SUPREME COURT
SECOND DIVISION

PHIL. EMPLOY SERVICES and RESOURCES, INC.,
***Petitioner*,**

-versus-

G.R. No. 144786
April 15, 2004

JOSEPH PARAMIO, RONALD NAVARRA, ROMEL SARMIENTO, RECTO GUILLERMO, FERDINAND BAUTISTA and APOLINARIO CURAMENG, JR.,
***Respondents*.**
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D E C I S I O N

CALLEJO, SR., *J.*:

This is a Petition for Review of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 54744 and its Resolution denying the petitioner's motion for reconsideration therefrom.

As culled from the records, the antecedents are as follows:

On different dates from April 1996 to October 1996, respondents Joseph Paramio, Ronald Navarra, Romel Sarmiento, Recto

Guillermo, Ferdinand Bautista and Apolinario Curameng, Jr. applied for employment in Taiwan[2] with petitioner, Phil. Employ Services and Resources, Inc. (PSRI for brevity), a domestic corporation engaged in the recruitment and deployment of Filipino Workers Overseas.[3] Their applications were processed along with the requisite papers and documents in support thereof, and they paid P19,000 each as placement fee.[4] Thereafter, they executed in the Philippines separate one-year contracts of employment with their employer in Taiwan, Kuan Yuan Fiber Co., Ltd. Hsei-Chang. The respondents were deployed in Taiwan as operators on different dates[5] and each of them had a monthly salary of NT$15,360 (New Taiwan Dollars), with free food and accommodation.[6]

After the orientation given by their employer, the respondents were told that their schedule of work was up to 9:00 p.m.,[7] except for respondent Navarra who was made to work up to 12:00 midnight.[8] The respondents were downhearted when they discovered that, upon their arrival in their quarters, they had no beddings, pillows and blankets.[9] They encountered worse problems in the course of their employment, viz.:

a). Irregular and deliberate charging of deductions which were not fully accounted such as the blankets issued, charging of penalties amounting to 400 NT to all employees for a littering violation attributable only to one employee;

b). Mandatory imposition of overtime work exceeding 10 hours without just overtime compensation and night shift differentials;

c). Failure to comply with some stipulations stated in the Employment Contract particularly those relating to the accommodation and lodging of the contracted workers;

d). Lack of observance of safety precautions at work area.[10]

The respondents brought their problems to the attention of the management. In March of 1997, Fabian Chua, local manager of the petitioner PSRI, made a surprise visit to Kuan Yuan in Taiwan and was apprised of the said complaints. However, instead of solving the problems, Chua cautioned the respondents not to air their complaints

and to simply forget about whatever plans they had in mind.[11] Disappointed, the respondents, along with their co-workers, contacted the Overseas Workers Welfare Administration (OWWA) in Taiwan and sought the latter's assistance, only to be frustrated when their requests were not favorably acted upon.[12]

Sometime in April of 1997, through the intercession of Chih-Hung, the manager of the new broker Chen Dard Manpower Co. Ltd., Long Island International Trade Co., Ltd, the overtime rate of the respondents was increased from 55NT$ to 85NT$. The respondents discovered, however, that work in the factory increased because of the increased volume of orders.[13] Moreover, their working conditions did not improve.

On May 10, 1997, respondent Navarra and another employee, Pio Gabito, were summoned by the management and told that they were to be repatriated, without specifying the ground or cause therefor. They pleaded that they be informed of the cause or causes for their repatriation, but their requests were rejected.[14] Worse, the manager of their employer summoned the police, who arrived and escorted them to the airport. They were even given time to pack all their personal belongings.

Upon respondent Navarra's arrival in Manila, the petitioner sought to settle his complaints.[15] After the negotiations, the petitioner agreed to pay P49,000 to the said respondent but, in consideration thereof, the latter executed a quitclaim releasing the petitioner from any or all liabilities for his repatriation.[16]

Meanwhile, when the other respondents learned that Navarra and Gabito were repatriated, they were disheartened at their fate. The respondents also decided to go home, but their employer and their broker told them[17] that they would be repatriated two days later, or on May 12, 1997. They were ready to leave on the aforesaid date, but were informed that they would have to pay their employer NT$30,000; otherwise, they would not be allowed to go home. As they were unable to pay the NT$30,000, the respondents failed to return to the Philippines.[18]

The management and broker gave the respondents two (2) options: (a) imprisonment for their refusal to pay NT$30,000.00; or (b) sign separate agreements with their employer. The respondents had no other recourse but to sign agreements[19] authorizing their employer to (a) deduct the amount of NT$30,000 from their salaries; (b) remit their salaries to the Philippines; and, (c) deduct NT$10,000 from their salaries as "bond."[20] However, the respondents were still not repatriated. The next day, or on May 13, 1997, their employer issued a regulation that overtime of ten hours or more would be implemented.[21] Thus, the conditions in the respondents' workplace worsened.

