Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ENRIQUE Y. SAGUN,
Petitioner,

- versus -

ANZ GLOBAL SERVICES AND OPERATIONS (MANILA), INC., GAY CRUZADA, and **PAULA ALCARAZ,**
Respondents.

G.R. No. 220399

Present:

SERENO, *C.J.*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

AUG 22 2016

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RESOLUTION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated May 25, 2015 and the Resolution[3] dated August 27, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 127777, which affirmed the Decision[4] dated July 31, 2012 and the Resolution[5] dated September 28, 2012 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 07-001962-12, dismissing petitioner Enrique Y. Sagun's (petitioner) complaint for illegal dismissal for lack of merit.

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1 *Rollo*, pp. 8-29.
2 Id. at 31-38. Penned by Associate Justice Ricardo R. Rosario with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Edwin D. Sorongon concurring.
3 Id. at 40.
4 Id. at 149-156. Penned by Presiding Commissioner Alex A. Lopez with Commissioners Gregorio O. Bilog, III and Pablo C. Espiritu, Jr. concurring.
5 Id. at 170-171.

The Facts

Petitioner was employed at Hongkong and Shanghai Banking Corporation Electronic Data Processing (Philippines), Inc. (HSBC-EDPI) when he applied online for the position of Payments and Cash Processing Lead at respondent ANZ Global Services and Operations (Manila), Inc. (ANZ), a domestic corporation whose businesses involve a full range of banking products and services.[6]

After passing the interview and online examination, ANZ, through its Senior Vice President for Operations, Gay Cruzada (Cruzada), offered petitioner the position of Customer Service Officer, Payments and Cash Resolution,[7] which the latter accepted on June 8, 2011.[8]

In the letter of confirmation of the offer[9] which constituted petitioner's employment agreement with ANZ, the terms and conditions of his employment required, among others, a satisfactory result of his pre-employment screening.[10] The pertinent portions of which read as follows:

> **13. Pre-employment screening & ongoing screening**
>
> In accordance with its legal and regulatory obligations, and in accordance with ANZ policy, you may be required to undergo a police record check prior to commencing work with ANZ, or at other times during your employment.
>
> You may also be required to undergo other checks (e.g. bankruptcy checks, sanctions screening, reference checks, etc.). ANZ may engage the services of an external provider to conduct these checks.
>
> Your initial and ongoing **employment is conditional on ANZ being satisfied that the results of**:
>
> - a police record check are compatible with the inherent requirements of your position; and
> - **any other required background or other checks are to the satisfaction of ANZ** (keeping in mind your position and ANZ's role as a financial institution).
>
> ANZ may use any information you provide to conduct reference checks and any other background checks.
>
> Your employment is also conditional upon you holding all necessary visas and meeting all immigration requirements necessary for you to work in Philippines in this position.

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6 Id. at 10.
7 Id. at 41-42.
8 See id. at 53.
9 See letter of confirmation dated June 8, 2011; id. at 43-55.
10 Id. at 46 and 53.

> **If, in the opinion of ANZ, any of your background checks, reference checks or visas are not satisfactory, ANZ may choose not to commence your employment, or where you have already started, to end your employment immediately, with no liability to pay compensation to you.** [11] (Emphases supplied)

In addition, the Schedules, [12] which likewise formed part of the employment agreement, provided that petitioner was to be placed on a probationary status for a period of six (6) months[13] and that his appointment would take effect from the date of reporting, which was to be not later than July 11, 2011.[14]

Accordingly, on June 11, 2011, petitioner tendered his resignation[15] at HSBC-EDPI and the acknowledged copy thereof was transmitted to ANZ together with his other pre-employment documentary requirements.[16]

On July 11, 2011, petitioner was instructed to report to ANZ[17] and was handed a letter of retraction[18] signed by ANZ's Human Resources Business Partner, Paula Alcaraz (Alcaraz), informing him that the job offer had been withdrawn on the ground that the company found material inconsistencies in his declared information and documents provided after conducting a background check with his previous employer, particularly at Siemens.[19]

Asserting that his employment contract had already been perfected upon his acceptance of the offer on June 8, 2011, and as such, was already deemed an employee of ANZ who can only be dismissed for cause, petitioner filed a complaint for illegal dismissal with money claims against ANZ, Cruzada, and Alcaraz (respondents) before the NLRC, National Capital Region, docketed as NLRC NCR Case No. 08-11752-11.

