

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**ELPEDIO LASCO, RODOLFO ELISAN,
URBANO BERADOR, FLORENTINO
ESTOBIO, MARCELINO MATURAN,
FRAEN BALIBAG, CARMELITO GAJOL,
DEMOSTHENES MANTO, SATURNINO
BACOL, SATURNINO LASCO, RAMON
LOYOLA, JOSENIANO B. ESPINA, all
represented by MARIANO R. ESPINA,
and MARIANO R. ESPINA,**

Petitioners,

-versus-

**G.R. Nos. 109095-109107
February 23, 1995**

**UNITED NATIONS REVOLVING FUND
FOR NATURAL RESOURCES
EXPLORATION (UNRFNRE)
represented by its operations manager,
DR. KYRIACOS LOUCA, OSCAR N.
ABELLA, LEON G. GONZAGA, JR.,
MUSIB M. BUAT, Commissioners of
National Labor Relations Commission
(NLRC), Fifth Division, Cagayan de Oro
City and IRVING PETILLA, Labor
Arbiter of Butuan City,**

Respondents.

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DECISION

QUIASON, J.:

This is a Petition for Certiorari under Rule 65 of the Revised Rules of Court to set aside the Resolution dated January 25, 1993 of the National Labor Relations Commission (NLRC), Fifth Division, Cagayan de Oro City.

We dismiss the petition.

I

Petitioners were dismissed from their employment with private respondent, the United Nations Revolving Fund for Natural Resources Exploration (UNRFNRE), which is a special fund and subsidiary organ of the United Nations. The UNRFNRE is involved in a joint project of the Philippine Government and the United Nations for exploration work in Dinagat Island.

Petitioners are the complainants in NLRC Cases Nos. SRAB 10-03-00067-91 to 10-03-00078-91 and SRAB 10-07-00159-91 for illegal dismissal and damages.

In its Motion to Dismiss, private respondent alleged that respondent Labor Arbiter had no jurisdiction over its personality since it enjoyed diplomatic immunity pursuant to the 1946 Convention on the Privileges and Immunities of the United Nations. In support thereof, private respondent attached a letter from the Department of Foreign Affairs dated August 26, 1991, which acknowledged its immunity from suit. The letter confirmed that private respondent, being a special fund administered by the United Nations, was covered by the 1946 Convention on the Privileges and Immunities of the United Nations of which the Philippine Government was an original signatory (Rollo, p. 21).

On November 25, 1991, respondent Labor Arbiter issued an order dismissing the complaints on the ground that private respondent was

protected by diplomatic immunity. The dismissal was based on the letter of the Foreign Office dated September 10, 1991.

Petitioner's motion for reconsideration was denied. Thus, an appeal was filed with the NLRC, which affirmed the dismissal of the complaints in its Resolution dated January 25, 1993.

Petitioners filed the instant petition for certiorari without first seeking a reconsideration of the NLRC resolution.

II

Article 223 of the Labor Code of the Philippines, as amended, provides that decisions of the NLRC are final and executory. Thus, they may only be questioned through certiorari as a special civil action under Rule 65 of the Revised Rules of Court.

Ordinarily, certiorari as a special civil action will not lie unless a motion for reconsideration is first filed before the respondent tribunal, to allow it an opportunity to correct its assigned errors (*Liberty Insurance Corporation vs. Court of Appeals*, 222 SCRA 37 [1993]).

In the case at bench, petitioner's failure to file a motion for reconsideration is fatal to the instant petition. Moreover, the petition lacks any explanation for such omission, which may merit its being considered as falling under the recognized exceptions to the necessity of filing such motion.

Notwithstanding, we deem it wise to give due course to the petition because of the implications of the issue in our international relations.

Petitioners argued that the acts of mining exploration and exploitation are outside the official functions of an international agency protected by diplomatic immunity. Even assuming that private respondent was entitled to diplomatic immunity, petitioners insisted that private respondent waived it when it engaged in exploration work and entered into a contract of employment with petitioners.

Petitioners, likewise, invoked the constitutional mandate that the State shall afford full protection to labor and promote full employment and equality of employment opportunities for all (1987 Constitution, Art. XIII, Sec. 3).

The Office of the Solicitor General is of the view that private respondent is covered by the mantle of diplomatic immunity. Private respondent is a specified agency of the United Nations. Under Article 105 of the Charter of the United Nations:

“1. The Organization shall enjoy in the territory of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

“2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.”

Corollary to the cited article is the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, to which the Philippines was a signatory (Vol. 1, Philippine Treaty Series, p. 621.) We quote Sections 4 and 5 of Article III thereof:

“Sec. 4. The specialized agencies, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution (Emphasis supplied).

“Sec. 5. The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action” (Emphasis supplied).

As a matter of state policy as expressed in the Constitution, the Philippine Government adopts the generally accepted principles of international law (1987 Constitution, Art. II, Sec. 2). Being a member of the United Nations and a party to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, the Philippine Government adheres to the doctrine of immunity granted to the United Nations and its specialized agencies. Both treaties have the force and effect of law.

In *World Health Organization vs. Aquino*, 48 SCRA 242 (1972), we had occasion to rule that:

“It is a recognized principle of international law and under our system of separation of powers that diplomatic immunity is essentially a political question and courts should refuse to look beyond a determination by the executive branch of the government, and where the plea of diplomatic immunity is recognized and affirmed by the executive branch of the government as in the case at bar, it is then the duty of the courts to accept the claim of immunity upon appropriate suggestion by the principal law officer of the government, the Solicitor General or other officer acting under his direction. Hence, in adherence to the settled principle that courts may not so exercise their jurisdiction by seizure and detention of property, as to embarrass the executive arm of the government in conducting foreign relations, it is accepted doctrine that “in such cases the judicial department of (this) government follows the action of the political branch and will not embarrass the latter by assuming as antagonistic jurisdiction” (Emphasis supplied).

international organizations to guarantee the smooth discharge of their functions.

The diplomatic immunity of private respondent was sufficiently established by the letter of the Department of Foreign Affairs, recognizing and confirming the immunity of UNRFNRE in accordance with the 1946 Convention on Privileges and Immunities of the United Nations where the Philippine Government was a party. The issue whether an international organization is entitled to

diplomatic immunity is a “political question” and such determination by the executive branch is conclusive on the courts and quasi-judicial agencies (The Holy See vs. Hon. Eriberto U. Rosario, Jr., G.R. No. 101949, Dec. 1, 1994; International Catholic Migration Commission vs. Calleja, supra).

Our courts can only assume jurisdiction over private respondent if it expressly waived its immunity, which is not so in the case at bench (Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, Art. III, Sec. 4).

Private respondent is not engaged in a commercial venture in the Philippines. Its presence here is by virtue of a joint project entered into by the Philippine Government and United Nations for mineral exploration in Dinagat Island. Its mission is not to exploit our natural resources and gain pecuniarily thereby but to help improve the quality of life of the people, including that of petitioners.

This is not to say that petitioners have no recourse. Section 31 of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations states that “each specialized agency shall make a provision for appropriate modes of settlement of: (a) disputes arising out of contracts or other disputes of private character to which the specialized agency is a party.”

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.

Padilla, Davide, Jr., Bellosillo and Kapunan, JJ., concur.