FIRST DIVISION

[G.R. No. 209072, July 24, 2019]

ARLENE A. CUARTOCRUZ, PETITIONER, VS. ACTIVE WORKS, INC., AND MA. ISABEL E. HERMOSA, BRANCH MANAGER, RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:[**]

In this petition for review, we reiterate that any doubt concerning the rights of labor should be resolved in its favor pursuant to the social justice policy espoused by the Constitution.[1] Moreover, the proviso in Section 10, Republic Act No. (RA) 8042[2] which prescribes the award of "salaries for the unexpired portion of [the] employment contract or for three (3) months for every year of the unexpired term, whichever is less" to illegally-dismissed overseas workers has been declared unconstitutional by the Court as early as 2009,[3] and thus should no longer be a source of confusion by litigants and the courts.

On June 4, 2007, Arlene A. Cuartocruz (petitioner) and Cheng Chi Ho,[4] a Hong Kong national, entered into a contract of employment whereby petitioner shall work as the latter's domestic helper for a period of two years. Petitioner was tasked to do household chores and baby-sitting, among others, for a monthly salary of HK$3,400.00 and other emoluments and benefits provided under the contract. Respondent Active Works, Inc. (AWI), a Philippine corporation engaged in the recruitment of domestic helpers in Hong Kong, is petitioner's agency, and respondent Ma. Isabel Hermosa is its Branch Manager. [5]

On August 3, 2007, petitioner arrived in Hong Kong. The following day, she proceeded to the residence of her employer.[6]

On August 11, 2007, petitioner received a warning letter from her employer,[7] stating that she is required to improve her attentiveness in performing her work within one month, failing which the letter shall serve as a written notice of the termination of her employment contract effective September 11, 2007. On the same day, petitioner wrote a reply, apologizing for giving false information by stating in her bio-data that she is single when in fact she is a single parent. She also asked for a chance to improve so she can continue with her work.[8]

However, in a letter dated August 16, 2007, Cheng Chi Ho informed the Immigration Department of Wangchai, Hong Kong that he is terminating the contract with petitioner effective immediately for the following reasons: "disobey order *(sic),* unmatch the

contract which she submit before *(sic),* [and] refuse to care my baby *(sic).*"[9]

Petitioner filed a case against her employer before the Minor Employment Claims Adjudication Board, but it was eventually dismissed and petitioner was repatriated at the instance of AWI.[10] Petitioner alleged that while in Manila, AWI offered her P15,000.00 as a settlement fee but she declined it, believing that she is entitled to a higher amount.[11]

Consequently, petitioner filed a complaint before the Labor Arbiter (LA) for illegal dismissal, payment of unpaid salaries and salaries corresponding to the unexpired portion of the contract of employment, reimbursement of placement fee and other fees incident to petitioner's deployment to Hong Kong, and moral and exemplary damages.[12] Petitioner denied committing the acts imputed to her by Cheng Chi Ho, and claimed that those were baseless and fabricated. Further, at no time was her attention called with respect to those acts that she allegedly committed.[13]

On June 16, 2008, the Executive LA (ELA) rendered a Decision[14] finding the termination of petitioner's employment contract without notice as valid and legal.[15] The ELA held that petitioner was already warned by her employer to improve her work, yet she did not show improvement in her work performance and attitude. She also misrepresented herself to be single, but later on admitted that she was separated with a child. This information does not match with the information stated in her employment contract and constitutes dishonesty on her part. Moreover, the termination of her employment contract was in accordance with Hong Kong's Employment Ordinance Chapter 57, Section 9 of which states that "[a]n employer may terminate a contract of employment without notice or payment in lieu x x x if an employee, in relation to his employment x x x wilfully disobeys a lawful and reasonable order; x x x misconducts himself such conduct being inconsistent with the due and faithful discharge of his duties; x x x is guilty of fraud or dishonesty."[16] This provision being part of petitioner's employment contract, it must be respected as the law between the parties.

