

DMJ INTERNATIONAL RESOURCES, INC., PETITIONERS, VS. THE HON. SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, HON. ROSALINDA DIMAPILIS-BALDOZ, AND THE PHILIPPINE OVERSEAS EM...

Ponente: ENRIQUEZ, JR., J.

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ENRIQUEZ, JR., J.:

This is a special civil action for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, which seeks to set aside the Resolution dated July 23, 2004 issued by respondent Administrator Rosalinda Dimapilis-Baldoz (hereafter Administrator Baldoz) of the Philippine Overseas Employment Administration (hereafter POEA) and the Orders dated June 17, 2005 and October 28, 2005 issued by Secretary Patricia Sto. Tomas (hereafter Secretary Sto. Tomas) of the Department of Labor and Employment. The respective dispositive portions of which read as follows:

“WHEREFORE, foregoing premises considered, We find and so hold DMJ INTERNATIONAL RESOURCES, INCORPORATED liable for two counts of violation of Article 32 and another count for (violation of) Articles 34 (a) and (b) of the Labor Code, as amended, and is hereby imposed the penalty of suspension of license for eight (8) months or in lieu thereof a fine of Ninety Eight Thousand pesos (P98,000.00).

Further, respondent agency and COUNTRY BANKERS INSURANCE CORPORATION are hereby ordered to refund to the complainant, jointly and severally, the amount of P16,398.00, representing the excess sum collected from her.

SO ORDERED.”

“WHEREFORE, premises considered, the appeal, herein treated as a petition for review, filed by DMJ International Resources, Inc., is hereby DISMISSED for lack of merit. The Order dated July 23, 2004 of the POEA, finding it liable for two (2) counts of violation of Article 32 (a) and another count for violation (of) Article 34 (a) and (b) of the Labor Code, as amended, thereby imposing the penalty of suspension of petitioner’s license for a period of eight months or, in lieu thereof, a penalty of fine in the amount of Ninety Eight Thousand Pesos (P98,000.00) is AFFIRMED. The order to refund complainant of the amount of 16,398.00 is hereby SET ASIDE.

SO ORDERED.”

“WHEREFORE, premises considered, the motion for reconsideration, filed by DMJ International Resources, Inc., is hereby DENIED for lack of merit. Our Order dated June 17, 2005, finding petitioner liable for two (2) counts of violation of Article 32 (a) and another count for violation (of) Article 34 (a) and (b) of the Labor Code, as amended, thereby imposing the penalty of suspension of petitioner’s license for a period of eight months or, in lieu thereof, a penalty of fine in the amount of Ninety Eight Thousand Pesos (P98,000.00) is AFFIRMED.

No further pleadings of similar nature shall hereinafter be entertained.

SO ORDERED.”

The facts of the case as gathered from the records are as follows: On August 8, 2002, private respondent Maruja T. Raba (hereafter private respondent), filed a complaint against petitioner DMJ International Resources, Incorporated (hereafter petitioner company), for violation of Articles 32 and 34 (a) and (b) of the Labor Code, as amended, before the POEA. Private respondent, in her sworn statement, stated that in May 2000, she applied with petitioner company for a job opening of a caretaker. Private respondent paid P38,000.00 as placement fee for the said position in Taiwan. Private respondent averred that she gave the money to a certain Marisa in petitioner company's office. Thereafter, private respondent submitted the required documents. Private respondent then signed a contract of employment with a monthly salary of \$15,800.00NT. Private respondent claimed that when she arrived in Taiwan, she was made to work as egg picker and not as a caretaker. Private respondent added that after two (2) weeks, she was illegally dismissed. Private respondent was repatriated on August 23, 2000.

Petitioner company was required to answer the show-cause order issued by the POEA. Petitioner company denied private respondent's allegation that it violated Articles 32 and 34 of the Labor Code, as amended, on recruitment. Petitioner company asserts that private respondent only paid P20,000.00 as placement fee as shown by an official receipt.

After due hearing, Administrator Baldoz issued the assailed order. Petitioner company appealed to the Department of Labor and Employment. Secretary Sto. Tomas denied petitioner's appeal and issued the Order dated June 17, 2005. Petitioner's motion for reconsideration was denied on October 28, 2005. Hence, this petition with the grounds raised as follows:

I.

PUBLIC RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN HOLDING PETITIONER LIABLE FOR SUPPOSEDLY VIOLATING ARTICLES 32, 34(A) AND (B) OF THE LABOR CODE, AS AMENDED.

II.

PUBLIC RESPONDENT GRAVELY ABUSED THEIR DISCRETION WHEN THEY DID NOT GIVE CREDENCE TO THE AFFIDAVIT OF QUITCLAIM EXECUTED BY PRIVATE RESPONDENTS.

The petition is without merit.

