

FIRST DIVISION

[G.R. No. 250439, September 22, 2020]

FIL-EXPAT PLACEMENT AGENCY, INC., PETITIONER, VS. MARIA ANTONIETTE CUDAL LEE, RESPONDENT.

R E S O L U T I O N

LOPEZ, J.:

Whether substantial evidence exists to establish contract substitution and constructive dismissal is the main issue in this Petition for Review on *Certiorari*^[1] under Rule 45 of Rules of Court assailing the Court of Appeals' (CA) Decision^[2] dated May 27, 2019 in CA-G.R. SP No. 157997.

ANTECEDENTS

Maria Antoniette Cudal Lee (Maria Antoniette) tiled against Fil-Expat Placement Agency, Inc. (Fil-Expat) and Thanaya Al-Yaqoot Medical Specialist (Thanaya Al-Yaqoot) a complaint for constructive dismissal contract substitution and breach of contract and damages before the labor arbiter (LA). Allegedly, Fil-Expat hired Maria Antoniette as an orthodontist specialist in the Kingdom of Saudi Arabia on behalf of its foreign principal Thanaya Al-Yaqoot for a contract period of two years. In May 2016, Marie Antoniette's employer asked her to sign a document written in Arabic and wanted her to agree that only half of the stipulated salary would be declared to the Kingdom of Saudi Arabia (KSA) government for insurance purposes. Maria Antoniette was hesitant but eventually signed the document using a different signature. Thereafter, the employer repeatedly forced her to execute a new employment contract. Maria Antoniette refused but the employer subjected her to varied forms of harassment. She was given additional duties, and was threatened to deduct 10,000 Saudi Riyal from her salary. She was even told to move out of her accommodation. Worse, the employer attempted on making sexual advances on her, and showed no concern when she suffered a severe allergic reaction to latex surgical gloves. On June 24, 2016, Maria Antoniette was repatriated.^[3]

In contrast, Fil-Expat claimed that Maria Antoniette was not maltreated. The Philippine Overseas Labor Office Local Hire together with Fil-Expat's representative visited Maria Antoniette in her workplace. They observed that Maria Antoniette has no swollen hands and bleeding blisters. There was also no evidence of additional duties or sexual abuse. In fact, Maria Antoniette did not complain of any physical harm or untoward incident with her employer, except for that her employer's representative shouted at her. Fil-Expat explained that it is normal for Arab people to talk in a loud voice. Moreover, there was no contract substitution. Fil-Expat admitted that Maria Antoniette was asked to sign a new employment contract. Yet, this was only due to Maria Antoniette's refusal to give a copy of her contract and diploma, which must be submitted to the KSA Ministry of Health. Also, Maria Antoniette was not threatened with salary deduction but merely explained to her that the employer will be fined for that amount should it fail to submit a copy of the contracts to the government.^[4] Fil-Expat argued that Maria Antoniette's case could hardly be construed as one of constructive dismissal as it was her own

decision to discontinue her contract. Lastly, Maria Antoniette's employer even requested her to stay for two more months until her replacement arrives.^[5]

On April 13, 2018, the LA held that Fil-Expat and Thanaya Al-Yaqoot are guilty of breach of contract and constructive dismissal,^[6] thus:

WHEREFORE, premises considered, respondents are found guilty of breach of contract and constructive dismissal. Accordingly, respondents, except Mark Amielle De Ocampo, are hereby ordered to jointly and severally pay complainant the following:

- (a) salary equivalent to [the] unexpired portion of her contract from June 23, 2016 to December 3, 2017 at its peso equivalent at the time of payment;
- (b) unpaid salary of 14,666 SR at its peso equivalent at the time of payment;
- (c) refund of placement fee in the amount of 3,637.75 SR[;]
- (d) cost of transporting her personal belongings amounting to 3,560 SR at its peso equivalent at the time of payment;
- (e) moral damages of P20,000.00;
- (f) exemplary damages of P10,000.00;
- (g) attorney's fees equivalent to 10% of the total award; and
- (h) interest of 6% per annum reckoned from the finality of this Decision.

