

SECOND DIVISION

[G.R. No. 181919, July 20, 2011]

**JONES INTERNATIONAL MANPOWER SERVICES, INC.,
REPRESENTED BY ITS PRESIDENT, EDWARD G. CUE,
PETITIONER, VS. BELLA AGCAOILI-BARIT, RESPONDENT.**

DECISION

BRION, J.:

We pass upon the present petition for review on *certiorari* [1] seeking the reversal of the January 23, 2008 Decision [2] and the February 27, 2008 Resolution [3] of the Court of Appeals (CA) in CA-G.R. SP No. 101069. [4]

The Antecedents

Summarized below are the relevant facts on record.

On November 21, 2003, respondent Bella Agcaoili-Barit filed a complaint [5] for non-payment of salaries and refund of transportation fare against the petitioner Jones International Manpower Services, Inc. (*agency*), owned and managed by Edward G. Cue.

Barit alleged that she entered into a two-year employment contract (July 23, 1999 to July 23, 2001) with the agency, for its foreign principal in the Kingdom of Saudi Arabia, Mohamad Hameed Al-Naimi (*Hameed*), as a domestic helper with a salary of US\$200.00 a month. She did her job diligently and with dedication, but was paid only US\$100.00 a month and, starting January 2001, was not paid any salary at all. She extended her employment for another 10 months upon Hameed's request as her replacement had not yet been deployed by the agency. Hameed refused to pay her salaries even during the extension.

Fed up with her situation, she left Hameed on May 29, 2002 and had a live-in relationship with another Filipino overseas worker, Thomas Ambrosio, allegedly her boyfriend. As the law of Saudi Arabia prohibits such a relationship, she was arrested and imprisoned for more than a year. She claimed that she embraced the Islam religion and was exonerated of the charges against her. She was released from prison on October 14, 2003 and immediately left for home, arriving in the Philippines on October 15, 2003. She demanded payment of her salaries for one year and four months, payment of wage differentials from July 1999 to December 2000, and the refund of her airfare to the Philippines.

In defense, the agency argued that Barit's contract of employment expired on July 23, 2001, without any complaint from her. Her contract was extended for another two years with her consent. It alleged that Barit left her employer without permission. She was then reported missing to the Saudi police who found her

staying with Ambrosio. She was subsequently arrested and imprisoned. Hameed was helpless in providing Barit assistance because she violated marital law and the offense was non-employment related. Her passport, air ticket and the balance of her unpaid salaries were turned over to the Saudi authorities pursuant to Saudi law.

The agency denied liability for Barit's alleged unpaid salaries beginning July 2001 as her employment contract, which it facilitated, was only for two years. The contract expired on July 23, 2001. It maintained it had no involvement or participation in the alleged extension of Barit's employment with Hameed. It also argued that it had no liability for the refund of her airfare to the Philippines.

The agency argued further that it was not also liable for Barit's alleged wage differentials from July 1999 to December 2000 and unpaid wages from January 2001 to July 23, 2001. It pointed out that all wages due her were paid in full, while the final wages due her before she left her employment were turned over to the Saudi government. It stressed that it was highly illogical for Barit to agree to an extension of her employment contract with the same employer who, she claimed, had not paid her salaries and underpaid her wages in the past two years of her contract.

The Compulsory Arbitration Rulings

On March 31, 2004, Labor Arbiter Nieves Vivar-de Castro found Barit's money claims meritorious. [6] She directed the agency and its foreign principal to pay Barit salary differentials from July 23, 1999 to December 31, 2000 and her unpaid salaries from January 2001 to July 23, 2001. The labor arbiter, however, absolved the agency of liability for Barit's alleged unpaid benefits during her second or extended employment as it did not participate or intervene in securing this extended posting.

The agency appealed to the National Labor Relations Commission (NLRC). In its decision dated August 28, 2006, [7] the NLRC granted the appeal. It set aside the labor arbiter's ruling and dismissed the complaint, but awarded Barit financial assistance of P10,000.00 "for reasons of equity." In the main, the labor arbitration body rejected Barit's submission that she was compelled to leave Hameed because he had been underpaying and was not paying her salaries. The NLRC did not believe that she would agree to continue working for the same employer for another ten (10) months, when the employer had not been paying her salaries before and during her extended employment.

Barit moved for reconsideration, but the NLRC denied the motion in a resolution dated March 30, 2007. [8] She then sought relief from the CA through a petition for *certiorari*, charging the NLRC with grave abuse of discretion in setting aside the labor arbiter's decision, and in holding that the agency is not solidarily liable with her employer for the underpayment and non-payment of her wages.

