

SECOND DIVISION

[G.R. No. 226208, February 07, 2018]

**AGNES COELI BUGAOISAN, PETITIONER, VS. OWI GROUP
MANILA AND MORRIS CORPORATION, RESPONDENTS.**

DECISION

REYES, JR., J:

This is a petition for review on *certiorari*^[1] pursuant to Rule 45 of the Rules of Court, as amended, seeking to partially annul, reverse and set aside the Decision^[2] dated February 24, 2016 and Resolution^[3] dated August 3, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 131670, which modified the Decision^[4] of the National Labor Relations Commission (NLRC) dated May 31, 2013 and denied Agnes Coeli Bugaoisan's (petitioner) partial motion for reconsideration, respectively.

The Facts

A complaint for constructive illegal dismissal and payment of salary for the unexpired portion of the employment period, moral and exemplary damages, and attorney's fees was filed by the petitioner against respondents OWI Group Manila, Inc. (OWI) and Morris Corporation (Morris) (collectively referred to as the respondents) and Marlene D. Alejandrino before the NLRC. The case was docketed as NLRC NCR OFW CASE No. (L)01-0032-12. In that case, the petitioner alleged that on May 6, 2011 she responded to an advertisement that she saw from OWI regarding a job opening in Australia. She sent a copy of her resume online and was thereafter scheduled for an interview at OWI's office in Makati.^[5]

OWI is the agent of Morris here in the Philippines. OWI offered petitioner full time employment after she underwent a series of three interviews and did a cooking demonstration. The following were the terms and conditions of her employment:

Position	Chef
Employee Collective Agreement (ECA) Level	Hospitality, Stream, Level 4
Work Status	Fulltime
Annual Salary	AUS\$60,000 per annum. Please refer to clause 4.13.3 of the accompanying ECA
Superannuation	An additional 9% of the Annual Salary
Leave	152 hours/20 days paid annual leave & 76 hours/10 days paid personal leave (sick and carers)

Appended to the offer of full-time employment was the petitioner's employment contract with Morris, a foreign corporation based in Australia. It was stated that her term of employment was for one year. Petitioner was later medically cleared to work as chef for Morris by OWI's accredited clinic.^[6]

On September 25, 2011, petitioner flew from Manila to Perth, Australia. Upon arrival, she was asked to sign another offer of full-time employment by Morris. It was indicated in the offer that her position would be of a breakfast chef and she would receive an annual salary of AUS\$75,000.00. She was likewise entitled to a paid annual leave of 190 hours or 25 days.^[7]

Position	Chef
Annual Salary	AUS\$75,000 per annum. Please refer to clause 4.13.3 of the accompanying ECA

x x x x

Morris Corporation Australia Pty Ltd will pay your economy class airfare to Australia and one return flight to the Philippines once your 457 visa or your right to work in Australia has expired. **If your contract is terminated by either party during the first 2 years of employment** with Morris Corporation, you will be expected to return the full cost of the above stated travel.^[8] (Emphasis Ours)

On October 2, 2011, petitioner was deployed to Morris' mining site in Randalls Kalgoorlie, Australia. She was tasked to prepare breakfast buffet for Morris' 85 employees all by herself. Due to the sheer number of employees, petitioner had to work through the night in order to serve breakfast on time. It was only then did she learn that after cooking the dishes, she was also the one who was tasked to wash the dishes. Overwhelmed with her duties and concerned for her safety when she goes to work at night, petitioner raised her concerns to the attention of Morris.^[9]

Morris refused to give her an assistant to aid her in her duties because the Randalls mining site is relatively small and the tasks can be done by one chef. Nevertheless, Morris tried to accommodate her by transferring her to its mining site in Golden Grove, Geraldton, Western Australia. The mining site in Golden Grove is bigger but petitioner worked with a team.^[10]

On October 20, 2011, petitioner was transferred to Morris' mining site in Golden Grove, Geraldton, Western Australia. She still performed the same task only this time she had to prepare a breakfast buffet for Morris' 550 mining workers.^[11]