With regard to money claims, the ELA held that petitioner is not entitled to salaries corresponding to the unexpired portion of her contract since she was dismissed for cause. However, she is entitled to be paid salaries for the six days that she has rendered service to her employer, or the total amount of HK$679.98.[17] Since petitioner was dismissed for cause, this amount shall be set off against the repatriation expenses incurred by AWT in the amount of HK$750.00.[18] Petitioner appealed the Decision with the National Labor Relations Commission (NLRC).

On May 29, 2009, the NLRC issued a Resolution[19] nullifying and setting aside the ELA Decision. It held that there is insufficient proof of petitioner's alleged poor work performance. The August 11, 2017 warning letter that petitioner received from her employer did not even specify what work needs improvement. It was only on August 16, 2007, when petitioner's employment contract was terminated, that she was criticized for disobeying orders. Petitioner was not given notice of specific violations that she allegedly committed and a chance to explain her side. She was also denied

due process when the warning letter gave her one month to improve her work performance, but she was dismissed five days after.[20] With respect to petitioner's alleged dishonesty in concealing her civil status, jurisprudence has settled that this is a form of dishonesty so trivial that it will not warrant the penalty of dismissal. Consequently, the NLRC found petitioner to have been illegally dismissed and awarded her full reimbursement of her placement fee of P45,000.00 with 12% interest *per annum* pursuant to RA 8042, reimbursement of P2,500.00 medical examination fee, and unpaid salaries equivalent to three months for every year of the unexpired portion of the contract, or a total period of six months.[21]

Respondents filed a motion for reconsideration, but it was denied.[22] Hence, they filed a petition for *certiorari*[23] with the Court of Appeals (CA).

On April 26, 2012, the CA rendered its Decision[24] affirming with modification the NLRC Resolution. It held that AWI cannot evade responsibility for the money claims of overseas Filipino workers (OFWs) whom it deploys abroad by the mere expediency of claiming that its foreign principal is a government agency clothed with immunity from suit, or that such foreign principal's liability must be established first before it, as agent, can be held jointly and solidarily liable. Otherwise, the rule on joint and solidary liability of the agent with the foreign principal would be rendered inutile.[25] Moreover, the contention that Hong Kong law governs petitioner's employment contract lacks merit since respondents failed to prove Hong Kong law. The rule is that where a foreign law is not pleaded, or even if pleaded, is not proved, the presumption is that it is the same as Philippine law. Thus, Philippine law should apply in resolving the issues in the case.[26] Finally, petitioner was not afforded due process. The notice of termination was not properly served on her and did not properly inform her of the grounds for termination. In fact, petitioner was given one month from the date of the warning letter to improve her work but her employment was terminated just four[27] days thereafter. [28] The CA consequently awarded petitioner three-months' salary, refund of her placement fee with 12% interest *per annum,* and attorney's fees which shall be 10% of the total monetary award.[29]

Petitioner filed a partial motion for reconsideration[30] pertaining to the award of three-months' salary. She pointed out that the CA based this award on Section 10, RA 8042, which provides that "[i]n case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to x x x 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." However, the cases of *Serrano v. Gallant Maritime Services, Inc.*[31] and *Yap v. Thenamaris Ship's Management*[32] already declared this provision unconstitutional and awarded illegally dismissed overseas workers with salaries equivalent to the entire unexpired portion of their employment contract. Thus, petitioner claims that she is entitled to the award of salaries equivalent to the entire unexpired portion of her unemployment contract.

On July 30, 2013, the CA issued a Resolution[33] denying petitioner's motion for reconsideration. It held that the cases cited by petitioner are not on all fours with the

circumstances of this case. Particularly, in those cases there was a unanimous finding of illegal dismissal by the LA, NLRC and CA. On the contrary, there is no unanimous finding by the LA and NLRC that petitioner was illegally dismissed. Moreover, petitioner rendered service for only six days. To award the monetary equivalent of the entire unexpired portion of her contract would be inequitable considering that she gave false information in her contract.[34]

Hence, this petition which raises the sole issue of whether or not the CA erred in applying the provision in Section 10, RA 8042, which prescribes the award of salaries equivalent to the "unexpired portion of [the] employment contract or x x x three (3) months for every year of the unexpired term, whichever is less" to illegally dismissed overseas employees.

