

THIRD DIVISION

**BECMEN SERVICE EXPORTER G.R. Nos. 182978-79
AND PROMOTION, INC.,**

Petitioner, Present:

Ynares-Santiago, J.(Chairperson),

- versus - Carpio Morales, *

Chico-Nazario,

Nachura, and

Peralta, JJ.

**SPOUSES SIMPLICIO and MILA
CUARESMA (for and in behalf of
their daughter, Jasmin G. Cuaresma),
WHITE FALCON SERVICES, INC.
and JAIME ORTIZ (President,
White Falcon Services, Inc.),**

Respondents.

X ----- X

SPOUSES SIMPLICIO and MILA G.R. Nos. 184298-99

**CUARESMA (for and in behalf of
their daughter, Jasmin G. Cuaresma),**

Petitioners,

- versus -

**WHITE FALCON SERVICES, INC. Promulgated:
and BECMEN SERVICE EXPORTER
AND PROMOTION, INC.,**

Respondents. April 7, 2009

X ----- X

DECISION

YNARES-SANTIAGO, J.:

These consolidated petitions assail the Amended Decision^[1] of the Court of Appeals dated May 14, 2008 in CA-G.R. SP No. 80619 and CA-G.R. SP No. 81030 finding White Falcon Services, Inc. and Becmen Service Exporter and Promotion, Inc. solidarily liable to indemnify spouses Simplicio and Mila Cuaresma the amount of US\$4,686.73 in actual damages with interest.

On January 6, 1997, Jasmin Cuaresma (Jasmin) was deployed by Becmen Service Exporter and Promotion, Inc.^[2] (Becmen) to serve as assistant nurse in Al-Birk Hospital in the Kingdom of Saudi Arabia (KSA), for a contract duration of three years, with a corresponding salary of US\$247.00 per month.

Over a year later, she died allegedly of poisoning.

Jessie Fajardo, a co-worker of Jasmin, narrated that on June 21, 1998, Jasmin was found dead by a female cleaner lying on the floor inside her dormitory room with her mouth foaming and smelling of poison.^[3]

Based on the police report and the medical report of the examining physician of the Al-Birk Hospital, who conducted an autopsy of Jasmin's body, the likely cause of her death was poisoning. Thus:

According to letter No. 199, dated 27.2.1419H, issued by Al-Birk Police Station, for examining the corpse of Jasmin Cuaresma, 12.20 P.M. 27.2.1419H, Sunday, at Al-Birk Hospital.

1. The Police Report on the Death
2. The Medical Diagnosis

Sex: Female Age: 25 years Relg: Christian

The said person was brought to the Emergency Room of the hospital; time 12.20 P.M. and she was unconscious, blue, no pulse, no respiration and the first aid esd undertaken but without success.

3. Diagnosis and Opinion: Halt in blood circulation respiratory system and brain damage

due to an **apparent poisoning which is under investigation.**^[4]

Name: Jasmin Cuaresma

Sex: Female

Marital Status: Single Nationality: Philipino (sic)

Religion: Christian Profession: Nurse

Address: Al-Birk Genrl. Hospital Birth Place: The Philippines

On 27.2.1419H, Dr. Tariq Abdulminnem and Dr. Ashoki Komar, both have examined the dead body of Jasmin Cuaresma, at 12.20 P.M., Sunday, 22.2.14189H, and the result was:

1. Report of the Police on the death

2. Medical Examination: Blue skin and paleness on the Extrimes (sic), total halt to blood circulation and respiratory system and brain damage. There were no external injuries.

Likely poisoning by taking poisonous substance, **yet not determined**. There was a bad smell in the mouth and unknown to us.^[5] (Emphasis supplied)

Jasmin's body was repatriated to Manila on September 3, 1998. The following day, the City Health Officer of Cabanatuan City conducted an autopsy and the resulting medical report indicated that Jasmin died under violent circumstances, and not poisoning as originally found by the KSA examining physician. The City Health Officer found that Jasmin had abrasions at her inner lip and gums; lacerated wounds and abrasions on her left and right ears; lacerated wounds and hematoma (contusions) on her elbows; abrasions and hematoma on her thigh and legs; intra-muscular hemorrhage at the anterior chest; rib fracture; puncture wounds; and abrasions on the labia minora of the vaginal area.^[6]

On March 11, 1999, Jasmin's remains were exhumed and examined by the National Bureau of Investigation (NBI). The toxicology report of the NBI, however, tested negative for non-volatile, metallic poison and insecticides.^[7]

Simplicio and Mila Cuaresma (the Cuaresmas), Jasmin's parents and her surviving heirs, received from the Overseas Workers Welfare Administration (OWWA) the following amounts: P50,000.00 for death benefits; P50,000.00 for loss of life; P20,000.00 for funeral expenses; and P10,000.00 for medical reimbursement.

