

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY HONORABLE
LOURDES M. TRASMONTA IN HER CAPACITY AS UNDERSECRETARY
OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND
HONORABLE JENNIFER JA...**

G.R. No. 205188. April 22, 2015

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before us is a petition for review on certiorari[1] filed by the Republic of the Philippines represented by the Secretary of the Department of Labor and Employment (DOLE) and the Administrator of the Philippine Overseas Employment Administration (POEA) assailing the Court of Appeals' September 24, 2012 Decision[2] and January 14, 2013 Resolution[3] in CA-G.R. SP No. 121332. The petition questions whether the Court of Appeals (CA) erred when it ruled that the POEA had no power to declare that the officers and directors of Humanlink Manpower Consultants, Inc.[4] (Humanlink) were disqualified from participating in the overseas employment program.[5]

A complaint[6] for violation of Section 2(b) (excessive collection of fees), (d) (collecting a fee without issuing a receipt) and (e) (misrepresentation) of Rule I,[7] Part VI of the POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers (POEA Rules and Regulations) was filed by Renelson[8] L. Carlos against Worldview International Services Corporation (Worldview) and Humanlink before the POEA Adjudication Office.

Briefly, the facts of the case.

Carlos applied at Worldview as a heavy equipment driver in Doha, Qatar with a salary of US\$700.00. After undergoing the required medical examination, Worldview submitted Carlos' application and other documents to the POEA under Humanlink as his recruiting agency.[9] During processing of his application, he paid placement fee adding up to a total of P60,000.00[10] but no receipt was issued. On December 2, 2007, while awaiting his departure at the airport, he was made to sign an employment contract stating that he was to work as a duct man with a salary of US\$400.00, instead of the heavy equipment driver position he applied for. He was told that the duct man contract was only for entry purposes and was assured that he would work as a heavy equipment driver in Doha as advertised.

Upon his arrival in Doha, he worked as a duct installer with a salary of US\$400.00.[11] Carlos complained that the terms of the employment contract were not complied with.[12] In March 2008, the foreign employer made Carlos sign a new employment contract reducing his monthly salary in half.[13] Carlos filed a complaint with the Philippine Overseas Labor Office but the complaint was not acted upon. This prompted him to speak with the Qatar Labor Office where he discussed his grievance. On April 29, 2008, Carlos was informed that his visa was cancelled and that he was being repatriated at his own expense.

Approximately a week after his return to the Philippines, Humanlink's President[14] persuaded him to sign a quitclaim[15] absolving it of any liability from the collection of the placement fee.[16]

On March 31, 2010, the POEA Adjudication Office found the assertions of Carlos credible and supported by sufficient evidence. First, it noticed that no receipts were issued to Carlos for the payments he made. Second, considering that Carlos' salary only amounted to US\$400.00, the amount of P60,000.00[17] collected from him as placement fee was patently excessive. Lastly, it further found that in advertising for a heavy equipment driver but having Carlos sign a contract for a duct man, Humanlink engaged in misrepresentation. It thus found Humanlink liable for violation of Section 2(b), (d) and (e) of the 2002 POEA Rules and Regulations. Worldview was only found liable for violating Section 2(e) of the 2002 POEA Rules and Regulations.[18] The fallo reads:

WHEREFORE, premises considered, for the established violation of Section 2 (b), (d), and (e) of Rule I, Part VI of the Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers, the penalty of cancellation of license and fine in the amount of PHP80,000.00 is hereby imposed upon [Humanlink Manpower Consultants, Inc.] As a consequence of the cancellation of its license, its officers and directors as of November 2007 are hereby ordered disqualified from participating in the overseas employment program of the government.[19] (Emphasis ours)

Humanlink appealed[20] before the DOLE but the same was dismissed for lack of merit in the DOLE February 17, 2011 Order.[21] It moved for reconsideration but the same was denied.[22]

Humanlink appealed to the CA via a petition for certiorari.[23] In its September 24, 2012 Decision, the CA affirmed with modification the February 17, 2011 Order. It agreed that Humanlink was guilty of violating Section 2 (b), (d), and (e) of the POEA Rules and Regulations and ordered the cancellation of its license. However, it disagreed that as a consequence of the cancellation of the license, automatic disqualification of officers and directors from participating in government's overseas employment program should be imposed. It considered such penalty to be violative of due process and in excess of the POEA's supervisory powers. It stated:

As a general rule, the Legislature cannot surrender or abdicate its legislative power, for doing so will be unconstitutional. Although the power to make laws cannot be delegated by the Legislature to any other authority, a power that is not legislative in character may be delegated. Under certain circumstances, the Legislature can delegate to executive officers and administrative boards the authority to adopt and promulgate Implementing Rules and Regulations [IRRs]. To render such delegation lawful, the Legislature must declare the policy of the law and fix the legal principles that are to control in given cases. The Legislature should set a definite or primary standard to guide those empowered to execute the law. The authority to make IRRs in order to carry out an express legislative purpose, or to effect the operation and enforcement of a law is not a power exclusively legislative in character, but is rather administrative in nature. The rules and regulations adopted and promulgated must not, however, subvert or be contrary to existing statutes. The function of promulgating IRRs may be legitimately exercised only for the purpose of carrying out the provisions of a law. The power of administrative agencies is confined to implementing the law or putting it into effect. Thus, the [POEA] cannot go beyond the extent and scope of the concerned particular implementing rules which are merely putting into effect the mandate of the Labor Code of the Philippines. Also, it goes without saying that the automatic disqualification of officers and directors of herein petitioner, without specifically impleading the parties concerned, cannot be enforced without violating the due process of law as they were deprived of every opportunity to put up their respective defenses.[24]

The CA thus decreed:

WHEREFORE, premises considered, the instant petition is DENIED. Accordingly, the Order and Resolution dated February 17, 2011 and July 6, 2011 of the Undersecretary of the Department of Labor and Employment in OS-POEA-0098-0521-2010 [POEA Case No. RV 08-08-1455] are hereby AFFIRMED with a modification

in that the affirmation as to the declaration disqualifying the officers and directors of Humanlink Manpower Consultants, Inc. to engage in the overseas employment program of the government is declared null and void.

SO ORDERED.[25]

Humanlink moved for reconsideration but it was denied. Hence, this petition.

The DOLE and POEA contend that the disqualification of the officers and directors from participation in the overseas employment program of the government is expressly sanctioned under Section 2(f), Rule I, Part II of the POEA Rules and Regulations which reads:

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas.

x x x x x x x x

f.

Persons or partners, officers and Directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws.

It claims that the disqualification is within the delegated powers of the DOLE Secretary and the POEA and argues that the provision "upholds the purpose of the law to establish a higher standard of protection and promotion of the welfare of migrant workers." [26]

Humanlink, on the other hand, reiterates its position that petitioner did not raise any substantial argument to warrant the reversal of the CA Decision. [27]

The issue for consideration before this Court is whether the POEA has the power to automatically disqualify officers and directors from participating in the government's overseas employment program upon the cancellation of a license.

We rule in the affirmative.

We have long settled the role of the POEA and the DOLE with respect to the recruitment, placement and deployment of overseas workers. [28]

While Section 2(c), [29] Republic Act (R.A.) No. 8042 [30] states that the State does not promote overseas employment as a means to sustain economic growth, the State recognizes the vital role of overseas Filipino workers to the nation's economy and development. Aware that overseas workers are vulnerable to exploitation, the State sought to protect the interests and well-being of these workers with creation of specialized bodies such as the POEA under the direct supervision of the DOLE Secretary.