On May 14, 1997, respondent Paramio got ill as a result of the employer's failure to give breakfast on the said date and dinner the night before.[22] His manager still ordered him to work. When he pleaded that he be allowed to take some rest, the manager refused. Respondent Paramio was, instead, made to carry a container weighing around 30 kilograms. Due to his condition, the container slipped from his hands and he injured his thumb. He was brought to the hospital where he was operated on and treated for his wound.[23] Instead of giving him financial assistance for his hospital bills, his employer told him a week after his release from the hospital that it would be better for him to go home to the Philippines to recuperate. An official from the Taiwanese Labor Department intervened for respondent Paramio and his employer was told that it had no right to repatriate the respondent because the accident which caused the injury happened while the latter was at work.[24]

Although his wound had not yet healed, respondent Paramio was made to report for work. After eight hours of working, his broker advised him that as per the doctor's orders, he was still on sick leave from May 14 to June 30, 1997. Hence, he could not yet be compelled to work. The respondent then stayed in his quarters to recuperate.

On June 5, 1997, respondent Paramio received his paycheck, but was flabbergasted when he discovered that his employer had deducted NT$4,300 from his salary, representing his plane ticket back to the Philippines. Furthermore, his sick leave from May 14 to June 5 were not included in his check.[25] Still, he was not repatriated. On July 1, 1997, he reported back to work, only to be assigned to do the second

hardest job in the company, carrying containers weighing about 30 kilograms in the dyeing department.[26] Although his thumb hurt, respondent Paramio had to endure the pain to earn more money.[27]

After a week, respondent Paramio was transferred to the Lupo Department, the hardest job in the factory, where he was made to carry about 200 meters of maong cloth. He then set it and carried the same to the dyeing department. When he could no longer bear the pain in his thumb, he took a break. When the manager saw him resting, he was ordered to return to work. Respondent Paramio refused and contended that he could not resume work because of his thumb injury. Incensed, the manager told him that he had to stop working and would just have to wait for his plane ticket for his repatriation. The respondent did as he was told.

The next day, Fabian Chua, the local representative of the petitioner PSRI, arrived and asked the respondent why he did not report for work. Respondent Paramio explained that his thumb injury made it impossible for him to perform his assigned tasks. On September 23, 1997, he was given his paycheck and a plane ticket to the Philippines. He was told that the amount of NT$3,700 was deducted from his paycheck because he neglected his duty. At around eight o'clock that evening, respondent Paramio was repatriated to the Philippines.[28]

Meanwhile, PSRI representative Fabian Chua renewed his warning to the remaining respondents/employees not to complain about the working conditions. But respondents Sarmiento, Guillermo, Bautista and Curameng, Jr. could no longer bear the worsening working conditions. In October 1997, they decided to go home. Their employer agreed to have them repatriated and to return their respective bonds, but required them to write letters of resignation. Respondents Sarmiento and Bautista did as they were told and wrote the said letters.[29] Respondent Curameng, Jr., for his part, signed a mimeographed form where he agreed to return to the Philippines.[30] On October 10, 1997, the said respondents were repatriated, but were required to pay for their own plane tickets.[31]

On October 22, 1997, respondents Sarmiento, Guillermo, Curameng, Jr. and Bautista, together with respondents Paramio and Navarra, filed separate complaints before the NLRC Arbitration Branch against

Bayani Fontanilla for illegal dismissal, non-payment of overtime pay, refund of placement fee, tax refund, refund of plane fares, attorney's fees and litigation expenses. The cases were docketed as NLRC-OFW Cases No. (L) 97-10-4332 to 97-10-4335.[32]

In their position paper, the respondents raised the issue of whether or not the petitioner PSRI and Bayani Fontanilla were liable for the reimbursement of their respective placement fees, nightshift differentials, overtime pay and damages, and their salaries for the unexpired portion of their respective contracts.[33]

The respondents argued that under Section 10, Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, PSRI was solidarily liable with Kuan Yuan for their claims. Since they were repatriated prior to the expiration of their respective contracts for no valid reason, PSRI was liable to pay their salaries for the unexpired portion of their contracts.

The petitioner denied any liability on the respondents' claims and asserted that the latter were validly dismissed. It averred that respondent Paramio was dismissed pursuant to Nos. 5 and 6, Article VIII of his employment contract. According to the petitioner, the said clauses allow the termination of a contract of employment prior to its expiration when the employee is (a) suffering from HIV positive antibody or other diseases; (b) heavily wounded or has stool parasite and cannot be cured within one month; or (c) found to have lost the ability to work. It averred that since complainant Paramio could no longer do his job because of his thumb injury, the termination of his contract was valid, and his dismissal proper.[34]

Anent respondent Navarra's claim, the petitioner PSRI ratiocinated that the termination of his services was for a valid cause because of an altercation he had with his supervisor. The petitioner further averred that respondent Navarra had demanded that he be paid the amount of P50,000 and after some negotiation, agreed to receive P49,000. Respondent Navarra received the said amount and executed on May 23, 1997, a deed of release and quitclaim in favor of the petitioner.[35]

As for the claims of the other respondents, the petitioner alleged that the respondents Guillermo, Bautista and Curameng, Jr. voluntarily

resigned, as evidenced by their respective letters and agreement with the petitioner.[36] Moreover, the termination of their employment was legal, and their repatriation based on valid grounds. The petitioner contended that the respondents were not entitled to a refund of their plane fare.[37]

