

SECOND DIVISION

[G.R. No. 179242, February 23, 2011]

**AVELINA F. SAGUN, PETITIONER, VS. SUNACE INTERNATIONAL
MANAGEMENT SERVICES, INC., RESPONDENT.**

RESOLUTION

NACHURA, J.:

This is a Petition for Review on *certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the Court of Appeals (CA) Decision^[1] dated March 23, 2007 and Resolution^[2] dated August 16, 2007 in CA-G.R. SP No. 89298.

The case arose from a complaint for alleged violation of Article 32 and Article 34(a) and (b) of the Labor Code, as amended, filed by petitioner Avelina F. Sagun against respondent Sunace International Management Services, Inc. and the latter's surety, Country Bankers Insurance Corporation, before the Philippine Overseas Employment Administration (POEA). The case was docketed as POEA Case No. RV 00-03-0261.^[3]

Petitioner claimed that sometime in August 1998, she applied with respondent for the position of caretaker in Taiwan. In consideration of her placement and employment, petitioner allegedly paid P30,000.00 cash, P10,000.00 in the form of a promissory note, and NT\$60,000.00 through salary deduction, in violation of the prohibition on excessive placement fees. She also claimed that respondent promised to employ her as caretaker but, at the job site, she worked as a domestic helper and, at the same time, in a poultry farm.^[4]

Respondent, however, denied petitioner's allegations and maintained that it only collected P20,840.00, the amount authorized by the POEA and for which the corresponding official receipt was issued. It also stressed that it did not furnish or publish any false notice or information or document in relation to recruitment or employment as it was duly received, passed upon, and approved by the POEA.^[5]

On December 27, 2001, POEA Administrator Rosalinda Dimapilis-Baldoz dismissed^[6] the complaint for lack of merit. Specifically, the POEA Administrator found that petitioner failed to establish facts showing a violation of Article 32, since it was proven that the amount received by respondent as placement fee was covered by an official receipt; or of Article 34(a) as it was not shown that respondent charged excessive fees; and of Article 34(b) simply because respondent processed petitioner's papers as caretaker, the position she applied and was hired for.

Aggrieved, petitioner filed a Motion for Reconsideration^[7] with the Office of the Secretary of Labor. The Secretary treated the motion as a Petition for Review. On January 13, 2004, then Secretary of Labor Patricia A. Sto. Tomas partially granted^[8]

petitioner's motion, the pertinent portion of which reads:

WHEREFORE, premises considered, the Motion for Reconsideration, herein treated as a petition for review, is PARTIALLY GRANTED. The Order dated December 27, 2001 of the POEA Administrator is partially MODIFIED, and SUNACE International Management Services, Inc. is held liable for collection of excessive placement fee in violation of Article 34 (a) of the Labor Code, as amended. The penalty of suspension of its license for two (2) months, or in lieu thereof, the penalty of fine in the amount of Twenty Thousand Pesos (P20,000.00) is hereby imposed upon SUNACE. Further, SUNACE and its surety, Country Bankers Insurance Corporation, are ordered to refund the petitioner the amounts of Ten Thousand Pesos (P10,000.00) and NT\$65,000.00, representing the excessive placement fee exacted from her.

SO ORDERED.^[9]

On appeal by respondent, the Office of the President (OP) affirmed^[10] the Order of the Secretary of Labor. In resolving the case for petitioner, the OP emphasized the State's policy on the full protection to labor, local and overseas, organized and unorganized. It also held that it was impossible for respondent to have extended a loan to petitioner since it was not in the business of lending money. It likewise found it immaterial that no evidence was presented to show the overcharging since the issuance of a receipt could not be expected.

Respondent's motion for reconsideration was denied in an Order^[11] dated March 21, 2005, which prompted respondent to elevate the matter to the CA via a petition for review under Rule 43 of the Rules of Court.

On March 23, 2007, the CA decided in favor of respondent, disposing, as follows:

WHEREFORE, premises considered, the instant petition is **GRANTED** and the decision of the Office of the President dated 07 January 2005 is **REVERSED** and **SET ASIDE** for lack of sufficient evidence. The Order of the POEA Administrator dismissing the complaint of respondent for violation of Article 34(a) and (b) of the Labor Code is hereby **AFFIRMED**.

SO ORDERED.^[12]

The appellate court reversed the rulings of the Secretary of Labor and the OP mainly because their conclusions were based not on evidence but on speculation, conjecture, possibilities, and probabilities.

Hence, this petition filed by petitioner, raising the sole issue of:

WHETHER THE COURT OF APPEALS ERRED IN GRANTING THE RESPONDENT'S PETITION FOR REVIEW REVERSING THE DECISION AND

The petition is without merit.

Respondent was originally charged with violation of Article 32 and Article 34(a) and (b) of the Labor Code, as amended. The pertinent provisions read:

ART. 32. Fees to be Paid by Workers. - Any person applying with a private fee charging employment agency for employment assistance shall not be charged any fee until he has obtained employment through its efforts or has actually commenced employment. Such fee shall be always covered with the appropriate receipt clearly showing the amount paid. The Secretary of Labor shall promulgate a schedule of allowable fees.

ART. 34. Prohibited Practices. - It shall be unlawful for any individual, entity, licensee, or holder of authority:

(a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor; or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment.

The POEA, the Secretary of Labor, the OP, and the CA already absolved respondent of liability under Articles 32 and 34(b). As no appeal was interposed by petitioner when the Secretary of Labor freed respondent of said liabilities, the only issue left for determination is whether respondent is liable for collection of excess placement fee defined in Article 34(a) of the Labor Code, as amended.

Although initially, the POEA dismissed petitioner's complaint for lack of merit, the Secretary of Labor and the OP reached a different conclusion. On appeal to the CA, the appellate court, however, reverted to the POEA conclusion. Following this turn of events, we are constrained to look into the records of the case and weigh anew the evidence presented by the parties.

We find and so hold that the POEA and the CA are correct in dismissing the complaint for illegal exaction filed by petitioner against respondent.

In proceedings before administrative and quasi-judicial agencies, the quantum of evidence required to establish a fact is substantial evidence, or that level of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

^[14]

In this case, are the pieces of evidence presented by petitioner substantial to show that respondent collected from her more than the allowable placement fee? We answer in the negative.