

JRT MAGICA INTERNATIONAL PLACEMENT AND GENERAL SERVICES CORPORATION/ QUALITY HYPERMARKET WLL & MA. CONCEPCION CODOG, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, L.A. M...

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

This petition for certiorari under Rule 65 of the Revised Rules of Court, with prayer for a temporary restraining order and/or writ of preliminary injunction, seeks to reverse and set aside the Resolutions dated April 19, 2013[1] and June 18, 2013[2], both rendered by public respondent National Labor Relations Commission (Second Division) in the case docketed as OFW (L) 07-11011-11/ (LAC NO. 12-001053-12).

The antecedent facts of the case are as follows:

On June 19, 2010, private respondent Donna L. Mercurio was deployed to Qatar to work as a saleslady for petitioner Quality Hypermarket WLL, through the assistance of the latter's local agent, herein petitioner JRT Magica International Placement and General Services Corporation. The employment contract was for a period of 24.73 months with a salary of 1,500 Qatar Riyal per month.[3] On June 18, 2011, the Human Resources and Administrative Manager of petitioner Quality Hypermarket issued to private respondent Mercurio a letter which reads:

Donna,

Please explain within 24 hours why you should not be terminated due to violation (sic) of company policy for not attending work on 17th June 2011 together with Maria Rosabel R. Resubal, Christian M. Cabalo, Maritess D. Maghilum and Denise Abigail A. Matela.

Sincerely,

[Signed]

Shahid V

Manager (HR & Admin)

Quality Hypermarket[4]

In response to the foregoing letter, Mercurio wrote a letter which stated the following:

TO WHOM IT MAY CONCERN,

Please accept my sincere apologies for not attending work on 17[th] of June 2011, Friday, without properly informing the concerned supervisor and manager. We group of employees joined together and intentionally decided to stay away from work.

I know that I have violated the company intentionally (sic) and I promise not to repeat and violation in future (sic). Please accept my explanation and allow me to resume work.

Thank you.

Donna L. Mercurio

[Signed][5]

On June 23, 2011, the HR and Admin Manager wrote Mercurio a letter, terminating her employment, to wit:

Donna,

We regret to inform you that your employment with Quality Hypermarket is terminated due to violation of company policy effective 23 June 2011.

Your salary will be paid to you after deducting all your liability towards the Company.

Sincerely,

[Signed]

Shahid V

Manager (HR & Admin)

Quality Hypermarket[6]

On July 6, 2011, private respondent Mercurio arrived in the Philippines.[7] On July 28, 2011, Mercurio and petitioner JRT Magica executed a Compromise Agreement with Quitclaim and Release which was attested and approved by a conciliator of the Philippine Overseas Employment Administration (POEA). The aforesaid agreement provides the following:

COME NOW, the parties unto this Honorable Office respectfully submit compromise settlement (sic) regarding VC No. 11-07-0183 with the following terms and conditions, to wit:

Respondent binds itself to:

xxx

v PRE-DEPLOYMENT:

Refund to the complainant the amount of Eight Thousand Seven Hundred Fifty Pesos (Php 8,750) as placement fee and other expenses incurred by the latter for his/her overseas employment.

POST-DEPLOYMENT

Pay the amount of _____ (_____) representing claims arising from overseas employment by way of unpaid salaries, salary differentials and other benefits including money claims with NLRC.

xxx

Complainant discharges and releases respondent for any and all claims and liabilities attendant to or arising out of his/her application for overseas employment.

This agreement is a final settlement of all claims relative to the complaint of DONNA MERCURIO against JRT MAGICA INTL for recruitment violation/disciplinary action/money claims and will constitute a bar to any action, present, future or contingent, which may be lodged in any court, tribunal or body exercising quasi-judicial functions involving the same subject matter.