On the evening of November 12, 2011, while preparing the breakfast for the following day, petitioner felt a tingling sensation followed by numbness on both of her hands. She was referred to Morris' on-site nurse, who gave her pain reliever. She was diagnosed to be suffering from Carpal Tunnel Syndrome (CTS) and was advised to undergo an intensive examination for confirmation.^[12]

Petitioner did not heed the advice of the on-site nurse. Instead, she went back to her work. In the morning of November 14, 2011, she was distraught when the tingling sensation and numbness on both of her hands worsened. Consequently, she

was again brought to the on-site nurse. Thereafter, she was flown to Perth, Australia for an extensive medical test.^[13]

Several physicians, including Morris' preferred physician, conducted a series of medical examinations on petitioner. She was diagnosed to be suffering from Bilateral CTS and was declared unfit to work for several days. Dr. Timothy Hewitt strongly advised her to undergo surgery.^[14]

Petitioner filed a compensation claim with the Worker's Compensation and Injury Management (WCIM) of Australia to seek compensation for her wages while she was still unfit for work or reimbursement of her medical expenses. Her application, however, was denied.^[15]

On December 23, 2011, Morris' representative met with petitioner to inform her that she already exhausted her paid annual leaves. Nevertheless, they assured her that they would not be terminating her employment. She must, however, be declared fit for work before they would allow her to report back.^[16]

Although still employed, petitioner had no other means to support her daily sustenance and the required medication for her CTS due to the fact that she would not be receiving salary until declared fit to go back to work. She decided to tender her resignation letter and left for the Philippines. Thus, she was repatriated and arrived in the Philippines on December 25, 2011. Respondents, commiserating with petitioner's plight, paid for her transportation and reimbursed her expenses for her excess baggage and meal expenses.^[17]

Respondents were later surprised to learn that petitioner filed a labor complaint against them on January 6, 2012. She averred in her Position Paper^[18] that she was illegally dismissed and was not paid her salaries, overtime pay and medical expenses.

In a Decision dated December 28, 2012, the Labor Arbiter (LA) ruled that the petitioner was illegally dismissed from employment. It was found that the respondents committed gross misrepresentation and bad faith in inducing petitioner to work for them. Respondents ordered her to manually prepare a breakfast buffet for 600 workers all by herself. According to the LA, petitioner's CTS was caused or at least aggravated by respondents' oppressive acts. Furthermore, the tenor of her resignation letter and the immediate filing of the labor complaint evinced that she did not voluntarily tender her resignation.^[19] Thus, the LA disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal of [petitioner] as unjust and illegal. As such, respondents are hereby ordered to pay, jointly and severally, [petitioner] the following sums:

AUS\$137,500.00 - As salary for the remaining period of her 2-year employment contract

Php200,000.00 - As moral damages

Php200,000.00 - As exemplary damages

Ten (10%) percent of the total monetary award as attorney's fees

Payment can be made in Australian Dollars or its equivalent in Philippine Peso at the time of payment.

SO ORDERED.^[20] (Emphasis and underlining Ours)

On appeal, the NLRC sustained the findings of the LA with regard to the existence of constructive dismissal, the solidary liability of the respondents, and the award of petitioner's salary for the unexpired portion of her two-year employment contract.

Respondents filed a Motion for Reconsideration but the same was denied by the NLRC in its Resolution dated July 22, 2013.

Aggrieved, respondents filed with the CA a Petition for Certiorari under Rule 65 assailing the NLRC's decision and resolution, with prayer for issuance of. Temporary Restraining Order and/or Writ of Preliminary Injunction.