For their part, respondents countered that the NLRC had no jurisdiction over the complaint as they have no employer-employee relationship with petitioner. They contended that their offer was conditional and the effectivity of petitioner's employment contract was subject to a term or period.[20] They claimed that petitioner made material misrepresentations in his job application and interview that prompted them to withdraw the offer.

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11 Id. at 46.
12 See id. at 48-52.
13 Id. at 51.
14 Id. at 48.
15 CA *rollo*, p. 312.
16 See *rollo* pp. 59-60.
17 Id. at 60.
18 Id. at 56.
19 See id. at 73-74.
20 See Position Paper filed by respondents; id. at 72-73.

They pointed out that the discrepancies in his declarations, namely: (*a*) that he only held the position of a Level 1 and not a Level 2 Technical Support Representative at Siemens; and (*b*) that he was terminated for cause due to his absence without official leave (AWOL) and not because of his resignation, were not satisfactorily explained despite the opportunity accorded to him. They added that petitioner likewise failed to report for work on or before July 11, 2011; hence, his employment never took effect and no employer-employee relationship was created. Thus, they asserted that petitioner was never dismissed, more so, illegally. Finally, they denied his money claims for lack of basis and further averred that the impleaded officers cannot be held personally liable under the circumstances.[21]

The LA Ruling

In a Decision[22] dated April 23, 2012, the Labor Arbiter (LA) dismissed the complaint, holding that there was no perfected employment contract between petitioner and respondents since there was a valid cause for the withdrawal of the offer that was made prior to the commencement of petitioner's service with the company. The LA held that the material misrepresentation committed by petitioner was a reasonable ground to withdraw the employment offer and as such, no employer-employee relationship was created between them.[23]

Aggrieved, petitioner appealed to the NLRC.[24]

The NLRC Ruling

In a Decision[25] dated July 31, 2012, the NLRC affirmed the findings of the LA, ruling that no employer-employee relationship existed between petitioner and respondents. It held that petitioner's employment with ANZ never took effect since its effectivity was dependent on his reporting for work on or before July 11, 2011, which he admittedly failed to comply. The NLRC added that the withdrawal of job offer was valid and reasonable, there being substantial evidence to show that petitioner committed misrepresentations in his job application.[26]

Petitioner filed a motion for reconsideration,[27] which was, however, denied in a Resolution[28] dated September 28, 2012, prompting him to

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21 Id. at 68-94.
22 See CA *rollo*, pp. 47-57. Penned by LA Madjayran H. Ajan.
23 Id. at 56-57.
24 *Rollo*, pp. 129-147.
25 Id. at 149-156.
26 Id. at 154-155.
27 Dated August 28, 2012. Id. at 157-168.
28 Id. at 170-171.

elevate his case to the CA *via* a petition for *certiorari*,[29] docketed as CA-G.R. SP. No. 127777.

The CA Ruling

In a Decision[30] dated May 25, 2015, the CA found no grave abuse of discretion to have been committed by the NLRC in upholding the dismissal of the complaint. The CA distinguished between the perfection of an employment contract and the commencement of the employer-employee relationship, citing the case of *Santiago v. CF Sharp Crew Management, Inc.* (*Santiago*).[31] It held that the contract was perfected on June 8, 2011 when it was signed by the parties. However, it ruled that the employment contract did not commence since respondents did not allow petitioner to begin work due to the misrepresentations he made in his application form. The CA also pointed out that since the employment offer was conditioned on the satisfactory completion of his background check, his failure to comply with the same rendered the withdrawal of the offer justified. Hence, no employer-employee relationship was created between the parties.[32] Lastly, relying on the *Santiago* case, it clarified that even if there was no employer-employee relationship, the NLRC still had jurisdiction over the complaint since the LA's jurisdiction was not limited to claims arising from employer-employee relationship.

Dissatisfied, petitioner moved for reconsideration,[33] but was denied in a Resolution[34] dated August 27, 2015; hence, this petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA erred in not finding grave abuse of discretion on the part of the NLRC in holding that no employer-employee relationship existed between petitioner and respondent.

The Court's Ruling

The petition lacks merit.