The parties have freely, voluntarily and knowingly entered into this settlement agreement and have requested that said compromise settlement be approved with prejudice.

xxx[8]

On the same day, private respondent Mercurio executed a notarized Receipt, Release and Quitclaim[9] which stated the following:

- That I was deployed by JRT MAGICA INTL. with its Principal M/S QUALITY HYPERMARKET in QATAR last JUNE 2010.

- That in consideration of the settlement amount of which I hereby acknowledge, I hereby release and fully discharge JRT MAGICA INTL. (herein referred to as the PARTIES), its QUALITY HYPERMARKET Principal, their officers, employees and representatives from any and all claims, liabilities and obligations accruing or arising from my employment in QATAR, whether criminal, civil or administrative, present, future or contingent, against (sic) PARTIES, their officers, employees and representatives;

- That I fully understand that this RECEIPT, RELEASE and QUITCLAIM shall constitute a bar to any action, present, future or contingent against the said PARTIES with any court, DOLE, POEA, OWWA, NLRC, or with the Department of Justice and/or any of its Prosecutors, or body exercising quasi-judicial functions involving the said subject matter;

- That I have read and understood the content of this RECEIPT, RELEASE AND QUITCLAIM, hereby declaring that no fraud, force, violence or intimidation has been employed in the execution of this Agreement.

- That the contents of this document was read by me and explained in the language known to me, hereby affirming that I fully understood the contents of said document and the implication of the execution of the same[10]

On September 21, 2011, private respondent Mercurio filed an Amended Complaint[11] for illegal dismissal , attorney's fees, refund of placement fee, payment of salary for the unexpired portion of the employment contract, and damages. After the parties filed their respective position paper[12], reply[13] and rejoinder[14], the Labor Arbiter rendered a Decision dated October 8, 2012[15], the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondents, jointly and severally to pay complainant, the following:

- unpaid salaries for the unexpired portion of her contract in the amount of SR16,500 (SR1,50 x 11 months).

- Moral and Exemplary damages (sic) of P200,000.00; and

- Attorney's Fees equivalent to ten percent (10%) of the total award.

SO ORDERED.[16]

Herein petitioners appealed[17] the Labor Arbiter's Decision but public respondent NLRC affirmed the same in the assailed Resolution[18] dated April 19, 2013. On May 9, 2013, herein petitioners filed a motion for reconsideration[19] but the same was denied in the assailed NLRC Resolution dated June 18, 2013[20].

Hence, this petition[21].

In their petition dated August 23, 2013, petitioners JRT Magica, its President, Ma. Concepcion Codog, and Quality Hypermarket allege that public respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction (1) when it affirmed the Labor Arbiter's ruling that Mercurio was illegally dismissed