At the outset, it is imperative that we set the parameters by which the review of this case is being undertaken.

First, even if petitioner raises only one issue in this case, which is a question of law, we deem it necessary to review other issues that have not been settled as a result of the conflicting rulings of the tribunals *a quo.* After all, it is settled that an appeal throws the entire case open for review. The Court has the authority to review matters not specifically raised or assigned as error by the parties if their consideration is *necessary in arriving at a just resolution of the case.*[35]

Second, while the general rule is that the jurisdiction of the Court under Rule 45, Section 1 of the Rules of Court is limited to the review of errors of law committed by the appellate court, the Court may delve into the records and examine the facts for itself when the factual findings of the LA, NLRC and the CA are conflicting. Such is the case here. The ELA held that petitioner's employment contract was validly terminated, and awarded her compensation equivalent to the six days that she worked with her employer. The NLRC differed, and found neither just cause for the termination of petitioner's employment nor observance of procedural due process. Finally, the CA is convinced of the just cause for the termination of petitioner's employment, but not the observance of procedural due process. These conflicting factual findings are not binding on the Court, and the Court retains the authority to pass upon the evidence presented and draw conclusions therefrom.[36]

Finally, Philippine law applies in this case. Although the employment contract is punctuated with provisions referring to Hong Kong law as the applicable law that governs the various aspects of employment, Hong Kong law was not proved.

Indeed, a contract freely entered into is considered the law between the parties who can establish stipulations, clauses, terms and conditions as they may deem convenient, including the laws which they wish to govern their respective obligations, as long as they are not contrary to law, morals, good customs, public order or public policy. It is hornbook principle, however, that the party invoking the application of a foreign law has the burden of proving the law. The foreign law is treated as a question of fact to be properly pleaded and proved as the judge or labor arbiter cannot take judicial notice of it. He is presumed to know only domestic or forum law.[37]

Here, respondent did not prove the pertinent Hong Kong law that governs the contract of employment. Thus, the international law doctrine of presumed-identity approach or processual presumption applies. Where a foreign law is not pleaded or, even if pleaded, is not proved, the presumption is that foreign law is the same as ours. Consequently, we apply Philippine labor laws in determining the issues in this case.[38]

We grant the petition.

I.

Under Philippine law, workers are entitled to substantive and procedural due process before the termination of their employment. They may not be removed from employment without a valid or just cause as determined by law, and without going through the proper procedure.[39] The purpose of these two-pronged qualifications is to protect the working class from the employer's arbitrary and unreasonable exercise of its right to dismiss.[40]

In this case, respondents failed to prove by substantial evidence that there was just or authorized cause for the termination of petitioner's employment. About a week into her job, or on August 11, 2007, petitioner received a warning letter from her employer requiring her "to improve [her] attentiveness on [her] performance within one month x x x" failing which the letter shall serve "as a written notice x x x that the x x x contract will be terminated with immediate effect on 11 September, 2007."[41] Nonetheless, after five days, or on August 16, 2007, petitioner's contract was terminated for the following reasons: "(1) disobey order *(sic);* (2) unmatch the contract which she submit before *(sic);* and (3) refuse to care my baby *(sic).*"[42]

The grounds cited for the termination of petitioner's employment contract are considered just causes under Article 282 of the Labor Code,[43] *but only if respondents were able to prove them.* The burden of proving that there is just cause for termination is on the employer, who must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause. Failure to show that there was valid or just cause for termination would necessarily mean that the dismissal was illegal.[44]

Here, no evidence was presented to substantiate the employer's accusations. There was no showing of particular instances when petitioner supposedly disobeyed her employer and refused to take care of his baby. With respect to petitioner's alleged misrepresentation that she was single when in fact she was a single parent, there is also no showing how this affected her work as a domestic helper. In fact, being a mother herself puts petitioner in a better position to care for her employer's child. Where there is no showing of a clear, valid, and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal.[45]

Petitioner was likewise not afforded procedural due process.

