

NSNT MEDICAL PLACEMENT & ALLIED SERVICES, INC.,/ NAIDO B. DULDULAO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION 8TH DIVISION (FORMERLY 5TH DIVISION), RUELAN C. MIASCO AN...

Ponente: INTING, J.

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INTING, J.:

Before Us is a petition for certiorari seeking to set aside the National Labor Relations Commission's February 23, 2010 Resolution dismissing herein petitioner's appeal from the Executive Labor Arbiter's June 25, 2009 Decision[1]; the NLRC's February 10, 2011 Order[2] denying the petitioner's motions to dismiss and disapproving the parties' compromise agreements; and the NLRC's February 25, 2011 Resolution[3] denying the petitioner's motion for reconsideration in NLRC No. MAC-08-010988-2009 for illegal dismissal and money claims.

The facts of the case are as follows:

Herein petitioner NSNT Medical Placement & Allied Services, Inc. is a legitimate labor recruitment agency. Purportedly, NSNT, through its marketing officer, entered into a recruitment agreement with one Mr. Tony Chuah representing Rosnor Sdn, Bhd (Rosnor) based in Malaysia.[4] Consequently, in September of 2008, through Rosnor, herein private respondents Ruelan Miasco and Ramil Ines, together with eight other Filipinos, were sent by NSNT to Malaysia to work as factory workers under the employ of Metech Sdn, Bhd. Under the supposed recruitment agreement contract with Rosnor, the latter was responsible for the processing of the papers and the fees to secure the workers' working permits in Malaysia. However, after a month, NSNT received complaints that their workers were not issued any working permits. Further, NSNT also found out that Tony Chuah merely borrowed Rosnor's license so that he could transact business with them. This prompted NSNT to send two (2) of their employees to Malaysia to address the matter considering that their workers' tourist visas have already expired. Allegedly, when NSNT's personnel arrived in Malaysia, the workers had voluntarily resigned from work except for the private respondents who were given an extension until November 18, 2008. Nevertheless, the workers were supposedly offered another job with another employer but they opted to go back to the Philippines. Awaiting their repatriation and until it was granted, the workers were housed by NSNT at the Philippine Embassy in Malaysia. The private respondents were accommodated therein only after their work extension expired on November 18, 2008.[5]

Five (5) of those workers filed a complaint against NSNT for illegal dismissal, money claims and damages but only Miasco and Ines pursued their action after the others failed to appear and submit their position papers. In their complaint, the private respondents alleged that they were able to work overseas only for two (2) months despite their 24 month contract; and that they were not only underpaid but were also not paid their salaries for 13 days and overtime pay for nine (9) hours and 20 minutes.[6]

NSNT denied the illegal dismissal claims and maintained that the private respondents voluntarily resigned; that

Metech even offered them another work but they opted to go back to the Philippines; that there was no proof to show that they were underpaid or unpaid; that it was only the private respondents who allegedly signed a contract with Metech; and that it was also a victim of Tony Chuah who made it appear that they were transacting with Rosnor.

The Executive Labor Arbiter rendered its June 25, 2009 Decision[7] finding that the private respondents were terminated from work for lack of working permits which is a joint responsibility of Metech and NSNT; and that the claims of NSNT that the private respondents voluntarily resigned was belied by the latter's subsequent filing of the action. The ELA further ruled that with only tourist visas on hand, the private respondents should not have been deployed to Malaysia; and that NSNT was fully aware that without those working permits, the private respondents could not be lawfully employed. Hence, the ELA held that NSNT failed to comply with their duty to secure for the workers the necessary permits preparatory for the latter's work abroad, and this caused the severance of the private respondents' employment. NSNT was ordered to pay a total sum of P504,135.32 of salary differentials, unpaid salaries, and the salaries for the unexpired portion of the contract.

NSNT filed an appeal before the NLRC from the afore-mentioned ELA Decision.[8] In addition to other issues was NSNT's prayer to hold Rosnor and Metech solidarily liable with it.

In the meantime, pending the resolution of the appeal, NSNT and the private respondents Miasco and Ines entered into a compromise agreement dated March 11, 2010[9] and March 30, 2010,[10] respectively constituting a release, waiver, quitclaim or a settlement of their claims wherein the latter agreed to be paid P60,000.00 each. Following the compromise, NSNT filed a motion to dismiss the complaints on March 15, 2010[11] and April 3, 2010.[12]

However, before any clarificatory hearing on the compromise agreement could be made, on April 6, 2010, NSNT received the February 23, 2010 NLRC Resolution dismissing the appeal.[13] The NLRC found that NSNT did not proffer any evidence to support their claims of the private respondents' voluntary resignation nor presented any employment contract. Nevertheless, NLRC held that NSNT is responsible for the faithful compliance of its principal (Rosnor) and the employer (Metech) of all obligations under the employment contract from the time the workers arrived in the host country (Malaysia) until their return to the Philippines; and that NSNT failed to prove that it complied with its undertaking. Even if NSNT had an agreement with Rosnor for the latter to secure the work permits, the former cannot escape liability under its pre-licensing undertaking and responsibility to see to it that the work permits in Malaysia were actually obtained before the workers were allowed to work there. Further, the NLRC held that it was NSNT's, Rosnor's and Metech's fault why the private respondents were pre-terminated due to lack of the required permits. However, the NLRC opted not to address the prayer to hold Rosnor and Metech solidarily liable with NSNT as it was raised only on appeal without giving Rosnor and Metech the opportunity to refute the claims against them.