The CA Decision

In its decision of January 23, 2008, [9] the CA found that the NLRC committed grave abuse of discretion in setting aside the labor arbiter's decision. It upheld the labor arbiter's award to Barit of salary differentials from July 23, 1999 to December 31, 2000 and unpaid salaries from January 2001 to July 23, 2001, to be paid solidarily

by the agency and its foreign principal. It brushed aside Hameed's defense, through his letters dated November 15, 2003, [10] January 21, 2004 [11] and February 28, 2004, [12] that he had fully paid Barit's salaries since day one of her employment. It declared that absent any evidence, such as payrolls, payslips or acknowledgment receipts, Hameed is deemed to have failed to discharge the *onus probandi* of payment.

Its motion for reconsideration turned down by the CA, [13] the agency now appeals to the Court by way of the present petition for review on *certiorari*.

The Petitioner's Case

Aside from the petition itself, [14] the agency submitted a memorandum, [15] as required by the Court, [16] and a reply [17] to Barit's comment.

Through these submissions, the agency asks for a reversal of the CA decision on the ground that the appellate court erred in (1) affirming the labor arbiter's award to Barit of salary differentials from July 23, 1999 to December 31, 2000 despite the non-inclusion of the claim for underpayment of wages in the complaint, in violation of the NLRC Rules of Procedure; and (2) disregarding the "other similar documents" the agency submitted to the labor arbiter to prove that Barit was fully paid of her wages.

On the first issue, the agency cites Section 7(b) and (d), Rule V of the 2005 Revised Rules of Procedure of the NLRC, as follows:

b) The position papers of the parties shall cover only those claims and causes of action raised in the complaint or amended complaint excluding those that may have been amicably settled, and accompanied by all supporting documents, including the affidavits of witnesses, which shall take the place of their direct testimony.

d) In their position papers and replies, the parties shall not be allowed to allege facts, or present evidence to prove facts and any cause or causes of action not referred to or included in the original or amended complaint or petition.

The agency argues that the labor arbiter ignored these rules when she took cognizance of Barit's claim for wage underpayment which was mentioned only in the latter's position paper. It points out that in the complaint [18] Barit filed with the NLRC, she underlined only (1) non-payment of wages and (2) refund of transportation fare as her only causes of action. It posits that the labor arbiter and the CA both erred in ignoring the rules.

On a different plane, the agency contends that the award of salary differentials to Barit has no legal basis as she herself admitted that she received a monthly salary of SR600 that, if converted to US dollars in 1999-2000, was equivalent to US\$200.00, thus negating the claim of underpayment of wages.

The agency insists that Barit's wages had been paid in full as evidenced by the letters [19] of Hameed which show that all the salaries and other benefits due Barit, including her passport and other belongings, were paid and given to her before she was released from jail and repatriated to the Philippines, in accordance with the laws of Saudi Arabia. The agency bewails the CA's failure to give due consideration to what took place after Barit left her employer in May 2002. Barit was then apprehended by the authorities of Saudi Arabia for living-in with a man who was not her husband. She was imprisoned for having committed a marital offense and was discharged only after she served out her sentence, not exonerated by the court as she claimed. It further contends that the CA failed to give consideration to the policy of the government of Saudi Arabia not to allow the release of foreign workers from prison without their employers paying all their salaries and other benefits, as well as releasing all their personal belongings.

The Case for Respondent Barit

Through her comment [20] and memorandum, [21] filed on June 27, 2008 and October 22, 2008, respectively, Barit prays that the petition be denied for lack of merit.

On the first issue, she argues that the agency resorted to hairsplitting or pure semantics in denying liability for her claim of underpayment of wages. She refers particularly to the agency's contention that wage differentials should not have been awarded to her because she did not include underpayment of wages as a cause of action in her complaint. She insists that the complaint form that she accomplished shows that her cause of action was for non-payment and underpayment of wages as the two terms appear in only one box. In any event, she explains that "to underpay," [22] means "to pay less than what is normal or required." Since she was paid only half of her wages, there was an amount that was not paid and this was the other half of her wages. There is, therefore, non-payment of this other half. She posits that in this context, she was correct in pursuing her claim of underpayment of wages.

On the issue of non-payment of wages, Barit maintains that the CA committed no error in ruling that the agency failed to present substantial evidence to prove due payment of her wages while she was under the employ of Hameed. She takes offense at the agency's submission that the issuance of monthly payslips or the keeping of payrolls is seldom or rarely done in the case of domestic helpers. She argues that with this reasoning, the agency would be placing domestic helpers in a different category of workers, a distinction which is repugnant to the Constitution.

Barit further argues that the burden of proving payment of what is due the employee is upon the employer and, since she is an overseas worker, also upon the employer's recruitment agency. She contends that her employer's letters, [23] purporting to show that her salaries and other benefits had all been paid, are self-serving unofficial statements that have dubious evidentiary value. She reasons out that such letters, which were mentioned in the case cited by the agency in its submissions, [24] cannot be considered as "other documents" for nowhere in that case was the term "other documents" discussed and neither did the ruling give an example of "other similar documents that have the same force and effect as payrolls, employment records and remittances." [25] In the absence of evidence