Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

FIL-EXPAT PLACEMENT AGENCY, INC.,	**G.R. No. 250439**
Petitioner,	Present:
- versus -	PERALTA, *C.J.*, *Chairperson*, CAGUIOA, LAZARO-JAVIER, LOPEZ, and GAERLAN,* *JJ.*
MARIA ANTONIETTE CUDAL LEE,	
Respondent.	Promulgated: SEP 22 2020

x----------x

R E S O L U T I O N

LOPEZ, *J.*:

Whether substantial evidence exists to establish contract substitution and constructive dismissal is the main issue in this Petition for Review on *Certiorari*[1] under Rule 45 of Rules of Court assailing the Court of Appeals' (CA) Decision[2] dated May 27, 2019 in CA-G.R. SP No. 157997.

ANTECEDENTS

Maria Antoniette Cudal Lee (Maria Antoniette) filed against Fil-Expat Placement Agency, Inc. (Fil-Expat) and Thanaya Al-Yaqoot Medical Specialist (Thanaya Al-Yaqoot) a complaint for constructive dismissal contract substitution and breach of contract and damages before the labor arbiter (LA). Allegedly, Fil-Expat hired Maria Antoniette as an orthodontist specialist in the Kingdom of Saudi Arabia on behalf of its foreign principal Thanaya Al-Yaqoot for a contract period of two years. In May 2016, Marie Antoniette's employer

---

* Designated additional Member per Special Order No. 2788 dated September 16, 2020.

1 *Rollo*, pp. 8-38.

2 *Id.* at 42-55; penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol.

asked her to sign a document written in Arabic and wanted her to agree that only half of the stipulated salary would be declared to the Kingdom of Saudi Arabia (KSA) government for insurance purposes. Maria Antoniette was hesitant but eventually signed the document using a different signature. Thereafter, the employer repeatedly forced her to execute a new employment contract. Maria Antoniette refused but the employer subjected her to varied forms of harassment. She was given additional duties, and was threatened to deduct 10,000 Saudi Riyal from her salary. She was even told to move out of her accommodation. Worse, the employer attempted on making sexual advances on her, and showed no concern when she suffered a severe allergic reaction to latex surgical gloves. On June 24, 2016, Maria Antoniette was repatriated.[3]

In contrast, Fil-Expat claimed that Maria Antoniette was not maltreated. The Philippine Overseas Labor Office Local Hire together with Fil-Expat's representative visited Maria Antoniette in her workplace. They observed that Maria Antoniette has no swollen hands and bleeding blisters. There was also no evidence of additional duties or sexual abuse. In fact, Maria Antoniette did not complain of any physical harm or untoward incident with her employer, except for that her employer's representative shouted at her. Fil-Expat explained that it is normal for Arab people to talk in a loud voice. Moreover, there was no contract substitution. Fil-Expat admitted that Maria Antoniette was asked to sign a new employment contract. Yet, this was only due to Maria Antoniette's refusal to give a copy of her contract and diploma, which must be submitted to the KSA Ministry of Health. Also, Maria Antoniette was not threatened with salary deduction but merely explained to her that the employer will be fined for that amount should it fail to submit a copy of the contracts to the government.[4] Fil-Expat argued that Maria Antoniette's case could hardly be construed as one of constructive dismissal as it was her own decision to discontinue her contract. Lastly, Maria Antoniette's employer even requested her to stay for two more months until her replacement arrives.[5]

On April 13, 2018, the LA held that Fil-Expat and Thanaya Al-Yaqoot are guilty of breach of contract and constructive dismissal,[6] thus:

> **WHEREFORE**, premises considered, respondents are found guilty of breach of contract and constructive dismissal. Accordingly, respondents, except Mark Amielle De Ocampo, are hereby ordered to jointly and severally pay complainant the following:
>
> (a) salary equivalent to [the] unexpired portion of her contract from June 23, 2016 to December 3, 2017 at its peso equivalent at the time of payment;

---

3 *Id.* at 108-156; Position Paper dated July 11, 2017 and Affidavit dated July 11, 2017.
4 *Id.* at 157-164; Reply (to the Complainant's Position Paper) dated August 11, 2017.
5 *Id.* at 72-75.
6 *Id.* at 235-258.

(b) unpaid salary of 14,666 SR at its peso equivalent at the time of payment;

(c) refund of placement fee in the amount of 3,637.75 SR[;]

(d) cost of transporting her personal belongings amounting to 3,560 SR at its peso equivalent at the time of payment;

(e) moral damages of P20,000.00;

(f) exemplary damages of P10,000.00;

(g) attorney's fees equivalent to 10% of the total award; and

(h) interest of 6% per annum reckoned from the finality of this Decision.

SO ORDERED.[7] (Emphases in the original.)