With respect to the claims for tax refund for amounts withheld by their employer, the petitioner averred that the respondents were not entitled thereto, as the law of Taiwan mandated such withholding of taxes. If, indeed, the respondents were entitled to a refund of the said taxes, the same should be coursed through the Bureau of Internal Revenue, the appropriate governmental agency.[38]

On October 29, 1998, Labor Arbiter Felipe P. Pati rendered a decision declaring that the dismissal of the respondents was illegal. The dispositive portion states, thus:

> WHEREFORE, judgment is hereby rendered declaring complainants' dismissal to be illegal and respondents are ordered to pay to complainants as follows:
>
> 1. Ronald Navarra – NT$46,080 or its peso equivalent; P75,000.00 refund of placement fee; and P4,300 refund of plane fare less P49,000.
>
> 2. Recto Guillermo – NT$15,360 or its peso equivalent; P75,000.00 refund of placement fee; and P4,300 refund of air fare.
>
> 3. Joseph Paramio – NT$46,080 or its peso equivalent; P75,000.00 refund of placement fee; and P4,300 refund air fare.
>
> 4. Apolinario Curameng, Jr. – NT$23,040 or its peso equivalent; P75,000 refund of placement fee and P4,300 refund of air fare.
>
> 5. Ferdinand Bautista – NT$46,080 or its peso equivalent; P75,000.00 refund of placement fee; and P4,300 refund of air fare; and

6. Romel Sarmiento – NT$ or its peso equivalent P75,000.00 refund of placement fee; and P4,300 refund of air fare.

The claim for tax refund is dismissed for not having been substantiated.[39]

In declaring respondent Navarra's dismissal illegal, the labor arbiter held that the petitioner failed to substantiate its claim that the said respondent had an altercation with his supervisor. As such, respondent Navarra was entitled to the payment of the salaries due him for the unexpired portion of his contract, subject to the deduction of the amount already advanced to him under the deed of release and quitclaim he had executed in favor of the petitioner.[40]

The labor arbiter likewise ruled that the dismissal of complainant Paramio was illegal. Considering that he had a thumb injury, his employer should have given him a lighter job instead of repatriating him. The dismissal of the remaining complainants was also adjudged illegal. According to the labor arbiter, the petitioner's defense that its employees (respondents) voluntarily resigned deserved scant consideration.

Considering that the dismissal of the respondents was illegal, the labor arbiter awarded the salaries due them for the unexpired portion of their contracts, as well as the refund of their plane fare. Recognizing that the usual placement fee of workers for deployment in Taiwan was approximately P100,000, more or less, the labor arbiter granted each of them a refund of their placement fee in the amount of P75,000.[41]

Aggrieved, the petitioner appealed before the National Labor Relations Commission (NLRC), docketed as NLRC NCR CA 017927-99. It raised the following grounds:

> GRAVE ABUSE OF DISCRETION, AND SERIOUS ERROR IN THE FINDING OF FACTS WHICH IF NOT CORRECTED WOULD CAUSE GRAVE AND IRREPARABLE DAMAGE TO THE RESPONDENT[42]

The petitioner insisted that the dismissal of the complainants was anchored on valid and legal grounds; as such, the labor arbiter erred in ruling for the respondents and awarding a refund of their airfares, placement fees and payment of salaries for the unexpired portion of their respective contracts of employment.

On March 29, 1999, the NLRC issued a resolution[43] finding that the respondents were legally dismissed and set aside the decision of the labor arbiter. The decretal portion of the decision reads as follows:

> WHEREFORE, premises considered, the Decision appealed from is hereby SET ASIDE and the instant case dismissed for lack of merit.[44]

In reversing the decision of the labor arbiter, the NLRC made the following findings: (a) respondent Navarra did not refute the allegation of the petitioner that he had an altercation with his supervisor; (b) respondent Navarra's execution of a deed of release and quitclaim released the petitioner from any or all liability on account of his repatriation; (c) the repatriation of complainant Paramio was sanctioned by Article VIII, paragraphs 5 and 6 of his employment contract; and, (d) the written documents executed by the remaining respondents showed that they voluntarily resigned from their employment.

Dissatisfied, the respondents filed a motion for reconsideration[45] of the resolution, but the NLRC denied the motion in a Resolution dated May 17, 1999.[46]

The respondents filed a petition for certiorari under Rule 65 of the Rules of Court against the petitioner before the Court of Appeals, docketed as CA-G.R. SP No. 54744. The respondents (petitioners therein) raised the following issues:

1. WHETHER OR NOT THE PETITIONERS WERE ILLEGALLY DISMISSED WHEN THEY WERE REPATRIATED TO THE PHIL. BY THEIR TAIWAN EMPLOYER.

2. WHETHER OR NOT THE THUMB INJURY SUFFERED BY JOSEPH PARAMIO WHILE AT WORK [SHOULD] BE CONSIDERED A LEGAL GROUND FOR HIS REPATRIATION.