On November 22, 1999, the Cuaresmas filed a complaint against Becmen and its principal in the KSA, Rajab & Silsilah Company (Rajab), claiming death and insurance benefits, as well as moral and exemplary damages for Jasmin's death.^[8]

In their complaint, the Cuaresmas claim that Jasmin's death was work-related, having

occurred at the employers premises; [\[9\]](#) that under Jasmins contract with Becmen, she is entitled to iqama insurance coverage; that Jasmin is entitled to compensatory damages in the amount of US\$103,740.00, which is the sum total of her monthly salary of US\$247.00 per month under her employment contract, multiplied by 35 years (or the remaining years of her productive life had death not supervened at age 25, assuming that she lived and would have retired at age 60).

The Cuaresmas assert that as a result of Jasmins death under mysterious circumstances, they suffered sleepless nights and mental anguish. The situation, they claim, was aggravated by findings in the autopsy and exhumation reports which evidently show that a grave injustice has been committed against them and their daughter, for which those responsible should likewise be made to pay moral and exemplary damages and attorneys fees.

In their position paper, Becmen and Rajab insist that Jasmin committed suicide, citing a prior unsuccessful suicide attempt sometime in March or April 1998 and relying on the medical report of the examining physician of the Al-Birk Hospital. They likewise deny liability because the Cuaresmas already recovered death and other benefits totaling P130,000.00 from the OWWA. They insist that the Cuaresmas are not entitled to iqama insurance because this refers to the issuance not insurance of iqama, or residency/work permit required in the KSA. On the issue of moral and exemplary damages, they claim that the Cuaresmas are not entitled to the same because they have not acted with fraud, nor have they been in bad faith in handling Jasmins case.

While the case was pending, Becmen filed a manifestation and motion for substitution alleging that Rajab terminated their agency relationship and had appointed White Falcon Services, Inc. (White Falcon) as its new recruitment agent in the Philippines. Thus, White Falcon was impleaded as respondent as well, and it adopted and reiterated Becmens arguments in the position paper it subsequently filed.

On February 28, 2001, the Labor Arbiter rendered a Decision [\[10\]](#) dismissing the complaint for lack of merit. Giving weight to the medical report of the Al-Birk Hospital finding that Jasmin died of poisoning, the Labor Arbiter concluded that Jasmin committed suicide. In any case, Jasmins death was not service-connected, nor was it shown that it occurred while she was on duty; besides, her parents have received all corresponding benefits they were entitled to under the law. In regard to damages, the Labor Arbiter found no legal basis to warrant a grant thereof.

On appeal, the National Labor Relations Commission (Commission) reversed the decision of the Labor Arbiter. Relying on the findings of the City Health Officer of Cabanatuan City and the NBI as contained in their autopsy and toxicology report, respectively, the Commission, via its November 22, 2002 Resolution^[11] declared that, based on substantial evidence adduced, Jasmin was the victim of compensable work-connected criminal aggression. It disregarded the Al-Birk Hospital attending physicians report as well as the KSA police report, finding the same to be inconclusive. It declared that Jasmins death was the result of an accident occurring within the employers premises that is attributable to her employment, or to the conditions under which she lived, and thus arose out of and in the course of her employment as nurse. Thus, the Cuasmas are entitled to actual damages in the form of Jasmins lost earnings, including future earnings, in the total amount of US\$113,000.00. The Commission, however, dismissed all other claims in the complaint.

Becmen, Rajab and White Falcon moved for reconsideration, whereupon the Commission issued its October 9, 2003 Resolution^[12] reducing the award of US\$113,000.00 as actual damages to US\$80,000.00.^[13] The NLRC likewise declared Becmen and White Falcon as solidarily liable for payment of the award.

Becmen and White Falcon brought separate petitions for certiorari to the Court of Appeals.^[14] On June 28, 2006, the appellate court rendered its Decision,^[15] the dispositive portion of which reads, as follows:

WHEREFORE, the subject petitions are DENIED but in the execution of the decision, it should first be enforced against White Falcon Services and then against Becmen Services when it is already impossible, impractical and futile to go against it (White Falcon).

SO ORDERED.^[16]

The appellate court affirmed the NLRCs findings that Jasmins death was compensable, the same having occurred at the dormitory, which was contractually provided by the employer. Thus her death should be considered to have occurred within the employers premises, arising out of and in the course of her employment.