despite the fact that the latter's position paper and reply were fraudulent, manufactured and submitted by an unauthorized counsel; (2) when it did not appreciate the petitioners' evidence on the absence of an illegal dismissal; and (3) when it did not appreciate the petitioners' evidence showing that Mercurio's claim had already been settled.[22] The petitioners allege that an unauthorized document is a mere scrap of paper and has no probative value. There was a discrepancy in the signatures of private respondent Mercurio which shows that her signature was forged. The latter's counsel notarized the position paper and made it appear that there was a verification and certification of non-forum shopping. When Mercurio's position paper was signed and notarized on March 19, 2012[23], Mercurio was no longer in the Philippines since she was deployed to Bahrain on February 13, 2012 based on the Overseas Filipino Worker (OFW) Information Sheet[24] which POEA issued. Thus, the position paper which Mercurio allegedly signed is fraudulent and her signature thereon was forged.[25] Mercurio's counsel, Atty. Rodolfo R. Ranion, fraudulently made it appear that Mercurio engaged his services although she did not execute a special power of attorney (SPA) in his favor.[26] While it is true that there is a presumption that a counsel is deemed authorized to represent a client despite a lack of written authority, herein private respondent Mercurio was already working as a sales assistant in Bahrain on February 13, 2013[27]. Thus, an SPA in favor of the counsel was necessary due to Mercurio's absence in the Philippines. Since Mercurio did not execute a valid and binding written authority allowing the alleged counsel to represent her before the Labor Arbiter and NLRC, the position paper and reply which Atty. Ranion filed cannot bind Mercurio and should have been expunged from the records. The allegations in the position paper are all mere hearsay due to the absence of a verification. In spite of the petitioners' serious accusations against Atty. Ranion for his fraudulent acts, the latter did not file any opposition thereto and his silence is an implied admission of truth in the petitioners' accusations. The petitioners further allege that they are reserving the right to file administrative charges against Atty. Ranion before the Integrated Bar of the Philippines for his violation of the notarial law and the Code of Professional Responsibility.[28] By presenting the OFW Information Sheet, the petitioners were able to substantiate their claim regarding Mercurio's absence in the Philippines when her position paper was filed. Atty. Ranion signed and notarized the position paper despite private respondent Mercurio's absence. The private respondent's signature in the position paper is different from her signatures in the complaint, the settlement before the POEA and the minutes of the meetings. In disregarding the petitioners' substantive evidence, public respondent NLRC seemed to have tolerated the counsel's unlawful acts of representation and misrepresentation.[29] In case an employer has reasonable ground to believe that an employee committed misconduct which renders him unworthy of the trust and confidence demanded by his position, then the requirement of substantial evidence is deemed satisfied. Herein petitioners presented a notice to explain dated June 18, 2011 which petitioner Quality Hypermarket issued, asking Mercurio to explain why she should not be terminated due to her violation of a company policy. In her handwritten letter, Mercurio admitted her violation and asked for forgiveness from her employer. Mercurio's act of illegal strike, together with five (5) other employees, was not just a violation of company rules but also of Qatar law which is penalized with imprisonment and deportation.[30] There was due process in the private respondent's valid dismissal since the twin requirements of notice and hearing were complied with. Petitioner Quality Hypermarket issued a letter to Mercurio asking the latter why she should not be terminated. Mercurio responded with a handwritten letter where she admitted her violation. Thereafter, petitioner Quality Hypermarket issued a letter terminating her employment.[31] The petitioners do not agree with the private respondent's contention that she was illegally dismissed. The petitioners settled the issue before the POEA, such fact of settlement having been omitted by Mercurio in her complaint before the NLRC. All her claims arising from her employment in Qatar had been fully settled. Mercurio had freely and voluntarily executed a Compromise Agreement with Quitclaim and Release on July 28, 2011. In the aforementioned agreement, it is stated that the "agreement is a final settlement of all claims relative to the complaint of DONNA MERCURIO against JRT MAGICA INTL for recruitment violation/disciplinary action/money claims and will constitute a bar to any action, present, future or contingent,

which may be lodged in any court, tribunal or body exercising quasi-judicial functions involving the same subject matter”[32]. Mercurio executed the foregoing agreement at the POEA Office. It was the POEA conciliator's duty to inform the parties of the consequences of the agreement. It should be binding in the absence of fraud or deceit in its execution. There was no illegal dismissal which explains why the private respondent agreed to receive the settlement amount. An amicable settlement is encouraged by law and herein parties' settlement is not against public policy, public order, morals or good customs and it is not prejudicial to a third person with a right recognized by law.[33]