On May 18, 2010,[14] a clarificatory hearing was held before the NLRC to elucidate on the compromise agreement. During the hearing, Miasco admitted that he would not have entered into the settlement had he known of the NLRC's decision to dismiss NSNT's appeal and that he was impelled to agree to it due to his financial situation at that time. Ines, on the other hand, failed to appear.

On February 10, 2011, the NLRC issued an Order denying NSNT's motions to dismiss. It found that willingness to bargain at a desperate time was very apparent in the case; that it was an uneven field where one has the economic power over the other; and that the consideration was much less than the amount claimed and awarded which is contrary to public policy.

NSNT filed a motion for reconsideration on the NLRC's February 23, 2010 Resolution dismissing its appeal and

the February 10, 2011 Order denying its motion to dismiss.[15] Per April 25, 2011 NLRC Resolution, the motion was denied.[16]

A motion for execution on the February 10, 2011 NLRC Order was filed by the private respondents on March 29, 2011.[17]

On June 1, 2011, NSNT filed the present petition for certiorari with prayer for temporary restraining order or preliminary injunction.[18] On July 14, 2011, the private respondents filed their Comment and Opposition to the petition to which the petitioner filed its reply on July 22 of even year.

Meanwhile, the private respondents' motion for execution was granted on February 10, 2012. The ELA found that the judgment subject of the motion has already become final and executory on May 5, 2011 per entry of judgment issued December 14, 2011. Thus, the cash bond was ordered released to the private respondents corresponding to the total unsatisfied balance of the judgment and it was considered as full satisfaction of the judgment award.[19]

Per March 7, 2012 Resolution, this Court denied the prayer for the issuance of a TRO/WPI.[20]

On August 30, 2012, the case was declared submitted for decision.[21] Pursuant to the Revised Guidelines for the Implementation of Mediation in the CA, the case was referred to the Philippine Mediation Center on March 3, 2014.[22]

On March 22, 2014, NSNT held a special meeting of its board of directors and it was agreed therein that the present petition be withdrawn following the adverse decision of not granting the TRO/WPI in its favor; and considering that the award was already executed and the judgment was satisfied.[23]

A manifestation and motion was filed by petitioner NSNT on April 10, 2014 informing this Court that it will be filing a motion to dismiss or withdraw the instant petition following the execution and satisfaction of the NLRC judgment in the private respondents' favor.

Consequently, the mediation proceeding was terminated[24] and on April 24, 2014, petitioner NSNT filed its motion to dismiss the petition.

Our Ruling

Acting on the petitioner's motion, this Court resolves to grant it.

The Supreme Court in the case of *Bildner v. Roxas*,[25] explains that there is nothing in the Rules that requires that the judge dismiss a petitioner whenever a motion to withdraw petition is filed. The decision to grant or deny the motion to withdraw is discretionary on the part of the judge. Motions to withdraw petitions have been granted in the past and more often so.[26]

In the illegal dismissal case of *SKM Art Craft Corp. v. Bauca, et.al.*,[27] the Supreme Court stated therein that nothing prevents the petitioner from withdrawing its own petition if it is convinced that it has settled its dispute with the respondents and if it decides to do so, the Court can consider the petition withdrawn. Analogously, in the instant case, it is without doubt that the petitioner's monetary obligation to the respondents had been fully satisfied through the release of the cash bond and the petitioner finds the present recourse academic. Apparently, the petitioner is no longer questioning the NLRC's award in the respondents' favor and is thus, conceding to the propriety thereof. We find its motion to be well-taken, not contrary to law, customs and public policy. Further, We see no prejudice on the respondents' part if the motion is granted. In fact, the respondents, in their Comment/Opposition to the petition prayed that the execution of the NLRC decision be allowed and upheld by this Court.

Accordingly, We see no reason to proceed with the determination of the case as the petitioner has lost interest in pursuing the instant action for being moot.

WHEREFORE, petitioner's motion to dismiss the petition is GRANTED. The instant petition is DISMISSED. The assailed NLRC Resolutions and Order STAND.

SO ORDERED.

Camello, (Chairperson), and Perez, JJ., concur.

[1] Rollo, pp. 31-43.

[2] Ibid, pp. 45-48.

[3] Ibid, pp. 50-51.

[4] Supra., p. 58.

[5] Supra., pp. 4-28.

[6] Supra., pp. 52-53.

[7] Rollo, pp. 55-64.

[8] Ibid, pp. 65-77.

[9] Ibid, pp. 80-81.

[10] Ibid, pp. 84-85.

[11] Ibid, pp. 82-83.

[12] Ibid, pp. 86-87.

[13] Ibid, pp. 31-43.

[14] Rollo, p. 72.

[15] Ibid, pp. 77-84.

[16] Ibid, pp. 50-51.

[17] Ibid, pp. 129-130.

[18] Ibid, pp. 4-28.

[19] Ibid, pp. 211-212.

[20] Ibid, pp. 162-164.

[21] Ibid, p. 165.

[22] Ibid., pp. 197-198.

[23] Ibid, pp. 213-214.

[24] Ibid, p. 204.

[25] A.M. OCA I.P.I. No. 07-108-CA-J, June 12, 2008.

[26] Ibid.

[27] G.R. No. 171282, November 27, 2013.

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