Dissatisfied, Fil-Expat and Thanaya Al-Yaqoot appealed to the National Labor Relations Commission (NLRC). On June 27, 2018, the NLRC reversed the arbiter's findings, and ruled that there was no breach of contract and constructive dismissal.[8] There was no contract substitution since there was no intention on the part of the foreign employer to prejudice Maria Antoniette in the execution of the new employment contract. There is also no constructive dismissal because there is no evidence that Maria Antoniette's continued employment was rendered impossible, unreasonable or unlikely, *viz.*:

> Explicitly, from the Report of the one who conducted an investigation regarding the circumstances surrounding the incident of contract substitution, it becomes very clear that THERE WAS NONE. Contract substitution if it had taken place is an illegal activity pursuant to R.A. 8042 as amended by R.A. 10022. Under No. 1) it is made illegal if there is an intention to prejudice the worker.
>
> **Where the purpose however, is to comply with a foreign law requirement both for the protection of the worker and the employer from Saudi Labor [I]nspection then there could be no violation.** Finally, since complainant furnished the investigator of a copy of her contract, there was no longer any need for complainant to accomplish another form for submission to Saudi authorities – Health and Labor.
>
> On the claim that there is constructive dismissal, there is no evidence that complainant's continued employment was rendered impossible, unreasonable or unlikely or that complainant was treated with discrimination, insensibility or disdain.[9] (Emphasis supplied.)

Aggrieved, Maria Antoniette elevated the case to the CA through a petition for *certiorari* docketed as CA-G.R. SP No. 157997. On May 27, 2019,

---

[7] *Id.* at 257-258.

[8] *Id.* at 335-351; Decision dated June 27, 2018; and pp. 364-365, Resolution dated August 15, 2018.

[9] *Id.* at 361.

the CA reinstated the Decision of the LA, and found substantial evidence that the foreign employer attempted to force Maria Antoniette into signing a new employment contract. It stressed that the attempt to commit contract substitution should be punished in order to avoid repetition. It also held that Maria Antoniette was compelled to seek repatriation because her employment became intolerable as she suffered verbal and psychological abuses after she refused to sign the new contract. Fil-Expat sought reconsideration but was denied.[10] Hence, this recourse.[11]

RULING

In labor cases, the CA is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. The CA can grant the prerogative writ of *certiorari* when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case.[12] To make this finding, the CA necessarily has to view the evidence to determine if the NLRC ruling had substantial basis.[13] Verily, the CA can examine the evidence of the parties since the factual findings of the NLRC and the LA are contradicting. Indeed, this Court has the same authority to sift through the factual findings of both the CA and the NLRC in the event of their conflict.[14] This Court is not precluded from reviewing the factual issues when there are conflicting findings by the CA, the NLRC, and the LA.[15]

Here, we find no error on the part of the CA in reversing the findings of the NLRC. The substitution or alteration of employment contracts is listed as a prohibited practice under Article 34(i) of the Labor Code.[16] Indeed, "***[t]o substitute or alter to the prejudice of the worker,*** *employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment*" – is considered an act of "illegal recruitment" under Section 6(i) of Republic Act No. 8042.[17]

---

[10] *Id.* at 58-59.

[11] *Id.* at 8-38.

[12] *Paredes v. Feed the Children Phils., Inc.*, 769 Phil. 418, 434 (2015), citing *Univac Development, Inc. v. Soriano*, 711 Phil. 516, 525 (2013)

[13] *Id.*, citing *Diamond Taxi v. Llamas, Jr.*, 729 Phil. 364, 376 (2014).

[14] *Id.* at 435, citing *Pepsi-Cola Products Philippines, Inc. v. Molon*, 704 Phil. 120, 133 (2013).

[15] *Id.*, citing *Plastimer Industrial Corporation v. Gopo*, 658 Phil. 627, 633 (2011).

[16] ART. 34. *Prohibited Practices.* — It shall be unlawful for any individual, entity, licensee, or holder of authority:

(i) To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the periods of expiration of the same without the approval of the Secretary of Labor[.]

[17] THE MIGRANT WORKERS AND OVERSEAS FILIPINO ACT OF 1995; approved on June 7, 1995, as amended by RA No. 10022; lapsed into law on March 8, 2010; *Princess Joy Placement & General Services, Inc. v. Binalla* (Resolution), 735 Phil. 270, 283 (2014).

Fil-Expat claimed that there was no contract substitution because Maria Antoniette did not sign any document. Hence, there is no second contract. Admittedly, the foreign employer attempted to make Maria Antoniette sign a new contract but it was not intended to prejudice her. The purpose was only to secure a signed contract as required by the KSA's Ministry of Health and to device a uniform contract for all the employees. On this postulate, the NLRC agreed with Fil-Expat and ruled that "*[w]here the purpose, however, is to comply with a foreign law requirement both for the protection of the worker and the employer from Saudi Labor Inspection then there could be no violation.*" Yet, this unsympathetic stance shows that the NLRC ignored a clear affront against an Overseas Filipino Worker (OFW) and it was only proper for the CA to step in and rectify this grave abuse of discretion.

