

**V.V. ALDABA ENGINEERING, PETITIONER, VS. HONORABLE
MINISTER OF LABOR AND EMPLOYMENT; HONORABLE
ADMINISTRATOR OF PHILIPPINE OVERSEAS EMPLOYMENT
ADMINISTRATION; RIZALINA SADANG; B...**

G.R. No. 76925. September 26, 1994

Ponente: VITUG, J.

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VITUG, J.:

In this petition for certiorari, with a prayer for preliminary injunction, V.V. Aldaba Engineering seeks the nullification of the 4th March 1986 decision of the then Ministry of Labor and Employment ("MOLE") which affirmed the 11th April 1985 modified Order of the Philippine Overseas Employment Agency ("POEA").

Sometime in May 1983, private respondents, numbering a total of two hundred eighty six (286), applied with, and were recruited by, petitioner V.V. Aldaba Engineering, through one Rizalina Sadang of SLS Business Management and Consultant Services ("SLS"), for employment abroad. Private respondents were made to pay amounts ranging from P1,500.00 to P2,000.00 each for the processing of passports and from P2,500.00 to P5,000.00 for the processing of applications and placement fees. On 19 July 1983, private respondents were also required, at their expense, to each undergo trade test, medical examination and psychological evaluation. They were advised to resign from their respective local employments. Later, contracts for overseas work were signed and travel exit passes were issued. All the foregoing notwithstanding, no work deployment ever took place.

After almost a year of waiting, or on 07 May 1984, private respondents finally filed a complaint against V.V. Aldaba Engineering (docketed LRO-RRD-Case No. 84-05-0085 and entitled "Boy Alido, et al. vs. V.V. Aldaba Engineering") for violation of Articles 32 and 34 of the Labor Code.

The POEA narrated what transpired during its proceedings on the case, now hereunder quoted:

"During the investigations conducted in this office both respondents V.V. Aldaba and Mr. Mario Lumagui for Rizalina Sadang appeared. Respondent thru counsel denied complainants' claim alleging that the agency is a licensed overseas construction contractor and has never been a placement and/or recruitment agency; it has never employed or guaranteed any overseas employment to any person nor to any of the complainants, it has not received any single centavo from any person in connection with an overseas employment; that the agency has not authorized anyone to recruit and/or to approve the employment of overseas workers. Respondent contended that it has a valid, lawful and legitimate contract of manpower service with the Abu Shrook Establishment for contracting and trading. Respondent however admitted having entered into an agreement with SLS Management represented by Rizalina Sadang, Manila Booking Agency, Inc. and Allied Ventures and General Services but the same is merely referral and recommendatory and that the agency has the exclusive right to accept or reject any applicant who shall not meet the agency's requirements, a copy of the authorization issued to Rizalina Sadang was presented by the agency as its evidence.

"Respondent further alleged that Rizalina Sadang who is presently doing business under the name and style

SLS Business Management and Consultant Services and formerly M.M. General Services and Placement Office is a separate and distinct entity from V.V. Aldaba Engineering. An agreement to refer and recommend applicants for final selection by the agency was entered into between the two upon the alleged representation of Rizalina Sadang to the effect that her agency has a reservoir of applicants for overseas employment. It is further claimed that the agency has never received nor collected from Rizalina Sadang any fee in connection with said agreement, neither did respondent authorize Ms. Sadang to collect money from the complainants or any applicants.

"Respondent Rizalina Sadang was represented by her company's operations' Manager Mr. Lumagui who admitted all the claims of complainant particularly the receipt of complainants' money. He claimed that Ms. Sadang has been issued a written authority by the agency which had likewise entered into a verbal agreement with Ms. Sadang to the effect that the agency will receive P2,500.00 for every applicant referred and accepted by said agency. Respondent Aldaba denied said allegation.