On the other hand, private respondent Mercurio alleges that public respondent NLRC did not commit any grave abuse of discretion. Its Decision was not rendered in a capricious, whimsical, arbitrary or despotic manner.[34] The findings of the NLRC, a quasi-judicial agency that has acquired expertise, are generally accorded respect if there is substantial evidence to support them. Mercurio has established convincingly and sufficiently her position. The grounds relied upon by the petitioners had already been ruled and passed upon by the public respondent. The petitioners have the burden of proving not merely the public respondent's reversible error but grave abuse of discretion amounting to lack or excess of jurisdiction.[35] The purported neglect of the NLRC in considering the petitioners' additional documentary evidence is not equivalent to grave abuse of discretion. At most, it was only an error of judgment which is not within the scope of the remedy of certiorari. Errors of judgment are correctible by an appeal or a petition for review. A writ of certiorari is for the purpose of correcting errors of jurisdiction. It may not be utilized to correct a lower court's factual findings and its evaluation of the parties' evidence.[36] A petition for certiorari under Rule 65 of the Revised Rules of Court may not involve factual matters which necessitate a review of the parties' evidence.[37] A petition for certiorari must be dismissed if there is no showing of grave abuse of discretion.[38] An injunctive relief may be granted only if the applicant with an actual existing right will suffer an irreparable injury. The invasion of the applicant's right must be substantial and there must be an urgent necessity for the writ of injunction in order to prevent serious damage. Herein petitioners failed to present any iota of evidence to support their claims. They failed to prove any clear, positive and unmistakable right which should be protected through the issuance of a writ of injunction.[39] The petitioners are not entitled to a TRO and/or writ of preliminary injunction since they failed to show that the private respondent violated their rights and that there is an urgency for its issuance in order to prevent serious damage on their part.[40]

In their Reply to the Comment of Respondent[41], the petitioners assert that they are entitled to injunctive relief. The NLRC rendered an erroneous and unjust decision.[42] It did not appreciate the substantive evidence of Atty. Ranion's fraudulent and irregular act. The NLRC did not even discuss the petitioners' discovery of fraud. The public respondent disregarded the fraudulent act of the alleged counsel of the private respondent. The implementation of the NLRC's Decision would perpetuate fraud and injustice. The petitioners reiterate that the POEA's OFW Information sheet is a public document that shows that Mercurio was already deployed when the position paper was filed. Thus, contrary to the private respondent's allegation, it is not true that she has convincingly and sufficiently established her position in controverting the petitioners' claim.[43]

While it is true that the fraudulent act of the private respondent's counsel was belatedly alleged in the petitioners' motion for reconsideration, this was due to the fact that the petitioners only discovered the fraud when they requested for the OFW Information. The NLRC may not dismiss the petitioners' motion for reconsideration without discussing its legal basis. The private respondent's failure to dispute the petitioners' claim of fraudulent act is tantamount to an admission that she committed the aforesaid act. Lawyers owe their entire devotion to their clients' interest. However, as officers of the court, it is their solemn oath not to do any falsehood or consent to the doing of any in court, nor promote any groundless, false or unlawful suit.[44]

We deny the petition.

The main issue in the instant case is whether public respondent NLRC committed grave abuse of discretion in ruling that the private respondent was illegally dismissed. We rule in the negative, for the reasons set forth below.

Firstly, the petitioners' allegations, that the private respondent's position paper and reply were fraudulent, manufactured and submitted by an unauthorized counsel, do not call for a reversal of the NLRC's ruling that the private respondent was illegally dismissed. For one, contrary to the petitioners' claim, We note that the private respondent's position paper contained a verification and certification of non-forum shopping[45]. Second, "it is well settled that rules of procedure in labor cases may be relaxed"[46]. Third, anent the petitioners' allegation that the private respondent was already deployed to Bahrain on February 13, 2012, no proof was adduced to show that she did not come back to the Philippines on March 19, 2012 when her position paper was signed and notarized. Fourth, despite the alleged lack of a special power of attorney in favor of Atty. Ranion to file the pleadings, the private respondent is already deemed to have ratified the said counsel's authority to represent her. She has never alleged that she did not authorize Atty. Ranion to be her counsel. She allowed such representation and benefited from his legal services without protest. Moreover, even assuming that the aforementioned counsel is guilty of unethical conduct, there is a different forum where such issue can be properly addressed. In *Cadalin, et. al. v. POEA Administrator*, the Supreme Court held that the "POEA and NLRC could not have entertained the complaint for unethical conduct against Atty. De Castro because NLRC and POEA have no jurisdiction to investigate charges of unethical conduct of lawyers"[47]. In fact, the petitioners themselves manifested that they were "reserving [their] right to file administrative charges against Atty. Rodolfo R. Ranion before the Integrated Bar of the Philippines for violation of the Notarial Law and Code of Professional Responsibility"[48].