Procedural due process requires the employer to give the concerned employee at least

two notices before terminating his employment. The first is the notice which apprises the employee of the particular acts or omissions for which his dismissal is being sought along with the opportunity for the employee to air his side, while the second is the subsequent notice of the employer's decision to dismiss him.[46]

In this case, the August 11, 2007 warning letter would have very well served as the first notice that satisfies the above requirement. However, while the warning letter states that it will serve as notice of termination effective September 11, 2007 in case petitioner failed to improve her work performance, petitioner's employment was terminated much earlier and without further advice. Worse, the grounds stated in the August 16, 2007 termination letter were markedly different from the ground stated in the warning letter. Specifically, while the warning letter complained of petitioner's inattentiveness, the termination letter spoke of intentional acts allegedly committed by petitioner—*i.e.,* disobedience, misrepresentation and refusal to do her job. It appears that petitioner's employer merely devised the reasons of termination to suit the requirements of Hong Kong law. The employment contract provides:

> 10. Either party may terminate this contract by giving one month's notice in writing or one month wages in lieu of notice.
>
> 11. Notwithstanding Clause 10, either party may in writing terminate this contract without notice or payment in lieu of the circumstances permitted by the Employment Ordinance, Chapter 57.[47]

On the other hand, Employment Ordinance, Chapter 57 provides:

> **9. Termination of contract without notice by employer**
> (1) An employer may terminate a contract of employment without notice or payment in lieu— x x x
> (a) if an employee, in relation to his employment—
> (i) wilfully disobeys a lawful and reasonable order;
> (ii) misconducts himself such conduct being inconsistent with the due and faithful discharge of his duties;
> (iii) is guilty of fraud or dishonesty; or
> (iv) is habitually neglectful in his duties; x x x[48] (Emphasis and italics in the original.)

The termination letter expressed concerns that petitioner claimed she had never been confronted with.[49] She was left in the dark as regards the real reason for the termination of her employment, and was not given sufficient opportunity to rectify her shortcomings or explain her side.

Equally repulsive is the fact that petitioner's employer did not furnish her a copy of the

August 16, 2007 termination letter,[50] which was submitted to the Immigration Department of Wanchai, Hong Kong. Petitioner alleged that she learned of the termination of her employment the following day, and that she was able to get a copy of the termination letter only with the help of Helpers for Domestic Helpers, an organization of Filipino helpers in Hong Kong.[51]

The provisions in the employment contract and the employer's conduct are patently inconsistent with the right of security of tenure guaranteed to local or overseas Filipino workers under the Constitution[52] and the Labor Code.[53] Security of tenure guarantees workers substantive and procedural due process before they are dismissed from work.[54] It is a right which cannot be denied on mere speculation of any unclear and nebulous basis.[55] Undeniably, the NLRC properly ruled that petitioner was illegally dismissed on both substantive and procedural grounds.

II.

Respondents cannot escape liability from petitioner's money claims. Section 10 of RA 8042 provides that the employer and the recruitment or placement agency are jointly liable for money claims arising from the employment relationship or any contract involving overseas Filipino workers. If the recruitment or placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarity liable with the corporation or partnership for the aforesaid claims and damages. In providing for the joint and solidary liability of private recruitment agencies with their foreign principals, RA 8042 precisely affords OFWs with a recourse and assures them of immediate and sufficient payment of what is due them.[56]

We now rule on the appropriate monetary award.

First, we note that both the NLRC and CA omitted to compute unpaid wages for services rendered by petitioner. The ELA, on the other hand, awarded unpaid wages in the sum of HK$679.98,[57] relying on respondents' allegation that petitioner worked for only six days.[58] The ELA's computation is erroneous.

Petitioner's employment commenced on August 3, 2007, the day she arrived in Hong Kong, as provided by her employment contract,[59] and ended on August 16, 2007, when her employer unjustly terminated her employment contract. In total, petitioner is considered to have worked for 14 days.