Becmen and White Falcon moved for reconsideration. On May 14, 2008, the appellate court rendered the assailed Amended Decision, the dispositive portion of which reads, as follows:

WHEREFORE, the motions for reconsideration are GRANTED. Accordingly, the award of US\$80,000.00 in actual damages is hereby reduced to US\$4,686.73 plus interest at the legal rate computed from the time it became due until fully paid. Petitioners are hereby adjudged jointly and solidarily liable with the employer for the monetary awards with Becmen Service Exporter and Promotions, Inc. having a right of reimbursement from White Falcon Services, Inc.

SO ORDERED. [\[17\]](#)

In the Amended Decision, the Court of Appeals found that although Jasmins death was compensable, however, there is no evidentiary basis to support an award of actual damages in the amount of US\$80,000.00. Nor may lost earnings be collected, because the same may be charged only against the perpetrator of the crime or quasi-delict. Instead, the appellate court held that Jasmins beneficiaries should be entitled only to the sum equivalent of the remainder of her 36-month employment contract, or her monthly salary of US\$247.00 multiplied by nineteen (19) months, with legal interest.

Becmen filed the instant petition for review on certiorari (G.R. Nos. 182978-79). The Cuaresmas, on the other hand, moved for a reconsideration of the amended decision, but it was denied. They are now before us via G.R. Nos. 184298-99.

On October 6, 2008, the Court resolved to consolidate G.R. Nos. 184298-99 with G.R. Nos. 182978-79.

In G.R. Nos. 182978-79, Becmen raises the following issues for our resolution:

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT GAVE MORE CREDENCE AND WEIGHT TO THE AUTOPSY REPORT CONDUCTED BY THE CABANATUAN CITY HEALTH OFFICE THAN THE MEDICAL AND POLICE REPORTS ISSUED BY THE MINISTRY OF HEALTH OF KINGDOM OF SAUDI ARABIA AND AL-BIRK HOSPITAL.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN ON THE BASIS OF THE POSITION PAPERS AND ANNEXES THERETO INCLUDING THE AUTOPSY REPORT, IT CONCLUDED THAT THE DEATH OF JASMIN CUARESMA WAS CAUSED BY CRIMINAL AGGRESSION.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT HELD THAT THE DEATH OF JASMIN CUARESMA WAS COMPENSABLE PURSUANT TO THE RULING OF THE SUPREME COURT IN TALLER VS. YNCHAUSTI, G.R. NO. 35741, DECEMBER 20, 1932, WHICH IT FOUND TO BE STILL GOOD LAW.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT HELD BECMEN LIABLE FOR THE DEATH OF JASMIN CUARESMA NOTWITHSTANDING ITS ADMISSIONS THAT IQAMA INSURANCE WAS A TYPOGRAPHICAL ERROR SINCE

IQAMA IS NOT AN INSURANCE.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT CONCLUDED THAT THE DEATH OF JASMIN WAS WORK RELATED.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT HELD BECMEN LIABLE TO JASMIN'S BENEFICIARIES FOR THE REMAINDER OF HER 36-MONTH CONTRACT COMPUTED IN THIS MANNER: MONTHLY SALARY OF US\$246.67 MULTIPLIED BY 19 MONTHS, THE REMAINDER OF THE TERM OF JASMIN'S EMPLOYMENT CONTRACT, IS EQUAL TO US\$4,686.73.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT HELD BECMEN LIABLE TO PAY INTEREST AT THE LEGAL RATE FROM THE TIME IT WAS DUE UNTIL FULLY PAID.

(THE COURT OF APPEALS) GRAVELY ERRED WHEN IT HELD BECMEN AND WHITE FALCON JOINTLY AND SEVERALLY LIABLE WITH THE EMPLOYER NOTWITHSTANDING THE ASSUMPTION OF LIABILITY EXECUTED BY WHITE FALCON IN FAVOR OF BECMEN.

On the other hand, in G.R. Nos. 184298-99, the Cuasmas raise the following issues:

(THE COURT OF APPEALS) GRAVELY ERRED IN APPLYING THE PROVISIONS OF THE CIVIL CODE CONSIDERED GENERAL LAW DESPITE THE CASE BEING COVERED BY E.O. 247, R.A. 8042 AND LABOR CODE CONSIDERED AS SPECIAL LAWS.

(THE COURT OF APPEALS) GRAVELY ERRED IN NOT APPLYING THE DECEASED'S FUTURE EARNINGS WHICH IS (AN) INHERENT FACTOR IN THE COMPUTATION OF DEATH BENEFITS OF OVERSEAS FILIPINO CONTRACT WORKERS.

(THE COURT OF APPEALS) GRAVELY ERRED IN REDUCING THE DEATH BENEFITS AWARDED BY NLRC CONSIDERED FINDINGS OF FACT THAT CANNOT BE DISTURBED THROUGH CERTIORARI UNDER RULE 65 OF THE RULES OF COURT.