3. WHETHER OR NOT RONALD NAVARRA'S REPATRIATION AND EXECUTION OF QUITCLAIM AND RECEIPT OF P49,000 BE SUFFICIENT GROUND TO CONCLUDE HIS WAIVER OF RIGHT AGAINST ILLEGAL DISMISSAL.

4. WHETHER OR NOT PETITIONERS ARE ENTITLED TO THEIR MONEY CLAIMS.[47]

The petitioners prayed, thus:

> WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that this Petition be given due course and after its due consideration, REVERSE and SET ASIDE the Resolution of the public respondent National Labor Relations Commission dated March 29, 1999 and May 17, 1999 and a new one rendered REINSTATING the Decision of the Labor Arbiter Felipe P. Pati dated August 29, 1998 with modification for the reward of moral and exemplary damages.
>
> Petitioners further pray for such other reliefs and remedies deemed just and equitable in the premises.[48]

On May 29, 2000, the CA rendered a decision partly granting the petition in that it nullified the March 29 and May 17, 1999 Resolutions of the NLRC and reinstated the decision of the labor arbiter with modification. The decretal portion of the decision reads:

> WHEREFORE, premises considered, the instant petition is partly granted insofar as the public respondent's Resolutions dated March 29, 1999 and May 17, 1999 are set aside and the labor arbiter's Decision dated August 29, 1998 is reinstated with modification on the award of refunds for placement fees. The petitioners' claims for moral and exemplary damages are denied for lack of merit.[49]

The CA held that respondents Curameng, Bautista, Sarmiento and Guillermo were constructively dismissed, as the petitioner failed to substantiate its claim that the aforesaid petitioners voluntarily resigned from work.

The CA also ruled that the repatriation of respondent Paramio was in violation of his employment contract. It declared that paragraph 8.2, Nos. 5 and 6, Article VIII of the said contract applied only to illnesses already existing and discovered during employment. The "loss of ability to work" under the contract could not be used as a ground for respondent Paramio's termination because his thumb injury was work-related.

As to respondent Navarra, the CA ruled that his alleged confrontation with his supervisor did not amount to serious misconduct which would justify his dismissal. It stated that the deed of release executed by respondent Navarra barred him from instituting the said complaint. However, the CA agreed that the money he was able to collect from the petitioner by reason of the execution of a deed of release and quitclaim should be considered as an advance on the amount he was entitled to.

Considering that the dismissal of the respondents was illegal, the petitioner, as the local agent of Kuan Yuan, was declared solidarily liable with the latter for the payment of the respondents' salaries for the unexpired portion of their respective contracts and other awards, pursuant to Section 10, paragraph 2 of Rep. Act No. 8042.

The CA reduced the award of refund of placement fee to the respondents from P75,000 to P19,000, which was the amount substantiated by the petitioners.

The petitioner PSRI filed a motion for reconsideration but the appellate court denied the said motion.[50] Dissatisfied, the petitioner filed this instant petition against the respondents, alleging that:

I

THE FINDINGS OF FACTS BY THE COURT OF APPEALS ARE CONTRARY TO THE FINDINGS OF FACTS BY THE NATIONAL LABOR RELATIONS COMMISSION.

II

THE APPELLATE COURT DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISION OF THE SUPREME COURT[51]

The issues for resolution are the following: (a) whether or not the respondents were illegally dismissed; and (b) whether or not the deed of release and quitclaim executed by respondent Navarra was valid.

Ordinarily, factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdictions are generally accorded not only respect but even finality, and are binding upon this Court.[52] However, when the findings of the labor arbiter and the NLRC are inconsistent, there is a need to review the records to determine which of them should be preferred as more conformable to the evidentiary facts.[53] Considering that the CA's findings of fact clash with those of the NLRC, this Court is compelled to go over the records of the case, as well as the submissions of the parties.[54]

Anent the first issue, the petitioner insists that the dismissal of the respondents was based on valid and legal grounds. Consequently, the award of salaries for the unexpired portion of their respective contracts, and the refund of placement fee and airfare was barren of factual and legal basis.

We rule that the respondents' dismissal was not based on just, valid and legal grounds.

Preliminarily, it bears stressing that the respondents who filed complaints for illegal dismissal against the petitioner were overseas Filipino workers whose employment contracts were approved by the Philippine and Overseas Employment Administration (POEA) and were entered into and perfected here in the Philippines. As such, the rule lex loci contractus (the law of the place where the contract is

made) governs. Therefore, the Labor Code, its implementing rules and regulations, and other laws affecting labor, apply in this case.[55]

In order to effect a valid dismissal of an employee, the law requires that there be just and valid cause as provided in Article 282[56] and that the employee was afforded an opportunity to be heard and to defend himself.[57] Dismissal may also be based on any of the authorized causes provided for in Articles 283 and 284 of the Labor Code.[58]

The petitioner contends that the termination of respondent Paramio's employment was sanctioned by paragraph 8.2, Nos. 5 and 6, Article VIII of the employment contract. The aforesaid provisions are herein reproduced:

> 8.2 In the event the Employee is found offend (sic) one of the following prohibitions during his/her employment, Employer may terminate this Employment contract and repatriate him/her to his/her country of origin. Employee shall comply immediately without objection and assume the cost of round-trip transportation by air to and from R.O.C. unconditionally. In the event Employer or any other person pay the airfare for the Employee, Employee shall reimburse the fare to the person who paid it.
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> x x x
>
> (5) During the period of employment, being found out suffering HIV positive anti-body or other disease, heavily wounded or stool parasite, which cannot be cured within one month.
>
> (6) Being found losing ability to work.