Petitioner company argues that it did not violate the Labor Code, as amended. The official receipt presented clearly shows that it only collected P20,000.00 and not P38,000.00 as claimed by private respondent. Petitioner claims that public respondents gravely abused their discretion when they willfully and deliberately ignored the evidence it presented and failed to see that private respondent failed to substantiate her bare allegation. Petitioner company also cited the inconsistencies in the amount being claimed by private respondent.

Petitioner company likewise rebuts the allegation of private respondent that petitioner company knew from the very start that private respondent will work as an egg picker and not as a caretaker. Petitioner company asserts that private respondent was given the option by her foreign employer to work as an egg picker after she deliberately ignored pleas for her to stop smoking inside the house. Petitioner company asserts that private respondent was hired, processed and deployed as a caretaker. As such, petitioner company did not commit any misrepresentation.

Moreover, petitioner company also faults public respondents for not giving credence to the affidavit of quitclaim executed by private respondent. The quitclaim is valid and should have caused the dismissal of this case.

We are not persuaded.

A reading of the arguments raised by petitioner company shows that the same call for the appreciation of evidence and factual findings made by the public respondents in this case. In this regard, settled is the rule that the findings of the POEA and the DOLE are given respect if not finality by the courts because of their expertise in their respective fields (*V.V. Aldaba Engineering v. Minister of Labor and Employment*, 237 SCRA 31). This Court will set aside their findings only in cases where it is shown that their findings were arrived at whimsically and arbitrarily, absent the support of substantial evidence.

Administrator Baldoz and Secretary Sto. Tomas both found that petitioner company was not able to rebut private respondent's claim on all the issues raised. Their pertinent findings read respectively, as follows:

"After a careful review and assessment of the records at hand, We find respondent guilty of the offense charged. Complainant was able to establish her allegation that respondent agency has prior knowledge of the nature of the job she will assume in Taiwan. The job order detailed signed by her employer TSENG YU-CHU corroborate her claim. In the said document, it was clearly stated that aside from performing household chores, she would work as Egg Picker. This document was never questioned by the respondent agency. Hence, the silence of respondent agency is deemed implied admission of the same as it is not consistent with ordinary course of things. An innocent person when called to speak will surely say his piece to protect himself from being incriminated or prejudiced.

Considering that evidence on record reveals that complainant was hired, processed and deployed as Caretaker and not as Egg Picker, respondent clearly employed deceit in the course of recruiting the former.

Lastly, we do not give any probative value to the Affidavit of Quitclaim submitted by the respondent agency since the complainant questioned its authenticity. Further, we took notice of the signature that appeared therein. It does not bear any resemblance from the ones complainant affixed in her Sworn Statement and Reply. Most importantly, even with the execution of this kind of document, the Administration is not precluded from imposing any liability to the erring agency if warranted by evidence (Rollo, pp. 83-84)."

"As to the charge of illegal exaction and non-issuance of official receipt, there is no doubt that petitioner failed to present substantial evidence to rebut complainant's accusations. While it may be true that the official receipt may be considered the best evidence to prove payment, however, in order that this document may be accepted as sole repository of truth, it must be genuine and duly executed. Since at the onset, complainant claimed she was not issued any receipt, doubt is cast upon the authenticity and due execution and worthiness of petitioner to present the booklet of official receipts and/or the cash registry journal, or any other document to disprove complainant's claim. These documents could have been readily made available and presented even at the onset without need of any demand, especially so, that the same are vital to its defense.

Anent the charge of misrepresentation, this Office agrees with the findings of the POEA that petitioner is guilty as charged. There is no dispute that complainant applied, was processed, hired and deployed as a caretaker in Taiwan. However, it cannot also be disputed that, aside from being as a caretaker complainant was also made to work as an "egg picker" at her employer's farm. The "Job Order Detail" duly signed by Tseng, Yu-chu, complainant's foreign employer, speaks for itself. X x x

As regards the Affidavit of Quitclaim and Release executed by the complainant, this Office would like to emphasize that desistance by the complainant does not bar the POEA or this Office from determining the culpability of the petitioner for the offense complained of. Section 11 Rule III, Part VI of the 2002 POEA Rules and Regulations provides, to wit:

"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 violations. The Administration shall resolve the case on the merit(s) and impose the appropriate penalties (Rollo, pp.

125-126).”

After a scrutiny of the evidence at hand, the Court upholds the findings of the two (2) agencies. It is clear that the two (2) agencies through Administrator Baldoz and Secretary Sto. Tomas, have ruled with regard petitioner’s violation of Article 32 and 34 (a) and (b) of the Labor Code and the propriety and effect of the quitclaim executed by private respondent to the charge against petitioner. The findings of the public respondents are not wanting of substantial evidence for the Court to set aside or reverse the same.

WHEREFORE, based on the foregoing, the petition is DENIED DUE COURSE and is hereby DISMISSED.

SO ORDERED.

Jacinto, (Chairman) and De Leon, JJ., concur.

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