In her position paper, petitioner alleged that on August 6, 2007, she was sent by her employer to a recruitment agency in Hong Kong supposedly for retraining, and returned on August 12, 2007. However, no retraining was conducted.[60] We hold that the period that petitioner was away from her workplace pursuant to her employer's instruction should be considered as days worked for the employer. In the first place, retraining is not provided for in the employment contract. Petitioner was even oblivious of the reason why she had to undergo retraining.[61] Moreover, petitioner was ready, willing,

and able to work, but her employer prevented her from doing so by unreasonably sending her away from her workplace. The employer's actions should not be taken to prejudice petitioner. It is a time-honored rule that in controversies between a laborer and his master, doubts reasonably arising from the evidence or, in the interpretation of agreements and writings, should be resolved in the former's favor.[62]

Consequently, petitioner's salary for the 14-day period she is deemed to have worked is computed as follows:

HK$3,400.00 per month/30 x 14 days = HK$1,586.67

Finally, as regards the issue of how much salary petitioner is entitled based on the unexpired portion of her contract, the NLRC awarded petitioner six-months' salary while the CA reduced this amount to three months, pursuant to Section 10, RA 8042, which provides:

> Sec. 10. *Money Claims.* –
>
> 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

The proviso "for three months for every year of the unexpired term [of the employment contract], whichever is less" has been declared unconstitutional by this Court for violating the equal protection clause and substantive due process.[63] In *Serrano v. Gallant Maritime Services, Inc.,*[64] we explained that the said clause contains a suspect classification in that, in the computation of the monetary benefits of fixed-term employees who are illegally discharged, it imposes a three-month cap on the claim of OFWs with an unexpired portion of one year or more in their contracts, but none on the claims of other OFWs or local workers with fixed-term employment. The subject clause singles out one classification of OFWs and burdens it with a peculiar disadvantage.[65] Moreover, there is no compelling state interest that the subject clause may possibly serve.

Thus, following *Serrano,* we rule that petitioner is entitled to her monthly salary of HK$3,400.00, or its Philippine peso equivalent, for the entire unexpired portion of her employment contract.

We reverse the CA's award of placement fee for being unsubstantiated.

WHEREFORE, the petition is **GRANTED.** The April 26, 2012 Decision and July 30, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 03292 are **AFFIRMED** with **MODIFICATION.** Petitioner is entitled to: 1) unpaid salaries for 14 days in the amount of HK$ 1,586.67; 2) salaries for the entire unexpired portion of her employment contract consisting of one year, 11 months and 16 days at the rate of HK$3,400.00 per month; and 3) attorney's fees equivalent to 10% of the total monetary award. These amounts shall then earn 6% interest *per annum* from the finality of this Decision until full payment.

The case is **REMANDED** to the Labor Arbiter for the computation of the exact amounts due to petitioner.

SO ORDERED.

Bersamin, C.J., (Chairperson), Gesmundo, and *Carandang, JJ.,* concur.
Del Castillo, (Working Chairperson), J., on official leave.

** Designated as Acting Working Chairperson of the First Division per Special Order No. 2680 dated July 12, 2019.

[1] *Marcopper Mining Corporation v. NLRC,* G.R. No. 103525, March 29, 1996, 255 SCRA 322.

[2] Migrant Workers and Overseas Filipinos Act of 1995.

[3] In the case of *Serrano v. Gallant Maritime Services, Inc.,* G.R. No. 167614, March 24, 2009, 582 SCRA 254.

[4] Also referred to as "Chi Ho Heng" in some parts of the *rollo.*

[5] *Rollo,* p. 107.

[6] *Id.*

[7] *Rollo,* p. 82. The warning letter pertinently states: "This letter serves as a warning letter to you, we require you to improve your attentiveness on your performance within one month starting from this date. If no improvement was shown by then, this letter will serves *(sic)* as a written notice to you that the captioned contract will be terminated with immediate effect on 11 September, 2007. You will not be entitled to payment of salary in lieu of the notice period upon this warning acknowledgment."

[8] *Id.* at 108-109.

[9] *Id.* at 85.

[10] *Id.* at 30.

[11] *Id.* at 109-110.

[12] *Id.* at 56-57.

[13] *Id.* at 56.

[14] *Id.* at 106-113.

[15] *Id.* at 112.

[16] *Id.* at 111.

[17] Computed as HK$3,400.00/month ÷ 30 days x 6 days = HKS679.98.

