THIRD DIVISION
[G.R. No. 147465, January 30, 2002]

METROPOLITAN MANILA DEVELOPMENT AUTHORITY, *petitioner,* ***vs.*** **JANCOM ENVIRONMENTAL CORPORATION and JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY. LIMITED OF AUSTRALIA,** *respondents.*

D E C I S I O N

MELO, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Civil Procedure filed by petitioner Metropolitan Manila Development Authority (MMDA), seeking to reverse and set aside the November 13, 2000 decision of the Court of Appeals declaring valid and perfected the waste management contract entered into by the Republic of the Philippines, represented by the Secretary of National Resources and the Executive Committee to oversee the build-operate-transfer implementation of solid waste management projects, and JANCOM Environmental Corporation.

The pertinent facts are as follows:

In 1994, then President Fidel V. Ramos issued Presidential Memorandum Order No. 202 creating the Executive Committee (EXECOM) to oversee the BOT implementation of solid waste management projects, headed by the Chairman of the MMDA and the Cabinet Officer for Regional Development-National Capital Region (CORD-NCR). The EXECOM was to oversee and develop waste-to-energy projects for the waste disposal sites in San Mateo, Rizal and Carmona, Cavite under the build-operate-transfer (BOT) scheme. The terms of reference for the waste-to-energy projects provided that its proponents should have the capability to establish municipal solid waste thermal plants using incineration technology. This type of technology was selected because of its alleged advantages of greatly reduced waste volume, prolongation of the service life of the disposal site, and generation of electricity.

While eleven (11) proponents submitted their pre-qualification documents, most failed to comply with the requirements under Section 5.4 of the Implementing Rules and Regulations (IRR) of Republic Act No. 6957, otherwise known as the Build-Operate-Transfer Law. On July 21, 1995, the Pre-qualification, Bids and Awards Committee (PBAC) recommended the pre-qualification of three proponents, namely: i) JANCOM International Pty. Ltd.; ii) First Philippine International W-E Managers; and iii) PACTECH Development Corporation. On July 26, 1995, the EXECOM approved the recommendation of the PBAC. On July 27, 1995, MMDA forwarded to the Investment Coordinating Committee (ICC) Secretariat the pre-feasibility study on the privatization of the Carmona and San Mateo landfill sites. The project was later presented to the ICC-Technical Board (ICC-TB) and then endorsed to the ICC-Cabinet Committee (ICC-CC).

On May 2, 1996, the PBAC conducted a pre-bid conference where it required the three pre-qualified bidders to submit, within ninety (90) days, their bid proposals. On August

2, 1996, JANCOM and First Philippines requested for an extension of time to submit their bids. PACTECH, on the other hand, withdrew from the bidding.

Subsequently, JANCOM entered into a partnership with Asea Brown Boveri (ABB) to form JANCOM Environmental Corporation while First Philippines formed a partnership with OGDEN. Due to the change in the composition of the proponents, particularly in their technology partners and contractors, the PBAC conducted a post pre-qualification evaluation.

During the second bid conference, the bid proposals of First Philippines for the Carmona site and JANCOM for the San Mateo site were found to be complete and responsive. Consequently, on February 12, 1997, JANCOM and First Philippines were declared the winning bidders, respectively, for the San Mateo and the Carmona projects.

In a letter dated February 27, 1997, then MMDA Chairman Prospero I. Oreta informed JANCOM's Chief Executive Officer Jay Alparslan that the EXECOM had approved the PBAC recommendation to award to JANCOM the San Mateo Waste-to-Energy Project on the basis of the final Evaluation Report declaring JANCOM International Ltd., Pty., together with Asea Brown Boveri (ABB), as the sole complying (winning) bidder for the San Mateo Waste Disposal site, subject to negotiation and mutual approval of the terms and conditions of the contract of award. The letter also notified Alparslan that the EXECOM had created a negotiating team — composed of Secretary General Antonio Hidalgo of the Housing and Urban Development Coordinating Council, Director Ronald G. Fontamillas, General Manager Roberto Nacianceno of MMDA, and Atty. Eduardo Torres of the host local government unit — to work out and finalize the contract award. Chairman Oreta requested JANCOM to submit to the EXECOM the composition of its own negotiating team.

