

FIRST DIVISION

[G.R. NO. 167639, April 19, 2006]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
ADMINISTRATOR OF THE PHILIPPINE OVERSEAS EMPLOYMENT
ADMINISTRATION (POEA), PETITIONER, VS. RINCIPALIA
MANAGEMENT AND PERSONNEL CONSULTANTS,
INCORPORATED, RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

Petitioner assails the September 20, 2004 Resolution^[1] of the Court of Appeals in CA-G.R. SP No. 86170, dismissing outright the petition for certiorari for failure to attach copies of all relevant pleadings and transcripts of the hearings, as well as the March 29, 2005 Resolution^[2] denying the motion for reconsideration.

This case stemmed from two separate complaints filed before the Philippine Overseas Employment Administration (POEA) against Principalia Management and Personnel Consultants, Incorporated (Principalia) for violation of the 2002 POEA Rules and Regulations. The first complaint dated July 16, 2003 filed by Ruth Yasmin Concha (Concha) was docketed as POEA Case No. RV 03-07-1497. The second complaint dated October 14, 2003 filed by Rafael E. Baldoza (Baldoza) was docketed as POEA Case No. RV 03-07-1453.

In the first complaint, Concha alleged that in August 2002, she applied with Principalia for placement and employment as caregiver or physical therapist in the USA or Canada. Despite paying P20,000.00 out of the P150,000.00 fee required by Principalia which was not properly receipted, Principalia failed to deploy Concha for employment abroad.^[3]

In its March 15, 2004 Order,^[4] the Adjudication Office of the POEA found Principalia liable for violations of the 2002 POEA Rules and Regulations, particularly for collecting a fee from the applicant before employment was obtained; for non-issuance of official receipt; and for misrepresenting that it was able to secure employment for Concha. For these infractions, Principalia's license was ordered suspended for 12 months or in lieu thereof, Principalia is ordered to pay a fine of P120,000.00 and to refund Concha's placement fee of P20,000.00.

Baldoza initiated the second complaint on October 14, 2003^[5] alleging that Principalia assured him of employment in Doha, Qatar as a machine operator with a monthly salary of \$450.00. After paying P20,000.00 as placement fee, he departed for Doha, Qatar on May 31, 2003 but when he arrived at the jobsite, he was made to work as welder, a job which he had no skills. He insisted that he was hired as machine operator but the alternative position offered to him was that of helper,

which he refused. Thus, he was repatriated on July 5, 2003.

On November 12, 2003, Baldoza and Principalia entered into a compromise agreement with quitclaim and release whereby the latter agreed to redeploy Baldoza for employment abroad. Principalia, however, failed to deploy Baldoza as agreed hence, in an Order dated April 29, 2004,^[6] the POEA suspended Principalia's documentary processing.

Principalia moved for reconsideration which the POEA granted on June 25, 2004.^[7] The latter lifted its order suspending the documentary processing by Principalia after noting that it exerted efforts to obtain overseas employment for Baldoza within the period stipulated in the settlement agreement but due to Baldoza's lack of qualification, his application was declined by its foreign principal.

Meanwhile, on June 14, 2004, or before the promulgation of POEA's order lifting the suspension, Principalia filed a Complaint^[8] (Complaint) against Rosalinda D. Baldoz in her capacity as Administrator of POEA and Atty. Jovencio R. Abara in his capacity as POEA Conciliator, before the Regional Trial Court (RTC) of Mandaluyong City for *"Annulment of Order for Suspension of Documentation Processing with Damages and Application for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, and a Writ of Preliminary Mandatory Injunction."* Principalia claimed that the suspension of its documentary processing would ruin its reputation and goodwill and would cause the loss of its applicants, employers and principals. Thus, a writ of preliminary injunction and a writ of mandatory injunction must be issued to prevent serious and irreparable damage to it.

On June 14, 2004,^[9] Judge Paulita B. Acosta-Villarante of the RTC of Mandaluyong City, Branch 211, granted a 72-hour restraining order enjoining Administrator Baldoz and Atty. Abara to refrain from imposing the suspension orders before the matter can be heard in full. On June 17, 2004,^[10] Judge Rizalina T. Capco-Umali, RTC of Mandaluyong City, Branch 212, held thus:

WHEREFORE, in order to preserve status quo ANTE, the prayer for a Temporary Restraining Order is hereby GRANTED enjoining the defendant[s] ROSALINDA D. BALDOZ and ATTY. JOVENCIO ABARA, other officers of Philippine Overseas Employment Administration, their subordinates, agents, representatives and all other persons acting for and in their behalf, for (sic) implementing the Orders of Suspension under VC No. LRD 03-100-95 and POEA Case No. RV-03-07-1497.

Let the hearing on Preliminary Injunction and Preliminary Mandatory Injunction be set on June 22, 2004 at 1:30 o'clock in the afternoon.