The issue for resolution is whether the Cuasmas are entitled to monetary claims, by way of benefits and damages, for the death of their daughter Jasmin.

The terms and conditions of Jasmin's 1996 Employment Agreement which she and her employer Rajab freely entered into constitute the law between them. As a rule, stipulations in an employment contract not contrary to statutes, public policy, public order or morals have the force of law between the contracting parties.^[18] An examination of said employment agreement shows that it provides for no other monetary or other benefits/privileges than the following:

1. 1,300 rials (or US\$247.00) monthly salary;
2. Free air tickets to KSA at the start of her contract and to the Philippines at the end thereof, as well as for her vacation at the end of each twenty four-month service;
3. Transportation to and from work;
4. Free living accommodations;
5. Free medical treatment, except for optical and dental operations, plastic surgery charges and lenses, and medical treatment obtained outside of KSA;
6. Entry visa fees will be shared equally between her and her employer, but the exit/re-entry visa fees, fees for Iqama issuance, renewal, replacement, passport renewal, sponsorship transfer and other liabilities shall be borne by her;
7. Thirty days paid vacation leave with round trip tickets to Manila after twenty four-months of continuous service;
8. Eight days public holidays per year;
9. The indemnity benefit due her at the end of her service will be calculated as per labor laws of KSA.

Thus, the agreement does not include provisions for insurance, or for accident, death or other benefits that the Cuaremas seek to recover, and which the labor tribunals and appellate court granted variably in the guise of compensatory damages.

However, the absence of provisions for social security and other benefits does not make Jasmins employment contract infirm. Under KSA law, her foreign employer is not obliged to provide her these benefits; and neither is Jasmin entitled to minimum wage unless of course the KSA labor laws have been amended to the opposite effect, or that a bilateral wage agreement has been entered into.

Our next inquiry is, should Jasmins death be considered as work-connected and thus compensable? The evidence indicates that it is not. At the time of her death, she was not on duty, or else evidence to the contrary would have been adduced. Neither was she within hospital premises at the time. Instead, she was at her dormitory room on personal time when she died. Neither has it been shown, nor does the evidence suggest, that at the time she died, Jasmin was performing an act reasonably necessary or incidental to her employment as nurse, because she was at her dormitory room. It is reasonable to suppose that all her work is performed at the Al-birk Hospital, and not at her dormitory room.

We cannot expect that the foreign employer should ensure her safety even while she is

not on duty. It is not fair to require employers to answer even for their employees personal time away from work, which the latter are free to spend of their own choosing. Whether they choose to spend their free time in the pursuit of safe or perilous undertakings, in the company of friends or strangers, lovers or enemies, this is not one area which their employers should be made accountable for. While we have emphasized the need to observe official work time strictly,^[19] what an employee does on free time is beyond the employers sphere of inquiry.

While the employers premises may be defined very broadly not only to include premises owned by it, but also premises it leases, hires, supplies or uses,^[20] we are not prepared to rule that the dormitory wherein Jasmin stayed should constitute employers premises as would allow a finding that death or injury therein is considered to have been incurred or sustained in the course of or arose out of her employment. There are certainly exceptions,^[21] but they do not appear to apply here. Moreover, a complete determination would have to depend on the unique circumstances obtaining and the overall factual environment of the case, which are here lacking.

But, did Jasmin commit suicide? Rajab, Becmen and White Falcon vehemently insist that she did; thus, her heirs may not claim benefits or damages based on criminal aggression. On the other hand, the Cuasmas do not believe so.

The Court cannot subscribe to the idea that Jasmin committed suicide while halfway into her employment contract. It is beyond human comprehension that a 25-year old Filipina, in the prime of her life and working abroad with a chance at making a decent living with a high-paying job which she could not find in her own country, would simply commit suicide for no compelling reason.

The Saudi police and autopsy reports which state that Jasmin is a *likely/or apparent* victim of poisoning are **patently inconclusive**. They are thus unreliable as evidence.

On the contrary, the autopsy report of the Cabanatuan City Health Officer and the exhumation report of the NBI categorically and unqualifiedly show that Jasmin sustained external and internal injuries, specifically **abrasions at her inner lip and gums; lacerated wounds and abrasions on her left and right ears; lacerated wounds and hematoma (contusions) on her elbows; abrasions and hematoma on her thigh and legs; intramuscular hemorrhage at the anterior chest; a fractured rib; puncture wounds; and abrasions on the labia minora of the vaginal area**. The NBI toxicology report came up

negative on the presence of poison.

All these show that Jasmin was manhandled and possibly raped prior to her death.