The employer's claim that the new contract was for uniformity and was not intended to alter the terms of the original contract is implausible. It is illogical to require Maria Antoniette to sign a second contract if it would only restate the contents of the Philippine Overseas Employment Administration (POEA)-approved employment contract, which incidentally, already included an Arabic translation of the agreed terms and conditions between the employee and the foreign employer. As the CA aptly observed:

> Private respondents also argued that petitioner was asked to sign a new employment contract because she failed to furnish her foreign employer with a copy of the POEA-approved Standard Employment Contract. This is baffling to say the least. Petitioner started working at the Thanaya Al-Yaqoot Medical Specialist Clinic on December 8, 2015. It was on May 22, 2016 or five months after that she was asked by the foreign employer to sign a new employment contract. **It is quite unbelievable then that petitioner was allowed to work at the clinic without the foreign employer having a copy of the POEA-approved employment contract. Even assuming for the nonce that petitioner failed to provide her foreign employer with a copy of the POEA-approved contract, the latter could just easily request a copy of the same from private respondent Fil-Expat, petitioner's recruitment agency**.
>
> As regards private respondents' asseveration that the purpose of the new employment contract was to comply with the foreign labor law requirement, suffice it to state that **the records are bereft of any evidence to show the specific foreign law requiring another employment contract for overseas Filipino contract workers apart from the POEA-approved Standard Employment Contract which was designed primarily for the workers' protection and benefit.**[18] (Emphases supplied.)

Similarly, we reject Fil-Expat's contention that the mere attempt in contract substitution should not be considered illegal if the signing of the second contract was not consummated. In *PHILSA International Placement & Services Corp. v. Secretary of Labor & Employment*,[19] the recruitment agency was found guilty of two counts of prohibited contract substitution, even though

---

[18] *Rollo*, p. 53.
[19] 408 Phil. 270 (2001).

the workers refused the second attempt to compel them to sign another contract. In that case, the Court quoted with approval the POEA's findings that the OFW's refusal to sign does not absolve the agency from liability and the mere intention to commit contract substitution should not be left unpunished.

Anent the issue of constructive dismissal, we reiterate that the law recognizes situations wherein the employee must leave his or her work to protect one's rights from the coercive acts of the employer. The employee is considered to have been illegally terminated because he or she is forced to relinquish the job due to the employer's unfair or unreasonable treatment. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances.[20] In this case, we find that Maria Antoniette was constructively dismissed. Despite the seeming benevolence of the foreign employer in providing housing accommodation and other benefits to its medical employees, the evidence shows that Maria Antoniette was singled out and verbally intimidated after she refused to sign the second employment contract.

Fil-Expat tried to simply brush aside Maria Antoniette's complaint saying that she was being overly sensitive given that Arab people are known for their loud voices. This is absurd if not downright insulting. Surely, OFWs, especially the medical professionals working abroad, could discern a loud voice from abusive language. As the CA succinctly held:

> Further aggravating the foreign employer's intent to commit contract substitution, **petitioner was made to suffer verbal and psychological abuse and threat from her employers on account of her refusal to sign the new employment contract.** As narrated in detail by petitioner, **she was threatened by her employer Dr. Mohammad Al-Qarni that "she will see hell" if she will inform the Philippine embassy about the situation she is in. She was also threatened that her salary will be reduced as penalty for her refusal to sign the new contract. Petitioner was also constantly harassed and pressured into signing the new employment contract even in the middle of work. She was humiliated in front of her co-workers and her employer's relatives and friends. Her foreign employer also showed no concern when she reported that she is suffering from severe allergic reaction to latex surgical gloves causing her hands to swell and have blisters.** Such oppressive working condition had even impelled petitioner to seek assistance from the Philippine Embassy and Consulate Officials in Saudi Arabia, as well as from the media, regarding her situation.[21] (Emphasis supplied.)

Taken together, these circumstances were sufficient indications of the foreign employer's bad faith, hostility, and disdain toward Maria Antoniette. While there was no formal termination of her services, Maria Antoniette's continued employment was rendered unlikely and unbearable amounting to constructive dismissal. She was left without any option except to quit from her

---

[20] *Gilles v. CA*, 606 Phil. 286, 306 (2009); *Madrigalejos v. Geminilou Trucking Service*, 595 Phil. 1153, 1157 (2008).

[21] *Rollo*, p. 53.

job.

FOR THESE REASONS, the petition is **DENIED**. The Court of Appeals Decision dated May 27, 2019 in CA-G.R. SP No. 157997 is **AFFIRMED**.

SO ORDERED.

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice