Republic of the Philippines
Supreme Court
Manila

**SECOND DIVISION**

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| **CARLOS A. LORIA,** Petitioner, | **G.R. No. 187240** |
| | Present: |
| -versus- | CARPIO, *J., Chairperson,* MENDOZA, REYES,* PERLAS-BERNABE,* and LEONEN, *JJ.* |
| **LUDOLFO P. MUÑOZ, JR.** Respondent. | **Promulgated:** OCT 15 2014 |

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**DECISION**

**LEONEN, *J.*:**

No person should unjustly enrich himself or herself at the expense of another.

This is a petition for review on certiorari[1] to set aside the Court of Appeals' decision[2] and resolution[3] in CA-G.R. CV No. 81882. The Court of Appeals ordered petitioner Carlos A. Loria to pay respondent Ludolfo P.

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* Designated Acting Member per Special Order No. 1844 dated October 14, 2014.

* Designated Additional Member per Raffle dated October 13, 2014.

1 *Rollo,* pp. 3–33.

2 Id. at 34–45. This decision is dated October 23, 2009. Associate Justice Arcangelita M. Romilla-Lontok penned the decision with Associate Justices Mariano C. Del Castillo (now a Justice of this court) and Romeo F. Barza concurring.

3 Id. at 46.

Muñoz, Jr. □2,000,000.00 in actual damages with 12% interest per year from the filing of the complaint until full payment.[4]

The facts of this case are as follows:

Ludolfo P. Muñoz, Jr. (Muñoz) filed a complaint for sum of money and damages with an application for issuance of a writ of preliminary attachment against Carlos A. Loria (Loria) with the Regional Trial Court of Legazpi City.[5]

In his complaint, Muñoz alleged that he has been engaged in construction under the name, "Ludolfo P. Muñoz, Jr. Construction." In August 2000, Loria visited Muñoz in his office in Doña Maria Subdivision in Daraga, Albay. He invited Muñoz to advance □2,000,000.00 for a subcontract of a □50,000,000.00 river-dredging project in Guinobatan.[6]

Loria represented that he would make arrangements such that Elizaldy Co, owner of Sunwest Construction and Development Corporation, would turn out to be the lowest bidder for the project. Elizaldy Co would pay □8,000,000.00 to ensure the project's award to Sunwest. After the award to Sunwest, Sunwest would subcontract 20% or □10,000,000.00 worth of the project to Muñoz.[7]

Since Muñoz had known Loria for five years, Muñoz accepted Loria's proposal.[8]

On October 2, 2000, Muñoz requested Allied Bank to release □3,000,000.00 from his joint account with his business partner, Christopher Co, to a certain Grace delos Santos (delos Santos). Loria then obtained the money from delos Santos.[9]

Four days later, □1,800,000.00 of the □3,000,000.00 was returned to Muñoz.[10]

On January 10, 2001, Loria collected Muñoz's □800,000.00 balance. After deducting Loria's personal loans from Muñoz, Muñoz issued a check to Loria for □481,800.00. Loria acknowledged receiving this amount from

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4 Id. at 44.
5 Id. at 47.
6 Id. at 35 and 51.
7 Id. at 35.
8 Id. at 51.
9 Id.
10 Id. at 35–51.

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Muñoz.[11]

The project to dredge the Masarawag and San Francisco Rivers in Guinobatan was subjected to public bidding. The project was awarded to the lowest bidder, Sunwest Construction and Development Corporation.[12]

Sunwest allegedly finished dredging the Masarawag and San Francisco Rivers without subcontracting Muñoz.[13] With the project allegedly finished, Muñoz demanded Loria to return his □2,000,000.00. Loria, however, did not return the money.[14]

Muñoz first charged Loria and Elizaldy Co with estafa. This criminal case was dismissed by the Municipal Trial Court of Daraga, Albay for lack of probable cause.[15]