A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some

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29 Id. at 172-201.
30 Id. at 31-38.
31 554 Phil. 63 (2007).
32 *Rollo*, p. 37.
33 CA *rollo*, pp. 519-525.
34 *Rollo*, p. 40.

service.[35] There is no contract unless the following essential requisites concur: (*a*) consent of the contracting parties; (*b*) object certain which is the subject matter of the contract; and (*c*) cause of the obligation which is established.[36]

In general, contracts undergo three distinct stages. These are negotiation, perfection or birth, and consummation. Negotiation begins from the time the prospective contracting parties manifest their interest in the contract and ends at the moment of their agreement. Thereafter, perfection or birth of the contract takes place when the parties agree upon the essential elements of the contract. Finally, consummation occurs when the parties fulfill or perform the terms agreed upon in the contract, culminating in the extinguishment thereof.[37]

An employment contract, like any other contract, is perfected at the moment the parties come to agree upon its terms and conditions, and thereafter, concur in the essential elements thereof.[38] In this relation, the contracting parties may establish such stipulations, clauses, terms, and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order or public policy.[39]

In this case, the Court agrees with the finding of the CA that there was already a perfected contract of employment when petitioner signed ANZ's employment offer and agreed to the terms and conditions that were embodied therein. Nonetheless, the offer of employment extended to petitioner contained several conditions before he may be deemed an employee of ANZ. Among those conditions for employment was the "*satisfactory completion of any checks (e.g. background, bankruptcy, sanctions and reference checks) that may be required by ANZ.*"[40] Accordingly, petitioner's employment with ANZ depended on the outcome of his background check, which partakes of the nature of a suspensive condition, and hence, renders the obligation of the would-be employer, *i.e.*, ANZ in this case, conditional. Article 1181 of the Civil Code provides:

> Art. 1181. In conditional obligations, the acquisition of rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.

In the realm of civil law, a condition is defined as "every future and uncertain event upon which an obligation or provision is made to depend. It

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35 Civil Code, Article 1305.
36 Civil Code, Article 1318.
37 *C.F. Sharp & Co., Inc. v. Pioneer Insurance & Surety Corporation*, 682 Phil. 198, 207 (2012); citation omitted.
38 See *Stolt-Nielsen Transportation Group, Inc. v. Medequillo, Jr.* 679 Phil. 297, 310 (2012).
39 Civil Code, Article 1306.
40 See *rollo*, p. 53.

is a future and uncertain event upon which the acquisition or resolution of rights is made to depend by those who execute the juridical act."[41] Jurisprudence states that when a contract is subject to a suspensive condition, its *effectivity* shall take place only if and when the event which constitutes the condition happens or is fulfilled.[42] A contract is one of the five (5) sources of obligations as stated in the Civil Code.[43] An obligation is defined as the juridical necessity to give, to do or not to do.[44] While a contract may be perfected in the manner of operation described above, the efficacy of the obligations created thereby may be held in suspense pending the fulfillment of particular conditions agreed upon. In other words, a perfected contract may exist, although the obligations arising therefrom – if premised upon a suspensive condition – would yet to be put into effect.

Here, the subject employment contract required a satisfactory completion of petitioner's background check before he may be deemed an employee of ANZ. Considering, however, that petitioner failed to explain the discrepancies in his declared information and documents that were required from him relative to his work experience at Siemens, namely: (*a*) that he was only a Level 1 and not a Level 2 Technical Support Representative that conducts troubleshooting for both computer hardware and software problems; and (*b*) that he was found to have been terminated for cause and not merely resigned from his post, that rendered his background check unsatisfactory, ANZ's obligations as a would-be employer were held in suspense and thus, had yet to acquire any obligatory force.[45] To reiterate, in a contract with a suspensive condition, if the condition does not happen, the obligation does not come into effect. Thus, until and unless petitioner complied with the satisfactory background check, there exists no obligation on the part of ANZ to recognize and fully accord him the rights under the employment contract. In fact, records also show that petitioner failed to report for work on or before July 11, 2011, which was also a suspensive condition mandated under sub-paragraph 4 of Schedule 1 of the contract.

Consequently, no employer-employee relationship was said to have been created between petitioner and ANZ under the circumstances, and the dismissal of the former's complaint for illegal termination from work, as held by the NLRC, was correctly sustained by the CA.

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41 *Gonzales v. The Heirs of Cruz*, 373 Phil. 368, 384-385 (1999); citation omitted.

42 See *Insular Life Assurance Co., Ltd. v. Toyota Bel-Air, Inc.*, 573 Phil. 222, 232 (2008); citation omitted.

43 Civil Code. Article 1157.

44 Civil Code, Article 1156.

45 See *rollo*, p. 79.

WHEREFORE, the petition is **DENIED**. The Decision dated May 25, 2015 and the Resolution dated August 27, 2015 of the Court of Appeals in CA-G.R. SP No. 127777 are hereby **AFFIRMED**.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice