

FINMAN GENERAL ASSURANCE CORPORATION, PETITIONER, VS. NLRC (POEA), ROMEO GALIZA AND MILAGROS BUMANGLAG, RESPONDENTS.

G.R. No. 94588. July 02, 1992

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The petitioner seeks to annul the Order dated August 3, 1989 of the Honorable Secretary of Labor and Employment, denying its appeal from the Order dated May 31, 1989 of the POEA Administrator in POEA (L) RRB Case No. 88-03-474 entitled, "Romeo Galiza and Milagros Bumanglag vs. Pan Pacific Overseas Recruitment/Finman General Assurance Corporation" directing the respondents to pay jointly and severally the complainants' claims, reiterating the ban earlier imposed on Pan Pacific Overseas Recruitment, and imposing a penalty fine of P40,000 on it.

The record shows that on July 23, 1987, Romeo Galiza and Milagros Bumanglag applied with Pan Pacific Overseas Recruitment, a placement agency with office registered at Feros Building, 176 Salcedo Street, Makati, Metro Manila, for jobs as airport porter and domestic helper, respectively.

Galiza was required by the agency's General Manager, Engr. Celia Aranda, to pay a placement fee of P6,000 which he paid on July 23, 1987 to the Recruitment Director of the agency, Normita Egil, evidenced by a receipt issued in his favor.

Milagros Bumanglag was required to pay P3,000 as "processing fee" for which no receipt was issued to her by the agency.

After several months, Bumanglag followed up her application with the agency. Since the latter failed to deploy her, she withdrew her travel documents on January 23, 1988 and demanded a refund of her P3,000 placement fee. Instead of returning her money, the agency advised her to return on March 12, 1988 for the refund of P2,400 only, explaining that deductions had been made from her initial deposit of P3,000 to cover expenses for her pictures. The agency issued in her favor a note scheduling such refund.

When it appeared that the recruitment agency merely furnished false information relating to their recruitment and placement for jobs overseas, Galiza and Bumanglag filed individual complaints against Pan Pacific before the Philippine Overseas Employment Administration (POEA) [(L) RRB Case No. 88-03-474] for violation of Articles 32 and 34 (a) of the Labor Code, as amended, which provide:

"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 approved receipt clearly showing the amount paid. The Secretary of Labor shall promulgate a schedule of allowable fees."

"ART. 34. Prohibited practices. – xxx xxx xxx

"(a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor, or to make a worker pay any amount greater than actually received by him as a loan or advance."

Motu proprio, POEA impleaded as party-respondent, Pan Pacific's surety, FINMAN GENERAL ASSURANCE CORPORATION (FINMAN for brevity), which had bound itself to be jointly and severally liable for claims that may arise should the recruitment agency violate the conditions of its license. Summons were sent to the respondents at their respective official addresses. However, the summons for Pan Pacific was returned unserved with a notation "Company moved out."

FINMAN filed an Answer denying liability for the claims, and alleging POEA's lack of jurisdiction to enforce the surety's undertaking. During the hearing that followed, FINMAN further alleged that the note which the agency issued to Bumanglag indicating her refund schedule, was not a receipt because it did not acknowledge payment of any fee.

On May 31, 1989, POEA Administrator Tomas Achacoso issued an Order finding Pan Pacific liable for violation of Articles 32 and 34(a) of the Labor Code, as amended. He observed that the agency's note scheduling the refund of Bumanglag's P2,400 placement fees, while not strictly a receipt was sufficient proof that she had indeed paid that amount to the agency, particularly since it had been established in several other cases in the POEA against the respondent agency that it issued such "notes" to applicants claiming refund of fees paid to the agency. On the other hand, a receipt for P6,000 and a similar note scheduling the refund for the same amount issued by the agency to Galiza substantially established his payment of P6,000 which was in excess of the allowable recruitment fee of P5,000 from each hired worker. That the agency furnished false information relating to recruitment and placement to the complainants when it promised available employment for them, was established beyond cavil. The respondents were ordered to pay jointly and severally the sum of P6,000 to Galiza and P2,400 to Bumanglag. Pan Pacific was ordered to pay a fine of P40,000 and the ban earlier imposed upon it was reiterated.

FINMAN appealed the POEA Order of May 31, 1989 to the Department of Labor and Employment. On August 3, 1989, DOLE Secretary Franklin Drilon dismissed the appeal for lack of merit. A writ of execution was issued by the POEA.

FINMAN filed this petition for certiorari with preliminary mandatory injunction and/or restraining order to stop the implementation of the Orders of the POEA Administrator and the Secretary of Labor.

FINMAN alleges that the POEA acted with grave abuse of discretion amounting to lack of jurisdiction:

1. in motu proprio impleading FINMAN as a co-respondent with Pan Pacific in POEA (L) RRB Case No. 88-03-474; and
2. in directing FINMAN to pay jointly and severally with Pan Pacific the claims of Galiza and Bumanglag on the basis of the suretyship agreement executed by FINMAN, Pan Pacific and the POEA.

Petitioner alleges that the POEA has no authority under its own Rules and Regulations to implead the surety of any recruitment or placement agency in actions and/or complaints for suspension, cancellation or revocation of license or authority of the latter; that, on the contrary, the authority of the POEA is limited to a determination of whether there is sufficient cause for an action upon the agency's license; that POEA's jurisdiction to hear and decide money claims is confined to employer-employee relations arising out of, or by virtue of, any law or contract, and not money claims arising from pre-employment or during recruitment conducted by the respondent agency; and finally, that if ever the surety bond may be held liable for infractions or violations of the Labor Code

and POEA rules and regulations, it shall be answerable only for the sanctions, penalties or fines imposed upon the agency but definitely not for money claims of applicants not arising from employment contracts.

The petition for certiorari is without merit. The POEA Administrator did not exceed his jurisdiction nor act with grave abuse of discretion in impleading FINMAN as a co-respondent in (L) RRB Case No. 88-03-474 and directing it to pay jointly and severally with Pan Pacific the claims of the private respondents, Galiza and Bumanglag, on the basis of the surety bond it issued for Pan Pacific. Said surety bond guarantees the faithful compliance by Pan Pacific of all laws relating to the use of its license and its recruitment activities. The bond is conditioned upon the true and faithful performance and observance by Pan Pacific of its duties and obligations as a licensed placement agency (Art. 31, Title I, Book One, Labor Code of the Phils.). Accordingly, the nature of FINMAN's obligation under the suretyship agreement makes it privy to the proceedings against its principal, Pan Pacific. FINMAN is bound by a judgment against its principal even though it was not a party to the proceedings, for a surety is considered in law as being the same party as the debtor in relation to whatever is adjudged touching the obligation of the latter, and their liabilities are interwoven as to be inseparable (PNB vs. Hon. Pineda, 197 SCRA 1, citing Lirag Textile Mills, Inc. vs. SSS, 153 SCRA 338 and Gov't. of the Phil. vs. Tizon, 20 SCRA 1187; Finman General Assurance Corporation vs. Salik, 188 SCRA 740).

WHEREFORE, the petition is DISMISSED for lack of merit. Costs against the petitioner.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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