[18] *Rollo,* pp. 31, 112-113.

[19] *Id.* at 124-129.

[20] *Id.* at 127.

[21] *Id.* at 128.

[22] *Id.* at 130-131.

[23] *Id.* at 132-151.

[24] *Id.* at 28-40; penned by Associate Justice Edgardo T. Lloren, with Associate Justices Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy concurring.

[25] *Id.* at 34-35.

[26] *Id.* at 35-36.

[27] Should be five days.

[28] *Rollo,* p. 37.

[29] *Id.* at 39.

[30] *Id.* at 41-48.

[31] *Supra* note 3.

[32] G.R. No. 179532, May 30, 2011, 649 SCRA 369.

[33] *Rollo,* pp. 49-51; penned by Associate Justice Edgardo T. Lloren, with Associate Justices Marie Christine Azcarraga-Jacob and Henri Jean Paul B. Inting (now a Member of this Court) concurring.

[34] *Id.* at 50.

[35] *Barcelona v. Lim,* G.R. No. 189171, June 3, 2014, 724 SCRA 433, 461. Emphasis supplied; citation omitted.

[36] *Paredes v. Feed the Children Philippines, Inc.,* G.R. No. 184397, September 9, 2015, 770 SCRA 203, 216-217.

[37] *ATCI Overseas Corporation v. Echin,* G.R. No. 178551, October 11, 2010, 632 SCRA 528, 534. Citation omitted.

[38] *Id.* at 534-535. Citation omitted.

[39] *Sameer Overseas Placement Agency, Inc. v. Cabiles,* G.R. No. 170139, August 5, 2014, 732 SCRA 22, 42.

[40] *Industrial Personnel & Management Services, Inc. v. De Vera,* G.R. No. 205703, March 7, 2016, 785 SCRA 562, 587. Citation omitted.

[41] *Rollo,* p.82.

[42] *Id.* at 111.

[43] LABOR CODE, Art. 282. *Termination by employer.* — An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
(b) Gross and habitual neglect by the employee of his duties;
(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
(e) Other causes analogous to the foregoing.

[44] *Sameer Overseas Placement Agency, Inc. v. Cabiles, supra* note 39 at 45. Citations omitted.

[45] *Asian International Manpower Services, Inc. v. Court of Appeals,* G.R. No. 169652, October 9, 2006, 504 SCRA 103, 109. Citation omitted.

[46] *Eastern Overseas Employment Center, Inc. v. Bea,* G.R. No. 143023, November 29, 2005, 476 SCRA 384, 390. Citations-omitted.

[47] *Rollo*, p. 61-A.

[48] *Id.* at 99.

[49] *Id.* at 56.

[50] *Id.* at 85.

[51] *Id.* at 56.

[52] CONSTITUTION, Art. XIII, Sec. 3.

[53] LABOR CODE, Art. 3.

[54] *Dagasdas v. Grand Placement and General Services Corporation,* G.R. No. 205727, January 18, 2017, 814 SCRA 529, 540-541.

[55] *Industrial Personnel & Management Services, Inc. v. De Vera,* G.R. No. 205703, March 7, 2016, 785 SCRA 562, 586.

[56] *ATCI Overseas Corporation v. Echin, supra* note 37 at 533.

[57] Computed as HK$3,400.00/month ÷ 30 days x 6 days = HK$679.98.

[58] *Rollo,* p. 66.

[59] The employment contract provides:
2. (A)+ The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on the date on which the Helper arrives in Hong Kong. (*Id.* at 61.)

[60] *Id.* at 55.

[61] In her position paper, petitioner alleged that she asked the recruitment agency why she needed retraining, but the agency told her to just wait and did not exert any effort to retrain her. *(Id.)*

[62] LABOR CODE, Art. 4; *C.F. Sharp Crew Management, Inc. v. Legal Heirs of the Late*

Godofredo Repiso, G.R. No. 190534, February 10, 2016, 783 SCRA 516.

[63] *Sameer Overseas Placement Agency, Inc. v. Cabiles, supra* note 39 at 51.

[64] *Supra* note 3.

[65] *Id.* at 295.