Muñoz then filed the complaint for sum of money. The case was raffled to Branch 6 and presided by Judge Vladimir B. Brusola.[16]

Loria answered Muñoz's complaint. He admitted receiving □481,800.00 from Muñoz but argued that the complaint did not state a cause of action against him. According to Loria, he followed up the project's approval with the Central Office of the Department of Public Works and Highways as the parties agreed upon. He was, therefore, entitled to his representation expenses.[17]

Loria also argued that Muñoz was guilty of forum shopping. Muñoz first filed a criminal complaint for estafa against him and Elizaldy Co, which complaint the Municipal Trial Court of Daraga, Albay dismissed. The subsequently filed complaint for sum of money, allegedly a complaint to recover the civil aspect of the estafa case, must, therefore, be dismissed as argued by Loria.[18]

During pre-trial, the parties agreed to litigate the sole issue of whether Loria is liable to Muñoz for □2,000,000.00.[19]

According to the trial court, Muñoz established with preponderant evidence that Loria received □2,000,000.00 from Muñoz for a subcontract

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11 Id. at 35–51.
12 Id. at 51.
13 Id.
14 Id. at 11 and 51.
15 Id.
16 Id. at 11 and 52.
17 Id. at 49.
18 Id.
19 Id. at 50.

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of the river-dredging project. Since no part of the project was subcontracted to Muñoz, Loria must return the □2,000,000.00 he received, or he would be "unduly enriching himself at the expense of [Muñoz]."[20]

On the claim of forum shopping, the trial court ruled that Loria's obligation to return the □2,000,000.00 did not arise from criminal liability. Muñoz may, therefore, file a civil action to recover his □2,000,000.00.[21]

As to the prayer for issuance of a writ of preliminary attachment, the trial court denied the prayer for lack of sufficient basis.[22]

Thus, in the decision[23] dated January 30, 2004, the trial court ordered Loria to return the □2,000,000.00 to Muñoz as actual damages with 12% interest from the filing of the complaint until the amount's full payment. The trial court likewise ordered Loria to pay Muñoz □100,000.00 in attorney's fees, □25,000.00 in litigation expenses, and □25,000.00 in exemplary damages with costs against Loria.[24]

Loria appealed to the Court of Appeals, arguing that Muñoz failed to establish his receipt of the □2,000,000.00. Specifically, Muñoz failed to establish that he obtained □3,000,000.00 from a certain Grace delos Santos. Loria also appealed the award of attorney's fees, litigation expenses, and exemplary damages for having no basis in fact and in law.[25]

The Court of Appeals sustained the trial court's factual findings. In ruling that Loria received the net amount of □2,000,000.00 from Muñoz, the Court of Appeals referred to Muñoz's testimony that he ordered Allied Bank to release □3,000,000.00 from his joint account with Christopher Co to a certain Grace delos Santos.[26] Loria then obtained the money from delos Santos and confirmed with Muñoz his receipt of the money.[27] This testimony, according to the appellate court, was supported by Exhibit "C," a check voucher the trial court admitted in evidence. Loria signed this check voucher and acknowledged receiving □1,200,000.00 on October 2, 2000 and □800,000.00 on January 10, 2001, or a total of □2,000,000.00.[28]

Considering that Muñoz did not benefit from paying Loria □2,000,000.00, the appellate court ruled that Loria must return the money to

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20 Id. at 52.
21 Id. at 52–53.
22 Id. at 53.
23 Id.
24 Id.
25 Id. at 37.
26 Id. at 39–40.
27 Id. at 40.
28 Id. at 40.

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Muñoz under the principle of unjust enrichment.[29]

The appellate court, however, ruled that Muñoz failed to show his right to exemplary damages and attorney's fees.[30]

Thus, in the decision[31] dated October 23, 2008, the Court of Appeals affirmed the trial court's decision but deleted the award of exemplary damages and attorney's fees.[32] The appellate court likewise denied Loria's motion for reconsideration in the resolution[33] dated March 12, 2009.

Loria filed a petition for review on certiorari[34] with this court, arguing that the principle of unjust enrichment does not apply in this case. As the trial and appellate courts found, Muñoz paid Loria □2,000,000.00 for a subcontract of a government project. The parties' agreement, therefore, was void for being contrary to law, specifically, the Anti-Graft and Corrupt Practices Act, the Revised Penal Code, and Section 6 of Presidential Decree No. 1594. The agreement was likewise contrary to the public policy of public or open competitive bidding of government contracts.[35]

Since the parties' agreement was void, Loria argues that the parties were *in pari delicto*, and Muñoz should not be allowed to recover the money he gave under the contract.[36]

On the finding that he received a net amount of □2,000,000.00 from Muñoz, Loria maintains that Muñoz failed to prove his receipt of □3,000,000.00 through a certain Grace delos Santos.[37]

In the resolution[38] dated June 3, 2009, this court ordered Muñoz to comment on Loria's petition.

In his comment,[39] Muñoz argues that Loria's petition raises questions of fact and law that the trial and appellate courts have already passed upon and resolved in his favor. He prays that this court deny Loria's petition for raising questions of fact.

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29 Id. at 43–44.
30 Id. at 44.
31 Id. at 34–45.
32 Id. at 45.
33 Id. at 46.
34 Id. at 3–33.
35 Id. at 13–21.
36 Id. at 21–26.
37 Id. at 26–28.
38 Id. at 54.
39 Id. at 62–64.

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Loria replied[40] to the comment, arguing that he raised only questions of law in his petition.[41] Even assuming that he raised questions of fact, Loria argues that this does not warrant the automatic dismissal of his petition since the trial and appellate courts allegedly erred in ruling for Muñoz.[42]

On October 8, 2010, the parties filed their joint motion to render judgment based on the compromise agreement.[43] In their compromise agreement,[44] the parties declared that this case "was a product of a mere misunderstanding."[45] To amicably settle their dispute, the parties agreed to waive all their claims, rights, and interests against each other.[46]

This court denied the joint motion for lack of merit in the resolution[47] dated December 15, 2010.

The issues for our resolution are the following:

I. Whether Loria initially obtained □3,000,000.00 from a certain Grace delos Santos

II. Whether Loria is liable for □2,000,000.00 to Muñoz

We rule for Muñoz and deny Loria's petition for review on certiorari.

## I

**Whether Loria initially received □3,000,000.00 is a question of fact not proper in a petition for review on certiorari**

We first address Loria's contention that Muñoz failed to prove his initial receipt of □3,000,000.00. This is a question of fact the trial and appellate courts have already resolved. In a Rule 45 petition, we do not address questions of fact, questions which require us to rule on "the truth or falsehood of alleged facts."[48] Under Section 1, Rule 45 of the Rules of

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40 Id. at 81–86.
41 Id. at 82.
42 Id. at 82–84.
43 Id. at 90–91.
44 Id. at 92–95.
45 Id. at 93.
46 Id.
47 Id. at 96.
48 *Century Iron Works, Inc. v. Bañas,* G.R. No. 184116, June 19, 2013, 699 SCRA 157, 166 [Per J. Brion, Second Division].

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Court, we only entertain questions of law — questions as to the applicable law given a set of facts[49] — in a petition for review on certiorari:

> Section 1. *Filing of petition with Supreme Court.*
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> A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise *only questions of law* which must be distinctly set forth. (Emphasis supplied)[50]

We may review questions of fact in a Rule 45 petition:

> . . . (1) when the findings are grounded entirely on speculations, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in petitioner's main and reply briefs are not disputed by respondent; and (10) the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[51] [Emphases omitted]

Loria failed to convince us why we should make an exception in this case.