The foregoing provision is akin to Article 284 of the Labor Code, which provides:

> Art. 284. Disease as a ground for termination – An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued

employment is prohibited by law or prejudicial to his health as well as the health of his co-employees:

> Furthermore, Section 8, Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code provides, thus:
>
> > Sec. 8. Disease as a ground for dismissal - Where the employee suffers from a disease and his continued employment is prohibited by law or prejudicial to his health or to the health of his co-employees, the employer shall not terminate his employment unless there is a certification by competent public authority that the disease is of such nature or at such a stage that it cannot be cured within a period of six (6) months with proper medical treatment. If the disease or ailment can be cured within the period, the employer shall not terminate the employee but shall ask the employee to take a leave. The employer shall reinstate such employee to his former position immediately upon the restoration of his normal health.

Applying the law and the rule, the employer is burdened to prove that the employee was suffering from a disease which prevented his continued employment, or that the employee's wound prevented his continued employment. Section 8, Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code requires a certification from competent public authority[59] that the employee was heavily wounded and had lost the ability to work.

In the case at bar, the petitioner did not adduce in evidence a certification from a public authority to the effect that respondent Paramio had been heavily wounded. It also failed to show that by reason of his thumb injury, he lost the ability to work. Respondent Paramio was not, for a time, able to perform the backbreaking tasks required by his manager. However, despite his injury, he managed to perform the other tasks assigned to him, including carrying of 30-kilogram containers with the exception of the work in the Lupo Department.[60] The fact that respondent Paramio was assigned to perform the second hardest and heaviest task in the company shows

the heartlessness of the company's manager. Despite his wound, the respondent tried to accomplish the work assigned to him. The least the manager should have done was to assign the respondent to a lighter task, until such time that the latter's wound had completely healed. It must be stressed where there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal.[61] Consequently, respondent Paramio is entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract for three months for every year of the unexpired term, whichever is less under paragraph 5, Section 10 of Rep. Act No. 8042.

Section 10. Money Claims –

x x x

> In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or three (3) months for every year of the unexpired term, whichever is less.[62]

In Skippers Pacific, Inc. vs. Mira,[63] we ruled that an overseas Filipino worker who is illegally terminated shall be entitled to his salary equivalent to the unexpired portion of his employment contract if such contract is less than one year. However, if his contract is for a period of at least one year, he is entitled to receive his salaries equivalent to the unexpired portion of his contract, or three months' salary for every year of the unexpired term, whichever is lower.

In Marsaman Manning Agency, Inc. vs. NLRC,[64] involving Section 10 of Rep. Act No. 8042, we held:

> We cannot subscribe to the view that private respondent is entitled to three (3) months salary loan only. A plain reading of Sec. 10 clearly reveals that the choice of which amount to award an illegally dismissed overseas contract worker, i.e., whether his

> salaries for the unexpired portion of his employment contract or three (3) months salary for every year of the unexpired term, whichever is less, comes into play only when the employment contract concerned has a term of at least one (1) year or more. This is evident from the words "for every year of the unexpired term" which follows the words "salaries x x x for three months." To follow petitioners' thinking that private respondent is entitled to three (3) months salary only simply because it is the lesser amount is to completely disregard and overlook some words used in the statute while giving effect to some. This is contrary to the well-established rule in legal hermeneutics that interpreting a statute, care should be taken that every part or word thereof be given effect since the lawmaking body is presumed to know the meaning of the words employed in the statute and to have used them advisedly. Ut res magis valeat quam pereat.

Respondent Paramio was deployed on December 6, 1996.[65] His contract was for a period of twelve months or one year.[66] He was repatriated on September 23, 1997, approximately two months from the expiration of his contract.[67] Since the termination of his employment was not based on any valid or legal ground, he is entitled to the payment of his salary equivalent to the unexpired portion of his contract. He is likewise entitled to full reimbursement of his placement fee. Based on the record, respondent Paramio paid a placement fee of P19,000.[68] Thus, he should be reimbursed the amount of P19,000 with 12% interest per annum.

Similarly, the petitioner failed to substantiate its claim that respondent Navarra's repatriation was based on a valid, legal and just cause. The petitioner merely alleged that it was made clear to respondent Navarra that his repatriation was due to the fight he had with his supervisor.[69] Contrary to the allegation of the petitioner, respondent Navarra denied this in his affidavit, as well as in his reply to the position paper of the petitioner. Respondent Navarra asserted that he merely enforced his rights under the employment contract when he requested, time and again, that the provisions of his contract regarding the accommodation be fulfilled.[70] The claim of petitioner that respondent Navarra shouted invectives against his supervisor[71] was, likewise, unsubstantiated. The petitioner did not even present

an affidavit of the superior with whom the respondent reportedly fought. Indeed, while fighting a supervisor may constitute serious misconduct[72] and may, consequently, be considered a ground for dismissal, in light of the petitioner's failure to adduce substantial evidence to prove its claim that respondent Navarra fought his supervisor, this ground cannot be used to justify the dismissal. Thus, the termination of respondent Navarra's employment was without factual and legal basis.

