

Republic of the Philippines
SUPREME COURT

THIRD DIVISION

G.R. No. 156381 October 14, 2005

JSS INDOCHINA CORPORATION, Petitioner,

vs.

GERARDO R. FERRER, MELITON A. ASOR, HILARIO Z. DAYRIT, AMADO E. VILLENA, JOEL C. CALDAIRA, HENRY G. DELA ROCA, MARIANO C. TIBUYIN, EDGARDO B. VIAJE, EMMANUEL M. NOCON, LAUDENCIO O. MENDOZA and GERONIMO O. SALAZAR, Respondents.

DECISION

SANDOVAL-GUTIERREZ, J.:

We take this opportunity to stress the need for strict enforcement of the law and the rules and regulations governing Filipino contract workers abroad. Many hapless citizens of this country who have sought foreign employment to earn a few dollars to ensure for their families a life worthy of human dignity and provide proper education and a decent future for their children have found themselves enslaved by foreign masters, harassed or abused and **deprived of their employment** for the slightest cause. No one should be made to unjustly profit from their suffering. Hence, recruiting agencies must not only faithfully comply with Government-prescribed responsibilities; they must impose upon themselves the duty, borne out of a social conscience, to help citizens of this country sent abroad to work for foreign principals. They must keep in mind that this country is not exporting slaves but human beings, and above all, fellow Filipinos seeking merely to improve their lives.¹

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision² dated May 14, 2002 and Resolution³ dated November 21, 2002 rendered by the Court of Appeals in CA-G.R. SP No. 51114, entitled "*JSS Indochina Corporation vs. National Labor Relations Commission, Gerardo R. Ferrer, Meliton A. Asor, Hilario Z. Dayrit, Amado E. Villena, Joel C. Caldaira, Henry G. Dela Roca, Mariano C. Tibuyin, Edgardo B. Viaje, Emmanuel M. Nocon, Laudencio O. Mendoza, Geronimo O. Salazar and Noel B. Delos Reyes.*"

The instant controversy stemmed from a complaint for illegal dismissal, payment of salaries, refund of placement fee, damages and attorney's fees filed with the Office of the Labor Arbiter by the above-named *respondents*, including Noel delos Reyes,⁴ against JSS Indochina Corporation, *petitioner*, docketed as NLRC NCR OFW Case (L) 97-05-3715.

Respondents, in their complaint, alleged that petitioner hired them as construction workers for its Taiwan-based principal/employer Formosa Plastics Corporation. Pursuant to the parties' contracts of employment, each respondent would receive a monthly salary of NT\$15,360.00. Their employment covered a period of one (1) year or from May 1, 1997 to May 1, 1998.

On May 1, 1997, respondents, along with other Filipino contract workers, were deployed to Taiwan. But upon their arrival, **only 20 workers, excluding respondents, were employed as construction workers at Formosa Plastics Corporation**. Aggrieved, they sought assistance from Manila Economic and Cultural Office (MECO) officials who directed them to sign separate affidavits alleging that they were assigned, not as construction workers for Formosa Plastics Corporation, but as cable tray/pipe tract workers at Shin Kwan Enterprise Co., Ltd. On May 17, 1997, they were repatriated to the Philippines.

Petitioner denied the allegations in the complaint, claiming that, assisted by MECO officials, respondents **pre-terminated** their respective contracts of employment as they **refused to work** after being assigned as cable tray/pipe tract workers by Formosa Plastics Corporation to 33 KV Worksite being administered by Shin Kwan Construction Company Limited.

After the parties submitted their pleadings and position papers, the Labor Arbiter rendered a Decision dated February 20, 1998, finding that respondents were forced to resign since "they were left out from among those workers who were considered for employment." The Labor Arbiter ordered petitioner and its principal, Formosa Plastics Corporation⁵ to pay, jointly and severally, each respondent an amount representing their 3 months salary and to reimburse their placement fees, thus:

"WHEREFORE, judgment is hereby rendered ordering respondent JSS Indochina Corporation and Formosa Plastics Corporation to jointly and severally pay the herein complainants the total amount of NT\$414,720.00 by way of their salaries equivalent to three (3) months, and a total of P183,240.00 by way of reimbursement of placement fees as alluded in the above computation.

The complaint of NOEL DELOS REYES is hereby dismissed for lack of merit, including all other issues herein treated.

SO ORDERED."

Upon appeal, the National Labor Relations Commission (NLRC) issued its Resolution dated August 28, 1998 affirming the Labor Arbiter's Decision.

Petitioner filed a motion for reconsideration but was denied by the NLRC in its Resolution dated October 30, 1998.

On February 4, 1999, petitioner filed with the Court of Appeals a petition for *certiorari* alleging that the NLRC committed grave abuse of discretion in ruling that the termination of the respondents' services is illegal and in awarding to them unconscionable amounts representing unpaid salary and refund of placement fee.

