

FIRST DIVISION

[G.R. NO. 169652, October 09, 2006]

**ASIAN INTERNATIONAL MANPOWER SERVICES, INC. (AIMS),
PETITIONER, VS. COURT OF APPEALS AND ANICETA LACERNA,
RESPONDENTS.**

DECISION

YNARES-SANTIAGO, J.:

This petition for review under Rule 45 of the Rules of Court seeks to set aside the May 31, 2005 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 73276 which reversed the June 28, 2002 Resolution^[2] of the National Labor Relations Commission (NLRC) and held that respondent Aniceta Lacerna (Lacerna) was illegally dismissed by petitioner Asian International Manpower Services, Inc. (AIMS).

The facts as alleged^[3] by Lacerna show that Proxy Maid Services Centre (Proxy), a Hong Kong based recruitment agency hired her through AIMS, a recruitment entity in the Philippines. On February 10, 2000, she signed an employment contract to work as a domestic helper of Low See Ting who later cancelled the contract sometime in March 2000. Nevertheless, Lacerna heeded AIMS's advice to proceed to Hong Kong on the assurance that she will be provided with an employment abroad. Upon arrival at Proxy's office on April 1, 2000, Lacerna was fetched by her employer, Tan Kmin Shwe Lin Charmain (Charmain). However, the latter dismissed her in a Notification dated May 2, 2000 citing as reason the "difficult[y] in communication."^[4]

On May 20, 2000, Proxy transferred Lacerna to Tam Ching-yee, Donna (Donna). On June 30, 2000 she was dismissed by Donna without stating the reason for her termination. Neither did Proxy explain why she was dismissed. On July 1, 2000, Lacerna agreed to take a three-day trial period with another employer, Daisy Lee. However, before she could sign her contract with the latter, the Hong Kong government denied her request for change of employer and advised her to submit a fresh application with her country of origin.

Following the denial of her work permit, Lacerna returned to the Philippines on July 13, 2000 but was informed by AIMS that Daisy Lee is no longer interested in hiring her. Lacerna demanded the return of her placement fee but was denied, hence, she filed the instant illegal dismissal case.

AIMS, on the other hand, alleged that Lacerna resigned after working for five days as a domestic helper of Low See Ting from April 1, 2000 to April 5, 2000, as evidenced by her resignation letter.^[5] Proxy paid her wages and fare for a return ticket to the Philippines^[6] but she refused to be repatriated. Thereafter, with the assistance of Proxy, she was hired in the household of Charmain. Unfortunately, the

latter dismissed Lacerna on the ground of difficulty in communication. On May 8, 2000, the Hong Kong Immigration Department granted her an extension of time to stay in Hong Kong with a warning that the same is her last chance to stay in the country. When Lacerna requested another extension, the same was denied and she was directed to leave Hong Kong.

In her Reply,^[7] Lacerna insisted that her first employer was Charmain because she never worked for Low See Ting, who as early as March 2000, cancelled the contract before she flew to Hong Kong. She added that the signature appearing in the resignation letter and receipt of payment for the period April 1 to 5, 2000 is not her handwriting.

On June 28, 2001, the Labor Arbiter ruled that Lacerna was not illegally dismissed because she resigned as domestic helper of Low See Ting. This was affirmed on appeal by the NLRC in its resolution dated June 28, 2002.

On May 31, 2005, the Court of Appeals reversed the decision of the NLRC and held that Lacerna was illegally dismissed because no just or authorized cause was shown to justify her dismissal by Donna, her last employer. It ruled that AIMS is solidarily liable with Proxy; and that Lacerna's resignation did not exempt AIMS from liability because Section 10 of Republic Act (R.A.) No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995 provides that the liability of the principal employer and the recruitment agency shall not be affected by any substitution, amendment, or modification of the contract of employment. The dispositive portion thereof, reads:

WHEREFORE, the foregoing considered, the petition is GRANTED and the assailed Decision is REVERSED and SET Aside. Accordingly, private respondents are ordered to pay petitioner the following:

1. HK\$11,010.00 corresponding to three (3) months of her salary or its equivalent in the Philippine Peso at the time of payment;
2. The amount of P18,000.00 with twelve percent (12%) interest per annum as reimbursement of her placement fee;
3. P10,000.00 as moral damages;
4. P10,000.00 as exemplary damages; and
5. Attorney's fees equivalent to ten percent (10%) of the total monetary award. No costs.

SO ORDERED.^[8]

AIMS filed a motion for reconsideration but was denied.

Hence, the instant petition.

The issues for resolution are: Was Lacerna illegally dismissed? If yes, may AIMS be held liable for the monetary claims of Lacerna.

On both issues, the Court rules in the affirmative.

There is no dispute that the last employer of Lacerna was Donna and not Daisy Lee because the Hong Kong government directed her repatriation before she could sign her contract with the latter. In dismissing her, Donna gave no reason for her termination. Neither did Proxy explain the ground for her dismissal. And where there is no showing of a clear, valid, and legal cause for the termination, the law considers the matter, a case of illegal dismissal.^[9] In termination cases involving Filipino workers recruited for overseas employment, the burden of proving just or authorized cause for termination rests with the foreign based employer/principal and the local based entity which recruited the worker both being solidarily liable for liabilities arising from the illegal dismissal of the worker. In this case, the Court of Appeals correctly declared Lacerna's termination illegal since no reason was given to justify her termination.

AIMS argued that it cannot be held liable for the monetary claims of Lacerna because its contract was limited only to Lacerna's employment with Low See Ting. When she resigned as domestic helper of the latter, the contract was allegedly extinguished making AIMS no longer privy to the subsequent employment contract entered into by Proxy and Lacerna.

However, the records of the Immigration Department of Hong Kong belie the contention of AIMS that Lacerna was employed by Low See Ting. The May 8, 2000 letter of the Hong Kong Immigration Department, states:

I refer to your application on 8 May 2000 for extension of stay to enable you to submit a fresh application for change of employer in Hong Kong.

Our records show that you were a domestic helper whose employment contract was terminated x x x prematurely on 5-4-2000. Subsequently, you submitted an application for change of employer in Hong Kong. During the processing of the application, we were informed that your prospective employer had backed out. Such application was thereby cancelled and you were allowed an opportunity to submit another application for change of employer after production of evidence of a second prospective employment. You sought permission to submit a second application for change of employer.

While we are prepared to accept and consider your second application for change of employer, I must remind you that this is final. If your second prospective employer again backs out or withdraws his/her sponsorship for whatever reasons, your further application for extension of stay for the reason of processing a new employment in Hong Kong will be refused. Your further application for change of employer will not be considered. If you still wish to work for a new employer in Hong Kong, you should submit a fresh application in your country of origin.^[10]

Based on the foregoing, the Immigration Department noted that the application of Lacerna was her second request for change of employer. She filed the first application after her contract was pre-terminated on May 4, 2000 This refers to the pre-termination by Charmain in the Notification of Cancellation of Employment Contract dated May 2, 2000. However, the prospective employer subject of said first application backed out, hence, Lacerna submitted a second application for change of