"He further claimed that Miss Rizalina Sadang advanced the amount of P100,000.00 to V.V. Aldaba. A receipt purportedly signed by Engr. Vicente Aldaba was presented by respondent Sadang to support its defense. Said document was shown to respondent V.V. Aldaba who countered that the same is in the form of a loan and has nothing to do with this case. Subsequently, respondent Sadang thru Mr. Lumagui in connection with its admission of all complainants' claims offered to settle complainants' claims and requested until July 17, 1984 within which to settle all claims. However, said offer did not materialize." [1]

On 28 November 1984, the POEA issued an order,[2] directing, among other things, petitioner V.V. Aldaba Engineering and Rizalina Sadang/SLS Business Management and Consultant Services to refund, in solidum, the money claims of private respondents. The second paragraph of the dispositive portion of the Order provided:

"In view of the foregoing, and considering that respondent agency is deemed liable for the acts of Rizalina Sadang in violation of Art. 32 and 34(b) of the Labor Code, the latter having charged and collected fees before obtaining employment for complainants by means of false information as to the existence of available jobs abroad, the license of V.V. Aldaba Engineering is hereby suspended for a period of six (6) months and until full satisfaction of the claims of complainants."

Upon petitioner's motion for reconsideration, a modified Order,[3] dated 11 April 1985, was issued by the POEA. The pertinent portions of this order read:

"x x x However, in view of the withdrawal of the following complainants, namely, Boy Alido, Efrendo Austria, Victor Abando, Ananias Cabal and Domingo Honrado, their claims should be dismissed. As regards the claims of the other listed complainants who either have not appeared or though appearing during the proceedings are not included in the list of complainants as well as those whose claims cannot be determined due to their failure to allege the amount of their claim, respondent cannot be held liable therefor without prejudice, however, to the right of said complainants to file another complaint we also do not consider the withdrawal of Boy Alido, et al., as valid and binding upon the other complainants considering that they have no express and special authorization from the other complainant to withdraw the claim of the latter. The Motion to Set Aside the Order dated November 28, 1984 for a New Trial should be denied for lack of merit.

"Wherefore, premises considered, the Motion to Set Aside the Order dated November 28, 1984 or for a New Trial/Re-Investigation is hereby denied for lack of merit. However, this Office deems it proper to reconsider the award of claims under such order and hereby modifies the dispositive portion thereof to read as follows:

"V.V. Aldaba Engineering and Rizalina Sadang/SLS Business Management and Consultant Services are hereby held solidary liable for the claims of the following complainants: (List of applicants' names and amount of their claims followed.)

"The claims of the other complainants are hereby dismissed without prejudice. Respondent V.V. Aldaba

Engineering being considered liable for the acts of Rizalina Sadang in violation of Article 32 and 34(b) of the Labor Code, as amended, the latter having charged and collected fees from applicant workers before obtaining employment for complainants by means of false information as to the existence of available jobs abroad, its license remains suspended for a period of six (6) months from November 28, 1984 and until full satisfaction of complainants' claims. This is without prejudice to the investigation of respondent to be conducted by this Office in relation to a possible violation of Article 29 of the Labor Code, as amended arising out of the grant of authority issued to Rizalina Sadang." (Underlining found in the text)

The MOLE, on appeal interposed to it by petitioner, affirmed the modified Order of the POEA.[4] Petitioner's motion for reconsideration and its subsequent motion for leave to admit a second motion for reconsideration were denied. Hence, the recourse to this Court. The petition was given due course by the Court on 22 August 1988.

When respondents were required to comment on the petition, the Solicitor-General, in behalf of public respondents (MOLE and POEA), complied. Counsel for private respondents failed to file comment within the reglementary period; hence, on 03 February 1988, he was directed by the Court to show cause and comply. When, however, the copy of the resolution was returned unserved, with the notation "no longer holding office at given address," the Court resolved to instead serve the aforesaid resolution directly on private respondents.[5] The service on respondent Rizalina Sadang also proved to be futile. No comment on the petition was received from private respondents.

Finally, on 11 July 1994, the Court issued a resolution requiring the parties to move in the premises to determine whether supervening events might have, in fact, rendered the case moot and academic.[6] The Court, not having been favored with a response by all of the parties, opted to issue this resolution on the basis of the pleadings heretofore submitted to it.

The core issue in this petition is whether or not public respondents, the MOLE and the POEA, have acted with grave abuse of discretion in holding petitioner liable for violation of Articles 32 and 34(b) of the Labor Code, the relevant provisions of which express:

"ART. 32. Fees to be paid by workers. - Any person applying with a private fee-charging employment agency for employment assistance shall not be charged any fee until he has obtained employment through its efforts or has actually commenced employment. Such fee shall be always covered with the appropriate receipt clearly showing the amount paid. The Secretary of Labor shall promulgate a schedule of allowable fees.

"ART. 34. Prohibited practices. - It shall be unlawful for any individual, entity, licensee, or holder of authority:

"x x x x x x x x x

"(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;" (Emphasis supplied.)