Even if we were to agree with the Saudi police and autopsy reports that indicate Jasmin was poisoned to death, we do not believe that it was self-induced. If ever Jasmin was poisoned, the assailants who beat her up and possibly raped her are certainly responsible therefor.

We are not exactly ignorant of what goes on with our OFWs. Nor is the rest of the world blind to the realities of life being suffered by migrant workers in the hands of some foreign employers. It is inconceivable that our Filipina women would seek employment abroad and face uncertainty in a foreign land, only to commit suicide for unexplained reasons. Deciding to leave their family, loved ones, and the comfort and safety of home, to work in a strange land requires unrivaled strength and courage. Indeed, many of our women OFWs who are unfortunate to end up with undesirable employers have been there more times than they care to, beaten up and broken in body yet they have remained strong in mind, refusing to give up the will to live. Raped, burned with cigarettes, kicked in the chest with sharp high-heeled shoes, starved for days or even weeks, stabbed, slaved with incessant work, locked in their rooms, forced to serve their masters naked, grossly debased, dehumanized and insulted, their spirits fought on and they lived for the day that they would once again be reunited with their families and loved ones. Their bodies surrendered, but their will to survive remained strong.

It is surprising, therefore, that Rajab, Becmen and White Falcon should insist on suicide, without even lifting a finger to help solve the mystery of Jasmin's death. Being in the business of sending OFWs to work abroad, Becmen and White Falcon should know what happens to some of our OFWs. It is impossible for them to be completely unaware that cruelties and inhumanities are inflicted on OFWs who are unfortunate to be employed by vicious employers, or upon those who work in communities or environments where they are liable to become victims of crime. By now they should know that our women OFWs do not readily succumb to the temptation of killing themselves even when assaulted, abused, starved, debased and, worst, raped.

Indeed, what we have seen is Rajab and Becmen's revolting scheme of conveniently avoiding responsibility by clinging to the absurd theory that Jasmin took her own life. Abandoning their legal, moral and social obligation (as employer and recruiter) to assist Jasmin's family in obtaining justice for her death, they immediately gave up on Jasmin's case, which has remained under investigation as the autopsy and police reports themselves indicate. Instead of taking the cudgels for Jasmin, who had no relative or representative in the KSA who

would naturally demand and seek an investigation of her case, Rajab and Becmen chose to take the most convenient route to avoiding and denying liability, by casting Jasmins fate to oblivion. It appears from the record that to this date, no follow up of Jasmins case was ever made at all by them, and they seem to have expediently treated Jasmins death as a closed case. Despite being given the lead via the autopsy and toxicology reports of the Philippine authorities, they failed and refused to act and pursue justice for Jasmins sake and to restore honor to her name.

Indeed, their nonchalant and uncaring attitude may be seen from how Jasmins remains were repatriated. No official representative from Rajab or Becmen was kind enough to make personal representations with Jasmins parents, if only to extend their condolences or sympathies; instead, a mere colleague, nurse Jessie Fajardo, was designated to accompany Jasmins body home.

Of all lifes tragedies, the death of ones own child must be the most painful for a parent. Not knowing why or how Jasmins life was snuffed out makes the pain doubly unbearable for Jasmins parents, and further aggravated by Rajab, Becmen, and White Falcons baseless insistence and accusation that it was a self-inflicted death, a mortal sin by any religious standard.

Thus we categorically hold, based on the evidence; the actual experiences of our OFWs; and the resilient and courageous spirit of the Filipina that transcends the vilest desecration of her physical self, that Jasmin did not commit suicide but a victim of murderous aggression.

Rajab, Becmen, and White Falcons indifference to Jasmins case has caused unfathomable pain and suffering upon her parents. They have turned away from their moral obligation, as employer and recruiter and as entities laden with social and civic obligations in society, to pursue justice for and in behalf of Jasmin, her parents and those she left behind. Possessed with the resources to determine the truth and to pursue justice, they chose to stand idly for the sake of convenience and in order that they may avoid pecuniary liability, turning a blind eye to the Philippine authorities autopsy and toxicology reports instead of taking action upon them as leads in pursuing justice for Jasmins death. They have placed their own financial and corporate interests above their moral and social obligations, and chose to secure and insulate themselves from the perceived responsibility of having to answer for and indemnify Jasmins heirs for her death.

