

Overturing the Supreme Court: Treating Foreign International Arbitral Awards as Exceptions to the Rule on Finality of Judgments

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In this Note, the Author examines whether it is possible to treat a foreign international arbitral award as a compelling reason for the Supreme Court to amend or overturn its own final judgment. The Note takes its cue from the Court's 2003 ruling in *Agan, Jr. v. Philippine International Air Terminals Co. (PIATCO)*, where, despite the commencement of arbitration proceedings before the International Chamber of Commerce, the Court took cognizance of the dispute and nullified the build-operate-transfer contract between PIATCO and the Philippine Government. However, the Singapore High Court in *Government of the Republic of the Philippines (GRP) v. PIATCO*, ruled that it had jurisdiction over the matter, despite the objections of the Philippine Government. To date, the arbitration is ongoing. Such confusion, the Author suggests, could have been prevented had the Supreme Court decided to suspend the proceedings before it and allow the arbitration to proceed.

With the enactment of Republic Act No. 9285, the Alternative Dispute Resolution Act of 2004 (ADR Act), the problem of conflicting jurisdictions and parallel proceedings should have been settled, as the Author suggests. However, jurisprudence following *Agan* shows the tendency of the Court to pre-empt arbitration proceedings and rule on the merits of the controversy. Hence, the question — can a foreign international arbitration award could be enforced in the Philippines despite a previous contrary ruling by the Court?

The Author proposes that it should be answered in the affirmative. Such should be considered as an exception to the doctrines of *res judicata* and finality of judgments, even if its enforcement goes against “public policy.”

The Note begins with a discussion of elementary principles of international commercial arbitration, including Philippine arbitration laws, the New York Convention on the Recognition and Enforcement of

International Arbitration Awards and the UNCITRAL Model Law on International Commercial Arbitration. From this, the Author discusses the rulings in *Agan* and *GRP*, illustrating the conflict brought about by parallel proceedings in different jurisdictions. A review of Philippine Jurisprudence on the concepts of *res judicata* and finality of judgment follows. The Author concludes by laying down specific parameters that the Court may consider in treating a foreign arbitral award as a supervening event to warrant the modification or overturning of its final judgment.