

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 December 2019** which reads as follows:*

“**G.R. No. 249633** (*Andrews Manpower Consulting, Inc. vs. Flavio J. Buhawe, Jr.*).- This is a Petition for Review¹ under Rule 45 of the Rules of Court, seeking to annul and set aside the Decision² dated December 19, 2018, and Resolution³ dated August 20, 2019 of the Court of Appeals (CA) in in CA-G.R. CEB-SP No. 09190.

The Facts

Flavio J. Buhawe, Jr. (respondent) was recruited by Andrews Manpower Consulting, Inc. (petitioner) as a pipe fabricator for the principal employer Gulf Piping Co. W.L.L. (Gulf Piping), based in Mussafah, Abu Dhabi, United Arab Emirates (UAE) for a contract term of two years.⁴

On July 18, 2013, the respondent was deployed to the UAE to work for the Gulf Piping.⁵ The respondent and other pipe fabricators were supervised by a Foreman, a Pakistani national. The foreman is in charge of identifying the particular tasks, or assignments to be done and the specific workers who will execute them.⁶

After a few months, on November 19, 2013, the respondent and his colleague, Anthony, were called by a Foreman to cut the plates of Tank No. 5 in preparation for the installation of new plates thereon.⁷ The respondent's colleague, Anthony, clarified and reminded the Foreman regarding the deployment of an Attendant for confined spaces before they went inside the tank. However, the Foreman insisted that there was no need because the tank was no

¹ Rollo, Pp. 3-14.

² Penned by Associate Justice Emily R. Alifio-Geluz and concurred in by Associate Justices Edgardo L. Delos Santos and Marilyn B. Lagura-Yap; id. at 19-29.

³ Id. at 30-31.

⁴ Id. at 20.

⁵ Id.

⁶ Id. at 38.

⁷ Id. at 20-21.

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longer a confined space as it was already opened on the side and bottom floor. After working for more than two hours inside Tank No. 5 or past 9:00 a.m., an Engineer who was monitoring the job site incidentally arrived. The Engineer confronted the respondent and his companion why they were working inside Tank No. 5 without an Attendant for confined spaces to watch over them. Anthony explained that they were just following the orders of their Foreman. This prompted the Engineer to confront the Foreman.⁸ While the Gulf officers were having a heated exchange of words, the respondent and his companion continued and finished their work inside Tank No. 5.⁹

At around 4:00 p.m., the respondent and his companion were called to the Human Resources Department (HRD) office by Mr. James. Mr. James singled out the respondent and informed him of his termination. When the respondent inquired for the reason of his termination, Mr. James answered that it was because he fought with an engineer.¹⁰ The respondent and his companion explained that no such fight has ensued.¹¹ The respondent still reported for work the next day but he was not given any task.¹² After several pleas to petitioner's HRD, on December 24, 2013, the respondent was given his Exit Visa and plane ticket back to the Philippines.¹³

After the holidays, the respondent filed a complaint for illegal dismissal against the petitioner and his foreign employer.¹⁴

The Ruling of the Labor Arbiter (LA)

On July 31, 2014, the LA issued a Decision¹⁵ finding that the respondent was illegally dismissed. The dispositive portion reads:

Wherefore, above premised considered, this Court finds complainant **FLAVIO J. BUHAWE JR.** to have been illegally dismissed for lack of just cause and non-observance of due process. Respondents **GULF PIPING CO. W.L.L and its Philippine-based agent, ANDREWS MANPOWER CONSLUTING INC.** shall be held solidarily liable to pay the complainant the following:

- 1) Salaries for the unexpired portion of his contract in the amount of \$8,000.00 US Dollars or its peso equivalent at the time of payment
- 2) Salary Differentials in the amount of \$201.04 US Dollars (\$ 400-\$ 349.74 = \$50.26/mon x 4 months) or its peso equivalent at the time of payment;

⁸ Id. at 21.
⁹ Id. at 39.
¹⁰ Id. at 21.
¹¹ Id. at 40.
¹² Id. at 41.
¹³ Id. at 21.
¹⁴ Id. at 43.
¹⁵ Id. at 36-53.

