

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. L-10749 **April 25, 1958**

BRIGIDO R. VALENCIA, petitioner,

vs.

REHABILITATION FINANCE CORPORATION and COURT OF APPEALS, respondents.

Eligio G. Lagman for petitioner.

Jesus A. Avancena for respondent.

CONCEPCION, J.:

Petitioner Brigido R. Valencia seeks a review, by certiorari, of a decision of the Court of Appeals, reversing that of the Court of First Instance of Manila, and sentencing him to pay respondent Rehabilitation Finance Corporation sum of P6,200, by way of actual damages, with legal interest thereon, from the date of the institution of this case, apart from the sum of P1,000 as attorneys fees, and absolving respondent from the counterclaim of said petitioner, with costs against the latter.

It appears that, prior to May 15, 1952, respondent issued and advertised to the general public an "invitation to bid" for the construction of a reinforced concrete building at Claveria Street, City of Davao. For the guidance of, and compliance by, the parties concerned, said invitation to bid was supplemented with "General Specifications," "Instructions to Bidders" and "Index of General Conditions." In response to the invitation, petitioner submitted a bid, dated May 15, 1952, pertinent parts of which read:

In accordance with your advertisement inviting proposals for the Construction of the Office Building owned by REHABILITATION FINANCE CORPORATION, to be erected at Claveria Street, Davao City, and subject to all conditions and requirements thereof, and of your Plans and Specifications, with all their agenda, which so far as they relate to this proposal, are made a part thereof, we (or I) propose to furnish, deliver, and place and complete any and all necessary work as called for by the said Plans and Specifications, we (or I) will furnish all necessary plant, tools, appliances, and labor, and complete the work at our (or My) own expenses, at the following prices in Philippine currency:

ITEM I:

Stipulated sum proposal for the complete construction of the Office Building as per Plans and Specifications, including the following:

1. All electrical installations

2. All plumbing installations

Three Hundred Eighty Nine Thousand Nine Hundred Eighty Pesos

LUMP SUM P389,980.00

ITEM II:

Stipulated sum proposal for the complete construction of the Office Building Only as per Plans and Specifications.

Three Hundred Fifty Eight Thousand Four Hundred Eighty Pesos

LUMP SUM P358,480.00

ITEM III:

ELECTRICAL INSTALLATIONS only.

Eighteen Thousand Nine Hundred pesos

LUMP SUM P18 900.00

ITEM IV:

PLUMBING INSTALLATIONS only.

Twelve Thousand Six Hundred Pesos.

LUMP SUM P12,000.00.

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We (or I) inclose herewith Bidders Bond, in the sum of Thirty Nine Thousand Pesos (P39,000.00) which is to be returned if this proposal is rejected or retained if accepted as security until the execution and delivery of a satisfactory bond in the sum of twenty per centum (20%) of the total contract price for the full and faithful performance of the contract.

On or about June 9, 1952, respondent's Board of Governors passed a resolution awarding the contract for the construction of the building to Sanchez & Antigua Engineering Co. for P292,000, that for the electrical installations to Lorenzo Sarmiento, for P18,340, and that for the plumbing installations to petitioner Valencia, for P12,800 By a letter dated June 16, 1952,

which was received by petitioner on June 22, 1952, the manager of the Davao branch of respondent advised petitioner of said award, and of the fact that the corresponding contract documents were being prepared in Manila and that he (petitioner) would be notified upon receipt thereof. This notice was given to petitioner through a letter of said Davao Manager, dated July 28, 1952, in which petitioner was, also, requested to call at the office of the writer for the purpose of affixing his (petitioner's) signature on the aforesaid contract and to post the performance bond for 20% of the contract price of P12,800. Petitioner replied on August 28, 1952, expressing his "thanks and appreciation" for the award, and stating that it would be to the advantage of respondent to award the contract for the plumbing installations to the contractor of the main building, because the presence of petitioner's men in the building might give said contractor an excuse to seek extension of time; because synchronization of the work, to prevent possible delay, would not be promoted by awarding the different parts of the building to different contractors; and because plumbing installations particularly should go hand in hand with the progress of the work of construction of the building, so that its contractor may have no valid ground to ask extension of time. In view of petitioner's failure to sign the aforementioned contract for the plumbing installations, respondent eventually awarded the same for P19,000 to the contractor for the construction of the building. Soon thereafter, or on December 19, 1962, respondent brought this action in the Court of First Instance of Manila against petitioner herein, to recover the sum of P6,200 representing the difference between the amount of the contract awarded to him and the price at which the plumbing installations were awarded to Sanchez and Antigua Engineering Co. — plus P1,000, as attorney's fees, and the costs.

