

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 27 November 2019 which reads as follows:*

**“G.R. No. 247299 (*Marivic C. Almirez, for herself and on behalf of her minor son, Vincent Louie Conde Almirez v. JS Contractor, Inc., Dart Automation and Nico International [Dubai]*). – This is a Petition for Review<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated November 23, 2018 and the Resolution<sup>3</sup> dated May 15, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 105614.**

*Antecedents*

Marivic C. Almirez (Marivic) is the widow of the late Luis Camacho Almirez (Luis), who was then employed by JS Contractor, Inc., Dart Automation, and Nico International (collectively, respondents), as a mechanical fitter for a period of 24 months, with a monthly salary of 1,350.00 UAE Dirham.<sup>4</sup>

On June 3, 2009, Luis died of “*fracture of skull bone with severe head injury, blunt object trauma to the head*” while operating a hydraulic jack at Clifton Pier, Western District, New Providence, Bahamas. His remains were flown home on June 27, 2009.<sup>5</sup>

Some time later, Marivic filed her *first* Complaint for damages before Branch 21, Regional Trial Court (RTC), Manila, for compensation for the death of Luis under Article 1711 of the Civil Code. She prayed for the award of actual damages for loss of future income in the amount of ₱2,591,352.00, moral damages in the amount of not less

<sup>1</sup> *Rollo*, pp. 3-13.

<sup>2</sup> *Id.* at 17-23; penned by Associate Justice Maria Elisa Sempio Diy with Presiding Justice Romeo F. Barza and Associate Justice Elihu A. Ybañez, concurring.

<sup>3</sup> *Id.* at 24-26.

<sup>4</sup> *Id.* at 5.

<sup>5</sup> *Id.* at 18.

116

than ₱500,000.00, and attorney's fees.<sup>6</sup> The case was docketed as Civil Case No. 13-130623.

On April 23, 2014, the RTC dismissed the first Complaint *without prejudice* for lack of jurisdiction. It ruled that the Complaint should have been filed before the Labor Arbiter of the National Labor Relations Commission (NLRC), which has jurisdiction over *money claims* involving overseas Filipino workers such as Luis.<sup>7</sup>

On June 25, 2014, Marivic filed her *second* Complaint for damages with the RTC, Manila, which was then raffled to Branch 20.<sup>8</sup> The case was docketed as Civil Case No. 14-132027.

On September 22, 2014, respondents filed an Answer with Motion to Dismiss wherein they raised, among others, the following affirmative defenses: (a) the court has no jurisdiction due to Marivic's failure to pay docket fees; (b) the court has no jurisdiction over the subject matter; (c) the suit is barred by *res judicata*; (d) the claim set forth in the complaint had been paid; (e) the complaint is barred by prescription; and (f) the complaint failed to state a cause of action.<sup>9</sup>

#### *Ruling of the RTC*

In the Order dated February 18, 2015, the RTC dismissed the second Complaint on the ground of *res judicata* and for failure to state a cause of action.<sup>10</sup>

Marivic moved for reconsideration, but the RTC denied the motion in the Order dated August 18, 2015.<sup>11</sup> Aggrieved, Marivic appealed before the CA.

#### *Ruling of the CA*

The CA denied the appeal for lack of merit. It agreed with the RTC that the second Complaint was barred by *res judicata*, viz.:

In the case under consideration, it is clear that the issue of which court or agency has the competence to take cognizance of MARIVIC's complaint has been resolved with finality. The April 23,

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 18-19.

<sup>8</sup> *Id.* at 19.

<sup>9</sup> *Id.* at 19-20.

<sup>10</sup> *Id.* at 20.

<sup>11</sup> *Id.*

2014 Order of RTC Branch 21 is unequivocal in stating that it is the National Labor Relations Commission, pursuant to Republic Act No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022, which exercises jurisdiction over money claims arising out of an employer-employee relationship, or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary, and other forms of damages. **Such declaration has attained finality. Res judicata by conclusiveness of judgment had set in. MARIVIC is thus bound by such pronouncement.**<sup>12</sup> (Emphasis supplied.)

### *Issue*

The main issue for the Court's resolution is whether the RTC had correctly dismissed the second Complaint for damages on the ground of *res judicata* in the concept of conclusiveness of judgment.

### *The Court's Ruling*

*Res judicata*<sup>13</sup> refers to the settled rule that "a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit."<sup>14</sup>

There are two distinct concepts of *res judicata* under Section 47, Rule 39 of the Rules of Court: the *first* is **bar by prior judgment** "when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action," in which case, "the judgment in the first case constitutes an absolute bar to the second action,"<sup>15</sup> and the *second* is **conclusiveness of judgment**, which "bars the re-litigation in a second case of a fact or question already settled in a previous case."<sup>16</sup>

The elements of *res judicata* are: (a) the judgment sought to bar the new action must be final; (b) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (c) the disposition of the case must be a judgment on the merits; and (d) there must be as between the first and second action, identity of parties, subject matter, and cause of action.<sup>17</sup> If all four requisites are met, then

<sup>12</sup> Rollo, p. 22.