Thereafter, after a series of meetings and consultations between the negotiating teams of EXECOM and JANCOM, a draft BOT contract was prepared and presented to the Presidential Task Force on Solid Waste Management.

On December 19, 1997, the BOT Contract for the waste-to-energy project was signed between JANCOM and the Philippine Government, represented by the Presidential Task Force on Solid Waste Management through DENR Secretary Victor Ramos, CORD-NCR Chairman Dionisio dela Serna, and MMDA Chairman Prospero Oreta.

On March 5, 1998, the BOT contract was submitted to President Ramos for approval but this was too close to the end of his term which expired without him signing the contract. President Ramos, however, endorsed the contract to incoming President Joseph E. Estrada.

With the change of administration, the composition of the EXECOM also changed. Memorandum Order No. 19 appointed the Chairman of the Presidential Committee on Flagship Programs and Project to be the EXECOM chairman. Too, Republic Act No. 8749, otherwise known as the Clean Air Act of 1999, was passed by Congress. And due to the clamor of residents of Rizal province, President Estrada had, in the interim, also ordered the closure of the San Mateo landfill. Due to these circumstances, the Greater Manila Solid Waste Management Committee adopted a resolution not to pursue the BOT contract with

JANCOM. Subsequently, in a letter dated November 4, 1999, Roberto Aventajado, Chairman of the Presidential Committee on Flagship Programs and Project informed Mr. Jay Alparslan, Chairman of JANCOM, that due to changes in policy and economic environment (Clean Air Act and non-availability of the San Mateo landfill), the implementation of the BOT contract executed and signed between JANCOM and the Philippine Government would no longer be pursued. The letter stated that other alternative implementation arrangements for solid waste management for Metro Manila would be considered instead.

JANCOM appealed to President Joseph Estrada the position taken by the EXECOM not to pursue the BOT Contract executed and signed between JANCOM and the Philippine Government, refuting the cited reasons for non-implementation. Despite the pendency of the appeal, MMDA, on February 22, 2000, caused the publication in a newspaper of an invitation to pre-qualify and to submit proposals for solid waste management projects for Metro Manila. JANCOM thus filed with the Regional Trial Court of Pasig a petition for *certiorari* to declare i) the resolution of the Greater Metropolitan Manila Solid Waste Management Committee disregarding the BOT Contract and ii) the acts of MMDA calling for bids and authorizing a new contract for Metro Manila waste management, as illegal, unconstitutional, and void; and for prohibition to enjoin the Greater Metropolitan Manila Solid Waste Management Committee and MMDA from implementing the assailed resolution and disregarding the Award to, and the BOT contract with, JANCOM, and from making another award in its place. On May 29, 2000, the trial court rendered a decision, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of petitioners JANCOM ENVIRONMENTAL CORPORATION, and JANCOM INTERNATIONAL DEVELOPMENT PROJECTS PTY., LIMITED OF AUSTRALIA, and against respondent GREATER METROPOLITAN MANILA SOLID WASTE MANAGEMENT COMM., and HON. ROBERTO N. AVENTAJADO, in his Capacity as Chairman of the said Committee, METRO MANILA DEVELOPMENT AUTHORITY and HON. JEJOMAR C. BINAY, in his capacity as Chairman of said Authority, declaring the Resolution of respondent Greater Metropolitan Manila Solid Waste Management Committee disregarding petitioners' BOT Award Contract and calling for bids for and authorizing a new contract for the Metro Manila waste management ILLEGAL and VOID.
>
> Moreover, respondents and their agents are hereby PROHIBITED and ENJOINED from implementing the aforesaid Resolution and disregarding petitioners' BOT Award Contract and from making another award in its place.
>
> Let it be emphasized that this Court is not preventing or stopping the government from implementing infrastructure projects as it is aware of the proscription under PD 1818. On the contrary, the Court is paving the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country.
> (Rollo,p. 159.)