In his answer, petitioner alleged that, upon being notified of the award in his favor, he "prepared all the necessary equipments, materials and plumbers to do and perform the plumbing installations" in respondent's building, but, without his knowledge and consent, respondent "entered into a contract with Sanchez and Antigua Engineering Co. for the same plumbing installations which was previously awarded" to petitioner, for which reason he set up a counterclaim of P5,000, for compensatory damages, plus P10,000, for moral damages, and P1,000 for attorney's fees.

In due course, the Court of First Instance of Manila rendered judgment, absolving petitioner from the complaint, with costs against the respondent, and sentencing the latter to pay petitioner the sum of P1,000, as "liquidated attorney's fees." On appeal, this decision was reversed by the Court of Appeals, which rendered judgment for respondent, as above stated. Hence, this petition for review by petitioner herein, who maintains in his brief, that:

1. La Corte de Apelaciones erro al declarar que exists un contrato valido y obligatorio entre Rehabilitation Finance Corporation y Brigido R. Valencia respecto a la instalacion de canerias (plumbing) en el edificio de aquella en la ciudad de Davao.
2. Erro tambien la Corte de Apelaciones al no considerar como contra oferta la resolucion de la junta de gobernadores de la Rehabilitation Finance Corporation al

adjudicar a Valencia solamente los trabajos de instalacion de canerias (P12,600.00), en lugar de aceptar o rechazar toda la oferta de P389,980.00.

3. Erro asimismo al declarar que la fianza del postor Brigido R. Valencia debe considerarse eficaz no obstante que en la misma se hace constar claramente que caducaba el 15 de junio de 1952.

4. Erro asimismo la Corte de Apelaciones al no declarar que la aceptacion parcial de la Rehabilitation Finance Corporation se ha hecho despues de caducada la oferta de Valencia, y por tanto no es valida.

5. Erro finalinente la Corte de Apelaciones al revocar la decision del juzgado de primers instancia de Manila y condenar a Brigido R. Valencia al pago de P6,200.00 como daños y perjuicios, mas P1,000.00 como honoraries de abogado, y las costas.

The arguments adduced by petitioner, in support of these assignments of error, may be summed up as follows:

1. His offer was for the construction of respondent's building in Davao, with its electrical and plumbing installations, whereas respondent awarded to him the con-tract for the plumbing installations only. This award substantially modified, therefore, the terms of his offer, so that a meeting of minds did not take place, inasmuch as such modification was not accepted by petitioner herein.

2. Petitioner's offer was good until June 15, 1952 only, because it was accompanied by a bond that expired on such date. The award in his favor came to his knowledge on June 22, 1952, when he received the letter of respondent's representative, dated June 16, 1952, giving notice of the award. Having been effected after the expiration of petitioner's offer, said notice of its acceptance did not perfect a contract between the parties herein.

3. Said acceptance by respondent was made subject to a condition, namely, the giving of a performance bond for twenty per centum (20%) of the amount of petitioner's offer. Inasmuch as this condition was not fulfilled, no contract could, or did, exist between the parties.

With respect to the first argument, it is worthy of notice that the proposal submitted by petitioner consisted of several items, among which are: (a) one for P389,980, for the "complete construction of the office building" in question, "*including* (1) all electrical installations; and (2) all plumbing installations"; (b) another for P358,480, for the "complete construction of the office building only", excluding, therefore, the electrical and plumbing installations; (c) a third one for P18,900, for the "electrical installations *only*", *excluding*, therefore, the building and its plumbing installations; and (d) a fourth item for P12,600, for the "plumbing installations *only*", *excluding*, therefore, the building and its electrical installations.

Each one of these items was complete in itself, and, as such, it was distinct, separate and independent from the other items. The award in favor of petitioner herein, implied, therefore, neither a *modification* of his offer nor a partial acceptance thereof. It was an *unqualified* acceptance of the fourth item of his bid, which item constituted a *complete offer* or proposal on the part of petitioner herein. The effect of said acceptance was to perfect a contract, upon notice of the award to petitioner herein.

Incidentally, said items in petitioner's bid were due, evidently, to the terms of respondent's "instruction to bidders," paragraph 5 of which reads:

Where bids are not qualified by specific limitations, the Rehabilitation Finance Corporation reserves the right of awarding all or *any* of the items according to its best interest.

Indeed, petitioner's bid stated that it was submitted "in accordance with" respondent's "advertisement inviting proposals for the construction" in question "and *subject to all conditions and requirements thereof*," one of which is said paragraph 5 just quoted.