<sup>13</sup> *Res judicata* literally means "a matter adjudged; a thing judicially acted upon; a thing or matter settled by judgment." See *Dy, et al. v. Yu, et al.*, 763 Phil. 491, 508 (2015).

<sup>14</sup> *Degayo v. Magbanua-Dinglasan, et al.*, 757 Phil. 376, 382 (2015).

<sup>15</sup> *Spouses Antonio v. Sayman Yda. De Monje*, 646 Phil. 90, 99 (2010).

<sup>16</sup> *Alamayri v. Pabale, et al.*, 576 Phil. 146, 160 (2008).

<sup>17</sup> *SSC v. Rizal Poultry and Livestock Association, Inc., et al.*, 665 Phil. 198, 206 (2011).

the second action would be barred by prior judgment.<sup>18</sup> However, if only the identities of parties and issues can be shown, then *res judicata* in the concept of conclusiveness of judgment would apply to the second action.<sup>19</sup>

Based on these considerations, it is clear that the CA committed an error when it applied *res judicata* in the concept of conclusiveness of judgment in this case. It should be noted that the Order dated April 23, 2014 rendered by Branch 21, RTC, Manila, in the earlier case is obviously *not* a judgment on the merits as it, in fact, dismissed the first Complaint for damages *without prejudice* on the ground of lack of jurisdiction over money claims involving overseas Filipino workers.

In other words, *res judicata*, either as bar by prior judgment or by conclusiveness of judgment, is *not* applicable to this case, given that: *first*, the RTC had *no jurisdiction over the subject matter* of the case; and *second*, the disposition of the first case was *not a judgment on the merits*.

Nevertheless, the Court finds the dismissal of the second Complaint for damages to be in order, not because it is barred by *res judicata* but for lack of jurisdiction over the subject matter of the case.

Section 10 of Republic Act No. (RA) 8042 or the *Migrant Workers and Overseas Filipinos Act of 1995*, as amended by RA 10022, provides:

Sec. 10. *Monetary Claims.* – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas employment including claims for actual, moral, exemplary and other forms of damages. Consistent with this mandate, the NLRC shall endeavor to update and keep abreast with the developments in the global services industry.

x x x x

Thus, it is settled that it is the NLRC, not the regular courts, which has *original and exclusive jurisdiction* to hear and decide *money claims* involving overseas Filipino workers. Here, the second Complaint for

<sup>18</sup> *Id.*

<sup>19</sup> See *Degayo v. Magbanua-Dinglasan*, *supra* note 14 at 385.

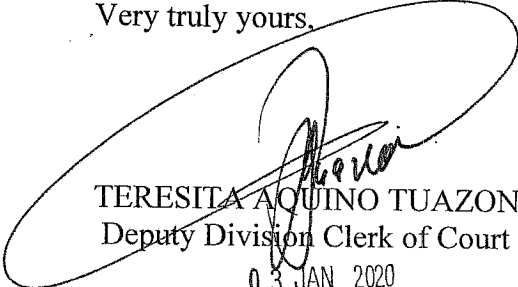
damages is essentially a money claim in relation to the death of Luis, an overseas Filipino worker, in the course of his employment with respondents. The complaint for damages, therefore, should have been filed before the Labor Arbiter and not with the RTC.

**WHEREFORE**, the Petition is **DENIED**. The complaint filed by petitioner Marivic C. Almirez in Civil Case No. 14-132027 is **DISMISSED** for lack of jurisdiction on the part of Branch 20, Regional Trial Court, Manila.

The Comment dated October 24, 2019 on the petition for review on *certiorari* filed by counsel for respondents in compliance with the Resolution dated July 22, 2019 is **NOTED**.

**SO ORDERED.**" (Zalameda, *J.*, designated additional member per Special Order No. 2724 dated October 25, 2019).

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *with 1/3*  
03 JAN 2020

ATTY. KATRINA P. BORRA (reg)  
Counsel for Respondents  
JS Contractor Building, 423 Magallanes St.  
Intramuros, Manila

LINSANGAN, LINSANGAN & LINSANGAN  
LAW OFFICES (reg)  
Counsel for Petitioner  
5<sup>th</sup> Floor, Linsangan Admiralty Building  
1225 United Nations Avenue  
1007 Manila

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 20  
Manila  
(Civil Case No. 14-132027)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-1-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
OFFICE OF THE REPORTER (x)  
Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CV No. 105614

*Please notify the Court of any change in your address.*  
GR247299. 11/27/19(28)URES