During trial, Muñoz testified that he ordered Allied Bank to release □3,000,000.00 from his joint account with Christopher Co to a certain Grace delos Santos.[52] Loria then obtained the money from delos Santos and confirmed with Muñoz his receipt of the amount.[53] □1,800,000.00 was subsequently returned to Muñoz, leaving a □1,200,000.00 balance with Loria. This testimony was supported by Exhibit "C," the check voucher where Loria acknowledged receiving □1,200,000.00 from Muñoz.[54]

We agree that these pieces of evidence duly prove Loria's initial receipt of □3,000,000.00. We will not disturb this finding.

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49 Id.

50 RULES OF COURT, Rule 45, sec. 1.

51 *Macasero v. Southern Industrial Gases Philippines,* 597 Phil. 494, 498–499 (2009) [Per J. Carpio Morales, Second Division], *citing Uy v. Villanueva,* 553 Phil. 69, 79 (2007) [Per J. Nachura, Third Division].

52 *Rollo,* p. 38.

53 Id. at 39-40.

54 Id. at 40.

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## II

**Loria must return Munoz's □2,000,000.00 under the principle of unjust enrichment**

Under Article 22 of the Civil Code of the Philippines, "every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him." There is unjust enrichment "when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience."[55]

The principle of unjust enrichment has two conditions. First, a person must have been benefited without a real or valid basis or justification. Second, the benefit was derived at another person's expense or damage.[56]

In this case, Loria received □2,000,000.00 from Muñoz for a subcontract of a government project to dredge the Masarawag and San Francisco Rivers in Guinobatan, Albay. However, contrary to the parties' agreement, Muñoz was not subcontracted for the project. Nevertheless, Loria retained the □2,000,000.00.

Thus, Loria was unjustly enriched. He retained Muñoz's money without valid basis or justification. Under Article 22 of the Civil Code of the Philippines, Loria must return the □2,000,000.00 to Muñoz.

Contrary to Loria's claim, Section 6 of the Presidential Decree No. 1594 does not prevent Muñoz from recovering his money.

Under Section 6 of the Presidential Decree No. 1594,[57] a contractor shall not subcontract a part or interest in a government infrastructure project without the approval of the relevant department secretary:

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[55] *Locsin II v. Mekeni Food Corporation,* G.R. No. 192105, December 9, 2013 < http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2013/december2013/192105.pdf> [Per J. Del Castillo, Second Division]; *Elegir v. Philippine Airlines, Inc.,* G.R. No. 181995, July 16, 2012, 676 SCRA 463, 484 [Per J. Reyes, Second Division].

[56] *Locsin II v. Mekeni Food Corporation,* G.R. No. 192105, December 9, 2013 < http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2013/december2013/192105.pdf> [Per J. Del Castillo, Second Division]; *Elegir v. Philippine Airlines, Inc.,* G.R. No. 181995, July 16, 2012, 676 SCRA 463, 484 [Per J. Reyes, Second Division]; *Privatization and Management Office v. Legaspi Towers 300, Inc.,* 611 Phil. 16, 28 (2009) [Per J. Peralta, Third Division]; *Tamio v. Ticson,* 485 Phil. 434, 443 (2004) [Per J. Panganiban, Third Division]; *H.L. Carlos Construction, Inc. v. Marina Properties Corp.,* 466 Phil. 182, 197 (2004) [Per J. Panganiban, First Division].

[57] Pres. Decree No. 1594 (1978), Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts.

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> Section 6. *Assignment and Contract.* The contractor shall not assign, transfer, pledge, subcontract or make any other disposition of the contract or any part or interest therein except with the approval of the Minister of Public Works, Transportation and Communications, the Minister of Public Highways, or the Minister of Energy, as the case may be. Approval of the subcontract shall not relieve the main contractor from any liability or obligation under his contract with the Government nor shall it create any contractual relation between the subcontractor and the Government.

A subcontract, therefore, is void only if not approved by the department secretary.

