

**AGENCI PERKERJAAN AMANRA SDN RHD/SURESH SILVARAJA
REPRESENTED BY QUINTINIANS PLACEMENT AGENCY, INC.,
PETITIONERS, VS. SHARON S. NATOZA, THE HONORABLE
SECRETARY OF LABOR AND EMPL...**

Ponente: LAZARO-JAVIER, A.C., J.

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LAZARO-JAVIER, A.C., J.:

Private respondent Sharon Natoza filed before the Philippine Overseas Employment Administration (POEA) a complaint for disqualification from participating in the overseas employment program against petitioners Agenci Perkerjaan Amanra Sdn Bhd/ Suresh Silvaraja and Quintinians Placement Agency, Inc. due to violation of Section 1(a) and (b), Rule II, Part VII of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers.

Private respondent alleged:[1]

1)

Sometime in May 2011, she met a woman named Charity from Batangas City, who was looking for a domestic worker for a certain Irma Anedan Towle in Malaysia. She submitted her resume, copy of her passport, and a 2x2 photo to Charity, who charged her P1,200.00 for medical examination. A few days later, she received a text message from a certain Donna, who introduced herself as Irma's secretary. Donna instructed her to go to Quintinian Placement Agency Inc.'s office at GF 1A and UB 451 Boni Ave., Mandaluyong City to secure a referral for medical examination. She was also told that she was not going to spend anything, albeit P30,000.00 to P45,000.00 will be deducted from her salary as placement fee

2)

On June 4, 2011, she went to Quintinians' office, but it was closed, so Donna told her to go to First Multi Healthcare Services on Taft Avenue corner Quirino Avenue, Manila. She paid P200.00 for her x-ray, P1,600.00 for dental services, and P200.00 for laboratory specimen container. A few days later, a certain Fernando Aquino texted her to submit a photocopy of her passport and a 2x2 photo at the office. She went to the office and signed documents for Philhealth, PAG-IBIG, OWWA, and POEA processing. She was referred to Prime Skills for training by a certain Rommel Calansag. She also attended a pre-departure seminar at Unlad Condominium in Manila and a seminar at OWWA. She later received a text message from Donna that her deployment was on July 19, 2011. She was given her employment certificate, medical examinations result, PDOS Certificate, OWWA certificate, training certificate, passport, air ticket, and company ID.

3)

She signed an employment contract stating that her employer was Lim Wee Shung at 25 JLN Setiabistan 2,

Medan Damansara, Damansara Heights, 50490 Kuala Lumpur, Malaysia, and her monthly salary was US\$400.00. Her contract was for two years and her Malaysian agency was petitioner Perkerjaan. She arrived in Singapore on July 20, 2011 and was immediately brought to Irma who allegedly owned Oro Capital Sdn Bhd Agency. She was made to sign another contract with a stated salary of RM800. She was delivered to the house of a certain Lim Wee Shung at No. 16 Jalan Gunung, Taman Gunung Emas 81800 ULU Tiram Johor, which was contrary to the contract she signed in the Philippines. She came back to the Philippines on August 2, 2011 after paying P90,134.50 as deployment cost.

The case was docketed as POEA Case No. DAE 11-09-1357.

Petitioners countered:[2]

a)

Private respondent was hired through petitioner Quintinian, under the direction of Lim Wee Shung. Lim Wee was represented by Irma, a Filipina resident in Malaysia and wife of the Malaysian manager of a Malaysian company called Oro Capital SDN BHD. They were never privy to the contract executed by Irma and Lim Wee. All documentation and recruitment expenses were shouldered by Irma and Lim Wee. Petitioners did not collect anything. They later learned that Lim Wee wanted to directly hire a domestic worker and an agreement of some sort was reached between private respondent and Lim Wee when private respondent was already working for the latter. They were not privy to such agreement either. They were the ones who processed private respondent's papers.

b)

Private respondent arrived in Kuala Lumpur on July 20, 2011 and reported at petitioner Perkerjaan's office and rested at Irma's house for a day. The following day, she was brought to Lim Wee's house and Lim Wee's wife informed her of her job and responsibilities and what was expected of her. About an hour or so later, they received a phone call from Lim Wee telling them that private respondent did not want to work anymore and said that she would just pay all her deployment expenses so long as she could get back to the Philippines. The following day, Suresh and Irma picked up private respondent and tried to convince her to stay. Private respondent insisted that she go back to the Philippines. A negotiation ensued and private respondent's mother agreed to refund Lim Wee and Irma for the deployment expenses.

c)

While waiting for her return to the Philippines, private respondent opted to stay at Irma's house. After ten days without rendering any work, private respondent was repatriated to the Philippines on August 2, 2011. They did not default on their contractual obligations to private respondent, neither did they commit any gross violation of the law. There was no substantial basis for the administrative complaint against them.

Private respondent replied: She did not just whimsically decide to stop working for Lim Wee; she had a valid reason in doing so. She stopped working because the contract she signed in the Philippines was not observed. She was brought to a different worksite, contrary to the stipulations of the contract. She was made to sign another contract wherein her salary was stipulated at RM800 and that she would not be paid for 8 months. She was required to work at Irma's house for almost two weeks, even after Irma received RM8,347.59 from her mother[3].