Under Republic Act No. 8042 (R.A. 8042), or the Migrant Workers and Overseas

Filipinos Act of 1995,^[22] the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.^[23] The State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.^[24] The rights and interest of *distressed*^[25] overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.^[26]

Becmen and White Falcon, as licensed local recruitment agencies, miserably failed to abide by the provisions of R.A. 8042. Recruitment agencies are expected to extend assistance to their deployed OFWs, especially those in distress. Instead, they abandoned Jasmins case and allowed it to remain unsolved to further their interests and avoid anticipated liability which parents or relatives of Jasmin would certainly exact from them. They willfully refused to protect and tend to the welfare of the deceased Jasmin, treating her case as just one of those unsolved crimes that is not worth wasting their time and resources on. The evidence does not even show that Becmen and Rajab lifted a finger to provide legal representation and seek an investigation of Jasmins case. Worst of all, they unnecessarily trampled upon the person and dignity of Jasmin by standing pat on the argument that Jasmin committed suicide, which is a grave accusation given its un-Christian nature.

We cannot reasonably expect that Jasmins parents should be the ones to actively pursue a just resolution of her case in the KSA, unless they are provided with the finances to undertake this herculean task. Sadly, Becmen and Rajab did not lend any assistance at all in this respect. The most Jasmins parents can do is to coordinate with Philippine authorities as mandated under R.A. 8042, obtain free legal assistance and secure the aid of the Department of Foreign Affairs, the Department of Labor and Employment, the POEA and the OWWA in trying to solve the case or obtain relief, in accordance with Section 23^[27] of R.A. 8042. To our mind, the Cuasmas did all that was within their power, short of actually flying to the KSA. Indeed, the Cuasmas went even further. To the best of their abilities and capacities, they ventured to investigate Jasmins case on their own: they caused another autopsy on Jasmins remains as soon as it arrived to inquire into the true cause of her death. Beyond that, they subjected themselves to the painful and distressful experience of exhuming Jasmins remains in order to obtain another autopsy for the sole purpose of determining whether or not their daughter was poisoned. Their quest for the truth and justice is equally to be expected of all loving parents. All this time, Rajab and Becmen instead of extending their full cooperation to the Cuasmas family merely sat on their laurels in seeming unconcern.

In *Interorient Maritime Enterprises, Inc. v. NLRC*,^[28] a seaman who was being repatriated after his employment contract expired, failed to make his Bangkok to Manila connecting flight as he began to wander the streets of Bangkok aimlessly. He was shot to death by Thai police four days after, on account of running amuck with a knife in hand and threatening to harm anybody within sight. The employer, sued for death and other benefits as well as damages, interposed as defense the provision in the seafarer agreement which provides that no compensation shall be payable in respect of any injury, incapacity, disability or death resulting from a willful act on his own life by the seaman. The Court rejected the defense on the view, among others, that the recruitment agency should have observed some precautionary measures and should not have allowed the seaman, who was later on found to be mentally ill, to travel home alone, and its failure to do so rendered it liable for the seaman's death. We ruled therein that

The foreign employer may not have been obligated by its contract to provide a companion for a returning employee, but it cannot deny that it was expressly tasked by its agreement to assure the safe return of said worker. **The uncaring attitude displayed by petitioners who, knowing fully well that its employee had been suffering from some mental disorder, nevertheless still allowed him to travel home alone, is appalling to say the least. Such attitude harks back to another time when the landed gentry practically owned the serfs, and disposed of them when the latter had grown old, sick or otherwise lost their usefulness.**^[29] (Emphasis supplied)

Thus, more than just recruiting and deploying OFWs to their foreign principals, recruitment agencies have equally significant responsibilities. In a foreign land where OFWs are likely to encounter uneven if not discriminatory treatment from the foreign government, and certainly a delayed access to language interpretation, legal aid, and the Philippine consulate, the recruitment agencies should be the **first** to come to the rescue of our distressed OFWs since they know the employers and the addresses where they are deployed or stationed. Upon them lies the primary obligation to protect the rights and ensure the welfare of our OFWs, whether distressed or not. Who else is in a better position, if not these recruitment agencies, to render immediate aid to their deployed OFWs abroad?

Article 19 of the Civil Code provides that every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith. Article 21 of the Code states that any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage. And, lastly, Article 24 requires that in all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts

must be vigilant for his protection.

Clearly, Rajab, Becmen and White Falcons acts and omissions are against public policy because they undermine and subvert the interest and general welfare of our OFWs abroad, who are entitled to full protection under the law. They set an awful example of how foreign employers and recruitment agencies should treat and act with respect to their distressed employees and workers abroad. Their shabby and callous treatment of Jasmins case; their uncaring attitude; their unjustified failure and refusal to assist in the determination of the true circumstances surrounding her mysterious death, and instead finding satisfaction in the unreasonable insistence that she committed suicide just so they can conveniently avoid pecuniary liability; placing their own corporate interests above of the welfare of their employees all these are contrary to morals, good customs and public policy, and constitute taking advantage of the poor employee and her familys ignorance, helplessness, indigence and lack of power and resources to seek the truth and obtain justice for the death of a loved one.