Respondent Navarra was deployed on November 6, 1996.[73] He was repatriated on May 10, 1997, approximately five months prior to the expiration of his one-year contract. Considering our ruling in Marsamman Manning Agency vs. NLRC,[74] he shall be entitled to an amount equivalent to three months' salary, or NT$46,080. Similarly, having admitted that he paid a placement fee of P19,000[75] only, he is entitled to be fully reimbursed therefore, plus 12% interest per annum.

As to the other respondents, the petitioner alleges that they refused to go to work and, in fact, voluntarily resigned. It appended the daily time records[76] of respondents Apolinario, Sarmiento, Ferdinand (Bautista) and Recto (Guillermo), as well as the resignation letters of Bautista and Sarmiento,[77] and Curameng, Jr.'s written agreement with their employer.

We do not agree. The records reveal that the three respondents agreed to execute the foregoing because they could no longer bear the working conditions in their place of employment. Despite protestations to their employer and the attempt to seek help from the OWWA in Taiwan, they were victims to the following acts/omissions of their employer:

> a). Irregular and deliberate charging of deductions which were not fully accounted such as the blankets issued, charging of penalties amounting to 400 NT to all employees for a littering violation attributable only to one employee;
>
> b). Mandatory imposition of overtime work exceeding 10 hours without just overtime compensation and night shift differentials;

c). Failure to comply with some stipulations stated in the Employment Contract particularly those relating to the accommodation and lodging of the contracted workers;

d). Lack of observance of safety precautions at work area.[78]

x x x

1. They don't give us day off.

2. They feed us once a day.

3. They even let us work without rest.

4. Their (sic) were so many deductions in our salaries like payment for our boarding house, electricity and garbage fee.

5. The money they were sending to the Philippines was also reduced with the amount ranging from P2000 to P5000.[79]

The petitioner failed to adduce substantial evidence to overcome the evidence of the respondents as contained in their respective affidavits. Contrary to the petitioner's claim, the said affidavits are not hearsay evidence. The respondents were the victims of the abuses of their employer; as such, they had personal knowledge of the contents of their affidavits. Moreover, when there is a doubt between the evidence presented by the employer and the employee, such doubt should be resolved in favor of labor.[80]

On the letters of resignation of respondents Sarmiento, Bautista and the agreement of Curameng, Jr., we agree with the ruminations of the appellate court, viz:

> It is not necessary that there be an express termination of one's services before a case of illegal dismissal can exist. In the landmark case of Philippine Japan Active Carbon Corporation vs. National Labor Relations Commission, et al (171 SCRA 164)

> the Supreme Court ruled that "a constructive discharge is defined as: "A quitting because continued employment is rendered impossible, unreasonable or unlikely." In the case at bar, the petitioners were made to suffer unbearable conditions in the workplace and the inhuman treatment of their employer until they were left with no choice but to quit. Thus, it cannot be said that the resignation and repatriation of complainants Curameng, Bautista, Sarmienta and Guillermo was voluntary.

It was held in the case of Valdez vs. NLRC, 286 SCRA 87:

> "It would have been illogical for herein petitioner to resign and then file a complaint for illegal dismissal. Resignation is inconsistent with the filing of said complaint."

Indeed, unlike the Valdez case where there was no pronouncement of resignation on the part of the complainant, there were written resignations submitted by the said petitioners in the case at bar. The more important consideration is whether such written resignations were made voluntarily. Based on the foregoing circumstances, it cannot be gainsaid that the instant complaint for illegal dismissal indicates that the resignations and repatriations of the petitioners were not done freely on their part. It is highly unlikely that these workers, after having invested so much time, effort and money to secure their employment abroad would just quit even before the expiration of their contract.

We have more reason to rule that the repatriations of petitioners Paramio and Navarra were not voluntary.[81]

We thus rule that the respondents were constructively dismissed from their employment. There is constructive dismissal if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it would foreclose any choice by him except to forego his continued employment.[82] It exists where there is cessation of work because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay."[83]

We find it incredible that, after all the expenses and the trouble they went through in seeking greener pastures and financial upliftment, and the concomitant tribulations of being separated from their families, the respondents would suddenly and without reason decide to resign, return home and be jobless once again. The respondents had no choice but to agree to their employer's demand to sign and execute the respective agreements. They were stranded in a foreign land, with their remunerations considerably diminished by numerous illegal deductions. Their plight was all the more made unbearable by the inhumane working conditions.

We note that the agreement signed by respondent Curameng, Jr. was mimeographed and prepared by his employer. Except for his handwritten name, the words "I'm go (sic) very verry (sic)" and his signature at the bottom of the document, the rest of the spaces to be filled up were all blank. Most of the contents of the agreement were even in Chinese characters.

In sum, there can be no other conclusion than that the aforementioned respondents were illegally dismissed, and their employment contract illegally terminated.