In this case, it is premature to rule on the legality of the parties' agreement precisely because the subcontract did not push through. No actual agreement was proven in evidence. The Secretary of Public Works and Highways could have approved the subcontract, which is allowed under Section 6 of the Presidential Decree No. 1594.

At any rate, even assuming that there was a subcontracting arrangement between Sunwest Construction and Development Corporation and Muñoz, this court has allowed recovery under a void subcontract as an exception to the *in pari delicto* doctrine.

In *Gonzalo v. Tarnate, Jr.*,[58] the Department of Public Works and Highways (DPWH) awarded the contract to Dominador Gonzalo to improve the Sadsadan-Maba-ay section of the Mountain Province Road. Gonzalo then subcontracted the supply of materials and labor to John Tarnate, Jr. without the approval of the Secretary of Public Works and Highways. The parties agreed to a total subcontract fee of 12% of the project's contract price.[59]

Tarnate, Jr. also rented equipment to Gonzalo. In a deed of assignment, the parties agreed to a retention fee of 10% of Gonzalo's total collection from the Department of Public Works and Highways, or □233,526.13, as rent for the equipment. They then submitted the deed of assignment to the Department for approval.[60]

Subsequently, Tarnate, Jr. learned that Gonzalo filed with the Department of Public Works and Highways an affidavit to unilaterally

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58 G.R. No. 160600, January 15, 2014 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/january2014/160600.pdf> [Per J. Bersamin, First Division].

59 Id. at 1.

60 Id. at 2.

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cancel the deed of assignment. Gonzalo also collected the retention fee from the Department.[61]

Tarnate, Jr. demanded payment for the rent of the equipment, but Gonzalo ignored his demand. He then filed a complaint for sum of money and damages with the Regional Trial Court of Mountain Province to collect on the 10% retention fee.[62]

In his defense, Gonzalo argued that the subcontract was void for being contrary to law, specifically, Section 6 of the Presidential Decree No. 1594. Since the deed of assignment "was a mere product of the subcontract,"[63] the deed of assignment was likewise void. With Tarnate, Jr. "fully aware of the illegality and ineffectuality of the deed of assignment,"[64] Gonzalo contended that Tarnate, Jr. could not collect on the retention fee under the principle of *in pari delicto*.[65]

This court ruled that the subcontract was void for being contrary to law. Under Section 6 of the Presidential Decree No. 1594, a contractor shall not subcontract the implementation of a government infrastructure project without the approval of the relevant department secretary.[66] Since Gonzalo subcontracted the project to Tarnate, Jr. without the approval of the Secretary of Public Works and Highways, the subcontract was void, including the deed of assignment, which "sprung from the subcontract."[67]

Generally, parties to an illegal contract may not recover what they gave under the contract.[68] Under the doctrine of *in pari delicto*, "no action arises, in equity or at law, from an illegal contract[.] No suit can be maintained for its specific performance, or to recover the property agreed to be sold or delivered, or the money agreed to be paid, or damages for its violation[.]"[69]

Nevertheless, this court allowed Tarnate, Jr. to recover 10% of the retention fee. According to this court, "the application of the doctrine of *in*

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61 Id.
62 Id.
63 Id.
64 Id.
65 Id.
66 Id. at 4–5.
67 Id. at 5.
68 CIVIL CODE, art. 1412(1) provides:
Art. 1412. If the act in which the unlawful or forbidden cause consists does not constitute a criminal offense, the following rules shall be observed:
(1) When the fault is on the part of both contracting parties, neither may recover what he has given by virtue of the contract, or demand the performance of the other's undertaking[.]
69 *Gonzalo v. Tarnate, Jr.,* G.R. No. 160600, January 15, 2014, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/january2014/160600.pdf> [Per J. Bersamin, First Division].