- 3) 30 days leave pay for the 2-year contract or in the amount of \$400.00US Dollars or its peso equivalent;
- 4) Moral damages in the amount of ₱20,000.00

Finally, attorney's Fees equivalent to 10% of the total monetary awards due to the complainant is hereby granted.

All the other claims are dismissed for lack of merit.

SO ORDERED.¹⁶

The LA emphasized the basic policy of the Philippine government to protect all Filipino workers whether employed locally or overseas through Philippine labor laws and social legislations.¹⁷ It was not convinced with the petitioner's narration of what happened because if the respondent actually violated UAE's strict labor rules on safety and even fought with an engineer, the respondent would have been instantly stopped from finishing his work in Tank No. 5, and possibly arrested for disturbance of peace.¹⁸ In light of the strictness of UAE's rules, the alleged previous safety violations of the respondent is also highly dubious because of the absence of any notice of violation or any documentation of it.¹⁹ Notably, the Notice of Termination dated November 30, 2013 was never furnished to the respondent and does not bear his signature. In short, the petitioner failed to satisfy the burden of proof that the dismissal of the respondent was justified based on established facts but on mere unsubstantiated suspicion.²⁰

Dissatisfied, the petitioner appealed to the National Labor Relations Commission (NLRC).²¹

The Ruling of the NLRC

On December 12, 2014, the NLRC promulgated a Decision²² dismissing the appeal. The dispositive portion reads:

WHEREFORE, premises considered, the Decision of the Labor Arbiter, dated 31 July 2014, is hereby, AFFIRMED.

SO ORDERED.²³

The NLRC emphasized that in illegal dismissal cases the burden of proof is upon the employer to show that the employee's termination from service is for

¹⁶ Id. at 52-53.
¹⁷ Id. at 47.
¹⁸ Id. at 40.
¹⁹ Id. at 48-49.
²⁰ Id. at 49-50.
²¹ Id. at 23.
²² Id. at 54-63.
²³ Id. at 62-63.

a just and valid cause. It affirmed the ruling of the LA that the petitioner failed to discharge the foregoing burden of proof. It gave more credence to the Termination Notice "in picture form" presented by the respondent than the Safety Violation Notice presented by the petitioner only after the submission of respondent's position paper.²⁴

Frustrated with the NLRC Decision, petitioner filed a Petition for *Certiorari* before the CA.

Ruling of the CA

On December 19, 2018, the CA promulgated a decision denying the petition, to wit:

WHEREFORE, the *Petition* is **DENIED**. The assailed *Decision* December 12, 2014 of the National Labor Relations Commission, Seventh (7th) Division, Cebu City in NLRC Case No. OFW VAC-11-000048-2014 is hereby, **AFFIRMED**.

SO ORDERED.²⁵

The CA likewise found the purported Notice of Termination, which was supposed to be a proof of valid dismissal, to be uncorroborated, self-serving and a mere afterthought, and does not satisfy the requirement of substantial evidence.²⁶ Moreover, the illegal dismissal of respondent was aggravated by the petitioner's failure to observe due process due to the failure to furnish the respondent with two²⁷ written notices.

The petitioner filed a motion for reconsideration but it was denied in a Resolution dated August 20, 2019.

Unfazed, the petitioner filed the instant case.

The Issue

The sole issue to be resolved is whether or not the CA gravely erred in ruling that the respondent was illegally dismissed despite violating the domestic labor law of UAE.

The Court's Ruling

The petition is bereft of merit.

²⁴ Id. at 61.

²⁵ Id. at 28-29.

²⁶ Id. at 25.

²⁷ Id. at 26.

According to the petitioner, the domestic labor law of the UAE allows an immediate dismissal of an employee for disobedience to instructions respecting industrial safety or safety of the workplace. As a result, the petitioner claims that the CA gravely erred in ruling that the respondent was illegally dismissed despite violating the domestic labor law of UAE. The disputed CA ruling is allegedly disrespectful to the domestic law of the UAE and to the principle of international law, as well as, contrary to the contractual agreement of the parties where violation of UAE domestic laws is a valid ground for termination.