SO ORDERED.^[11]

After the hearing on the preliminary injunction, Administrator Baldoz and Atty. Abara submitted their Memorandum (Memorandum).^[12] In an Order dated July 2, 2004,^[13] the trial court held that the issue on the application for preliminary mandatory injunction has become moot because POEA had already released the renewal of license of Principalia. However, on the issue against the implementation of the order of suspension, the trial court resolved, to wit:

Accordingly, the only issue left for the resolution of this Court is whether or not a Writ of Preliminary Prohibitory Injunction will lie against the immediate implementation of the Order of Suspension of License of the Plaintiff dated March 15, 2004 under POEA case No. RV-03-07-1497, issued by the POEA Administrator Rosalinda D. Baldoz.

In support of its Application for a Writ of Preliminary Prohibitory Injunction, Plaintiff presented evidence to prove the following:

- (1) that it has a license,
- (2) that the said license was renewed,
- (3) the existence of the two (2) suspension orders subject of this case;
- (4) the irreparable damages to the Plaintiff.

The defendants on the other hand did not present evidence to controvert the evidence of the plaintiff. Instead, defendants submitted a Memorandum.

Upon a careful evaluation and assessment of the evidence by the plaintiff and their respective memoranda of the parties, this Court finds the need to issue the Writ of Preliminary Prohibitory Injunction prayed for by the plaintiff.

It bears stressing that the Order of Suspension dated March 15, 2004 is still pending appeal before the Office of the Secretary of Labor and Employment.

It is likewise significant to point out that the said Order dated March 15, 2004 does not categorically state that the suspension of Plaintiff's License is immediately executory contrary to the contention of the defendants.

Counsel for POEA argued that the basis for the immediate implementation thereof is Section 5, Rule V, Part VI of the 2002 POEA Rules and Regulation, which is quoted hereunder, as follows:

"Section 5. Stay of Execution. The decision of the Administration shall be stayed during the pendency of the appeal; Provided that where the penalty imposed carried the maximum penalty of twelve (12) months suspension o[r] cancellation of license, the decision shall be immediately executory despite pendency of the appeal."

The Order dated March 15, 2004 decreed Plaintiff as having violated Section 2 (a) (d) and (e) of Rule I, Part VI of the POEA Rules and Regulations and the Plaintiffs was imposed the penalty of twelve (12) months suspension of license (or in lieu, to pay fine of P120,000, it being it[s] first offense).

Violation of Section 2 (a) (d) and (e) Rule I, Part VI of POEA Rules and Regulations imposes a penalty of two (2) months to six (6) months suspension of license for the FIRST offender (sic). And in the absence of

mitigating or aggravating circumstance, the medium range of the imposable penalty which is four (4) months shall be meted out. Being a first offender, the plaintiff was imposed suspension of license for four (4) months for each violation or an aggregate period of suspension for twelve (12) months for the three (3) violations.

It was not however made clear in the Order of Suspension dated March 15, 2004 that the Plaintiff's case falls under the EXCEPTION under Section 5 Rule V, Part VI of the 2002 POEA Rules and Regulation, warranting the immediate implementation thereof even if an appeal is pending with the POEA.

The Plaintiff had established that even if it has been granted a renewal license, but if the same is suspended under the March 15, 2004 Order in POEA case No. RV-03-07-1497, it could not use the license to do business. As earlier mentioned, the said Order is still pending appeal.

In the meantime that the appeal has not been resolved, Plaintiff's clients/principals will have to look for other agencies here and abroad, to supply their needs for employees and workers. The end result would be a tremendous loss and even closure of its business. More importantly, Plaintiff's reputation would be tarnished and it would be difficult, if not impossible for it to regain its existing clientele if the immediate implementation of the suspension of its license continues.

The defendants and even the POEA, upon the other hand, will not suffer any damage, if the immediate implementation of the suspension of plaintiff's license as decreed in the March 15, 2004 Order, is enjoined.

WHEREFORE, as prayed for by the Plaintiff, the application for the issuance of the Writ of Preliminary Prohibitory Injunction is hereby GRANTED, upon posting of a bond in the amount of FIVE HUNDRED THOUSAND PESOS (Php 500,000.00), enjoining and restraining the Defendants ROSALINDA D. BALDOZ and Atty. Jovencio Abarra (sic), other officers of the POEA, their subordinates, agents, representative, and all other persons acting for and in their behalf, from immediately implementing the Order of Suspension dated March 15, 2004 under POEA Case No. RV-03-07-1497.

The Writ of Preliminary Prohibitory Injunction shall be in full force and effect immediately upon receipt thereof and to be carried out on subsequent days thereafter pending the termination of this case and/or unless a contrary Order is issued by this court.^[14] (Emphasis supplied)

The trial court stressed that it issued the injunctive writ because the order of suspension dated March 15, 2004 is still pending appeal before the Office of the Secretary of Labor and Employment; that there is a possibility that Principalia will suffer tremendous losses and even closure of business pending appeal; that POEA will not suffer any damage if the immediate implementation of the suspension of Principalia is enjoined; that the order does not categorically state that the suspension of the license is immediately executory.