There is no dispute that herein private respondents have each paid amounts ranging from P1,500.00 to P2,000.00 for processing of passports, an additional sum of from P2,500.00 to P5,000.00 for placement charges and for processing of applications, and various other fees for medical examination, psychological evaluation and trade test. These payments have been made by private respondents on the assurance that they would, through petitioner, secure employments abroad. The indubitable fact is that private respondents have found themselves ultimately with nothing but, truth to tell, merely with vain expectations.

In an effort to extricate itself from liability, petitioner asserts that it did not charge or receive from private respondents any amount in their application for overseas employment and denies having given any authority to SLS for the purpose. Petitioner claims that the agreement it entered into with SLS, represented by Rizalina

Sadang, has only authorized the latter to refer and to recommend prospective employees, leaving to petitioner the exclusive right to accept or reject any application for overseas employment.

Neither of public respondents, however, found petitioner's assertions to have been factually established. In finding for private respondents, POEA, affirmed by the MOLE, said:

"We do not find merit in respondent agency's allegation that it has not violated any POEA Rules and Regulations as it has no involvement in the illegal activities of Rizalina Sadang and that it has not received any single centavo from her. While respondent might not have directly collected from complainants still under recruitment rules and regulations, it is deemed liable for any and all acts of its agent relating to recruitment and placement. Respondent's contention that the authorization he issued in favor of Sadang is only for purposes of referral or recommendation is not a valid defense. What POEA rules prohibits is an appointment of whatever nature of a representative without its prior approval, as long as it relates to overseas employment. The purpose behind such rule is to prevent the indiscriminate issuance of authority which could result in harm to the general public as in the instant case. By allowing Rizalina Sadang to recruit workers under its job order, respondent company made it possible for her to dupe complainants. Moreover, the authority issued to respondent company to recruit workers was meant to be strictly used by it alone thru its designated employee as reported to and recognized by the POEA. Referral of workers for overseas employment is also part and parcel of recruitment. Respondent was fully aware of the strict requirement for the issuance of a license, hence, it should not have allowed/authorized SLS Overseas Management and Consultant Services, an unlicensed placement agency to recruit workers by giving it an authority to refer/recommend workers to fill up its job order.

"We do not agree that respondent company cannot be held liable for the claims of complainants. It is true that the terms of the authorization issued to Rizalina Sadang explicitly limit her authority aside from providing that respondent company shall not be held liable for Miss Sadang's illegal acts. However, under recruitment rules and regulations, licensed entities/agencies are held liable for any and all acts of their agents, representatives and/or employees. Although respondent claims that Ms. Sadang is not its agent, still by giving it the authority to refer/recommend workers to it, it impliedly authorized it to recruit applicants, interview them and assure them of employment abroad, under the approved job order of respondent company. Moreover, the limitation upon the authority of respondent not having been made public, respondent also made it possible for Ms. Sadang to misrepresent her authority and to collect fees from applicant workers. Under Art. 1911 it is also provided that 'Even when the agent has exceeded his authority, the principal is solidarily liable with the agent if the former allowed the latter to act as though it had full authority.' By allowing Ms. Sadang to recruit workers for referral to it, respondent indirectly made it appear that she was also authorized to collect the necessary fees in relation thereto."

Substantial evidence is not so wanting as to decry the findings of fact of public respondents from which their conclusions have aptly been drawn. Absent any showing of arbitrariness or grave abuse of discretion, we must accord the highest respect, if not finality, to factual findings of administrative and quasi-judicial agencies specializing in their respective fields. We see no compelling reason in the case at bench to deviate from the rule. Inevitably, on the basis of those findings, petitioner must be rightly held to be accountable for the liabilities incurred by SLS in the ostensible discharge of the agency adverted to.

WHEREFORE, the resolution of 22 August 1988 giving due course to the petition for certiorari is RECONSIDERED and RECALLED, and the petition is hereby DISMISSED. Costs against petitioner.

SO ORDERED.

Feliciano, (Chairman), Romero, and Melo, JJ., concur.

Bidin, J., on leave.

[1] Rollo, pp. 23-24.

[2] Rollo, pp. 23-30.

[3] Rollo, pp. 31-39.

[4] Annex "C", Ibid., pp. 40-44.

[5] Rollo, p. 124.

[6] Rollo, p. 173.

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