As regards the second argument, petitioner's bid did not specify its duration. It enclosed therewith a bond for ten per centum (10%) of the amount of said bid, in compliance with paragraph 10 of the instruction to bidders. Although the *bond* itself stated that it expired on June 15, 1952, this does not mean that the *bid* lapsed on the same date. The bond merely guaranteed the performance of a *principal* obligation of petitioner herein. Needless say, this principal obligation may stand without said bond, which is merely *accessory thereto*, although the latter cannot exist without the former. Moreover, the bond was given for the benefit, not of petitioner, but of *respondent*, so that the latter could legally waive said benefit.

Petitioner's brief (p. 4) says that he understood or believed that upon expiration of said bond, on June 15, 1952, his bid, likewise, lapsed. This allegation is refuted by petitioner's conduct. Upon receipt of notice of the award in his favor, petitioner did not object thereto upon any ground whatsoever. He did not even say that his offer had expired already or had been modified. On the contrary, he replied expressing his "thanks and appreciation" for the award, although he stated, also, that it would be "to the advantage" of respondent to award the plumbing installations "to the contractor of the main building." What is more, in his answer to respondent's complaint, petitioner alleged, by way of special defense, that upon notice of the award in his favor, he "prepared all the necessary equipments, materials and plumbers to do and perform the plumbing installations" in question. For this reason, he alleged, also, in his answer, that he "should be the one entitled to damages" inasmuch as respondent "awarded to Sanchez and Antigua Engineering Co. . . . the contract for plumbing installations . . . without prior notice" to petitioner "who is the first awardee, and set up a counterclaim for damages thus allegedly caused to him. These acts of petitioner herein show, beyond doubt, that, upon receipt of notice of the award on June 22, 1952, he knew that the contract between him and respondent had become perfected, and that he must have felt, accordingly, that his bid was still good at that time.

Referring now to the third argument, paragraph 10 of the aforementioned instruction to bidders, imposed upon them the obligation to execute the corresponding documents "within five (5) days after notice of the acceptance of his bid." Paragraph 15 of said instruction to bidders, further provided:

The contract shall be made and executed in quadruplicate and shall be accompanied by a bond or bonds given by the contractor with two or more good and sufficient sureties or with a surety company, satisfactory to the Manager, Industrial Department, RFC in a penal sum equal to twenty (20) per cent of the full contract price of the work, conditioned for the faithful performance of the contract according to its tenor and effect and the satisfaction of obligation for materials used and labor employed upon the same.

The obligation to give the performance bond mentioned in this paragraph, as well as to execute the instrument incorporating the construction contract, within five (5) days from notice of acceptance of the bid, as stated in paragraph 10 of the instruction to bidders, were accepted by petitioner herein, for he submitted his bid "subject to all conditions and requirements" of respondent's invitation for bids. Hence, his (petitioner's) bid explicitly says:

We (or I) make this proposal with a full knowledge of the kind, quantity, and quality of the articles and services required and said proposal is accepted will, after receiving written notice of such acceptance, enter into contract within five (5) days, with good and sufficient securities for the faithful performance thereof.

Accordingly, respondent's communication of June 16, 1952, advised petitioners that the contract for plumbing installations was awarded to him for P12,800 "with performance bond of 20% thereof." Again, the letter of respondent's manager in Davao, dated July 28, 1952, informed petitioner that the contract for the plumbing installations had been received from the head office and asked him to call at the writer's office for the purpose of affixing his signature on said contract, and requested him to post said performance bond. Petitioner's failure to do so did not relieve him of the obligation arising from the un-qualified acceptance of his offer. Much less did it affect the existence of a contract between him and respondent.

Petitioner insists that the giving of a performance bond was a condition precedent. But *such condition presupposes the existence of a contract*, which is qualified thereby. Compliance with said condition is essential to the existence of petitioner's right to undertake the plumbing installations and collect the price thereof. But, he had a *contractual* right to give the performance bond, in the sense that respondent had granted him by agreement the right to post said bond, and, once this had been done, he could invoke and enforce his other rights by virtue of the award in his favor. At the same time, respondent had a contractual right to demand the posting of the performance bond, and, upon failure of petitioner to do so, respondent had a *similar* right to refuse to allow petitioner to under-take the plumbing installations and to demand damages for breach of petitioner's obligations. In either case, the existence of the contractual relation between the parties did not depend upon the posting the

performance bond. Although, the latter was essential to the birth of some of the rights stipulated in favor of *petitioner* herein, those of respondent were *not* conditioned upon the giving of said performance bond.

Being in accordance with the facts and the law, the decision of the Court of Appeals is hereby affirmed, therefore, with costs against petitioner Brigido R. Valencia. It is so ordered.

Paras, C.J., Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J.B.L., Endencia and Felix, JJ., concur.