Giving in handily to the idea that Jasmin committed suicide, and adamantly insisting on it just to protect Rajab and Becmens material interest despite evidence to the contrary is against the moral law and runs contrary to the good custom of not denouncing ones fellowmen for alleged grave wrongdoings that undermine their good name and honor.^[30]

Whether employed locally or overseas, all Filipino workers enjoy the protective mantle of Philippine labor and social legislation, contract stipulations to the contrary notwithstanding. This pronouncement is in keeping with the basic public policy of the State to afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. This ruling is likewise rendered imperative by Article 17 of the Civil Code which states that laws which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.^[31]

The relations between capital and labor are so impressed with public interest,^[32] and neither shall act oppressively against the other, or impair the interest or convenience of the public.^[33] In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer.^[34]

The grant of moral damages to the employee by reason of misconduct on the part of the

employer is sanctioned by Article 2219 (10)^[35] of the Civil Code, which allows recovery of such damages in actions referred to in Article 21.^[36]

Thus, in view of the foregoing, the Court holds that the Cuasmas are entitled to moral damages, which Becmen and White Falcon are jointly and solidarily liable to pay, together with exemplary damages for wanton and oppressive behavior, and by way of example for the public good.

Private employment agencies are held jointly and severally liable with the foreign-based employer for any violation of the recruitment agreement or contract of employment. This joint and solidary liability imposed by law against recruitment agencies and foreign employers is meant to assure the aggrieved worker of immediate and sufficient payment of what is due him.^[37] 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.^[38]

White Falcons assumption of Becmens liability does not automatically result in Becmens freedom or release from liability. This has been ruled in *ABD Overseas Manpower Corporation v. NLRC*.^[39] Instead, both Becmen and White Falcon should be held liable solidarily, without prejudice to each having the right to be reimbursed under the provision of the Civil Code that whoever pays for another may demand from the debtor what he has paid.^[40]

WHEREFORE, the Amended Decision of the Court of Appeals dated May 14, 2008 in CA-G.R. SP No. 80619 and CA-G.R. SP No. 81030 is **SET ASIDE**. **Rajab & Silsilah Company, White Falcon Services, Inc., Becmen Service Exporter and Promotion, Inc., and their corporate directors and officers** are found jointly and solidarily liable and **ORDERED** to indemnify the heirs of Jasmin Cuasma, spouses Simplicio and Mila Cuasma, the following amounts:

- 1) TWO MILLION FIVE HUNDRED THOUSAND PESOS (P2,500,000.00) as moral damages;
- 2) TWO MILLION FIVE HUNDRED THOUSAND PESOS (P2,500,000.00) as exemplary damages;

3) Attorneys fees equivalent to ten percent (10%) of the total monetary award; and,

4) Costs of suit.

SO ORDERED.

CONSUELO YNARES-SANTIAGO

Associate Justice

WE CONCUR:

CONCHITA CARPIO MORALES
Associate Justice

MINITA V. CHICO-NAZARIO ANTONIO EDUARDO B. NACHURA
Associate Justice Associate Justice

DIOSDADO M. PERALTA
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 Courts Division.

CONSUELO YNARES-SANTIAGO
Associate Justice

Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairpersons 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 Courts Division.

REYNATO S. PUNO
Chief Justice

* In lieu of Associate Justice Ma. Alicia Austria-Martinez, per Special Order No. 602 dated March 20, 2009.

[1] *Rollo*, pp. 53-68; penned by Associate Justice Jose Catral Mendoza and concurred in by Associate Justices Amelita G. Tolentino and Arturo G. Tayag.

[2] A Philippine corporation engaged in the business of recruitment of workers for overseas employment.

[3] *Rollo*, p. 70.

[4] CA *rollo*, CA-G.R. SP No. 80619, pp. 344-345.

[5] *Id.* at 345.

[6] *Id.* at 68-69; Autopsy Report of the Cabanatuan City Health Office dated September 4, 1998.

[7] *Id.* at 70; NBI Toxicology Report No. T-99-220 (Gx) dated April 8, 1999.

[8] The case was docketed as NLRC NCR OFW (L)99-11-00088-99.

[9] Jasmin was staying at a dormitory provided and paid for by her employer Rajab Silsilah Co.

[10] *Rollo*, pp. 69-80.

[11] *Id.* at 103-115; penned by Commissioner Tito F. Genilo and concurred in by Commissioners Lourdes C. Javier and Ireneo B. Bernardo.

[12] *Id.* at 116-125.

[13] *Id.* at 124.

