

THIRD DIVISION

[G.R. No. 121879, August 14, 1998]

EMPIRE INSURANCE COMPANY, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND MONERA ANDAL, RESPONDENTS.

D E C I S I O N

PURISIMA, J.:

This is a Petition of a surety company disowning solidary liability with its principal, a recruitment agency, on the monetary claims of an overseas contract worker for illegal dismissal, non-payment and underpayment of salaries.

The antecedent facts and proceedings can be capsulized, as follows:

Private respondent Monera Andal applied with G & M Phils., Inc. for an overseas employment as a domestic helper in Riyadh, Kingdom of Saudi Arabia. She was hired for a term of two years at a monthly basic salary of US \$200.00.

She left for the said jobsite on May 17, 1991 and worked for a certain Abdullah Al Basha. But on January 11, 1992, she was repatriated. Upon her repatriation, she lost no time in bringing her complaint before the Philippine Overseas Employment Agency (POEA) for illegal dismissal, non-payment and underpayment of salaries. Impleaded as a co-respondent in the complaint was the herein petitioner, Empire Insurance Company, in its capacity as the surety of G & M Phils.

Subject complaint averred, inter alia, that:

"...she was not paid for four months and underpaid for four months; that she was forced to preterminate her contract due to unbearable treatment in the hands of her employer and the non-payment and underpayment of her salaries; and that she was constructively dismissed from employment. In her affidavit, she alleged that she was unpaid for 3 1/2 months; that for four months she was paid only US \$150.00 instead of the agreed rate of US \$200.00; that her employer resented her effort to collect her delayed salaries and, in retaliation, made her work long hours, allowing her to sleep only five hours daily and requiring her to render services for his relatives and friends without giving her additional compensation; that after serving her employer for 7 1/2 months, she sought the help of the Philippine Embassy; that her employer terminated her employment due to her insistent demand for the payment of her claims; and that she was repatriated at her own expense. On May 14, 1992, she testified that the wife of her employer always beat her and that her employer gave her US \$450.00 representing her salaries for three (3) months. In her position paper, she reiterated the sufferings she allegedly underwent in the course of her employment and alleged, further, that the efforts of the Philippine Embassy to mediate and/or to

settle her claims failed; that her services were abruptly terminated by her employer; and she was forced to depart at her own expense (arriving in the Philippines with only whatever clothing she had on)." (pp.2-4, NLRC decision dated November 22, 1994)

Empire Insurance Company, now the petitioner, theorized that the complainant, Monera Andal, was without any cause of action against it for the alleged reason that the liability of its principal and co-respondent had not been established. It further argued that its liability, if any, for the money claims sued upon was merely subsidiary.

In its answer to the complaint, respondent G & M (Phil.), Inc., stated that it had no knowledge of complainant's unpaid and underpaid salaries, her working conditions and of the proceedings at the Philippine Embassy. It denied the charge of illegal dismissal, reasoning out that the complainant abandoned her job. In its position paper, it contended that the complainant's money claims in dispute are not meritorious as the same are not supported by substantial evidence. It also capitalized on what it branded as the inconsistencies in the complainant's pleadings with her admission that the Philippine Embassy mediated her claims, which development could have meant that subject claims had been settled.

On July 13, 1993, POEA Administrator Felicisimo O. Josen decided the claims in question; disposing, as follows:

"WHEREFORE, in the light of the foregoing premises, respondents are hereby ordered to pay complainant the following:

1. US \$200.00 or its peso equivalent representing complainant's salary differentials for four (4) months for the period May 17, 1991 to September 17, 1991 computed at US \$50.00 a month;
2. US \$3,300.00 or its peso equivalent representing the payment of salaries for 16.5 months as the unexpired portion of the contract.

SO ORDERED."

From the aforesaid decision adverse to it, petitioner Empire Insurance Company appealed to the National Labor Relations Commission; posing as issues, that:

1. Complainant (Monera Andal) had no cause of action against petitioner because the liability of petitioner's principal and co-respondent (G&M) had not been established.
2. Petitioner's liability, if any, was merely subsidiary.

On November 22, 1994, the NLRC came out with a judgment of affirmance, upholding the POEA, and holding, thus:

"The argument that respondent Empire Insurance Company is only subsidiarily liable for the judgment award is unmeritorious. It is settled that a surety is considered in law as being the same party as the debtor in relation to whatever is adjudged touching the obligation of the latter, and their liabilities are interwoven as to be inseparable...

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.”

Undaunted by the denial of its motion for reconsideration, petitioner found its way to this court via the present petition, raising the pivotal issue of whether or not respondent NLRC erred in adjudging it (petitioner) jointly liable with its principal, G & M Phils., Inc., for the payment of private respondent’s monetary claims.

Petitioner faults respondent NLRC for holding that G & M Phils., Inc. failed to comply with the rules and regulations of the Department of Labor and Employment. It is petitioner’s submission that there is no basis for holding it liable as surety under the premises.

Although it concedes that the burden of proof in cases of illegal dismissal rests on the employer, petitioner argues that when private respondent Monera Andal asked the Philippine Embassy in Riyadh, Saudi Arabia to mediate her claims with her employer, such a move on the part of private respondent shifted the *onus probandi* to her to substantiate her claim.

Private respondent’s Comment sought the dismissal of the petition for being a wrong mode of appeal from the NLRC decision. It is private respondent’s stance that appeal from decisions of the National Labor Relations Commission to the Supreme Court is by a special civil action for *certiorari* under Rule 65 of the Revised Rules of Court. Not a petition for review under Rule 45.

The Solicitor General, as counsel for respondent NLRC, joined private respondent in stressing on such procedural defect. Furthermore, the Solicitor General pointed out that the errors assigned by petitioner deal primarily with factual findings and, as such, are unavailing under the well-entrenched rule that findings of fact by administrative agencies and quasi-judicial bodies are generally accorded not only respect but finality, and are not to be disturbed on appeal.

We find for respondents.

Before delving into the merits of the petition, the procedural objection of respondents should first be resolved. Private respondent and the Solicitor General have correctly pointed out the elementary rule of procedure with regard to review of decisions rendered by the National Labor Relations Commission. The only way a labor case may reach the Supreme Court is through a petition for *certiorari* under Rule 65 of the Revised Rules of Court.^[1] A petition for *certiorari* which is a special civil action under Rule 65 should be distinguished from a petition for review on *certiorari* which is a mode of appeal under Rule 45. Under Rule 65, only questions of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction may be entertained by the reviewing court. Therefore, only decisions of the National Labor Relations Commission tainted with grave abuse of discretion or jurisdictional errors may be elevated to this court.

Findings and/or conclusions of fact cannot be assailed in a petition for *certiorari*.^[2] The inquiry in such a petition is limited exclusively to the issue of whether or not the respondent official acted without or in excess of jurisdiction. Consequently, petitioner cannot assail the finding arrived at by public respondent NLRC that the employer involved violated pertinent POEA rules and regulations.

However, while an appeal to the Supreme Court from decisions of the National Labor Relations Commission should be pursued as a special civil action for *certiorari*, in a