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SUPREME COURT
FIRST DIVISION

ROMEO ZOLETA,
***Petitioner*,**

-versus-

G.R. No. L-77242
October 18, 1988

THE HONORABLE SECRETARY OF LABOR, FRANKLIN DRILON, SSC MULTI-SERVICES, CECILIA CURAMENG, SALVADOR CURAMENG and JUANCHO GONZALES,
***Respondents*.**
x---x

D E C I S I O N

GANCAYCO, *J.*:

When, through his own negligence, the counsel of record fails to give his official address to a quasi-judicial tribunal hearing a case involving his client, is said tribunal justified in serving notice of a copy of its Order upon his client? In the event that neither counsel nor client acted seasonably thereafter, does the said final Order thereby become executory?

These are the principal issues presented by this Petition for Certiorari.[1]

Sometime in February, 1984, petitioner Romeo Zoleta applied for overseas employment at an employment agency known as SSC Multi-services, Inc. This agency is owned and operated by private respondents, spouses Salvador and Cecilia Curameng. Petitioner sought employment as a driver.

Acting favorably upon the said application, the agency required the petitioner to pay around P13,500.00 to shoulder the cost of the processing of his passport, a medical check-up and other matters. Petitioner paid the said amount.

In due time, the petitioner was asked to leave for Kuwait on April 6, 1985. Immediately before his departure, private respondents Juancho Gonzales, who was the accountant of the agency, gave the petitioner his corresponding travel documents. The travel documents showed that he was being sent overseas by a certain firm known as Royal Services Unlimited, Inc. and that he was to work abroad as a carpenter. He was also advised that he would be travelling as a tourist.

Things, however, did not work out well for the petitioner. When he arrived in Kuwait, he learned that there was no such job for him there.

He was unemployed for about a week until he found a job as a carpenter for the Ballast Nedam Foundation. Unfortunately, his employment lasted for only two months. His employer terminated his employment on the ground that his stay in Kuwait was temporary in character. Jobless anew, the petitioner stayed with some friends until he could find another job. When he learned that private respondent Salvador Curameng was in Kuwait at that time, he requested the latter to have him repatriated. Said private respondent denied the request and instead convinced the petitioner to remain in Kuwait until he could be given another job.

Uncertain about his future in a foreign land under such circumstances, the petitioner returned to the Philippines on October 5, 1985. He paid for his own plane fare amounting to 162 Kuwait dinars.

The petitioner sought redress from the Philippine Overseas Employment Administration (POEA) by filing a complaint for violation of Articles 32 and 34(a) of the Labor Code and the POEA rules on overseas employment recruitment against the employment agency, the Curameng spouses and Juancho Gonzales. In the complaint, petitioner alleges he was the victim of illegal recruitment and that he was charged excessive fees. He sought the refund of what he spent for his application including his plane fare.

The Labor Arbiter assigned to the case scheduled a conciliation conference/hearing for the purpose of settling the problem. While both parties were duly notified of the said conference, only the petitioner appeared.

The said conference/hearing was postponed on several occasions, all upon the repeated requests made by the office manager of the employment agency. These postponements notwithstanding, the private respondents still failed to appear for the hearing, either in person or through counsel. Again, the hearing was postponed, this time for November 21, 1985.

The petitioner and the private respondents, through counsel Atty. Augustus Cesar Azura, appeared at the conference scheduled on November 21, 1985. Atty. Azura was furnished a copy of the complaint filed by the petitioner and was given ten days to file an Answer to the same. Accordingly, the hearing was reset to December 10, 1985.

Once again, the private respondents and their counsel failed to appear at the conference scheduled on December 10, 1985. They did not even submit the required answer to the complaint. Petitioner was the only party present. Thus, the conference was reset anew to December 18, 1985. However, on said date neither private respondents nor their counsel appeared. Hence, the POEA considered the case submitted for resolution.

On June 3, 1986, or about five months thereafter, POEA Officer-In-Charge Honesto L. Cueva issued an Order directing the private respondents to refund to the petitioners the sum of P13,500.00 for

his actual expenses and the 162 Kuwait dinars covering his plane fare. The said Order also suspended the authority of the employment agency to engage in overseas employment recruitment for a period of three months.

Inasmuch as Atty. Azura failed to give the POEA his official address, notice of the said Order was furnished the private respondents themselves on June 12, 1986.

On July 16, 1986, Atty. Azura filed a "Motion for Reconsideration and/or Relief From Judgment" stressing therein that he did not receive a copy of the Order dated June 3, 1986. The petitioner opposed the said Motion on the ground that POEA Order dated June 3, 1986 had already become final and executory.

On August 11, 1986, the POEA Administrator denied the Motion for Reconsideration. The Order of denial was received by the employment agency through its office manager on August 13, 1986.

In the meantime, the private respondents engaged the services of another lawyer, Atty. Pedro N. Tanchuling. Thereafter, the private respondents, through Atty. Tanchuling, brought an appeal to the office of the then Minister of Labor and Employment wherein they obtained a restraining order against the POEA. Nevertheless, after due hearing, the then Minister Augusto S. Sanchez lifted the restraining order issued earlier and affirmed the action taken by the POEA.

The private respondents sought a reconsideration of the Order of Minister Sanchez on the ground that they were denied due process of law by the POEA. Acting on the reconsideration requested, Minister Sanchez reversed his previous Order and issued another one, this time in favor of the private respondents.

Hence, the instant Petition. The petitioner alleges herein that the then Minister, now Secretary of Labor and Employment,[2] committed a grave abuse of discretion in reversing a final and executory Order of the POEA.

As instructed by this Court, the private respondents filed their Comment on the Petition.[3] The Office of the Solicitor General also filed its Comment but it took the side of the petitioner.[4]

In support of the view that the POEA Order dated June 3, 1986 had become final and executory, the Solicitor General points out that notice of the said Order was properly served upon the private respondents themselves because Atty. Azura failed to give his official address to the POEA. Citing Section 8, Rule III of the POEA Rules and Regulations which sets a 10 day reglementary period for pursuing an appeal from or a reconsideration of a questioned judgment of the POEA, the Solicitor General contends that the private respondents had ten (10) days from June 12, 1986, the date the private respondents received notice of the POEA Order, to seek a reconsideration of, or pursue an appeal from, the said Order. The Solicitor General concludes that since no action was taken by the private respondents within the said 10-day reglementary period, the POEA Order dated June 3, 1986 had become final and executory, beyond the power of the Minister of Labor and Employment to modify.

Considering this adverse opinion of the Solicitor General, the Department of Labor and Employment filed its own Comment and Supplemental Comment on behalf of the Secretary, praying therein for the dismissal of the instant Petition.[5] The said Comment states, among others, that the notice to the private respondents themselves is not a valid notice and, therefore, the POEA Order dated June 3, 1986 cannot be considered final and executory.

We resolve the case in favor of the petitioner.

It is well-settled that notice to counsel is notice to the client.[6] on the other hand, notice to the client does not amount to notice to counsel.[7] The reason for the latter rule is explained in J.M. Javier Logging Corporation v. Mardo,[8] to wit —

> "where a party appears by attorney, notice to the former is not a notice in law, unless service upon the party himself is ordered by the court. This rule is not a mere technicality, but one founded on considerations of fair play. A party engages an

> attorney of record precisely because it does not feel competent to deal with the intricacies of law and procedure. Furthermore, as the party directly served would have to communicate with its attorney and turn over to him the notice received, the net result would be to noticeably shorten the usable period for taking the proper steps required to protect the party's interests."

Thus, when a party is represented by his counsel in a particular case, notice of proceedings must be served upon the counsel to constitute valid notice.

In the case at bar, the private respondents were assisted by their counsel, Atty. Azura, when the case was pending before the POEA However, said counsel failed to inform the POEA about his official address. If Atty. Azura had been diligent in attending to his duties as counsel, he would not have overlooked such elementary matter as giving his exact address to the POEA. At the very least, he should have filed his answer which the POEA required of him wherein again his address as counsel would be stated. Nevertheless, it was only when he learned of the Order adverse to the interests of his client that he decided to do something. Such irresponsibility of counsel cannot be countenanced.

The inaction of the said counsel placed the POEA in a dilemma. The POEA had to choose between resolving the pending case or waiting indefinitely for the private respondents or their counsel to appear. It made the right decision by resolving the case. The important consideration that was apparently taken into account by the POEA was that the interests of justice would be jeopardized if the case were unduly protracted. After resolving the case, the POEA had no choice but to serve notice of the Order dated June 3, 1986 upon the private respondents themselves. Considering the circumstances of this case, i.e., the earnest desire of the petitioner to prosecute his complaint despite several postponements requested by the private respondents, the trouble he had to go through in Kuwait, and the inexcusable negligence of the counsel for the private respondents, the action taken by the POEA is obviously justified. We, therefore, hold that the notice upon the private respondents themselves of the questioned order constitutes valid notice in law on account of the circumstances obtaining in this case. This is an exception to the general rule.

The private respondents cannot claim a denial of due process of law. They had every opportunity to present their side but failed to do so. In the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.[9]

Since the private respondents received notice of the POEA Order dated June 3, 1986 on June 12, 1986, they had ten (10) days from that date within which to seek a reconsideration of or pursue an appeal from the said Order pursuant to the rules and regulations of the POEA. As the private respondents took no action within the said reglementary period, the POEA Order dated June 3, 1986 had become final and executory and as such, the Minister of Labor and Employment had no jurisdiction to take cognizance of the appeal much less to reverse or modify the said order.

Accordingly, We hold that the respondent Minister of Labor and Employment acted without jurisdiction in reversing the POEA Order dated June 3, 1986 which had already become final and executory. The writ of certiorari sought in this Petition must, therefore, issue.

WHEREFORE, the Petition is hereby **GRANTED**. The Order issued by the public respondent Minister of Labor and Employment on December 29, 1986 is hereby **SET ASIDE** and another is hereby rendered reviving the order of the POEA dated June 3, 1986. Costs against the private respondents.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino and Medialdea, *JJ*., concur.

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[1] While the Petition is erroneously captioned "Petition for Review, "the Court nonetheless resolved to treat the same as one for certiorari under Rule 65 on account of the jurisdictional issues raised therein and the other reliefs sought.

[2] Minister Sanchez was succeeded by Secretary Franklin Drilon.

[3] Pages 96 to 99, Rollo.

[4] Pages 75 to 91, Rollo.

[5] Pages 117 to 121 and 127 to 132, Rollo.

[6] Palanca v. American Food Manufacturing Co., 24 SCRA 819 (1968).
[7] J.M. Javier Logging Corporation v. Mardo, 24 SCRA 776 (1968).
[8] Supra, at page 779.
[9] Sumadchat v. Court of Appeals, 111 SCRA 489 (1982).

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