 187116, October 18, 2010, 633 SCRA 370, 379-380.
- ⁵⁰ Security Pacific Assurance Corporation v. Hon. Tria-Infante, 505 Phil. 609, 620 (2005).
- ⁵¹ Philippine Bank of Communications v. Lim, 495 Phil. 645, 651 (2005).
- ⁵² 525 Phil. 270, 280 (2006).
- ⁵³ G.R. No. 80201, November 20, 1990, 191 SCRA 493, 495-496.
- ⁵⁴ Intra-Strata Assurance Corporation v. Republic, G.R. No. 156571, July 9, 2008, 557 SCRA 363, 375-376.
- ⁵⁵ *Rollo*, p. 946.
- ⁵⁶ Canada v. All Commodities Marketing Corporation, G.R. No. 146141, October 17, 2008, 569 SCRA 321, 329.
- ⁵⁷ Manila Electric Corporation v. T.E.A.M. Electronics Corporation, G.R. No. 131723, December 13, 2007, 540 SCRA 62, 79.
- ⁵⁸ Luxuria Homes, Inc. vs. Court of Appeals, 361 Phil. 989, 1001-1002 (1999).
- ⁵⁹ MCC Industrial Sales Corporation v. Ssangyong Corporation, G.R. No. 170633, October 17, 2007, 536 SCRA 408, 467-468.
- ⁶⁰ Hanjin Heavy Industries and Construction Co., Ltd. v. Dynamic Planners and Construction Corp., G.R. Nos. 169408 & 170144, April 30, 2008, 553 SCRA 541, 567 .
- ⁶¹ Santiago v. Court of Appeals, G.R. No. 127440, January 26, 2007, 513 SCRA 69, 86.
- ⁶² *Rollo*, p. 37.