One of the roles of the POEA is the regulation and adjudication of private sector participation in the recruitment and placement of overseas workers. [31] Article 25 of the Labor Code, as amended, reads:

ART. 25. Private Sector Participation in the Recruitment and Placement of Workers. — Pursuant to national development objectives and in order to harness and maximize the use of private sector resources and initiative in the development and implementation of a comprehensive employment program, the private employment sector shall participate in the recruitment and placement of workers, locally and overseas, under such guidelines, rules and regulations as may be issued by the Secretary of Labor. (Emphasis supplied)

This is echoed in Article 35 of the Labor Code, as amended, and Section 23(b.l), R.A. No. 8042 as amended by

R.A. No. 9422, where the legislature empowered the DOLE and POEA to regulate private sector participation in the recruitment and overseas placement of workers, to wit:

ART. 35. Suspension and/or Cancellation of License Authority. - The Secretary of Labor shall have the power to suspend or cancel any license or authority to recruit employees for overseas employment for violation of rules and regulations issued by the Secretary of Labor, the Overseas Employment Development Board, and the National Seamen Board, or for violation of the provisions of this and other applicable laws, General Orders and Letters of Instruction. (Emphasis supplied)

Section 23. x x x

x x x x x x x x

(b.1) Philippine Overseas Employment Administration. The Administration shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

In addition to its powers and functions, the administration shall inform migrant workers not only of their rights as workers but also of their rights as human beings, instruct and guide the workers how to assert their rights and provide the available mechanism to redress violation of their rights.

In the recruitment and placement of workers to service the requirements for trained and competent Filipino workers of foreign governments and their instrumentalities, and such other employers as public interests may require, the administration shall deploy only to countries where the Philippines has concluded bilateral labor agreements or arrangements: Provided, That such countries shall guarantee to protect the rights of Filipino migrant workers; and: Provided, further, That such countries shall observe and/or comply with the international laws and standards for migrant workers. (Emphasis supplied)

This Court in *Eastern Assurance and Surety Corporation v. Secretary of Labor*[32] affirmed the POEA's power to cancel the license of erring recruitment agencies as a consequence of not adhering to the rules and regulations set by the POEA and DOLE. Rules and regulations referred to includes POEA Rules and Regulations.

Sections 1 and 2, Rule I, Part II of the POEA Rules and Regulations provide the qualifications and disqualifications for private sector participation in the overseas employment program. Section 1 of this rule provides that for persons to participate in recruitment and placement of land-based overseas Filipino workers, they must not possess any of the disqualifications as provided in Section 2. Section 1 partly reads:

Section 1. Qualifications. Only those who possess the following qualifications may be permitted to engage in the business of recruitment and placement of Filipino workers:

x x x x x x x x

c.

Those not otherwise disqualified by law or other government regulations to engage in the recruitment and placement of workers for overseas employment.

In connection with the foregoing, Section 2 provides for the disqualifications. Specifically, Section 2(d)(4) and (f) provides that persons, directors and officers of whose licenses have been previously revoked or cancelled are disqualified from engaging in the recruitment and placement of workers. It states:

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas.

x x x x x x x x

d.

Persons, partnerships or corporations which have derogatory records, such as but not limited to the following:

x x x x x x x x

- Those agencies whose licenses have been previously revoked or cancelled by the Administration for violation of RA 8042, PD 442 as amended and their implementing rules and regulations as well as these rules and regulations.

x x x x x x x x

f.

Persons or partners, officers and Directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws. (Emphases supplied)

Thus, upon the cancellation of a license, persons, officers and directors of the concerned corporations are automatically prohibited from engaging in recruiting and placement of land-based overseas Filipino workers. The grant of a license is a privilege and not a right thus making it a proper subject of its regulatory powers. If we are to protect the welfare of vulnerable overseas workers, then we must prevent all instances wherein they may be taken advantage upon. This must be so since the rules must be read as a whole to achieve its particular purpose. Particular words, clauses and phrases should not be studied as detached and isolated expressions but as a whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole.[33]

It is inconsequential therefore whether or not the POEA or the DOLE stated then in their decision that persons, officers and directors are disqualified from participating in the government's overseas employment program. The law and rules implementing the same unequivocally state that once a recruitment license of an entity is cancelled, its officers and directors are automatically prohibited from engaging in such activity. The failure of the POEA and DOLE to indicate this fact cannot by any means indicate the contrary. *Dura lex sed lex*.

Given the foregoing, we therefore affirm with modification the decision of the CA and reiterate that officers and directors of Humanlink are prohibited from engaging in the recruitment and placement of overseas workers upon cancellation of Humanlink's license. Based on the listed qualifications and disqualifications of the Rules, they are not qualified to participate in the government's overseas employment program upon such cancellation. It was thus unnecessary for the POEA or the DOLE to issue a separate decision explicitly stating that persons, officers or directors of Humanlink are disqualified from participating in government overseas recruitment programs.