Instead of appealing the decision, MMDA filed a special civil action for *certiorari* with prayer for a temporary restraining order with the Court of Appeals which was later docketed therein as CA-G.R. SP No. 59021. The appellate court not only required JANCOM to comment on the petition, it also granted MMDA's prayer for a temporary restraining order. During the pendency of the petition for *certiorari,* JANCOM moved for the execution of the RTC decision, which was opposed by MMDA. However, the RTC granted the motion for execution on the ground that its decision had become final since MMDA had not appealed the same to the Court of Appeals. MMDA moved to declare respondents and the RTC judge in contempt of court, alleging that the RTC's grant of execution was abuse of and interference with judicial rules and processes.

On November 13, 2001, the Court of Appeals dismissed the petition in CA-G.R. SP No. 59021 and a companion case, CA-G.R. SP No. 60303.

MMDA's motion for reconsideration of said decision having been denied, MMDA filed the instant petition, alleging that the Court of Appeals gravely erred in finding that:

1) There is a valid and binding contract between the Republic of the Philippines and JANCOM given that: a) the contract does not bear the signature of the President of the Philippines; b) the conditions precedent specified in the contract were not complied with; and c) there was no valid notice of award.

2) The MMDA had not seasonably appealed the Decision of the lower court via a petition for certiorari.

Before taking up the substantive issue in question, we shall first dispose of the question as to whether it is fatal to petitioner's cause, that rather than appealing the trial court's decision to the Court of Appeals, it instead filed a petition for *certiorari.* While petitioner claims that the trial court's decision never became final by virtue of its having appealed by *certiorari* to the Court of Appeals, the trial court ruled that petitioner's failure to file an appeal has made its decision final and executory. At bottom, the question involves a determination of the propriety of petitioner's choice of the remedy of *certiorari* in questioning the decision of the trial court.

Section 1, Rule 65 of the 1997 Rules of Civil Procedure provides:

> Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, **and there is no appeal,** or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

> The petition shall be accompanied by a certified true copy of the judgment, order, or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

Plain it is from a reading of the above provision that *certiorari* will lie only where a court has acted without or in excess of jurisdiction or with grave abuse of discretion. If the court has jurisdiction over the subject matter and of the person, its rulings upon all questions involved are within its jurisdiction, however irregular or erroneous these may be, they cannot be corrected by *certiorari.* Correction may be obtained only by an appeal from the final decision.

Verily, Section 1, Rule 41 of the 1997 Rules of Civil Procedure provides:

> SEC. 1. *Subject of appeal.*— An appeal may be taken from a judgment or final order that completely disposes of the case or of a particular matter therein when declared by these Rules to be appealable.
>
> xxx xxx xxx
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

There can be no dispute that the trial court's May 29, 2000 decision was a final order or judgment which MMDA should have appealed, had it been so minded. In its decision, the trial court disposed of the main controversy by "declaring the Resolution of respondent Greater Metropolitan Manila Solid Waste Management Committee disregarding petitioner's BOT Award Contract and calling for bids for and authorizing a new contract for the Metro Manila waste management ILLEGAL and VOID." This ruling completely disposed of the controversy between MMDA and JANCOM. In *BA Finance Corporation vs. CA* (229 SCRA 5667 [1994]), we held that a "final" order or judgment is one which "disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined." An order or judgment is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the trial court. In other words, a final order is that which gives an end to the litigation. A final order or judgment finally disposes of, adjudicates, or determines the rights, or some right or rights of the parties, either on the entire controversy or on some definite and separate branch thereof, and concludes them until it is reversed or set aside. Where no issue is left for future consideration, except the fact of compliance or non-compliance with the terms of the judgment or doer, such judgment or order is final and appealable *(Investments, Inc. vs. Court of Appeals,* 147 SCRA 334 [1987]).

However, instead of appealing the decision, MMDA resorted to the extraordinary remedy of *certiorari,* as a mode of obtaining reversal of the judgment. This cannot be done. The judgment was not in any sense null and void *ab initio,* incapable of producing any legal effects whatever, which could be resisted at any time and in any court it was attempted. It

was a judgment which could or may have suffered from some substantial error in procedure or in findings of fact or of law, and on that account, it could have been reversed or modified on appeal. But since it was not appealed, it became final and has thus gone beyond the reach of any court to modify in any substantive aspect. The remedy to obtain reversal or modification of the judgment on the merits is appeal. This is true even if the error, or one of the errors, ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision. The existence and availability of the right of appeal proscribes a resort to *certiorari,* because one of the requirements for availment of the latter remedy is precisely that "there should be no appeal" *(Mercado vs. CA,* 162 SCRA 75 [1988]). As incisively observed by the Court of Appeals:

> The special civil action for certiorari is available only when there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law (Sec. 1, rule 65*, id.*)
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> Admittedly, appeal could have been taken from the assailed RTC decision. However, petitioners maintain that appeal is not a speedy remedy because the RTC decision prohibiting them from conducting a bidding for a new waste disposal project has adverse and serious effects on the city's garbage situation.
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> Nevertheless, the RTC decision is not immediately executory. Only judgments in actions for injunction, receivership, accounting and support and such other judgments as are now or may hereafter be declared to be immediately executory shall be enforced after their rendition and shall not be stayed by an appeal therefrom, unless otherwise ordered by the trial court (Sec. 4, rule 39, *id.*).
>
> Since the RTC decision is not immediately executory, appeal would have stayed its execution. Consequently, the adverse effects of said decision will not visit upon petitioners during the appeal. In other words, appeal is a plain, speedy and adequate remedy in the ordinary course of the law.
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> But as no appeal was taken within the reglementary period, the RTC decision had become final and executory. Well-settled is the rule that the special civil action for certiorari may not be invoked as a substitute for the remedy of appeal (BF Corporation vs. Court of Appeals, 288 SCRA 267). Therefore, the extraordinary remedy of certiorari does not lie.
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> Moreover, petitioners instituted the instant action without filing a motion for reconsideration of the RTC decision. Doctrinal is the rule that certiorari will not lie unless a motion for reconsideration is first filed before the respondent tribunal to allow it an opportunity to correct its errors (*Zapanta vs. NLRC,* 292 SCRA 580).
> (Rollo, p. 47-48.)

Admittedly, there are instances where the extraordinary remedy of *certiorari* may be resorted to despite the availability of an appeal. In *Ruiz, Jr. vs. Court of Appeals* (220 SCRA 490 [1993]), we held:

> Considered extraordinary, [*certiorari*] is made available only when there is no appeal, nor any plain, speedy or adequate remedy in the ordinary course of the law (Rule 65, Rules of Court, Section 1). The long line of decisions denying the petition for *certiorari,* either before appeal was availed or specially in instances where the appeal period has lapsed, far outnumbers the instances when certiorari was given due course. *The few significant exceptions were: when public welfare and the advancement of public policy dictate; or when the broader interests of justice so require, or when the writs issued are null . . . or when the questioned order amounts to an oppressive exercise of judicial authority.*

In the instant case, however, MMDA has not sufficiently established the existence of any fact or reason to justify its resort to the extraordinary remedy of *certiorari.* Neither does the record show that the instant case, indeed, falls under any of the exceptions aforementioned.

The Court thus holds that the Court of Appeals did not err in declaring that the trial court's decision has become final due to the failure of MMDA to perfect an appeal within the reglementary period.

With the foregoing disquisition, it would appear unnecessarily to discuss and resolve the substantive issue posed before the Court. However, the procedural flaw notwithstanding, the Court deems it judicious to take cognizance of the substantive question, if only to put petitioner's mind to rest.

In its second assignment of errors, petitioner MMDA contends that there is no valid and binding contract between the Republic of the Philippines and respondents because: a) the BOT contract does not bear the signature of the President of the Philippines; b) the conditions precedent specified in the contract were not complied with; and that c) there was no valid notice of award.

These contentions hold no water.

Under Article 1305 of the Civil Code, "[a] contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service." A contract undergoes three distinct stages — preparation or negotiation, its perfection, and finally, its consummation. *Negotiation* begins from the time the prospective contracting parties manifest their interest in the contract and ends at the moment of agreement of the parties. The *perfection* or birth of the contract takes place when the parties agree upon the essential elements of the contract. The last stage is the *consummation* of the contract wherein the parties fulfill or perform the terms agreed upon in the contract, culminating in the extinguishment thereof *(Bugatti vs. CA,* 343 SCRA 335 [2000]). Article 1315 of the Civil Code, provides that a contract is perfected by mere

consent. Consent, on the other hand, is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract (See Article 1319, Civil Code). In the case at bar, the signing and execution of the contract by the parties clearly show that, as between the parties, there was a concurrence of offer and acceptance with respect to the material details of the contract, thereby giving rise to the perfection of the contract. The execution and signing of the contract is not disputed by the parties. As the Court of Appeals aptly held:

> [C]ontrary to petitioners' insistence that there was no perfected contract, the meeting of the offer and acceptance upon the thing and the cause, which are to constitute the contract (Arts. 1315 and 1319, New Civil Code), is borne out by the records.
>
> Admittedly, when petitioners accepted private respondents' bid proposal (offer), there was, in effect, a meeting of the minds upon the object (waste management project) and the cause (BOT scheme). Hence, the perfection of the contract. In *City of Cebu vs. Heirs of Candido Rubi* (306 SCRA 108), the Supreme Court held that "the effect of an unqualified acceptance of the offer or proposal of the bidder is to perfect a contract, upon notice of the award to the bidder.
>
> (Rollo, p. 48-49.)

In fact, in asserting that there is no valid and binding contract between the parties, MMDA can only allege that there was no valid notice of award; that the contract does not bear the signature of the President of the Philippines; and that the conditions precedent specified in the contract were not complied with.

In asserting that the notice of award to JANCOM is not a proper notice of award, MMDA points to the Implementing Rules and Regulations of Republic Act No. 6957, otherwise known as the BOT Law, which require that i) prior to the notice of award, an Investment Coordinating Committee clearance must first be obtained; and ii) the notice of award indicate the time within which the awardee shall submit the prescribed performance security, proof of commitment of equity contributions and indications of financing resources.

Admittedly, the notice of award has not complied with these requirements. However, the defect was cured by the subsequent execution of the contract entered into and signed by authorized representatives of the parties; hence, it may not be gainsaid that there is a perfected contract existing between the parties giving to them certain rights and obligations (conditions precedents) in accordance with the terms and conditions thereof. We borrow the words of the Court of Appeals:

> Petitioners belabor the point that there was no valid notice of award as to constitute acceptance of private respondent's offer. They maintain that former MMDA Chairman Oreta's letter to JANCOM EC dated February 27, 1997 cannot be considered as a valid notice of award as it does not comply

with the rules implementing Rep. Act No. 6957, as amended. The argument is untenable.

The fact that Chairman Oreta's letter informed JANCOM EC that it was the "sole complying (winning) bidder for the San Mateo project leads to no other conclusion than that the project was being awarded to it. But assuming that said notice of award did not comply with the legal requirements, **private respondents cannot be faulted therefore as it was the government representatives' duty to issue the proper notice.**

In any event, petitioners, as successors of those who previously acted for the government (Chairman Oreta, et al), are estopped from assailing the validity of the notice of award issued by the latter. As private respondents correctly observed, in negotiating on the terms and conditions of the BOT contract and eventually signing said contract, the government had led private respondents to believe that the notice of award given to them satisfied all the requirement of the law.

While the government cannot be estopped by the erroneous acts of its agents, nevertheless, petitioners may not now assail the validity of the subject notice of award to the prejudice of private respondents. Until the institution of the original action before the RTC, invalidity of the notice of award was never invoked as a ground for termination of the BOT contract. In fact, the reasons cited for terminating the San Mateo project, per Chairman Aventajado's letter to JANCOM EC dated November 4, 1999, were its purported non-implementability and non-viability on account of supervening events, e.g., passage of the Clean Air Act, etc.

(Rollo, p. 49-50.)

MMDA also points to the absence of the President's signature as proof that the same has not yet been perfected. Not only that, the authority of the signatories to bind the Republic has even been put to question. Firstly, it is pointed out that Memorandum Order No. 202 creating the Executive Committee to oversee the BOT implementation of solid waste management projects only charged the officials thereof with the duty of recommending to the President the specific project to be implemented under the BOT scheme for both San Mateo and Carmona sites. Hence, it is concluded that the signatories, CORD-NCR Chairman Dionisio dela Serna and MMDA Chairman Prospero Oreta, had no authority to enter into any waste management project for and in behalf of the Government. Secondly, Section 59 of Executive Order No. 292 is relied upon as authority for the proposition that presidential approval is necessary for the validity of the contract.

The first argument conveniently overlooks the fact that then Secretary of Environment and Natural Resources Victor Ramos was likewise a signatory to the contract. While dela Serna and Oreta may not have had any authority to sign, the Secretary of Environment and Natural Resources has such an authority. In fact, the authority of the signatories to the contract was not denied by the Solicitor General. Moreover, as observed

by the Court of Appeals, "[i]t was not alleged, much less shown, that those who signed in behalf of the Republic had acted beyond the scope of their authority."
In truth, the argument raised by MMDA does not focus on the lack of authority of the signatories, but on the amount involved as placing the contract beyond the authority of the signatories to approve. Section 59 of Executive Order No. 292 reads:

> Section 59. *Contracts for Approval by the President.* Contracts for infrastructure projects, including contracts for the supply of materials and equipment to be used in said projects, which involve amounts above the ceilings provided in the preceding section shall be approved by the President: *Provided,* That the President may, when conditions so warrant, and upon recommendation of the National Economic and Development Authority, revise the aforesaid ceilings of approving authority.

However, the Court of Appeals trenchantly observed in this connection:

> As regards the President's approval of infrastructure projects required under Section 59 of Executive Order No. 292, said section does not apply to the BOT contract in question. Sec. 59 should be correlated with Sec. 58 of Exec. Order No. 292. Said sections read:
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> > SECTION 58. Ceiling for Infrastructure Contracts.— The following shall be the ceilings for all civil works, construction and other contracts for infrastructure projects, including supply contracts for said projects, awarded through public bidding or through negotiation, *which may be approved by the Secretaries of Public Works and Highways, Transportation and Communications, Local Government with respect to Rural Road improvement Project and governing boards of government-owned or controlled corporations:*
> >
> > xxx xxx xxx
> >
> > Save as provided for above, the approval ceilings assigned to the departments/agencies involved in national infrastructure and construction projects shall remain at the levels provided in existing laws, rules and regulations.

Contrary to petitioner's claim that all infrastructure contracts require the President's approval (Petition, p. 16), Sec. 59 provides that such approval is required only in infrastructure contracts involving amounts exceeding the ceilings set in Sec. 58. Significantly, the infrastructure contracts treated in Sec. 58 pertain only to those which may be approved by the Secretaries of Public Works and Highways, Transportation and Communications, Local Government (with respect to Rural Road Improvement Project) and the governing boards of certain government-owned or controlled corporations. Consequently, the BOT contract in question, which was approved by the

DENR Secretary and the EXCOM Chairman and Co-Chairman, is not covered by Exec. Order No. 292.
(Rollo, p. 51-52.)

The provision pertinent to the authority of the Secretary of Environment and Natural Resources would actually be Section 1 of Executive Order No. 380, Series of 1989 which provides that "The Secretaries of all Departments and Governing Boards of government-owned or controlled corporations [except the Secretaries of Public Works and Highways, Transportation and Communication, and Local Government with respect to Rural Road Improvement projects] **can enter into publicly bidded contracts regardless of amount** (See also Section 515, Government Accounting and Auditing Manual — Volume I)." Consequently, MMDA may not claim that the BOT contract is not valid and binding due to the lack of presidential approval.

Significantly, the contract itself provides that the signature of the President is necessary only for its effectivity (not perfection), pursuant to Article 19 of the contract, which reads:

> This contract shall become effective upon approval by the President of the Republic of the Philippines pursuant to existing laws subject to the condition, precedent in Article 18. This contract shall remain in full force and effect for twenty-five (25) years subject to renewal for another twenty-five (25) years from the date of Effectivity. Such renewal will be subject to mutual agreement of the parties and approval of the President of the Republic of the Philippines.
> (Rollo, p. 94.)

Stated differently, while the twenty-five year effectivity period of the contract has not yet started to run because of the absence of the President's signature, the contract has, nonetheless, already been perfected.