In a Decision dated May 14, 2002, the Court of Appeals dismissed the petition, holding that:

"A careful reading of the instant petition would disclose that it involves disputed facts, which are improper in certiorari. Petitioner corporation banks on the irreconcilability of the labor arbiter's finding that there was illegal dismissal, as opposed to the NLRC's finding of pre-termination of contract. To the mind of this Court, however, the fact remains that petitioner corporation was not able to prove that private respondents' dismissal was for just, valid or authorized causes. It was not able to prove before either the labor arbiter or the NLRC, its allegation that Shin Kwan Enterprise Co., Ltd. is a sub-contractor of Formosa Plastics Corporation, or that St. Pronto is the management comptroller of Formosa Plastics Corporation. We are not bound, and cannot take judicial cognizance of the statements in the Order of the POEA dated 01 December 1998, banked upon by petitioner corporation. There must be an independent proof of the same, and it behooves upon petitioner corporation to prove that both the labor arbiter and NLRC's rulings were attended with grave abuse of discretion to warrant issuance of the writ prayed for. Moreover, if Shin Kwan Enterprises Co., Ltd. is indeed a legitimate sub-contractor of Formosa Plastics Corporation, this Court wonders why there would be a need 'x x x to find ways how (private respondents) can be absorbed by Shin Kwan and be given another job that would best suit their best qualifications x x x' and why there was a need to 'persuade Shin Kwan to take them (private respondents)'. Moreover, the Report dated 19 May 1997 to Mr. Armando Fernandez about the complaint of fifteen OFWs, private respondents, *inter alia*, against JSS Indochina was not attached to the petition.

Under the fifth paragraph of Section 10, Republic Act No. 8042, otherwise known as the 'Migrant Workers and Overseas Filipinos Act of 1995,' '(i) in case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.'

Petitioner corporation, having failed to prove that private respondents' dismissal was for just, valid or authorized causes, it must necessarily be adjudged liable under the above Section 10 of RA 8042, *in solidum* with principal, Formosa Plastics Corporation."

On June 5, 2002, petitioner filed a motion for reconsideration but was denied by the Appellate Court in its Resolution dated November 21, 2002.

Hence, this petition for review on *certiorari*.

Petitioner's grievance is that the Court of Appeals seriously erred in affirming the NLRC's Resolutions finding that respondents were illegally dismissed from work and are entitled to an award representing their three (3) months salary and a refund of placement fee.

The sole legal issue for our Resolution is whether respondents were illegally dismissed from employment by petitioner.

There is no question that petitioner violated its contract with respondents. As found by the Labor Arbiter, the NLRC and the Appellate Court, petitioner did not assign them as construction workers for Formosa Plastics Corporation. Instead, they were directed to work as cable tray/pipe tract workers at Shin Kwan Enterprise Co., Ltd.

The Labor Arbiter found that respondents' "decision to resign from their employment were made by force of circumstances not attributable to their own fault," and "it was not their fault that they were left out from among those workers who were considered for employment by the foreign employer." Likewise, the NLRC held that respondents' "decision to go home to the Philippines was justified **in view of the evident breach of contract**" by petitioner, as "it clearly appeared that upon their arrival at the jobsite, there was no employer on hand." Clearly, both labor tribunals correctly concluded, as affirmed by the Court of Appeals, that they were forced to resign and to pre-terminate their employment contracts in view of petitioner's breach of their provisions. Undoubtedly, **the termination of respondents' services is without just or valid cause.**

Section 10 of RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act, provides:

"SECTION 10. Money Claims. — x x x

x x x

In case of **termination of overseas employment without just, valid or authorized cause as defined by law or contract**, the worker shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.

x x x x x."

Verily, as correctly held by the Court of Appeals, respondents who were unjustly dismissed from work are actually entitled to an amount representing their three (3) months salary considering that their employment contract has a term of exactly one (1) year; plus a **full refund of their placement fee, with no ceiling**, with interest at 12% per annum.

In *Olarte vs. Nayona*,⁸ we ordered petitioner Olarte to pay respondent Nayona, an illegally dismissed overseas contract worker, an amount corresponding to her 3 months salary and to **reimburse her placement fee of P23,000.00**, with legal interest of 12% per annum.

WHEREFORE, the instant petition is hereby **DENIED**. The assailed Decision dated May 14, 2002 and Resolution dated November 21, 2002 of the Court of Appeals in CA-G.R. SP No. 51114 are **AFFIRMED**.

Costs against petitioner.

SO ORDERED.

ANGELINA SANDOVAL-GUTIERREZ

Associate Justice

WE CONCUR:

ARTEMIO V. PANGANIBAN

Associate Justice

Chairman

RENATO C. CORONA

CONCHITA CARPIO MORALES

Associate Justice

Associate Justice

CANCIO C. GARCIA

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ARTEMIO V. PANGANIBAN

Associate Justice

Chairman, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

HILARIO G. DAVIDE, JR.

Chief Justice

Footnotes

¹ *Teknika Skills and Trade Services, Inc. vs. NLRC*, G.R. No. 100399, August 4, 1992, 212 SCRA 132, 140-141.

² Penned by Justice Romeo A. Brawner (now Commissioner of the Commission on Elections), and concurred in by Justice Mario L. Guariña III and Justice Danilo B. Pine, Annex "H" of the Petition for Review, Rollo at 109-116.

³ Annex "J", *id.* at 140.

⁴ Noel delos Reyes was immediately repatriated by petitioner to the Philippines after being diagnosed with fecal parasitic infection and failing the medical examination conducted by the Taiwanese Health Authorities.

⁵ Section 10, RA 8042 provides for the original and exclusive jurisdiction of the Labor Arbiters and the NLRC over claims arising by virtue of any contract involving Filipino workers for overseas deployment. It also provides for the joint and several liability of the principal/employer, such as Formosa Plastics Corporation, and the recruitment/placement agency, petitioner herein, thus:

"SECTION 10. Money Claims. — Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal/employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

x x x x x."

⁶ G.R. No. 148407, November 12, 2003, 415 SCRA 720, 725.