WHEREFORE, the petition is GRANTED. The Decision dated September 24, 2012 of the Court of Appeals in CA-G.R. SP No. 121332 is hereby PARTIALLY REVERSED insofar as it modified the February 17, 2011 Order and July 6, 2011 Resolution of the Undersecretary of the Department of Labor and Employment in OS-POEA-0098-0521-2010 [POEA Case No. RV 08-08-1455] by declaring the disqualification of the officers and directors of Humanlink Manpower Consultants, Inc. to engage in the overseas employment program of the

government as null and void. Accordingly, the aforesaid order and resolution of the DOLE Undersecretary are AFFIRMED and UPHELD in toto.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Bersamin,[*] and Reyes, JJ., concur.

June 26, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on April 22, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on June 26, 2015 at 10:15 a.m.

Very truly yours,

(SGD.)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated additional Member per Raffle dated October 20, 2014.

[1] Under Rule 45 of the Revised Rules of Court.

[2] Rollo, pp. 71-90. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Celia C. Librea-Leagogo and Danton Q. Bueser.

[3] Id. at 92-95.

[4] Formerly known as MHY New Recruitment International, Inc.

[5] Rollo, pp. 42-43.

[6] Filed on August 1, 2008 and docketed as POEA Case No. RV 08-08-1455.

[7] POEA RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LAND-BASED OVERSEAS WORKERS, Section 2 (b), (d), and (e) provides:

Section 2. Grounds for imposition of administrative sanctions:

x x x x x x x x

b.

Charging or accepting directly or indirectly any amount greater than that of specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance;

x x x x x x x x

d.

Collecting any fee from a worker without issuing the appropriate receipt clearly showing the amount paid and the purpose for which payment was made;

e.

Engaging in act/s of misrepresentation in connection with recruitment and placement of workers, such as furnishing or publishing any false notice, information or document in relation to recruitment or employment;

x x x x x x x x

[8] Also referred to as "Nelson" in some parts of the pleadings.

[9] Rollo, pp. 138, 146-147.

[10] Sometime May for P20,000 and November 29, 2007 for P40,000.00 out of the proceeds of a loan which he obtained with the help of the employees of the agency. Carlos paid the amount in instalments.

[11] Equivalent to 1,500.00 Qatar Riyal. Rollo, p. 141.

[12] Lack of medical assistance, clean water, food allowance, and monthly slip. Carlos also alleged poor accommodation was provided. Id.

[13] 750.00 Qatar Riyal. Id.

[14] Marilyn N. Raquidan.

[15] Records, p. 51.

[16] Rollo, p. 141.

[17] Generally, placement fees are equivalent to one month salary of the overseas worker deployed, except in instances where a higher amount is authorized to be collected or no placement fee is required.

[18] Rollo, pp. 122-134. Signed by Administrator Jennifer Jardin-Manalili.

[19] Id. at 133.

[20] Docketed as OS-POEA-0098-0521-2010.

[21] Rollo, pp. 136-150. Signed by then DOLE Undersecretary Danilo P. Cruz.

[22] Id. at 152-156. DOLE Resolution dated July 6, 2011 signed by Undersecretary Lourdes M. Trasmonte.

[23] Under Rule 65 of the Rules of Court and docketed as CA-G.R. SP No. 121332.

[24] Rollo, pp. 87-88.

[25] Id. at 89.

[26] Id. at 46.

[27] Id. at 292-301.

[28] See *People v. Diaz*, 328 Phil. 794, 806 (1996).

[29] R.A. No. 8042, Section 2(c) provides:

SEC. 2. Declaration of Policies. —

x x x x x x x x

(c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain

economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

x x x x x x x x

[30] Entitled "AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES" otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995."

[31] R.A. No. 8042, Sec. 23 (b.1).

[32] 260 Phil. 115, 121-122 (1990).

[33] National Tobacco Administration v. COA, 370 Phil. 793, 808 (1999).

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