Secondly, the private respondent was deemed illegally dismissed despite the petitioners' claim that the private respondent violated the company policy and Qatar law on the prohibition against strikes. In illegal termination cases, the employer has the burden of proving that there is a valid cause for the employee's dismissal. In the present case, no specific company policy was presented to prove that an employee's absence from work for one (1) day would automatically result in the termination of his or her employment. We note that petitioner Quality Hypermarket only made a general allegation that the private respondent committed a "violation of company policy for not attending work on 17[th] June 2011" without proof of the specific company policy or provision in the employee's handbook that was violated. It appears that a mere failure to attend work for one (1) day could unreasonably expose an employee to a penalty of dismissal even on the first offense. In this regard, the Supreme Court has made pronouncements against company policies that provide too harsh a penalty such as dismissal. Indeed, "[w]hile an employer enjoys a wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees, those directives, however, must always be fair and reasonable, and the corresponding penalties, when prescribed, must be commensurate to the offense involved and to the degree of the infraction"[49]. It is worthy to note that the petitioners did not deny the private respondent's allegation that she was required to work for more than eight (8) hours a day[50]. There was also an inconsistency as regards the petitioners' allegation on the cause of the private respondent's return to the Philippines. In their position paper, the petitioners alleged that private respondent Mercurio unilaterally terminated her employment contract "due to personal reasons and homesickness"[51] but they now claim that Mercurio was terminated due to her violation of the company policy. In the present petition, the petitioners allege that the private respondent and fellow employees participated in an illegal strike. However, there was no mention of an "illegal strike" in the petitioner's letters to the private respondent. Being in a foreign country and with no other source of income, the private respondent would naturally be forced to apologize to her employer in order to be allowed to resume employment. Even assuming that the private respondent actually participated in a strike, Article XIII Section 3 of the Philippine Constitution provides that the State "shall guarantee the rights of all workers to self-organization xxx and peaceful concerted activities, including the right to strike". Anent the petitioners' allegation that the

private respondent's act was a violation of Qatar law, We note that the petitioners failed to present the pertinent Qatar law which specifically prohibits employees from participating in a strike. In this regard, the Supreme Court has held that a “judge or labor arbiter cannot take judicial notice of a foreign law. He is presumed to know only domestic or forum law. xxx 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. Thus, we apply Philippine labor laws xxx”[52]. In *Triple Eight Integrated Services, Inc. v. NLRC, et. al.*, the Supreme Court ruled in the following manner:

Petitioner xxx contending that since Osdana was working in Saudi Arabia, her employment was subject to the laws of the host country.xxx

Again, petitioner’s argument is without merit.

First, established is the rule that *lex loci contractus* (the law of the place where the contract is made) governs in this jurisdiction. There is no question that the contract of employment in this case was perfected here in the Philippines. Therefore, the Labor Code, its implementing rules and regulations, and other laws affecting labor apply in this case. Furthermore, settled is the rule that the courts of the forum will not enforce any foreign claim obnoxious to the forum’s public policy. Here in the Philippines, employment agreements are more than contractual in nature. The Constitution itself, in Article XIII Section 3, guarantees the special protection of workers, to wit:

“The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. xxx”

This public policy should be borne in mind in this case because to allow foreign employers to determine for and by themselves whether an overseas contract worker may be dismissed xxx would encourage illegal or arbitrary pre-termination of employment contracts.[53] (Emphasis supplied.)

Akin to the foregoing case, herein petitioners assert that the private respondent was legally dismissed in accordance with Qatar law. Considering that the employment contract was perfected here in the Philippines[54] and in view of the Philippines' public policy on the protection of labor, the Labor Code applies to the instant petition. Moreover, as ruled by the Supreme Court, We “will not enforce any foreign claim obnoxious to Our public policy”[55]. Otherwise, “to allow foreign employers to determine for and by themselves whether an overseas contract worker may be dismissed xxx would encourage illegal or arbitrary pre-termination of employment contracts”[56], as in herein private respondent's case.