By Order[4] dated November 28, 2012, POEA Administrator Hans Leo Cacdac found that petitioners defaulted in their contractual obligations to private respondent and committed gross violation of laws and rules and regulations

on overseas employment. Administrator Cacdac decreed:

WHEREFORE, premises considered, the respondent principal, Agensi Pekerjaan Amanra Sdn Bhd/ Suresh Silvaraja is found **LIABLE** for violation of Section 1(a) and (b) Rule II, Part VII of the 2002 POEA Rules and Regulations and is hereby **DISQUALIFIED** from participating in the overseas employment program unless cleared by this Administration.

SO ORDERED[5].

On petitioners' appeal, Undersecretary Danilo Cruz of the Department of Labor and Employment (DOLE) affirmed under Order[6] dated September 9, 2013.

By Resolution[7] dated January 22, 2014, Undersecretary Cruz denied petitioners' omnibus motion for reconsideration.

Petitioners now fault DOLE for holding them liable under the POEA Rules and Regulations despite private respondent's execution of an affidavit of desistance and for affirming their disqualification from participating in the overseas employment program. Petitioners argue:

1)

Private respondent had filed the following cases :a) POEA Case No. RV-11-09-1400 entitled Sharon S. Natoza vs. Quintinian's Placement Agency, Inc. and Investor's Assurance Corp. ;b) Criminal Case No. 12-05-6026 entitled People v. Rommel Calansag for illegal recruitment ; c) NLRC Case No. (L) 06-8813-12 entitled Sharon Natoza v. Quintinian Placement Agency/Rommel Calansag for money claims. POEA Case No. RV-11-09-1400 was dismissed for lack of evidence, because of private respondent's affidavit of desistance absolving petitioner Quintinian, and their joint motion to dismiss. Criminal Case No. 12-05-6036 was also dismissed because of private respondent's affidavit of desistance in that case. NLRC Case No. (L) 06-8813-12 was likewise dismissed on private respondent's execution of a waiver and quitclaim.

2)

The POEA should have likewise considered the affidavit of desistance and joint motion to dismiss in POEA Case No. DAE 11-09-1357 when the case was still pending before it. Private respondent's disinterest in the present case was manifest when she did not oppose or comment on their appeal to DOLE. Contrary to DOLE's observation, the affidavits of desistance, joint motion to dismiss, waiver, and quitclaim were not belatedly filed and should not be considered as an afterthought. The affidavits of desistance, joint motion to dismiss, waiver, and quitclaim executed in petitioner Quintinians' favor should also benefit petitioners Perkerjaan and Suresh on the principle that "He who acts through another acts as himself"[8].

We deny due course to the petition.

This Court notes that the affidavits of desistance, joint motion to dismiss, waiver, and quitclaim executed by private respondent pertained only to POEA Case No. RV-11-09-1400, Criminal Case No. 12-05-6036, and NLRC Case No. (L) 06-8813-12. There was no affidavit of desistance filed in the present case. Thus, DOLE was not remiss when it aptly observed, viz:

In this regard, the Rules of Court states that an appeal may be dismissed if the same failed to specify any assignment of errors from the order or decision appealed from. In the present case, the respondent petitioner did not raise any issue for resolution of this Office. It merely prayed for the reversal of the assailed Order on the strength of the affidavit of desistance and joint motion to dismiss the case previously filed by the complainant in a separate recruitment violation case against Quintinians Placement[9].

If petitioners wanted the POEA and DOLE to take judicial notice of these documents in the present case, they should have brought these documents to the attention of the two tribunals in the case below so that private respondent could have responded to them. Section 3, Rule 129 of the Rules of Court, which has suppletory application in POEA proceedings[10], provides that “ during the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon”.

Surely, both the POEA and DOLE cannot immediately take judicial notice of the aforesaid documents without first hearing petitioners and private respondent thereon. As things stand, however, petitioners were remiss in complying with the prescribed procedure for this purpose.

Be that as it may, private respondent’s affidavits of desistance shall not bar the POEA from proceeding with the present case. This is the explicit command of Section 11, Rule III, Part IV of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers, viz:

Section 11. Effects of Withdrawal of Complaint/Desistance. The withdrawal of complaint/ desistance shall not bar the Administration from proceeding with the investigation of the recruitment violation/s. The Administration shall resolve the case on the merits and impose the appropriate penalties.

ACCORDINGLY, the petition is DENIED DUE COURSE and DISMISSED for utter lack of merit.

SO ORDERED.

Castillo, (Chairperson) and Barrios,[*]JJ., concur.

[*] Per Office Order No. 243-14-ABR dated May 23, 2014.

[1] Rollo, pages 24-25.

[2] Rollo, pages 26-27.

[3] Rollo, pages 27-28.

[4] Rollo, pages 24-28.

[5] Rollo, page 28.

[6] Rollo, pages 30-37.

[7] Rollo, pages 29-41.

[8] Rollo, pages 10-17.

[9] Rollo, page 25.

[10] Section 8, Rule VI, Part VII of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers.

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