SO ORDERED.^[7] (Emphases in the original.)

Dissatisfied, Fil-Expat and Thanaya Al-Yaqoot appealed to the National Labor Relations Commission (NLRC). On June 27, 2018, the NLRC reversed the arbiter's findings, and ruled that there was no breach of contract and constructive dismissal.^[8] There was no contract substitution since there was no intention on the part of the foreign employer to prejudice Maria Antoniette in the execution of the new employment contract. There is also no constructive dismissal because there is no evidence that Maria Antoniette's continued employment was rendered impossible, unreasonable or unlikely, *viz.*:

Explicitly, from the Report of the one who conducted an investigation regarding the circumstances surrounding the incident of contract substitution. it becomes very clear that THERE WAS NONE. Contract substitution if it had taken place is an illegal activity pursuant to R.A. 8042 as amended by R.A. 10022. Under No. 1) it is made illegal if there is an intention to prejudice the worker.

Where the purpose however, is to comply with a foreign law requirement both for the protection of the worker and the employer from Saudi Labor [I]nspection then there could be no violation. Finally, since complainant furnished the investigator of a copy of her contract, there was no longer any need for complainant to accomplish another form for submission to Saudi authorities - Health and Labor.

On the claim that there is constructive dismissal, there is no evidence that complainant's continued employment was rendered impossible, unreasonable or unlikely or that complainant was treated with discrimination, insensibility or disdain.^[9] (Emphasis supplied.)

Aggrieved, Maria Antoniette elevated the case to the CA through a petition for *certiorari* docketed as CA-G.R SP No. 157997. On May 27, 2019, the CA reinstated the Decision of the LA, and found substantial evidence that the foreign employer attempted to force Maria Antoniette into signing a new employment contract. It stressed that the attempt to commit contract substitution should be punished in order to avoid repetition. It also held that Maria Antoniette was compelled to seek repatriation because her employment became intolerable as she suffered verbal and psychological abuses after she refused to sign the new contract. Fil-Expat sought reconsideration but was denied.^[10] Hence, this recourse.^[11]

RULING

In labor cases, the CA is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. The CA can grant the prerogative writ of *certiorari* when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case.^[12] To make this finding, the CA necessarily has to view the evidence to determine if the NLRC ruling had substantial basis.^[13] Verily, the CA can examine the evidence of the parties since the factual findings of the NLRC and the LA are contradicting. Indeed, this Court has the same authority to sift through the factual findings of both the CA and the NLRC in the event of their conflict.^[14] This Court is not precluded from reviewing the factual issues when there are conflicting findings by the CA, the NLRC, and the LA.^[15]

Here, we find no error on the part of the CA in reversing the findings of the NLRC. The substitution or alteration of employment contracts is listed as a prohibited practice under Article 34(i) of the Labor Code.^[16] Indeed, "*[t]o substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment*" - is considered an act of "illegal recruitment" under Section 6(i) of Republic Act No. 8042.^[17]

Fil-Expat claimed that there was no contract substitution because Maria Antoniette did not sign any document. Hence, there is no second contract. Admittedly, the foreign employer attempted to make Maria Antoniette sign a new contract but it was not intended to prejudice her. The purpose was only to secure a signed contract as required by the KSA's Ministry of Health and to device a uniform contract for all the employees. On this postulate, the NLRC agreed with Fil-Expat and ruled that "*[w]here the purpose, however, is to comply with a foreign law requirement both for the protection of the worker and the employer from Saudi Labor inspection then there could be no violation.*" Yet, this unsympathetic stance shows that the NLRC ignored a clear affront against an Overseas Filipino Worker (OFW) and it was only proper for the CA to step in and rectify this grave abuse of discretion.

The employer's claim that the new contract was for uniformity and was not intended to alter the