



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 13, 2023 which reads as follows:

“G.R. No. 263167 (*ASH Manpower International Services, Ramon B. Macaraig, and Juvy Bermasol v. Marites A. Elles*). – After a review of the records, the Court resolves to **DENY** the instant Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court. First, the Petition is procedurally infirm for failing to comply with A.M. Nos. 10-3-7-SC and 11-9-4-SC. Second, it failed to sufficiently show that the Court of Appeals (CA) committed any reversible error in its Decision² dated 26 August 2022 in CA-G.R. SP No. 171883, annulling and setting aside the Decision³ dated 30 September 2021 and the Resolution⁴ dated 29 November 2021 of the National Labor Relations Commission (NLRC), as to warrant the exercise of the Court’s appellate jurisdiction.

Paragraph (i)⁵ of Article 34 of the Labor Code of the Philippines, as amended and renumbered, prohibits the substitution or alteration of employment contracts approved and verified by the Department of Labor and Employment (DOLE) from the time of the 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. Furthermore, Republic Act No. (RA) 8042 or the “Migrant Workers and Overseas Filipinos Act of 1995,” as

¹ *Rollo*, pp. 3-18.

² *Id.* at 22-41; penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Rafael Antonio M. Santos and Lorenza R. Bordios

³ *Id.* at 90-97; penned by Commissioner Mercedes R. Posada-Lacap and concurred in by Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Dolores M. Peralta-Beley.

⁴ *Id.* at 105-107; penned by Commissioner Mercedes R. Posada-Lacap and concurred in by Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Dolores M. Peralta-Beley.

⁵ ARTICLE 34. Prohibited Practices. — It shall be unlawful for any individual, entity, licensee, or holder of authority:

x x x x

(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;

amended by RA 10022,⁶ explicitly prohibits the substitution or alteration, to the prejudice of the worker, of employment contracts already approved and verified by the DOLE 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 DOLE.⁷

The CA correctly found that petitioners ASH Manpower International Services and Ramon B. Macaraig were negligent, as they failed to perform their duties as a licensed placement agency. They ignored their obligations under RA 8042, as amended by RA 10022, and under the overseas employment contract, *i.e.*, to ensure respondent Marites A. Elles' safe, legal, and full-term employment with a specific employer. Said petitioners undeniably breached the provisions on term of employment, the assignment to a specific foreign employer, adequate salaries, safety of the overseas Filipino worker, repatriation, and non-alteration of the provision of the original overseas employment contract.⁸

The employment contract specifically stated that respondent should receive the amount of BD 150.00 as her monthly salary. However, for 29 months she received the amount of BD 110.00 only. Worse, she did not receive her salary for six months. Thus, respondent is entitled to receive BD 1,160.00 for her underpaid services and BD 900.00 for her unpaid services, or a total of BD 2,060.00.

Respondent was correctly adjudged to be entitled to moral and exemplary damages as well as attorney's fees. Pursuant to prevailing jurisprudence, however, legal interest at the rate of six percent (6%) per *annum* should be imposed upon the total monetary awards granted in favor of respondent from the finality of this Resolution until full payment.⁹

WHEREFORE, the Petition is **DENIED**. The Decision dated 26 August 2022 of the Court of Appeals in CA-G.R. SP No. 171883 is **AFFIRMED** with **MODIFICATION**. Petitioners ASH Manpower International Services and Ramon B. Macaraig are ordered to indemnify, jointly and severally, respondent Marites A. Elles the following amounts:

- a) BD 2,060.00 or its Philippine Peso equivalent at the time of payment representing her unpaid salary of BD 150.00 for six months and the underpaid amount of BD 40.00 for 29 months;
- b) Moral damages in the amount of ₱100,000.00;
- c) Exemplary damages in the amount of ₱100,000.00;

⁶ An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipino Act of 1995. Approved: 07 June 1975.

⁷ *Prime Stars International Promotion Corp. v. Baybayan*, G.R. No. 213961, 22 January 2020.

⁸ *Rollo*, pp. 32-33, 37.

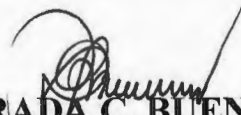
⁹ *Naçar v. Gallery Frames*, 716 Phil. 267, 281-283 (2013).

d) Attorney's fees equal to ten percent (10%) of the total monetary award, payable to the Public Attorney's Office; and

Legal interest at the rate of six percent (6%) per *annum* imposed upon the total monetary awards granted in favor of respondent from the finality of this Resolution until full payment.

SO ORDERED." *Rosario, J., on official leave.*

By authority of the Court:



LIBRADA C. BUENA
Division Clerk of Court *pk*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

254-A
MAR 16 2023

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(NLRC LAC No. 05-000204-21 [OFW])
NLRC NCR Case No. 11-00925-19-L)

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