[14] Entitled *White Falcon Services, Inc. v. NLRC, Becmen Service Exporter, Inc. and Spouses Simplicio and Mila Cuaresma and Becmen Service Exporter and Promotions, Inc. v. NLRC, Mila Cuaresma, White Falcon Services, Inc., and Jaime Ortiz* (President of White Falcon Services, Inc.) and docketed as CA-G.R. SP No. 80619 and CA-G.R. SP No. 81030, respectively.

[15] *Rollo*, pp. 126-139; *Rollo*, pp. 53-68; penned by Associate Justice Jose Catral Mendoza and concurred in by Associate Justices Elvi John Asuncion and Arturo G. Tayag.

[16] *Id.* at 138.

[17] *Id.* at 67.

[18] *Delos Santos v. Jepsen Maritime, Inc.*, G.R. No. 154185, November 22, 2005, 475 SCRA 656.

[19] *Aquino-Simbulan v. Zabat*, A.M. No. P-05-1993, April 26, 2005, 457 SCRA 23.

[20] *Iloilo Dock & Engineering Co. v. Workmens Compensation Commission*, G.R. No. L-26341, November 27, 1968, 26 SCRA 102, citing Samuel B. Horovitz *Injury and Death under Workmens Compensation Laws* (1944).

[21] *Id.* at 109-110, stating that

The narrow rule that a worker is not in the course of his employment until he crosses the employment threshold is itself subject to many exceptions. off-premises injuries to or from work, in both liberal and narrow states, are compensable (1) if the employee is on the way to or from work in a vehicle owned or supplied by the employer, whether in a public (e.g., the employer's street car) or private conveyance; (2) if the employee is subject to call at all hours or at the moment of injury; (3) if the employee is traveling for the employer, i.e. traveling workers; (4) if the employer pays for the employee's time from the moment he leaves his home to his return home; (5) if the employee is on his way to do further work at home, even though on a fixed salary; (6) where the employee is required to bring his automobile to his place of business for use there. Other exceptions undoubtedly are equally justified, dependent on their own peculiar circumstances.

[22] The law took effect on July 15, 1995.

[23] R.A. 8042, Sec. 2a.

[24] *Id.* Sec. 2b.

[25] As defined under the Rules and Regulations Implementing R.A. 8042:

(c) **Overseas Filipino in distress** - Overseas Filipinos as defined in Sec.3(c) of the Act shall be deemed in distress in cases where they have valid medical, psychological or legal assistance problems requiring treatment, hospitalization, counseling, legal representation as specified in Sections 24 and 26 or any other kind of intervention with the authorities in the country where they are found.

[26] R.A. 8042, Sec. 2e.

[27] SEC. 23. ROLE OF GOVERNMENT AGENCIES. - The following government agencies shall perform the following to promote the welfare and protect the rights of migrant workers and, as far as applicable, all overseas Filipinos:

(a) Department of Foreign Affairs. - The Department, through its home office or foreign posts, shall take

priority action its home office or foreign posts, shall take priority action or make representation with the foreign authority concerned to protect the rights of migrant workers and other overseas Filipinos and extend immediate assistance including the repatriation of distressed or beleaguered migrant workers and other overseas Filipinos;

(b) Department of Labor and Employment - The Department of Labor and Employment shall see to it that labor and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centers or hospitals:

(b.1) Philippine Overseas Employment Administration - Subject to deregulation and phase out as provided under Sections 29 and 30 herein, the Administration shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

(b.2) Overseas Workers Welfare Administration - The Welfare Officer or in his absence, the coordinating officer shall provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals. In the performance of this functions, he shall make representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the complaints or problems brought to his attention.

[28] G.R. No. 115497, September 16, 1996, 261 SCRA 757.

[29] *Id.* at 772.

[30] See *Tiongco v. Deguma*, G.R. No. 133619, October 26, 1999, 317 SCRA 527.

[31] *Royal Crown Internationale v. NLRC*, G.R. No. 78085, October 16, 1989, 178 SCRA 569, 580-581, cited in *Philippine National Bank v. Cabansag*, G.R. No. 157010, June 21, 2005, 460 SCRA 514.

[32] Civil Code, Article 1700.

[33] *Id.*, Article 1701.

[34] *Id.*, Article 1702.

[35] Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

[36] *Maneja v. National Labor Relations Commission*, G.R. No. 124013, June 5, 1998, 290 SCRA 603.

[37] *Sevillana v. I.T. (International) Corp.*, G.R. No. 99047, April 16, 2001, 356 SCRA 451.

[38] R.A. 8042, Section 10.

[39] G.R. No. 117056, February 24, 1998, 286 SCRA 454.

[40] Civil Code, Article 1236.