Under Section 10, paragraph 5 of Rep. Act No. 8042, respondents Sarmiento, Bautista, Curameng and Guillermo are entitled to the full reimbursement of their placement fees. Since each of the respondents remitted only P19,000 to the petitioner, each of them is entitled to P19,000, plus 12% interest per annum.

According to Section 10, paragraph 2 of Rep. Act No. 8042,[84] the agency which deployed the employees whose employment contract were adjudged illegally terminated, shall be jointly and solidarily liable with the principal for the money claims awarded to the aforesaid employees. Consequently, the petitioner, as the agency of the respondents, is solidarily liable with its principal Kuan Yuan for the payment of the salaries due to the respondents corresponding to the unexpired portion of their contract, as well as the reimbursement of their placement fees.

Under Section 15 of the same Act, the repatriation of the worker and the transport of his personal belongings shall be the primary

responsibility of the agency which recruited or deployed the overseas contract worker. All the costs attendant thereto shall be borne by the agency concerned and/or its principal.[85] Consequently, the petitioner is obliged to refund P4,300 to each of the respondents, representing their airfare.

Anent the second issue, we rule that the deed of release executed by respondent Navarra did not completely release the petitioner from its liability on the latter's claim. As a rule, quitclaims, waivers or releases are looked upon with disfavor and are commonly frowned upon as contrary to public policy and ineffective to bar claims for the measure of a worker's legal rights.[86] If (a) there is clear proof that the waiver was wangled from an unsuspecting or gullible person; or (b) the terms of the settlement are unconscionable, and on their face invalid,[87] such quitclaims must be struck down as invalid or illegal.

The records reveal that respondent Navarra executed a deed of release and waiver for and in consideration of only P49,000.[88] There is no evidence that he was informed that he was entitled to much more than the said amount, including a refund for the placement fee he paid to the petitioner. Respondent Navarra started working on November 7, 1996. His employment contract was for a period of one year. He was repatriated on May 10, 1997, or after a little over six months. The unexpired portion of his contract is, thus, five months and 27 days. Per Section 10, paragraph 5 of Rep. Act No. 8042, he is entitled to the payment of three months' salary or NT$46,080[89] and P19,000 placement fee, plus interest at twelve percent (12%) per annum. We, thus, agree with the ruling of the appellate court, viz.:

> With regard to the deed of quitclaim and acceptance, it is a well-settled principle that the law does not consider as valid any agreement to receive less compensation than what a worker is entitled to recover nor prevent him from demanding benefits to which he is entitled. Quitclaims executed are ineffective to bar recovery for the full measure of the worker's rights (Medina vs. Consolidated Broadcasting System (CBS)-DZWX, 222 SCRA 707). The reason why quitclaims are commonly frowned upon as contrary to public policy and they are ineffective to bar claims for the full measure of the worker's legal rights is because the employer and employee do not stand on the same

> footing, such that quitclaims usually take the form of contracts of adherence, not of choice. (Wyeth-Suaco Laboratories, Inc. vs. NLRC, 219 SCRA 356). Assuming arguendo that the quitclaim was executed voluntarily, still, it cannot diminish petitioner's entitlement to the full compensation provided in their contract. At the most, such amount can be considered an advance on his claim.[90]

In sum, we rule that the termination of the respondents' respective contracts of employment was illegal. Pursuant to Section 10, paragraph 5, Rep. Act No. 8042, each of them is entitled to the full reimbursement of the placement fee of P19,000, and interest at 12% per annum. Respondent Navarra is, likewise, entitled to the payment of an amount equivalent to three (3) months' salary. All the remaining respondents are entitled to payment of their salaries, equivalent to three months.

Pursuant to Section 15 of Rep. Act No. 8042, the petitioner should refund the amount of P4,300 to each of the respondents representing the expenses they incurred for their repatriation.

IN LIGHT OF ALL THE FOREGOING, the petition is **DENIED.** The Decision of the Court of Appeals in CA-G.R. SP No. 54744 is **AFFIRMED WITH MODIFICATIONS**. The petitioner is ordered to pay the following:

(1) The amount of NT$46,080 or its peso equivalent to respondent Ronald Navarra minus the amount of P49,000 already advanced to him;

(2) To the respondents Romel Sarmiento, Recto Guillermo, Ferdinand Bautista, Apolinario Curameng, Jr. and Joseph Paramio, their respective salaries corresponding to the unexpired portion of their respective contracts;

(3) The amount of the placement fees as indicated in the respective official receipts issued to each of the respondents, with interest of 12% per annum, in conformity with Section 10, paragraph 5 of Rep. Act No. 8042;

(4) To each of the respondents, the amount of P4,300 representing the expenses they incurred for their return to the Philippines.

SO ORDERED.

Puno, *(Chairman)*, Quisumbing, and Tinga, *JJ.*, concur. Austria-Martinez, *J.*, no part.

