

SECOND DIVISION

[G.R. No. 97945, October 08, 1998]

PRIME MARINE SERVICES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION, R & R MANAGEMENT SERVICES INTERNATIONAL, AND NAPOLEON CANUT, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a petition for certiorari to set aside the decision, dated February 21, 1991, of the National Labor Relations Commission, dismissing the appeal of petitioner Prime Marine Services, Inc. from the decision of the Philippine Overseas Employment Administration in POEA Case No. (L) 88-10-850, as well as the resolution, dated March 26, 1991, of the NLRC, denying reconsideration.

Private respondent Napoleon Canut was recruited to work as a Tug Master for Arabian Gulf Mechanical Services and Contracting Co., Ltd. (Arabian Gulf) by R & R Management Services International (R & R Management) for a period of 18 months, commencing June 15, 1988. Private respondent's employment was, however, preterminated allegedly on the ground that he was incompetent. He was repatriated to the Philippines on September 26, 1988.^[1]

When private respondent reviewed his employment papers, he discovered that while R & R Management had acted as recruitment agency in processing his application, it was actually petitioner Prime Marine Services, Inc., as deployment agent, which had processed his papers and facilitated his going abroad. Further investigation showed that R & R Management was not licensed to recruit workers for overseas employment. Accordingly, private respondent filed a complaint before the Philippine Overseas Employment Agency for illegal dismissal, underpayment of salaries, and recruitment violations against petitioner, R & R Management, and Arabian Gulf.^[2]

Petitioner denied that there was any employer-employee relationship between it and private respondent. It pointed out that private respondent admitted he had applied with and paid his placement fee to R & R Management. Petitioner likewise denied that it had any part in the processing of private respondent's papers and argued that only Arabian Gulf and R & R Management should be held liable to private respondent. For this reason, petitioner filed a cross-claim against R & R Management seeking reimbursement for any amount which petitioner may be held liable for to private respondent.^[3]

R & R Management, on the other hand, averred that it referred private respondent to petitioner in order for the latter to facilitate private respondent's employment abroad and consequently worked in conjunction with petitioner in processing private respondent's deployment.^[4]

On October 13, 1989, Deputy Administrator Cresencio M. Siddayao of the POEA rendered a decision disposing of the case as follows:

WHEREFORE, in view of the foregoing, Prime Marine Services, Inc., R & R Management Services, Int'l and Arabian Gulf Mechanical Services and Contracting Co. Ltd., are hereby ordered, jointly and severally, to pay complainant the following in Philippines Currency at the prevailing rate of exchange at the time of payment:

SR 33,750.00 - representing salaries for the unexpired portion of the contract for 15 months at SR 2,250.00 a month;

350.00 - representing salary differential;

5% percent Attorney's fees of the award.

Furthermore, R & R Management Services International is referred to the Anti-illegal Recruitment Branch of this Office for appropriate action.

Finally, the cross claim of Prime Marine Services, Inc. against R & R Management Services International is dismissed for lack of merit.

SO ORDERED.

Petitioner filed a motion for reconsideration with the National Labor Relations Commission which the latter treated as an appeal. In its decision, dated February 21, 1991, the NLRC affirmed *in toto* the POEA's decision. On March 26, 1991, it denied petitioner's motion for reconsideration. Hence, this petition containing the following assignment of errors:

I. Public respondent NLRC and/or POEA committed grave abuse of discretion when they ignored existing jurisprudence.

II. Dismissal of the cross-claim (against private respondent R & R Management) constitutes also grave abuse of discretion.

As to its first assignment of error, petitioner contends that the ruling of the NLRC goes against this Court's decision in *Ilas v. NLRC*.^[5]

The contention has no merit. The case of *Ilas* simply held that a recruitment agency cannot be found liable for unpaid wages and other claims of overseas workers who have been recruited by its agent without its knowledge and consent. The Court's ruling denying liability against the recruitment agency (All Seasons Manpower International Services) was based on the following factual findings of the POEA and the NLRC, which the Court affirmed:

All evidence indicate that private respondent [All Seasons Manpower International Services] cannot be held liable for the claims of petitioners.

Firstly, petitioners applied for overseas deployment with CBT/Shiek International through spouses Francisco and Corazon Ngoho, Eddie Sumaway and Erlinda Espeno. They never transacted their business with