Finally, the two (2) quitclaims which the private respondent executed may not bar her complaint for illegal dismissal. In *Pert/CPM Manpower Exponent Co., Inc. v. Vinuya, et. al.*, the Supreme Court rejected the compromise agreement with quitclaim and release, which was executed by the employees, to wit:

The compromise agreements (with quitclaim and release) between the respondents and the agency before the POEA did not foreclose their employer-employee relationship claims before the NLRC. The respondents, except Ordovez and Enjambre, aver xxx that the compromise agreements settled only their claim for refund of their airfare, but not their other claims. xxx

On the surface, the compromise agreements appear to confirm the agency’s position, yet a closer examination of the documents would reveal their true nature. Copy of the compromise agreement is a standard POEA document, prepared in advance and readily made available to parties who are involved in disputes before the agency, such as what the respondents filed with the POEA ahead (filed in 2007) of the illegal dismissal complaint before the NLRC (filed on March 5, 2008).

Under the heading "Post-Deployment," the agency agreed to pay Era and Alcantara P 12,000.00 each, purportedly in satisfaction of the respondents' claims arising from overseas employment, consisting of unpaid salaries, salary differentials and other benefits, including money claims with the NLRC. xxx

xxx

The uniform insubstantial amount for each of the signatories to the agreement lends credence to their contention that the settlement pertained only to their claim for refund xxx. xxx Under the circumstances, we cannot see how the compromise agreements can be considered to have fully settled the respondents' claims before the NLRC — illegal dismissal and monetary benefits arising from employment. We thus find no reversible error nor grave abuse of discretion in the rejection by the NLRC and the CA of said agreements.[57] (Emphasis supplied.)

Applying the foregoing to the instant petition, herein parties' compromise agreement with quitclaim and release is also a standard POEA document which was prepared in advance and readily made available to the parties in dispute before the POEA. Despite the execution of the foregoing agreement, the employees did not intend to abandon their employer-employee claims before the NLRC, similar to herein private respondent's case. In the aforecited Pert/CPM Manpower case, the parties therein pertained to the portion of the compromise agreement under the heading "Post-Deployment" where the agency agreed to pay each employee an amount in satisfaction of their claims relating to their overseas employment, consisting of money claims with the NLRC. Nevertheless, the Supreme Court ruled that their settlement referred only to the employees' claim for refund; more so in the instant petition where the private respondent only pertained to the portion of the compromise agreement under the heading "Pre-Deployment" for the placement fee refund. Akin to the Supreme Court's ruling in the Pert/CPM Manpower case, "[u]nder the circumstances, we cannot see how the compromise [agreement] can be considered to have fully settled the [respondent's] claims before the NLRC — illegal dismissal and monetary benefits arising from employment"[58]. Hence, We are consonant with the following ruling of the Labor Arbiter:

The Compromise Agreement/Settlement with Quitclaim and Release duly signed by complainant before POEA Conciliation (sic) Lucy A. Austria cannot serve as (sic) bar to the instant case.

This is regardless (sic) whether she voluntarily and knowingly executed said agreement/settlement (sic) merely covers refund of placement fee and other expenses incurred for her overseas pre-employment in the amount of Eight Thousand Seven Hundred Fifty (P8,750.00). Thus, this does not include her post-employment claims, which (sic) this Labor Arbiter has jurisdiction.[59] (Emphasis supplied.)

Furthermore, in *Varorient Shipping Co., Inc. and Aria Maritime Co., Ltd. v. Flores*[60], the Supreme Court reiterated the following ruling:

In *More Maritime Agencies, Inc. v. NLRC*, the Court ruled that the law does not consider as valid any agreement to receive less compensation than what a worker is entitled to recover nor prevent him from demanding benefits to which he is entitled. Quitclaims executed by the employees are thus commonly frowned upon as contrary to public policy and ineffective to bar claims for the full measure of the worker's legal rights, considering the economic disadvantage of the employee and the inevitable pressure upon him by financial necessity. Thus, it is never enough to assert that the parties have voluntarily entered into such a quitclaim. There are other requisites, to wit: (a) that there was no fraud or deceit on the part of any of the parties; (b) that the consideration of the quitclaim is credible and reasonable; and (c) that the contract is not contrary to law, public order, public policy, morals or good customs, or prejudicial to a third person with a right recognized by law.[61] (Emphasis supplied.)

Applying the foregoing to the instant petition, the quitclaims may not prevent Mercurio from demanding all the benefits to which she is entitled, such as unpaid salaries due to the pre-termination of her employment contract. It

is insufficient to claim that Mercurio voluntarily entered into a quitclaim. In the subsequent Receipt, Release and Quitclaim which Mercurio executed, the second element of consideration was lacking. Such fact was likewise observed by the NLRC when it held that “the Receipt, Release and Quitclaim which was also executed by complainant on same date failed to specified (sic) the consideration of the settlement amount”[62]. Thus, the aforesaid quitclaim may likewise not be given credence.

The foregoing notwithstanding, We deem it proper to reduce the award for the private respondent's unpaid salaries, pursuant to Section 7 of Republic Act No. 10022 (amending Section 10 of Republic Act No. 8042), which provides the following:

Section 7. xxx

xxx

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement of his placement fee and the deductions made 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.

Thus, applying the foregoing provision to the instant petition, the private respondent is entitled to the payment of her salaries equivalent to only three (3) months and not eleven (11) months which is the total unexpired portion of her employment contract. This is in accordance with the ruling in *Asian Center for Career and Employment System and Services, Inc. v. NLRC and Mediales*, where the Supreme Court held that “the unexpired portion of private respondent’s employment contract is eight (8) months. Private respondent should therefore be paid her basic salary corresponding to three (3) months or a total of SR3,600”[63]. We also deem it proper to reduce the award of moral and exemplary damages from Two Hundred Thousand Pesos (P200,000.00) to Fifty Thousand Pesos (P50,000.00). Indeed, “while it may be true that the award of moral and exemplary damages is discretionary upon the courts, the amount thereof must be reasonable and justified. In the present case, we find the award of damages excessive and unconscionable”[64]. Anent the private respondent's claim of attorney's fees, Mercurio was compelled to file an action for the recovery of her unpaid salaries due to the pre-termination of her employment contract and, in the process, incurred expenses. Hence, We affirm her entitlement to attorney's fees equivalent to ten percent (10%) of the monetary award.[65]

Finally, We emphasize that the Supreme Court has held that “findings of facts and conclusion of the labor arbiter are generally accorded not only great weight and respect but even clothed with finality and deemed binding on this Court as long as they are supported by substantial evidence, without any clear showing that such findings of fact, as affirmed by the NLRC, are bereft of substantiation”[66]. Based on Our discussion above, there was substantial evidence to support the assailed rulings of the public respondent. Grave abuse of discretion pertains to a “capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction” wherein “power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.”[67] In view of the foregoing, far from gravely abusing its discretion, public respondent NLRC issued the assailed rulings in accordance with law, jurisprudence and the facts on record. Accordingly, We deny the petitioners' application for the issuance of TRO and/or writ of preliminary injunction.

WHEREFORE, the assailed Resolutions dated April 19, 201368 and June 18, 201369, both rendered by public respondent NLRC in the case docketed as OFW (L) 07-11011-11/ (LAC NO. 12-001053-12), are AFFIRMED

with the MODIFICATION that the monetary awards representing unpaid salaries and damages be reduced to SR4,500.00 (SR1,500.00 x 3 months) and Fifty Thousand Pesos (P50,000.00), respectively.

SO ORDERED.

MARIFLOR P. PUNZALAN CASTILLO

Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER

Associate Justice

PEDRO B. CORALES

Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIFLOR P. PUNZALAN CASTILLO

Associate Justice

Chairperson, Fifteenth Division

[1] Rollo, pp. 29-34.

[2] Rollo, pp. 37-38.

[3] Rollo, p. 43.

[4] Rollo, p. 110.

[5] Rollo, p. 111.

[6] Rollo, p. 12.

- [7]Rollo, p. 39.
- [8]Rollo, p. 66.
- [9]Rollo, pp. 67-69.
- [10]Rollo, p. 67.
- [11]Rollo, pp. 39-41.
- [12]Rollo, pp. 50-55, 56-61.
- [13]Rollo, pp. 62-69, 70-72.
- [14]Rollo, pp. 73-79.
- [15]Rollo, pp. 24-28.
- [16]Rollo, p. 28.
- [17]Rollo, pp. 80-88.
- [18]Rollo, pp. 29-34.
- [19]Rollo, pp. 99-112.
- [20]Rollo, pp. 37-38.
- [21]Rollo, pp. 3-112.
- [22]Rollo, p. 10.
- [23]Rollo, pp. 60-61.
- [24]Rollo, p. 109.
- [25]Rollo, p. 11.
- [26]Rollo, pp. 11-12.
- [27]The records show that the correct deployment date is February 13, 2012 and not 2013, Rollo, p. 109.
- [28]Rollo, p. 12.
- [29]Rollo, p. 13.
- [30]Rollo, p. 14.
- [31]Rollo, p. 15.
- [32]Rollo, pp. 66 and 16.
- [33]Rollo, p. 17.
- [34]Rollo, p. 127.
- [35]Rollo, pp. 128.
- [36]Rollo, p. 129.
- [37]Rollo, p. 130.

- [38]Rollo, p. 131.
- [39]Rollo, pp. 131-134.
- [40]Rollo, p. 135.
- [41]Rollo, pp. 136-139.
- [42]Rollo, p. 136.
- [43]Rollo, p. 137.
- [44]Rollo, p. 138.
- [45]Rollo, pp. 60-61.
- [46]Pasos v. PNCC, G.R. No. 192394, July 3, 2013.
- [47]Cadalin, et. al. v. POEA Administrator, et. al., G.R. No. L-104776, December 5, 1994; Cadalin, et. al. v. NLRC, et. al., G.R. Nos. 104911-14, December 5, 1994; and Asia International Builder Corporation and Brown & Root International, Inc. v. NLRC, et. al., G.R. Nos. 105029-32, December 5, 1994.
- [48]Rollo, p. 12.
- [49]VH Manufacturing, Inc. v. NLRC and Gamido, G.r. No. 130957, January 19, 2000.
- [50]Rollo, p. 57.
- [51]Rollo, p. 51.
- [52]Edi-Staffbuilders International, Inc. v. NLRC and Gran, G.R. No. 145587, October 26, 2007.
- [53]G.R. No. 129584, December 3, 1998.
- [54]See the petitioners' Position Paper, Rollo, p. 50.
- [55]G.R. No. 129584, December 3, 1998.
- [56]Ibid.
- [57]G.R. No. 197528, September 5, 2012.
- [58]Ibid.
- [59]Rollo, p. 27.
- [60]G.R. No. 161934, October 6, 2010.
- [61]366 Phil. 646, 653-654 (1999).
- [62]Rollo, p. 33.
- [63]G.R. No. 131656, October 12, 1998.
- [64]Mercury Drug Corporation v. Domingo, G.R. No. 143998, March 28, 2005.
- [65]Reyes, et. al. v. RP Guardians Security Agency, Inc., G.R. No. 193756, April 10, 2013.
- [66]Ting and Ting v. Hon. Court of Appeals and Ismael, G.R. No. 146174, July 12, 2006.

[67]Disini v. Sandiganbayan, G.R. No. 180564, June 22, 2010.

[68]Rollo, pp. 29-34.

[69]Rollo, pp. 37-38.

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