

May 13, 1998

ADMINISTRATIVE ORDER NO. 397

WHEREAS, the Construction and Development Corporation of the Philippines (CDCP), now Philippine National Construction Corporation (PNCC), entered into a contract with the Republic of the Philippines represented by the then Department of Public Highways (DPH), now Department of Public Works and Highways (DPWH) dated 20 November 1973 for the construction of the Manila-Cavite Coastal Road and the reclamation of some portions of the foreshore and off-shore lands along Manila Bay at PNCC's own expense, otherwise known as the Manila-Cavite Coastal Road and Reclamation project (MCCRRP);

WHEREAS, under the contract, the compensation for PNCC on the project was in the form of reclaimed lands with an area not exceeding 50% of the total reclaimed lands covered by Certificates of Pledge to be issued by DPWH;

WHEREAS, pursuant to the aforesaid contract, the lands ceded to PNCC are (1) the lands known as the Financial Center Area (FCA) consisting of 56.3212 hectares; (2) portion of the reclaimed lands known as the Central Business Park I (CBP-1) consisting of 77.1538 hectares and (3) all of the reclaimed lands known as the First Neighborhood Unit (FNU) consisting of 172.5299 hectares;

WHEREAS, pursuant to Presidential Decree No. 1084, the Public Estates Authority (PEA) was mandated to reclaim lands, including foreshore and submerged areas, and to acquire reclaimed lands for the purpose of developing and taking charge of their disposition;

WHEREAS, pursuant to Presidential Decree No. 1085, the ownership over the lands reclaimed in the foreshore and offshore area under the MCCRRP were to be transferred, conveyed and assigned to PEA provided that the rights and interests of PNCC pursuant to the aforesaid contract should be recognized and respected;

WHEREAS, in a Memorandum of Agreement (MOA) dated 29 December 1981, PNCC ceded and transferred all its rights, title, interest and participation over those reclaimed areas under the MCCRRP which were not yet transferred or disposed as of 30 December 1981, in favor of PEA;

WHEREAS, the reclaimed lands ceded consist of an area approximately 99,473 sq. m. in the FCA covered by Land Pledge No. 5 and approximately 3,382,888 sq. m. of reclaimed lands of varying elevations above mean low water level located outside the FCA and the FNU and that PEA agreed to pay PNCC the sum of P1,517,959,000.00;

WHEREAS, PNCC still has unsettled claims against PEA arising from the MCCRRP contract and the MOA dated 29 December 1981;

WHEREAS, Memorandum Order No. 293, series of 1995 created an Arbitration Committee composed of representatives from the Departments of Finance, Justice, Public Works and Highways and Trade and Industry to resolve the perceived conflicting interests between the PEA and PNCC insofar as the construction of roads under a Build-Operate-Transfer scheme and other issues on capital structure, asset transfers, and financial liabilities are concerned;

WHEREAS, after due investigation and hearing, the Committee reported that the claims of PNCC are well founded;

WHEREAS, PNCC's indebtedness to the various government financial institutions were transferred to the National Government (NG) through the Committee on Privatization (COP)/Asset Privatization Trust (APT) and the Bureau of Treasury pursuant to Proclamation No. 50 and Administrative Order No. 64;

WHEREAS, PNCC is one of the corporations slated to be privatized and such measure can only be achieved if its Balance Sheet can be relieved of huge financial obligations with the NG;

WHEREAS, PNCC, with the concurrence of PEA, is willing to settle its aforesaid obligations by applying its valid claims and verified receivables from PEA.

NOW, THEREFORE, I, FIDEL V . RAMOS, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. The COP/APT shall recognize PEA's assumption of PNCC's obligations with PNB amounting to P788.820 Million as provided under the MOA dated 29 December 1981. The corresponding interests and penalties which may have accrued thereon from the date of PEA's assumption of the obligations are deemed to have been assumed by them and to be converted as NG equity in PEA.

SECTION 2. The P43.593 Million receivable balance of PNCC from PEA representing the unpaid cash portion of the MOA dated 29 December 1981 shall be assigned to APT by PNCC as payment of its obligations to the NG.

SECTION 3. The Lot 6 of the Financial Center Area consisting of 129,548 sq. m. covered by Certificates of Pledge Nos. 2 and 3 issued by DPWH under their Contract of 20 November 1973 and still titled in the name of the Republic of the Philippines under TCT No. 34997, shall be titled in the name of PNCC. For this purpose, PNCC, PEA, DPWH, and COP-APT shall jointly coordinate to effect the titling as mandated hereon.

SECTION 4. An excess of 246,931 sq. m., more or less, of the reclaimed land under the First Neighborhood Unit (FNU) ceded by PEA to Marina Properties Corporation (MPC) without any indemnity pursuant to LOI 1390 shall be applied as settlement of PNCC's obligations with the NG based on the property's fair market value without prejudice to NG's right for payment from NDC;

SECTION 5. Pursuant to Memorandum Order dated 8 June 1995, the PEA shall purchase PNCC's preferred option in the amount of P100 Million under Section 9 of the PEA-CDCP (now PNCC) MOA dated 29 December 1981 for the remaining undisposed portion of the reclaimed land with an area of 158 hectares more or less, located at the Southern Sector of MCCRRP subject of PNCC MOA dated 29 December 1981. The payment in cash shall be made out of the project cash flows from the development of the Southern Sector of MCCRRP and the payment within two (2) years from the approval by the President of the re-negotiated Joint Venture Agreement for the Project.

SECTION 6. The resulting obligations of PEA as a consequence of all the foregoing shall be converted into equity of the NG in the said entity.

SECTION 7. The PNCC shall waive any and all future claims against PEA in relation to the aforesaid PEA-PNCC MOA and the MCCRRP Contract except the claim of PNCC on the R-1 Project which shall be paid by PEA upon determination of the actual amount due to PNCC.

SECTION 8. The DOF, COP, APT, PEA, PNCC and all other government agencies concerned shall execute all the documents necessary to implement this order.

SECTION 9. This order takes effect immediately.

DONE in the City of Manila, this 13th day of May 1998, in the year of Our Lord, Nineteen Hundred and Ninety-eight.