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[1] Penned by Associate Justice Elvi John Asuncion with Associate Justices Ma. Alicia Austria-Martinez (now an Associate Justice of the Supreme Court) and Portia Aliño-Hormachuelos concurring.
[2] Records, pp. 54-78.
[3] Rollo, p. 9.
[4] Records, pp. 48-53.
[5] Romel Sarmiento was deployed on December 6, 1996; Records, p. 54.
Ronald A. Navarra was deployed on November 6, 1996; Id. at 8.
Recto A. Guillermo was deployed on October 29, 1996; Id. at 9.
Joseph M. Paramio was deployed on December 6, 1996; Id. at 10.
Apolinario A. Curameng, Jr. was deployed on November 29, 1996; Id. at 11.
Ferdinand A. Bautista was deployed on January 16, 1999; Id. at 12.
[6] Records, pp. 79-115.
[7] Id. at 54-78.
[8] Id. at 74.
[9] Supra at note 7.
[10] Id. at 54, 58, 62, 66, 70, 74.
[11] Id. at 75.
[12] Id. at 76.
[13] Id. at 59.
[14] Id. at 76.
[15] Id. at 77.
[16] Id. at 139.
[17] Id. at 72.
[18] Id.
[19] Records, p. 72.
[20] Id. at 63.
[21] Id. at 64.
[22] Id. at 60.
[23] Id. at 60.
[24] Id.
[25] Id.
[26] Id.
[27] Id.

[28] Records, p. 61.
[29] Id. at 148-149.
[30] Id. at 150.
[31] Id. at 141-150.
[32] Id. at 2-6.
[33] Id. at 44.
[34] Id. at 121-122.
[35] Id. at 139-140.
[36] Id. at 148-150.
[37] Id. at 122.
[38] Id. at 123.
[39] Rollo, pp. 77-78.
[40] Id. at 74-77.
[41] Id.
[42] Records, p. 175.
[43] Rollo, pp. 79-93.
[44] Id. at 93.
[45] CA Rollo, pp. 119-123.
[46] Id. at 124.
[47] Id. at 14.
[48] Id. at 23.
[49] Rollo, p. 35.
[50] Id. at 38.
[51] Id. at 15.
[52] Alfaro vs. Court of Appeals, 363 SCRA 799 (2001).
[53] Cosep vs. NLRC, 290 SCRA 704 (1998).
[54] Zafra vs. Court of Appeals, 389 SCRA 200 (2002).
[55] Triple Eight Integrated Services, Inc. vs. NLRC, 299 SCRA 608 (1998).
[56] Article 282. Termination by employer. – An employer may terminate an employment for any of the following causes:
(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
(b) Gross and habitual neglect by the employee of his duties;
(c) Fraud or willful breach of the trust reposed in him by the employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
(e) Other causes analogous to the foregoing.
[57] Rosario vs. Victory Ricemill, 397 SCRA 760 (2003).
[58] Article 283 – Closure of establishment and reduction of personnel as a result of installation of labor saving device, redundancy, retrenchment to prevent losses; Article 284 – disease as ground for termination.
[59] Triple Eight Integrated Services, Inc. vs. NLRC, 299 SCRA 608 (1998).
[60] Records, p. 60.
[61] Hacienda Fatima vs. National Federation of Sugarcane Workers-Food and General Trade, 396 SCRA 518 (2003).

[62] Section 10, paragraph 5, R.A. No. 8042.
[63] 392 SCRA 371 (2002).
[64] 313 SCRA 88 (1999).
[65] Records, p. 132.
[66] Id. at 104-109.
[67] Id. at 61.
[68] Id. at 127.
[69] Rollo, p. 17.
[70] Records, pp. 169-170.
[71] Id. at 120.
[72] Article 282(a) of the Labor Code.
[73] Records, p. 8.
[74] Supra.
[75] Id. at 125.
[76] Id. at 137-138.
[77] Id. at 147-150.
[78] Id. at 54, 58, 62, 66, 70, 74.
[79] Id. at 56.
[80] Asuncion vs. NLRC, 362 SCRA 56 (2001).
[81] CA Rollo, p. 159.
[82] Hyatt Taxi Services, Inc. vs. Catinoy, 359 SCRA 686 (2001).
[83] Globe Telecom, Inc. vs. Florendo-Flores, 390 SCRA 201 (2002).
[84] Section 10. Money Claims. –

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The liability of the principal/employer and the recruitment agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law; shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment agency is a juridical being the corporate officers and directors and partners as the case may be, shall themselves be solidarily liable with the corporation or partnership for the aforesaid claims and damages. x x x

[85] Section 15. Repatriation of Workers; Emergency Repatriation Fund. – The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne by or charged to the agency concerned and/or its principal. Likewise, the repatriation of remains of the deceased worker and all costs attendant thereto shall be borne by the principal and/or the local agency. However, in cases where the termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the reparation of the former and/or his belongings…
[86] Peftok Integrated Services, Inc. vs. NLRC, 293 SCRA 507 (1998).
[87] Dole Philippines, Inc. vs. Court of Appeals, 365 SCRA 124 (2001).
[88] Records, p. 140.

[89] The exchange rate is pegged at NT$ = P1.7027 (Philippine Daily Inquirer, Business, Currencies, March 24, 2004, p. B6).
[90] Rollo, pp. 34-35.