

THIRD DIVISION

**SAMEER OVERSEAS PLACEMENT
AGENCY, INC.,**

Petitioner,

G.R. No. 152579

Present:

- versus -

YNARES-SANTIAGO, J.,
Chairperson,
CHICO-NAZARIO,
VELASCO, JR.,
NACHURA, and
PERALTA, JJ.

MILDRED R. SANTOS,
in her official capacity as President of,
and/or ASBT INTERNATIONAL
MANAGEMENT SERVICE, INC.,
LORD NELSON SANTOS, DANILO
BALCITA, NICSON CRUZ, PEPITO
MANGLICMOT, and ALLAN ARANES,
Respondents.

Promulgated:

August 4, 2009

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DECISION

NACHURA, J.:

This is a petition^[1] for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[2] dated December 10, 2001 and the Resolution^[3] dated March 12, 2002 of the Court of Appeals in CA-G.R. SP No. 65068 entitled *ASBT International Management Service Incorporated v. National Labor Relations Commission, Sameer Overseas Placement Agency, Incorporated, Lord Nelson Santos, et al.*

The antecedents are as follows:

On December 5, 1995, private respondents Lord Nelson Santos, Danilo Balcita, Nicson Cruz, Pepito Manglicmot, and Allan Aranes (Santos, et al.) were recruited by petitioner Sameer Overseas Placement Agency, Inc. (Sameer) as aluminum products manufacturer operators for Ensure Company Ltd. of Taiwan (Ensure), under a one-year employment contract with a basic monthly salary of NT\$14,800.00.

Santos, et al. were deployed and were able to work for Ensure. However, they were

repatriated even prior to the expiration of their contracts. Consequently, in July and August 1996, Santos, et al. filed complaints against Sameer before the National Labor Relations Commission (NLRC) for illegal dismissal, underpayment of salaries, and unauthorized salary deductions.

On November 3, 1997, Sameer filed a third party complaint against private respondent ASBT International Management Service, Inc. (ASBT). It claimed that the latter should be liable for all the contractual obligations of Ensure since Sameers accreditation was transferred to ASBT on June 9, 1997.

On December 29, 1999, the Labor Arbiter rendered a Decision,^[4] disposing as follows

WHEREFORE, premises considered, SAMEER is hereby ordered to pay the complainants:

1. The amount of NT\$156,120.00 to LORD NELSON SANTOS covering the underpayment of monthly salaries for the period of five (5) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;
2. The amount of NT\$154,560.00 to DANILO BALCITA covering the underpayment of monthly salaries for the period of six (6) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;
3. The amount of NT\$174,048.00 to EMMANUEL DEMILLO covering the underpayment of monthly salaries for the period of four (4) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;
4. The amount of NT\$172,560.00 to NICZON CRUZ covering the underpayment of monthly salaries for the period of four (4) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund for the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;
5. The amount of NT\$152,560.00 to PEPITO MANGLICMOT covering the underpayment of monthly salaries for the period of four (4) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;

6. The amount of NT\$65,280.00 to DANIEL DUMLAO covering the underpayment of monthly salaries for the period of four (4) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;

7. The amount of NT\$156,120.00 to ALLAN ARANES covering the underpayment of monthly salaries for the period of four (4) months, salaries for the unexpired portion of the contract and refund of the unauthorized salary deduction, Sixty Five Thousand (P65,000.00) Pesos as refund of the placement fee and guaranty fee less Five Thousand (P5,000.00) Pesos, and Six Thousand (P6,000.00) Pesos as refund for the cost of his plane ticket;

8. The amount of Fifty Thousand (P50,000.00) Pesos each as moral damages;

9. Attorneys fees and litigation expenses equivalent to ten percent (10%) of the total monetary award.

SO ORDERED. ^[5]

Dissatisfied, Sameer appealed to the NLRC alleging, among others, that the Labor Arbiter committed grave abuse of discretion in failing to decide the third-party complaint, to its damage and prejudice, insisting that it should have been absolved of any and all liabilities pertaining to the claims of Santos, et al.

On January 24, 2001, the NLRC promulgated its Decision, ^[6] the dispositive portion of which reads

WHEREFORE, premises considered, the appealed decision is hereby SET ASIDE and a new one entered absolving SAMEER Overseas Placement Agency, Inc. from its liabilities in view of the transfer of accreditation to ASBT Management Services, Inc. and ordering the latter to pay the following:

1. Danilo Balcita

P44,640.00 representing his salary for the unexpired portion of the contract

P19,880.00 representing refund of his placement fee

2. Nicson Cruz

P44,640.00 representing his salary for the unexpired portion of the contract

P19,880.00 representing refund of his placement fee

3. Pepito Manglicmot

₱44,640.00 representing his salary for the unexpired portion of the contract

₱19,980.00 representing refund of his placement fee

4. Lord Nelson Santos

₱44,640.00 representing his salary for the unexpired portion of the contract

₱19,880.00 representing refund of his placement fee

All other claims are dismissed for want of legal and factual basis.

SO ORDERED. ^[7]

Aggrieved, ASBT moved for reconsideration. The NLRC denied the motion for lack of merit.

ASBT elevated the case to the Court of Appeals via a petition for *certiorari* under Rule 65 of the Rules of Court. However, in a Resolution ^[8] dated June 19, 2001, the Court of Appeals denied due course and dismissed ASBT's petition on the ground that the attached Verification and Certification of Non-Forum Shopping was signed by Mildred R. Santos as President of ASBT without any proof of authority to sign for and bind ASBT in the proceedings.

ASBT filed a motion for reconsideration of the June 19, 2001 Resolution, submitting therewith the necessary board resolution authorizing corporate president Mildred R. Santos to represent ASBT before the Court of Appeals. The appellate court granted the motion and reinstated the petition.

In its December 10, 2001 Decision, the Court of Appeals ruled in favor of ASBT. The decretal portion of the Decision reads

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed decision and resolution of the public respondent NLRC are **SET ASIDE**. Sameer Overseas Placement Agency, Inc. is hereby ordered to pay the following to:

1. Danilo Balcita a). ₱44,640.00, representing his salary for the unexpired portion of the contract; b). ₱19,880.00, representing refund of his placement.
2. Nicson Cruz a). ₱44,640.00, representing his salary for the unexpired portion of the contract; b). ₱19,880.00, representing refund of his placement fee.
3. Pepito Manglicmot a). ₱44,640.00, representing his salary for the unexpired portion of the contract; b). ₱19,880.00, representing refund of his placement fee.
4. Lord Nelson Santos a). ₱44,640.00, representing his salary for the unexpired portion of the contract; b). ₱19,880.00, representing refund of his placement fee.

All other claims are **DISMISSED** for want of legal and factual basis.

SO ORDERED. [\[9\]](#)

In ruling against Sameer, the Court of Appeals considered the following factual circumstances: (1) Sameer admitted that it hired and deployed Santos, et al. for and in behalf of Ensure for work in Taiwan; (2) Sameer received the placement fees for the processing of the documents of Santos, et al., without any showing that said fees inured to the benefit of ASBT in any way; (3) Santos, et al. were repatriated in 1996, prior to the supposed transfer of Sameers accreditation to ASBT on June 9, 1997; (4) the August 1, 1997 letter from the Philippine Overseas Employment Administration (POEA) presented by Sameer pronouncing the transfer of accreditation of Yuan Fu Co. Ltd. to ASBT, upon Sameers representation that Yuan Fu Co. Ltd. and Ensure were one and the same entity, indicated that such accreditation of ASBT had been cancelled; and (5) Sameer failed to present substantial proof that Ensure changed its business name to Yuan Fu.

Sameer, thus, moved to reconsider the December 10, 2001 Decision; but the Court of Appeals denied the same in its March 12, 2002 Resolution. Hence, this petition.

The petition should be denied for utter want of merit.

First. Sameer contends that both the June 6, 2001 Petition and the July 5, 2001 Motion for Reconsideration filed by ASBT before the Court of Appeals were signed by Mildred Santos, as corporate president, who is not a member of the Bar. As such, Sameer argues that both the Petition and the Motion for Reconsideration should be considered unsigned pleadings which produce no legal effect, pursuant to the last paragraph of Section 3, Rule 7 of the Rules of Civil Procedure.

We disagree. Section 3, Rule 7 of the Rules of Civil Procedure provides

SEC. 3. Signature and address. Every pleading must be signed **by the party or counsel representing him**, stating in either case his address which should not be a post office box.

The signature of counsel constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

An unsigned pleading produces no legal effect. However, the court ay, in its discretion, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading,

or signs a pleading in violation of this Rule, or alleges scandalous or indecent matter therein, or fails to promptly report to the court a change of his address, shall be subject to appropriate disciplinary action. (*Emphasis supplied.*)

Obviously, the rule allows the pleadings to be signed by either the party to the case or the counsel representing that party. In this case, ASBT, as petitioner, opted to sign its petition and its motion for reconsideration in its own behalf, through its corporate president, Mildred R. Santos, who was duly authorized by ASBTs Board of Directors to represent the company in prosecuting this case. Therefore, the said pleadings cannot be considered unsigned and without any legal effect.

Second. Sameer also submits that ASBT violated the prohibition against forum shopping. It claims that the transfer of CA-G.R. SP No. 65068 from the Seventh Division of the Court of Appeals which initially denied due course and dismissed the petition then reinstated the same (upon proof that Mildred R. Santos as duly authorized) in the Former Fourth Division, which gave due course to and granted the petition was actually an act of forum shopping. Sameer posits that the grant of ASBTs July 5, 2001 motion for reconsideration by the Seventh Division, which reinstated the dismissed petition, in effect gave rise to a new petition.

The argument is sadly misplaced. Forum shopping is defined as an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for *certiorari*. It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.^[10] There is forum shopping where the elements of *litis pendentia* are present, namely: (a) there is identity of parties, or at least such parties as represent the same interest in both actions; (b) there is identity of rights asserted and relief prayed for, the relief being founded on the same set of facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other.^[11] It is expressly prohibited by this Court because it trifles with and abuses court processes, degrades the administration of justice, and congests court dockets. A willful and deliberate violation of the rule against forum shopping is a ground for summary dismissal of the case, and may also constitute direct contempt.^[12]

In this case, there is clearly no forum shopping committed by ASBT. The July 5, 2001 motion it filed praying for reconsideration of the June 19, 2001 Resolution of the Court of

Appeals, dismissing the petition on the technical ground of lack of proof of the authority of ASBT President Mildred R. Santos to bind the corporation in its appeal, is simply what it is, a motion for reconsideration. Sameer cannot insist that it be treated as a new petition just to make it fit the definition of forum shopping in an attempt to evade liability to pay the amounts awarded to Santos, et al. Nor was Sameer correct when it asseverated that the Seventh Division, that initially dismissed then reinstated ASBTs petition, and the Former Fourth Division, that rendered the questioned Decision and Resolution in favor of ASBT, can be considered as different fora within the ambit of the prohibition. They are mere divisions of one and the same Court of Appeals. And as explained by the appellate court, what actually happened was that after the Seventh Division issued its June 19, 2001 Resolution dismissing the case for failure of ASBT to show that Mildred R. Santos was authorized to sign and bind the corporation in the proceedings, ASBT complied and submitted the requisite proof of authority. The Seventh Division then issued a Resolution on August 14, 2001 reinstating the petition. After an internal reorganization, it was the Fourth Division which promulgated a decision on December 10, 2001. ASBT never filed a second petition.

WHEREFORE, the petition is **DENIED** for lack of merit. The assailed December 10, 2001 Decision and the March 12, 2002 Resolution of the Court of Appeals are **AFFIRMED**. Costs against petitioner.

SO ORDERED.

ANTONIO EDUARDO B. NACHURA
Associate Justice

WE CONCUR:

CONSUELO YNARES-SANTIAGO
Associate Justice
Chairperson

MINITA V. CHICO-NAZARIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

A T T E S T A T I O N

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 Courts Division.

CONSUELO YNARES-SANTIAGO
Associate Justice
Chairperson, Third Division

C E R T I F I C A T I O N

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 Courts Division.

REYNATO S. PUNO
Chief Justice

[1] Penned by Associate Justice Eliezer R. de los Santos (deceased) with Associate Justices Eubulo G. Verzola (deceased) and Rodrigo V. Cosico (retired), *concurring; rollo*, pp. 8-25.

[2] *Id.* at 34-43.

[3] *Id.* at 30-32.

[4] *Id.* at. 53-62.

[5] *Id.* at. 60-62.

[6] *Id.* at 64-86.

[7] *Id.* at 84-85.

[8] *Id.* at 45.

[9] *Id.* at 42-43.

[10] *Philippine Islands Corporation for Tourism Development, Inc. v. Victorias Milling Company, Inc.*, G.R. No. 167674, June 17, 2008, 554 SCRA 561, 569.

[11] *Tegimenta Chemical Phils. v. Buensalida*, G.R. No. 176466, June 17, 2008, 554 SCRA 670, 679.

[12] *Tapuz v. Del Rosario*, G.R. No. 182484, June 17, 2008, 554 SCRA 768, 782.