

FEAGLE CONSTRUCTION CORPORATION, PETITIONER, VS. GAVINO GAYDA, ELPIDIO AGPALAYA, MIGUELITO BATOON, ELIGIO CUENCO, CLARO CUNANAN, SANTIAGO CURAMENG, MANUEL DACO, EDUARDO DEPONE, ...

G.R. No. 82310. June 18, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The singular issue in this case is whether or not petitioner may be held solidarily liable with the foreign employer for any unpaid claims of private respondents against their foreign principal employer even as they have a stipulation to this effect.

This petition (G.R. No. 82310) was previously dismissed on March 23, 1988 for failure of Petitioner to sufficiently show that the respondent Commission had committed a grave abuse of discretion in rendering its questioned judgment.[1] An amended petition was filed on April 4, 1988.[2] The amended petition was given due course on July 4, 1988.[3]

Petitioner questions the decision of the First Division of public respondent National Labor Relations Commission[4] dated January 29, 1988 in POEA Case No. L-86-10-971, which modified the decision dated July 20, 1987, of Commissioner Tomas D. Achacoso of the Philippine Overseas Employment Administration dated July 20, 1987, excluding petitioner's officials Florentino Aguila and Rene Aguila from liability, but affirming the liability of the petitioner to private respondents on the ground that petitioner is solidarily liable together with the private respondents' foreign employer-Algozaibi-Bison Ltd., Dammam, Saudi Arabia.[5]

The modified decision of Administrator Achacoso has the following dispositive portion:

“WHEREFORE, premises considered, respondents Feagle Construction Corporation, Florentino Aguila and Rene Aguila and its (sic) foreign principal Algozaibi Bison, Ltd., Dammam, Saudi Arabia are hereby held jointly and severally liable to pay herein complainants within ten (10) days from receipt of this Order, the peso equivalent at the time of actual payment of the sum appearing opposite complainants' names representing their total claim for unpaid salaries/wages, remittances and other benefits, to wit:

1. Elpidio Agpalza ----- S.R. 19,245.00
2. Miguel Batoon ----- 9,433.00
3. Eligio Cuenca -----18,015.00
4. Claro Cunanan -----16,409.00
5. Santiago Curameng -----13,065.00
6. Manuel Daco -----9,062.00

7. Eduardo Depone -----	24,038.00
8. Raymundo Ervera -----	15,235.00
9. Jose Estabillo -----	9,358.00
10. Rogelio Figueroa -----	19,554.00
11. Gavino Gayda -----	14,977.00
12. Artemio Hulingnga -----	8,581.00
13. Jorge Iting -----	18,436.00
14. Emiliano Macam -----	13,436.00
15. Alexander Maputol -----	16,394.00
16. Avelino Mendoza -----	8,124.00
17. Rogelio Noo -----	18,930.00
18. Rolando Patinio -----	18,598.00
19. Vitaliano Pena -----	16,187.00
20. Rolly Perales -----	10,713.00
21. Dominador Sta. Catalina -----	12,767.00
22. Arsenio L. Santos -----	17,708.00
23. Felipe Tesado -----	14,236.00
TOTAL -----	S.R.342,501.00

We take note that complainants have been paid of (sic) their plane fare bonds as evidenced by check vouchers duly signed by individual complainants, hence, such claim is considered settled and/or fully paid.

Respondents are further ordered to pay attorney's fees equivalent to five percent (5%) of the total amount of the claims.

All other claims are hereby dismissed for lack of merit.

No pronouncement as to cost.”[6]

A temporary restraining order was issued by this Court on September 12, 1988 and the petitioner filed the required bond in the amount of P50,000.00.[7]

The following antecedent pertinent facts are not disputed:

“1. Private respondents have been employed with Algosai-Bison, Ltd. in Saudi Arabia for three to five years working on construction projects for the Kingdom of Saudi Arabia.

2. Sometime in 1983, Algosai-Bison, Ltd. started encountering financial difficulties because of the drop in the price of oil. Because of the drop in the price of oil, the income of the Kingdom of Saudi Arabia plunged from about one hundred billion dollars a year to eighteen billion dollars a year. As a result, the Kingdom of Saudi Arabia encountered financial difficulties in paying. Algosai-Bison, Ltd. for its construction projects.