As to the contention that there is no perfected contract due to JANCOM's failure to comply with several conditions precedent, the same is, likewise, unmeritorious. Article 18 of the BOT contract reads:

ARTICLE 18

CONDITIONS PRECEDENT

xxx

18.2.1. The BOT COMPANY hereby undertakes to provide the following *within 2 months from execution of this Contract as an effective document:*

a) sufficient proof of the actual equity contributions from the proposed shareholders of the BOT COMPANY in a total amount not less than PHP500,000,000 in accordance with the BOT Law and the implementing rules and regulations;

b) sufficient proof of financial commitment from a lending institution sufficient to cover total project cost in accordance with the BOT Law and the implementing rules and regulations;

c) to support its obligation under this Contract, the BOT COMPANY shall submit a security bond to the CLIENT in accordance with the form and amount required under the BOT Law.

xxx

18.2.3. *Completion of Documentary Requirements as per Schedule 4 by the BOT Company*

As clearly stated in Article 18, JANCOM undertook to comply with the stated conditions *within 2 months from execution of the Contract as an effective document.* Since the President of the Philippines has not yet affixed his signature on the contract, the same has not yet become an effective document. Thus, the two-month period within which JANCOM should comply with the conditions has not yet started to run. It cannot thus be said that JANCOM has already failed to comply with the "conditions precedent" mandated by the contract. By arguing that "failure [of JANCOM] to comply with the conditions results in the failure of a contract or prevents the judicial relation from coming into existence," MMDA reads into the contract something which is not contemplated by the parties. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control (Art. 1370, Civil Code).

We, therefore, hold that the Court of Appeals did not err when it declared the existence of a valid and perfected contract between the Republic of the Philippines and JANCOM. There being a perfected contract, MMDA cannot revoke or renounce the same without the consent of the other. From the moment of perfection, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage, and law (Article 1315, Civil Code). The contract has the force of law between the parties and they are expected to abide in good faith by their respective contractual commitments, not weasel out of them. Just as nobody can be forced to enter into a contract, in the same manner, once a contract is entered into, no party can renounce it unilaterally or without the consent of the other. It is a general principle of law that no one may be permitted to change his mind or disavow and go back upon his own acts, or to proceed contrary thereto, to the prejudice of the other party. Nonetheless, it has to be repeated that although the contract is a perfected one, it is still ineffective or unimplementable until and unless it is approved by the President.

Moreover, if after a perfected and binding contract has been executed between the parties, it occurs to one of them to allege some defect therein as reason for annulling it, the alleged defect must be conclusively proven, since the validity and the fulfillment of contracts cannot be left to the will of one of the contracting parties. In the case at bar, the reasons cited by MMDA for not pushing through with the subject contract were: 1) the

passage of the Clean Air Act, which allegedly bans incineration; 2) the closure of the San Mateo landfill site; and 3) the costly tipping fee. These reasons are bereft of merit

Once again, we make reference to the insightful declarations of the Court of Appeals:

> Sec. 20 of the Clean Air Act pertinently reads:
>
> SECTION 20. *Ban on Incineration.*— Incineration, hereby defined as the burning of municipal, bio-chemical and hazardous wastes, which process emits poisonous and toxic fumes, is hereby prohibited: x x x."
>
> Section 20 does not absolutely prohibit incineration as a mode of waste disposal; rather only those burning processes which emit poisonous and toxic fumes are banned.
>
> As regards the projected closure of the San Mateo landfill vis-à-vis the implementability of the contract, Art. 2.3 thereof expressly states that "[i]n the event the project Site is not delivered x x x, the Presidential task Force on Solid Waste Management (PTFSWM) and the Client, shall provide within a reasonable period of time, a suitable alternative acceptable to the BOT COMPANY."
>
> With respect to the alleged financial non-viability of the project because the MMDA and the local government units cannot afford the tipping fees under the contract, this circumstance cannot, by itself, abrogate the entire agreement.
>
> Doctrinal is the rule that neither the law nor the courts will extricate a party from an unwise or undesirable contract, or stipulation for that matter, he or she entered into with full awareness of its consequences (*Opulencia vs. CA,* 293 SCRA 385). Indeed, the terms and conditions of the subject contract were arrived at after due negotiations between the parties thereto.
> (Rollo, p. 54.)

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit and the decision of the Court of Appeals in CA-G.R. SP No. 59021 dated November 13, 2001 AFFIRMED. No costs.

SO ORDERED.

Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

Carpio, J., no part. I was former counsel to a foreign partner of Jancom Environmental Corporation