On February 24, 2016, the CA issued its first assailed Decision in favor of petitioner, the pertinent portion of which reads as follows:

Pursuant to the Master Employment Contract between [petitioner] and [Morris], which was submitted to the Philippine Overseas Employment Agency on 10 June 2011, **the term of the contract for employment was for one (1) year.** Her period of employment started when she arrived in Perth, Australia on 25 September 2011 and ended three (3) months later. Accordingly, **[petitioner] is entitled to receive total amount of AUS\$56,250, which represents her salary for the unexpired portion of her employment contract.**^[21] (Emphasis and underlining Ours)

The dispositive portion of the CA Decision dated February 24, 2016, reads:

WHEREFORE, there being no grave abuse of discretion amounting to lack or excess of jurisdiction committed by the NLRC, the petition is **DISMISSED** for lack of merit. The Decision of the NLRC dated 31 May 2013 is hereby **AFFIRMED with MODIFICATION. [Petitioner] is awarded with the amount of AUS\$56,250 or its current equivalent in Philippine Peso, representing her unpaid salaries for the unexpired portion of her one (1) year employment contract.** The rest of the Decision stands. A legal interest of 6% per annum of the total monetary awards from finality of this decision until full satisfaction is likewise imposed.

The [LA] is hereby **ORDERED** to compute the total monetary benefits awarded and due the [petitioner] in accordance with this decision.

SO ORDERED.^[22] (Emphasis and underlining Ours)

Petitioner moved for partial reconsideration of the CA decision insofar as it :ruled that petitioner's Overseas Employment Contract was only for one (1) year, instead of two (2) years as ruled by the LA and the NLRC.

On August 3, 2016, the CA issued its assailed Resolution^[23] denying petitioner's Motion for Reconsideration, the pertinent portions of which read as follows:

Thus, we note from the Master Employment Contract that the [petitioner] signed and submitted with the Philippine Overseas Employment Agency on 10 June 2011, that it was explicitly states [sic] that the **duration of her contract was for one (1) year.**

Certainly, employment contracts that were approved and verified by the Department of Labor and Employment (DOLE) may still be substituted or altered from the time the parties actually signed the same up to its expiration even without approval of the DOLE. Provided, however, that the employee was not prejudiced and the modifications made were in accordance with the minimum standards, terms and conditions of employment set by the POEA-SEC for contracts of employment of land-based workers.

Here, it is not clear from the letter of offer of full time employment that [petitioner's] employment contract was extended to two (2) years. All the same, the absence of [petitioner's] signature in the said letter evinced the fact that [petitioner] did not accept such offer. Settled is the rule that contracts are perfected by mere consent. That is, a contract is perfected upon the meeting of the offer, which must be certain, and the absolute acceptance upon the thing and the cause which shall constitute the contract.^[24] (Emphasis and underlining Ours)

Hence, this petition.

The Issues

- I. WHETHER OR NOT THE CA GRAVELY ERRED WHEN IT RULED THAT PETITIONER'S EMPLOYMENT CONTRACT WITH MORRIS WAS FOR ONLY ONE (1) YEAR AS PER ITS POEA MASTER EMPLOYMENT CONTRACT
- II. WHETHER OR NOT SAID CONTRACT WAS VALIDLY MODIFIED BY MORRIS' SUBSEQUENT "OFFER OF FULLTIME EMPLOYMENT" FOR AT LEAST TWO (2) YEARS THUS ENTITLING HER TO THE UNPAID SALARIES FOR THE UNEXPIRED PORTION OF THE TWO-YEAR CONTRACT.^[25]

Ruling of the Court

In a petition for review on *certiorari* under Rule 45, only questions of law may be raised, in contrast with jurisdictional errors which are essentially the basis of Rule 65. Simply put, in a Rule 65, petition for *certiorari* filed with the CA, the latter must limit itself to the determination of whether or not the inferior court, tribunal, board or officer exercising judicial or quasi-judicial functions acted *without, in excess of or with grave abuse of* discretion amounting to lack or excess of jurisdiction.

In resolving said questions of jurisdiction, the CA ruled in favor of petitioner and public respondent NLRC. It affirmed the findings of the NLRC, ruling that no grave