

SPECIAL FIFTEENTH DIVISION

[CA-G.R. SP NO. 126126, November 19, 2014]

**ASIAN CONSTRUCTION AND DEVELOPMENT CORPORATION,
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION
AND REYMOND P. ALCANTARA, RESPONDENTS.**

D E C I S I O N

VILLON, J.:

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing, on grounds of grave abuse of discretion amounting to lack or excess of jurisdiction, the decision^[1] dated March 14, 2012 and resolution^[2] dated May 29, 2012 of public respondent National Labor Relations Commission (NLRC), First Division, in NLRC LAC No. OFW (L) 01-000104-12. These issuances affirmed the November 15, 2011 decision^[3] of Labor Arbiter (LA) Elias H. Salinas in NLRC NCR OFW Case No. (L) 06-08669-11 for refund of placement fee and payment of the salaries for the unexpired portion of the contract with claims for damages and attorney's fees.

Following are the factual and procedural antecedents of the case.

Private respondent Reymond P. Alcantara was employed by petitioner Asian Construction and Development Corporation in behalf of its foreign principal, SNC Lavalin International (Tunisia), Inc., to work as a "skilled carpenter" in Libya for a period of twenty-four (24) months, with a monthly salary of US \$400.00.^[4] He was deployed on December 22, 2010. However, his employment was cut short due to the outbreak of the Libyan civil war which eventually ended the regime of Muammar Gaddafi. Upon the advice of the Philippine government,^[5] private respondent was repatriated to the country on February 28, 2011.

It appears that the amounts of P3,400.00 and P16,041.67 were deducted by petitioner from private respondent's salary for the months of January and February 2011, respectively, by way of placement and other processing fees.^[6] Thus, on June 3, 2011, private respondent instituted the instant case before the arbitration branch of the NLRC.^[7]

On November 15, 2011, the LA dismissed the complaint on the ground that the cessation of private respondent's employment was caused by a fortuitous event without the fault of either party. Notwithstanding this finding, the LA still awarded financial assistance in favor of private respondent. Thus:

"As admitted by the complainant, he was repatriated to the Philippines of February 28, 2001 (sic) upon the advice of the Philippine Government due to the on-going war in Libya. Thus, his repatriation was brought

about by a fortuitous event with no fault on the part of the employer and on the part of the complainant.

"Section 10, paragraph 5 of R.A. 8042 otherwise known as 'Migrant Workers and Overseas Filipinos Act of 1995' as amended by R.A. 10022 provides as follows:

'In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement if his placement fee and the deductions made with interest at twelve percent [12%] per annum, plus his salaries for the unexpired portion of his employment contract or for three [3] months for every year of the unexpired term, whichever is less.'

"From the foregoing legal provision, it is clear that an overseas Filipino worker is only entitled to the full reimbursement of his placement where his employment is terminated without just, valid or authorized cause as defined by law or contract. In other words, a claim for refund of placement fee is only granted where there is a finding of illegal dismissal, which is not obtaining in the present case.

"Thus, we find no factual and legal basis to grant complainant's claim for refund or placement fee. However, considering that complainant had worked for barely two [2] months of his twenty four [24] months contract and his repatriation was not due to his fault, this Office finds the grant of financial assistance to the complainant in the amount equivalent to his one [1] month salary of US\$400.00 proper.

"While his claims for moral and exemplary damages are disallowed absent any proof that complainant is entitled thereto.

"WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint for utter lack of merit. Respondents Asian Construction & Development Corporation and/or SNC Lavalin International [Tunisia], Inc., are, however ordered to jointly and severally pay the peso equivalent of US\$400.00 at the time of actual payment by way of financial assistance.

All other claims are dismissed for lack of merit.

SO ORDERED."^[8]

Aggrieved, petitioner interposed an appeal^[9] to the NLRC, which denied the same in the challenged March 14, 2012 decision, viz.:

"No less than the Supreme Court has ruled that financial assistance may be allowed as a measure of social justice in exceptional circumstances and as an equitable concession. However, it is allowed only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. In this case, both parties are mindful of the fact that complainant's overseas

employment with a duration of twenty four [24] months was terminated due to a fortuitous event without any fault of either party. Complainant only worked for two [2] months yet the payment of PPA and placement fees were even deducted from his salaries for said months thereby leaving a meager amount for his family in the Philippines. We are mindful of many hapless citizens of this country who have sought foreign employment to earn a few dollars to ensure for their families a life worthy of human dignity and provide proper education and a decent future for their children. We are also aware of many Filipino workers seeking a better life in a foreign land, and investing hard-earned savings or even borrowed funds in pursuit of their dreams only to go back home empty-handed due to an event outside of their fault and control. Thus, we see no reason to reverse the Labor Arbiter's grant of financial assistance amounting to complainant's one month salary or US\$400.00.

In fine, we rule that complainant is not entitled to the reliefs prayed for in his Position Paper. However, we find, for purposes of equitable concession and social justice, that the grant of financial assistance in the amount equivalent to his one [1] month salary of US\$400.00 is proper.

WHEREFORE, premises considered, the instant appeal is hereby **DISMISSED** for lack of merit, and the appealed Decision is hereby **AFFIRMED** in toto.

SO ORDERED.”^[10]

Petitioner's motion for reconsideration^[11] of the above decision was likewise denied in the assailed May 29, 2012 resolution.

Hence the present recourse, petitioner raising a lone issue, to wit:

WHETHER OR NOT RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING THE AWARD OF FINANCIAL ASSISTANCE TO PRIVATE RESPONDENT DESPITE LACK OF FACTUAL AND LEGAL BASIS THEREFOR^[12]

Petitioner asserts that the jurisprudence cited by the NLRC in affirming the decision of the LA, as enunciated in **Zenco Sales, Inc. v. NLRC**^[13] and **Jesus B. Lopez v. NLRC**,^[14] are not applicable in the instant case considering that in those cases the Supreme Court awarded separation pay by way of financial assistance for long years of service to legally dismissed employees, which circumstances are different from those obtaining here. Too, petitioner contends that the case of **People v. Carol M. Dela Piedra**,^[15] which involved an illegal recruitment case, cannot be invoked to support the award of financial assistance to private respondent; and that since private respondent was not the only overseas worker that the company had to repatriate from Libya, such an award would set a bad precedent that could result in the depletion of petitioner's financial resources..

There is merit in the petition.

The law, in protecting the rights of the laborer, authorizes neither oppression nor