3. Starting in 1983, the remittance of the allotments of the beneficiaries of Filipino workers employed with Algosaibi-Bison, Ltd. was delayed. Although all the allotments for 1983 and 1984 were eventually paid, all these payments were delayed.
4. During all these years petitioner never charged Filipino workers like private respondents a single centavo for sending them to work for Algosaibi-Bison, Ltd. Petitioner advanced all mobilization expenses out of its funds.
5. Because of its financial difficulties, Alfosaibi-Bison, Ltd. could not even reimburse petitioner for the mobilization expenses petitioner advanced, such as passport fees, medical fees, and visa application fees. Petitioner insisted that Algosaibi-Bison, Ltd. should give top priority to the payment of the wages and the allotments of the Filipino workers employed with it.
6. Because of this development, petitioner decided to stop sending back Filipino workers to work with Algosaibi-Bison, Ltd. Workers are given a one-month vacation after a year with re-entry visa.
7. Sometime in July, 1984, the Filipino workers employed with Algosaibi-Bison, Ltd. who had returned to Manila, including private respondents, requested for a meeting with the management of petitioner. About forty (40) Filipino workers attended the meeting. During the meeting, the workers requested petitioner to return them to their job site in Saudi Arabia. Mr. Florentino B. Aguila, the president of petitioner, informed the workers that petitioner did not want to send back any workers to Saudi Arabia because of the big risk due to the financial difficulties of Algosaibi-Bison, Ltd.
8. However, the workers pleaded with Mr. Florentino B. Aguila to send them back to Saudi Arabia. They explained that they were jobless in the Philippines, because of the depressed economic condition of the country. Rather than remain jobless, they would rather to take a chance in Saudi Arabia. They assured petitioner that they were willing to assume the risk in case the remittance of their salaries would be delayed. They emphasized that they were willing to sign a written statement indicating that they would not hold petitioner liable for any delay or non-payment of their salaries and any amounts due them from Algosaibi-Bison, Ltd. In accordance with their commitment, the said workers, including private respondents, signed a Statement xxx. Moreover, the workers stated they would seek the help of Saudi labor authorities individually in the event they would not be paid.
9. It was under the foregoing circumstances that petitioner reluctantly agreed to send back private respondents to Saudi Arabia to help them in their dire financial need if they would sign the aforementioned 'Statement' xxx before they leave for Saudi Arabia. xxx.
10. While the Filipino workers were in Saudi Arabia, they received their salaries directly from Algosaibi-Bison, Ltd.
11. When Algosaibi-Bison, Ltd. went into bankruptcy in 1986, all the Filipino workers in its employ, including private respondents dealt with the liquidator directly and in their individual capacities. They filed their claims with the liquidator, and the liquidator issued to each of them a certificate stating the amount payable to each of them as soon as funds are available. The said Filipino workers, including private respondents, agreed that the liquidator would pay them directly and individually through their bank accounts in the Philippines. xxx.
12. Just the same, to assist the workers, petitioner has written the liquidator to follow up the claims of the Filipino workers, and the liquidator has replied to it. The reply of the liquidator confirmed the individual agreement of the said workers, including private respondents, that they would be paid by the liquidator directly and individually. Thus, petitioner has nothing to do with the remittance of the payments due private respondents. In fact, the liquidator even refused to furnish the petitioner a list of their individual claims and corresponding amounts due each of them. The liquidator considered these information confidential and privy to said workers. xxx.

13. Under the law of Saudi Arabia, the claims of the Filipino workers of Algosaibi-Bison, Ltd. has first priority for payment in the bankruptcy proceeding. Article 15 of the Labor Law of Saudi Arabia provides:

‘The amounts to which the workman or his dependents are entitled under the provisions of this Law shall be considered first class privileged debts, and for the recovery thereof the workman or his heirs shall have a priority rights over all the employer’s property.’

14. On October 3, 1986, private respondents filed with the Philippine Overseas Employment Administration a Complaint against petitioner for the payment of their claims with the liquidator of Algosaibi-Bison, Ltd.

15. On December 2, 1986, petitioner filed its Answer. In its Answer, it pointed out that it was never furnished with a copy of any Complaint from private respondent Artemio Hulingnga.

16. On July 20, 1987, the Philippine Overseas Employment Administration rendered a Decision in favor of private respondents, including respondent Artemio Hulingnga, although petitioner was never furnished with a copy of his Complaint.

17. On August 7, 1987, petitioner appealed to respondent National Labor Relations Commission (hereinafter referred to as respondent Commission).

18. On January 29, 1988, respondent Commission rendered a Decision affirming the Decision of the Philippine Overseas Employment Administration with the modification that the ‘president’ and the ‘vice president for administration and finance’ of petitioner were exempted from liability for the claims of private respondents. xxx.

19. On February 11, 1988, petitioner filed a Motion for Reconsideration. xxx.

20. On February 29, 1988, respondent Commission issued a Resolution denying the Motion for Reconsideration. xxx.

21. On March 8, 1988, before receipt of the aforementioned Resolution of respondent Commission, petitioner filed a Supplemental Motion for Reconsideration. xxx. Petitioner received the said Resolution of respondent Commission only after petitioner had filed its Supplemental Motion for Reconsideration.”[8]

The petition is impressed with merit.

We agree with Public Respondents that the general rule as provided for in Section 1, Rule II of the rules and regulations of the Philippine Overseas Employment Administration is that every licensed private recruitment agency shall be jointly and solidarily liable with the employer for all claims and liabilities which may arise in connection with the implementation of the contract of employment.

In this case, however, We find it necessary to deviate from the general rule. First, because of changed circumstances, and second, because of individual agreements between petitioner and private respondents which cannot be considered void because the same cannot be considered contrary to law.

It is the uncontradicted contention of petitioner that 13 of private respondents filed their claims for salaries due in January, February and March of 1986, when their contracts of employment expired in 1985.[9]

It is also clear that private respondents executed new and different contracts of employment directly with Algosaibi-Bison, Ltd. without the participation and consent of the petitioner. The former contracts with the petitioner expired and private respondents entered into new contracts of employment with the Algosaibi-Bison, Ltd., without the participation of petitioner.

The claims of private respondents were made directly with the liquidator of Algosaibi-Bison, Ltd. and they agreed

to wait for the promised payment. Again the petitioner had nothing to do with those claims.

We simply cannot ignore that petitioner was reluctant to send the private respondents back to Saudi Arabia because as early as 1983, the Algosaibi-Bison, Ltd. started encountering financial difficulties because of the drop in the price of oil. Private respondents were the ones who insisted that they be allowed to resume employment. They were informed of the risks involved relating to the financial reverses of the employer. They insisted to return to Saudi Arabia and they agreed to sign individual statements, which they did, to the effect that each one of them did not hold petitioner responsible for delay or non-payment of their salaries and any amounts due them from Algosaibi-Bison, Ltd.

These individual statements voluntarily signed by the private respondents to convince the reluctant petitioner to send them back to Saudi Arabia, notwithstanding their knowledge of the financial reverses of this employer, are eloquent individual waivers of their rights against petitioner. They were informed of the risk involved in returning to an employer in serious financial distress. They insisted on returning to work, even persuading petitioner to allow them to do so, by waiving the possible liability of petitioner. Under these circumstances, when private respondents were insisting to return to work despite the warning, We cannot consider their written waivers as to petitioner's responsibilities void. They were not victims of deceit or deception. They entered into those waivers with open eyes and clear minds. They were aware of the imminent danger and the great risks involved in their renewed ventures.

We also consider that as of record in the past, petitioner never took advantage of private respondents. They were always treated fairly and in accordance with law. Private respondents did not question the good faith of Petitioner. Their former employer Algosaibi-Bison, Ltd. went into bankruptcy in 1986 and petitioner had nothing to do with that. Private respondents filed their claims directly with the Liquidator of their former employer Algosaibi-Bison, Ltd. They were given certificates of the amounts due them, to be given preference under the laws of Saudi Arabia. They were to be paid directly, again without participation of the petitioner. Petitioner wrote the Liquidator just to help private respondents, so that their claims may be expedited.

Holding, therefore, that in view of the circumstances proven in this case, and the very clear waiver of liability individually signed by private respondents in favor of petitioner, the petitioner cannot be held jointly and solidarily liable with the employer Algosaibi-Bison, Ltd. for the claims of private respondents. All other issues need no longer be discussed.

WHEREFORE, the temporary restraining order issued on September 12, 1988, is made permanent and the bond filed of P50,000.00 by petitioner is cancelled. The questioned decision of the National Labor Relations Commission dated January 29, 1988, and the order denying the motion for reconsideration of the same in POEA Case No. L-86-10-971, are modified, in that petitioner and its officials are not solidarily liable with petitioner with the Algosaibi-Bison, Ltd. on the claims filed by private respondents. Costs against private respondents.

This decision is immediately executory.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Medialdea, JJ., concur.
Griño-Aquino, J., on leave.

[1] Page 38, Rollo.

[2] Pages 39-53, Rollo.

[3] Page 142, Rollo.

[4] Commissioner G. Encarnacion, ponente.

[5] Pages 88-104, Rollo.

[6] Pages 88-88-A, Rollo.

[7] Pages 188-190, 202, Rollo.

[8] Pages 2-6, Rollo.

[9] Page 2, Memorandum on Additional Arguments In Support of Petition, last portion of Rollo.

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