This Court disagrees.

It is important to emphasize that, contrary to the insinuations of the petitioner, the Philippines has a profound regard for international law as illustrated by the provisions of Article II, Section 2 of the 1987 Constitution where the Philippines expressly adopted the generally accepted principles of international law as part of its domestic law, to wit:

Section 2. The Philippine renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nation. (Emphasis and underscoring supplied).

As international law is founded largely upon the principles of reciprocity, comity, independence, and equality of States, which were adopted as part of the law of our land under Article II, Section 2 of the 1987 Constitution,²⁸ the Philippines also has a keen respect for international comity. However, the principles of international law and comity have no application in this case because, to begin with, the petitioner was never able to prove that the respondent actually violated any labor law of the UAE. The alleged safety violations and disrespectful encounter with an engineer were never established by the petitioner. Instead, the factual findings of both the LA and NLRC, as affirmed by the CA, consistently showed that the allegations against the respondent are mere unsubstantiated conjectures. They all found the testimonies and evidence presented by the respondent more credible than that of the petitioner.

It bears stressing that factual findings of quasi-judicial agencies such as the LA and NLRC are generally accorded not only respect, but at times, even finality because of the special knowledge and expertise gained by these agencies from handling matters falling under their specialized jurisdiction.²⁹ The findings of fact made by LA and affirmed by the NLRC are even considered binding if the same are supported by substantial evidence, as in this case.³⁰

²⁸ *Most Rev. Arigo, et al. v. Swift, et al.*, 743 Phil. 8, 44 (2014).

²⁹ *Symex Security Services Inc. v. Rivera Jr.*, G.R. No. 202613, November 8, 2017, 844 SCRA 416, 435.

³⁰ *Grande v. Philippine Nautical Training Colleges*, 806 Phil. 601, 612 (2017).

Furthermore, elementary is the principle that this Court is not a trier of facts, and this applies with greater force in labor cases; only errors of law.³¹ The Court has consistently ruled in the recent decisions of *Madridejos v. NYK-FIL Ship Management, Inc.*³² and *Amalia S. Menez v. Status Maritime Corporation*,³³ that the factual findings of the NLRC, when confirmed by the CA, are usually conclusive on this Court:

As a rule, we only examine questions of law in a Rule 45 petition. Thus, “we do not re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the [National Labor Relations Commission], an administrative body that has expertise in its specialized field.” Similarly, we do not replace our “own judgment for that of the tribunal in determining where the weight of evidence lies or what evidence is credible.” The factual findings of the National Labor Relations Commission, when confirmed by the Court of Appeals, are usually “conclusive on this Court.”³⁴

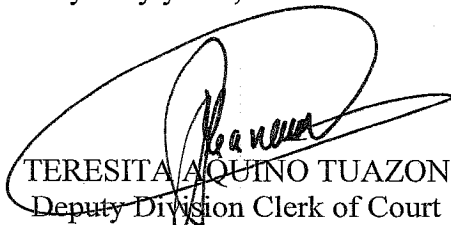
In light of the foregoing discussion, it is clear that the factual findings of the CA, that the respondent did not violate any domestic labor law of UAE or any contractual agreement, is binding in this Court. As a result, the principles of international law and comity do not have any relevance in this case.

Thus, the CA committed no reversible error.

WHEREFORE, the Petition is **DENIED**. The assailed Decision dated December 19, 2018, and Resolution dated August 20, 2019 of the Court of Appeals in CA-G.R. CEB-SP No. 09190 are **AFFIRMED**.

SO ORDERED.” (*Bernabe, J., on official business; Zalameda, J., on official leave*)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
17 DEC 2019

³¹ *Jose John Guererro v. Philippine Transmarine Carriers Inc.*, G.R. No. 222523, October 3, 2018.
³² 810 Phil. 704 (2017).
³³ G.R. No. 227523, August 29, 2018.
³⁴ *Madridejos v. NYK-FIL Ship Management, Inc.*, supra at 723-724.

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