

## MARIA SALAO VDA. DE SANTOS, PLAINTIFF AND APPELLEE, VS. ESTELITA G. BARRERA, ET AL., DEFENDANTS AND APPELLANTS.

*G.R. No. L-16492. October 27, 1961*

Ponente: BAUTISTA ANGELO, J.

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### BAUTISTA ANGELO, J.:

This appeal stems from a complaint filed by Maria Salao Vda. de Santos before the Municipal Court of Manila praying for the refund of P390.50 allegedly paid by her in employing three housemaids thru defendants as owners and operators of the Gloria Employment Agency.

On March 19, 1958, defendants filed their answer with a counterclaim admitting some of the items mentioned in the complaint but denying having received the extra charge of P60.00. After trial, the court rendered judgment ordering defendants to pay plaintiff the sum of P390.00, plus P100.00 as attorney's fees, and the costs of suit.

Defendants appealed to the court of first instance and after the issues were joined, the court set the case for hearing on August 27, 1958, where, instead of presenting their evidence, the parties submitted a stipulation of facts from which the following may be deduced: On three different occasions the Gloria Employment Agency secured for plaintiff the services of three housemaids: Ivonne Provideo on May 23, 1957, Yolanda Jaime on July 14, 1957, and Vicenta Novalis on July 23, 1957, each to work for a period of one year at a monthly salary of P20.00 each. For this service, plaintiff paid defendants the following amounts: P154.50 representing the office and tax fees of the Agency at P51.50 for each of the three housemaids; P176.00 representing the debts of said maids advanced by the Agency to wit: P62.00 for Ivonne Provideo; P62.00 for Yolanda Jaime; and P52.00 for Vicenta Novalis.

On September 11, 1957, the maids escaped and having been informed thereof defendants located and delivered the maids, to plaintiff, but the latter returned them to the Agency on December 7, 1957. On December 14, 1957, plaintiff wrote defendants demanding the refund of the amount of P390.00 claimed to have originally paid by her to which defendants replied offering to reimburse only the amount of P116.90, and as plaintiff was not agreeable to the proposal she instituted the present action. With respect to the damages and attorney's fees claimed by both parties, the same were left to the discretion of the court.

On November 3, 1958, the court a quo sentenced defendants to pay plaintiff the sum of P390.00, plus P200.00 as attorney's fees and expenses of litigation. In due time, defendants appealed to the Court of Appeals but the latter certified the case to us for the reason that there are no questions of fact involved.

The amount of P390.50 claimed by appellee is itemized as follows:

Office fees of P50.00 for each of the three maids

P150.00

Tax of P1.50 for each of the three maids

4.50

Personal obligations of the maids to the Agency

176.00

Extra charge of P20.00 each for the three maids

60.00

On the back of each of the receipts issued by appellants in connection with the employment of the three maids the following clause appears:

"That in cases, where an employee placed by the agency terminates the contract of employment without having been dismissed by the employer if exchange is not elected by the agency, the employer is entitled to a refund from the agency of the fee paid by him in accordance with the following schedule, FEAS/NESS form No. VI)

- Within 10 days 100%.
- Within the 1st Month 75%.
- Within the 2nd and 3rd month 50%.
- Within the 4th to the 6th month 25%.
- After the 6th month, no refund."

Pertinent portions of the Code of Rules and Regulations promulgated by the Commissioner of the National Employment Service pursuant to the authority vested in him by Republic Act No. 761, approved by the Secretary of Labor, are quoted hereunder:

"Section 53.—An 'Office fee' not to exceed Fifty Pesos (P50.00) may be charged by the agency against any employer for each placement or employment of a recruit, which shall be for the exclusive account of the employer and never chargeable against the employee.

"Section 54.—In cases where an employee placed by the agency terminates the contract of employment without having been dismissed by the employer and is returned by the latter to the agency, if exchange is not elected by the agency, the employer is entitled to refund of the fee paid by him in accordance with the following schedule:

(a)

Within the 1st month

P37.50

(b)

After the 1st month up to the 3rd month

25.00

(c)

After the 3rd month up to the 6th month

12.50

(d)

After the 6th month

No refund of office fee

\* \* \* \* \*

"Provided, however, that, if the employer terminated the contract of employment for a valid or sufficient cause, he shall have the option of either getting a refund or an exchange, in accordance with the above schedules: \* \* \* "

It would appear from the above that an office fee not to exceed P50.00 may be charged by an employment agency against an employer for each recruit which shall be for the exclusive account of the employer, while on the other hand, when a recruit placed by the Agency terminates his contract of employment without having been dismissed by the employer, the latter is entitled to a refund from the Agency of certain percentage of the fee paid by the employer in accordance with the schedule set forth therein. There is no dispute that on September 11, 1957 the three maids herein involved escaped from the house of their employer for reasons that do not appear clear in the record but who upon being detected were returned to their employer who however chose not to re-employ them thereby terminating their contract of employment. It may therefore be said that the three maids chose to leave the service of their employer without having been dismissed by the latter thus giving the employer the right to ask for a refund of the fees paid by her to the Agency in the manner provided for in the contract and in the rules above-quoted. In this sense, the employer is entitled to a refund of P62.50 computed as follows: P12.50 for Ivonne Provideo, P25.00 for Yolanda Jaime, and P25.00 for Vicenta Novalis.

In our opinion this is the only item which the employer may recover from the Agency considering the contract and the rules already adverted to. Thus, the employer cannot be reimbursed of the tax fees she paid for the three maids in the total sum of P4.50 for they are due the government. The employer is not also entitled to the refund of the alleged extra charge of P60.00 for there is nothing in the record to show any reason or justification for the payment of such extra charge. No evidence has been presented to this effect. And with regard to the sum of P176.00 which was paid by the employer to the Agency as reimbursement for the personal obligations of the maids advanced by the latter, the evidence is clear that such indebtedness/ if any, is only chargeable against the maids for he had. personally assumed to pay it in the contract of employment entered into between them and the employer (Exhibits B, D and F). By entering into the contract, the implication is that the employer has relieved the Agency from its liability therefor in the event the maids terminate their employment before the period agreed upon. There is, moreover, on the back of each of the receipts issued by the Agency to the employer a notation of this tenor: "Important: In case of escape the Agency does not guarantee the accounts of the servant-employee", which shows that the Agency has not assumed any subsidiary liability for the accounts of the maids. It is therefore

clear that of the items claimed by the employer, she is only entitled to a refund in the sum of P62.50.

Wherefore, the decision appealed from is modified by ordering appellants to pay appellee only the amount of P62.50, without pronouncement as to costs. Considering the outcome of this case, the item relative to attorney's fees should also be eliminated.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, and De Leon, JJ., concur.

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