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*pari delicto* is not always rigid."[70] An exception to the doctrine is "when its application contravenes well-established public policy."[71] In *Gonzalo,* this court ruled that "the prevention of unjust enrichment is a recognized public policy of the State."[72] It is, therefore, an exception to the application of the *in pari delicto* doctrine. This court explained:

> . . . the application of the doctrine of in pari delicto is not always rigid. An accepted exception arises when its application contravenes well-established public policy. In this jurisdiction, public policy has been defined as "that principle of the law which holds that no subject or citizen can lawfully do that which has a tendency to be injurious to the public or against the public good."
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> Unjust enrichment exists, according to *Hulst v. PR Builders, Inc*., "when a person unjustly retains a benefit at the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience." The prevention of unjust enrichment is a recognized public policy of the State, for Article 22 of the Civil Code explicitly provides that "[e]very person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him." It is well to note that Article 22 "is part of the chapter of the Civil Code on Human Relations, the provisions of which were formulated as basic principles to be observed for the rightful relationship between human beings and for the stability of the social order; designed to indicate certain norms that spring from the fountain of good conscience; guides for human conduct that should run as golden threads through society to the end that law may approach its supreme ideal which is the sway and dominance of justice."[73] (Citations omitted)

Given that Tarnate, Jr. performed his obligations under the subcontract and the deed of assignment, this court ruled that he was entitled to the agreed fee. According to this court, Gonzalo "would be unjustly enriched at the expense of Tarnate if the latter was to be barred from recovering because of the rigid application of the doctrine of *in pari delicto.*"[74]

In this case, both the trial and appellate courts found that Loria received □2,000,000.00 from Muñoz for a subcontract of the river-dredging project. Loria never denied that he failed to fulfill his agreement with Muñoz. Throughout the case's proceedings, Loria failed to justify why he has the right to retain Muñoz's □2,000,000.00. As the Court of Appeals ruled, "it was not shown that [Muñoz] benefited from the delivery of the

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70 Id. at 6.

71 Id., *citing Pajuyo v. Court of Appeals,* G.R. No. 146364, June 3, 2004, 430 SCRA 492, 515 [Per J. Carpio, First Division].

72 Id.

73 Id.

74 Id. at 7.

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amount of ₱2,000,000.00 to [Loria]."[75]

Loria, therefore, is retaining the ₱2,000,000.00 without just or legal ground. This cannot be done. Under Article 22 of the Civil Code of the Philippines, he must return the ₱2,000,000.00 to Muñoz.

This court notes the possible irregularities in these transactions. At the very least, there appears to have been an attempt to circumvent our procurement laws. If petitioner indeed had the authority of Sunwest Construction and Development Corporation, it is strange that Loria could have guaranteed a bidding result. If he did not have any true dealing with Sunwest Construction, then his is an elaborate scheme to cause financiers to lose their hard-earned money for nothing.

**WHEREFORE,** the petition for review on certiorari is **DENIED**. The Court of Appeals' decision and resolution in CA-G.R. CV No. 81882 are **AFFIRMED** with **MODIFICATION** as to interest rate. Petitioner Carlos A. Loria shall pay respondent Ludolfo P. Muñoz, Jr. ₱2,000,000.00 in actual damages, with interest of 12% interest per annum from the filing of the complaint until June 30, 2013, and 6% interest per annum from July 1, 2013 until full payment.[76]

Let a copy of this decision be **SERVED** on the Office of the Ombudsman and the Department of Justice for their appropriate actions.

**SO ORDERED.**

**MARVIC M.V.F. LEONEN**
Associate Justice

WE CONCUR:

**ANTONIO T. CARPIO**
Associate Justice
Chairperson

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75 *Rollo,* p. 44.

76 *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 456 [Per J. Peralta, En Banc].

**JOSE CATRAL MENDOZA**
Associate Justice

**BIENVENIDO L. REYES**
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.

**ANTONIO T. CARPIO**
Associate Justice
Chairperson, Second 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.

**MARIA LOURDES P. A. SERENO**
Chief Justice