Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PERT/CPM MANPOWER EXPONENT CO., INC.,	**G.R. No. 197528**
Petitioner,	Present:
- versus -	CARPIO, *J.*, Chairperson, BRION, PERALTA,* DEL CASTILLO, and PEREZ, *JJ.*
ARMANDO A. VINUYA, LOUIE M. ORDOVEZ, ARSENIO S. LUMANTA, JR., ROBELITO S. ANIPAN, VIRGILIO R. ALCANTARA, MARINO M. ERA, SANDY O. ENJAMBRE and NOEL T. LADEA,	Promulgated:
Respondents.	SEP 05 2012

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D E C I S I O N

BRION, *J.*:

We resolve the present petition for review on *certiorari*[1] assailing the decision[2] dated May 9, 2011 and the resolution[3] dated June 23, 2011 of the Court of Appeals (*CA*) in CA-G.R. SP No. 114353.

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* Designated Additional Member vice Associate Justice Estela M. Perlas-Bernabe per Raffle dated September 5, 2012.

[1] *Rollo*, pp. 27-64; filed under Rule 45 of the Rules of Court.

[2] *Id.* at 107-121; penned by Associate Justice Bienvenido L. Reyes (now a member of this Court), and concurred in by Associate Justices Estela M. Perlas-Bernabe (now also a member of this Court) and Elihu A. Ybañez.

[3] *Id.* at 138-139.

The Antecedents

On March 5, 2008, respondents Armando A. Vinuya, Louie M. Ordovez, Arsenio S. Lumanta, Jr., Robelito S. Anipan, Virgilio R. Alcantara, Marino M. Era, Sandy O. Enjambre and Noel T. Ladea (*respondents*) filed a complaint for illegal dismissal against the petitioner Pert/CPM Manpower Exponent Co., Inc. (*agency*), and its President Romeo P. Nacino.

The respondents alleged that the agency deployed them between March 29, 2007 and May 12, 2007 to work as aluminum fabricator/installer for the agency's principal, Modern Metal Solution LLC/MMS Modern Metal Solution LLC (*Modern Metal*) in Dubai, United Arab Emirates.

The respondents' employment contracts,[4] which were approved by the Philippine Overseas Employment Administration (*POEA*), provided for a two-year employment, nine hours a day, salary of 1,350 AED with overtime pay, food allowance, free and suitable housing (four to a room), free transportation, free laundry, and free medical and dental services. They each paid a ₱15,000.00 processing fee.[5]

On April 2, 2007, Modern Metal gave the respondents, except Era, appointment letters[6] with terms different from those in the employment contracts which they signed at the agency's office in the Philippines. Under the letters of appointment, their employment was increased to three years at 1,000 to 1,200 AED and food allowance of 200 AED.

[4] *Id.* at 316-322.
[5] *Id.* at 323-326.
[6] *Id.* at 327-333.

The respondents claimed that they were shocked to find out what their working and living conditions were in Dubai. They were required to work from 6:30 a.m. to 6:30 p.m., with a break of only one hour to one and a half hours. When they rendered overtime work, they were most of the time either underpaid or not paid at all. Their housing accommodations were cramped and were shared with 27 other occupants. The lodging house was in Sharjah, which was far from their jobsite in Dubai, leaving them only three to four hours of sleep a day because of the long hours of travel to and from their place of work; there was no potable water and the air was polluted.

When the respondents received their first salaries (at the rates provided in their appointment letters and with deductions for placement fees) and because of their difficult living and working conditions, they called up the agency and complained about their predicament. The agency assured them that their concerns would be promptly addressed, but nothing happened.

On May 5, 2007, Modern Metal required the respondents to sign new employment contracts,[7] except for Era who was made to sign later. The contracts reflected the terms of their appointment letters. Burdened by all the expenses and financial obligations they incurred for their deployment, they were left with no choice but to sign the contracts. They raised the matter with the agency, which again took no action.

On August 5, 2007, despondent over their unbearable living and working conditions and by the agency's inaction, the respondents expressed to Modern Metal their desire to resign. Out of fear, as they put it, that Modern Metal would not give them their salaries and release papers, the

[7] *Id.* at 334, 336-339.

respondents, except Era, cited personal/family problems for their resignation.[8] Era mentioned the real reason – "because I dont (sic) want the company policy"[9] – for his resignation.

It took the agency several weeks to repatriate the respondents to the Philippines. They all returned to Manila in September 2007. Except for Ordovez and Enjambre, all the respondents shouldered their own airfare.

For its part, the agency countered that the respondents were not illegally dismissed; they voluntarily resigned from their employment to seek a better paying job. It claimed that the respondents, while still working for Modern Metal, applied with another company which offered them a higher pay. Unfortunately, their supposed employment failed to materialize and they had to go home because they had already resigned from Modern Metal.

The agency further alleged that the respondents even voluntarily signed affidavits of quitclaim and release after they resigned. It thus argued that their claim for benefits, under Section 10 of Republic Act No. (R.A.) 8042, damages and attorney's fees is unfounded.

The Compulsory Arbitration Rulings

On April 30, 2008, Labor Arbiter Ligerio V. Ancheta rendered a decision[10] dismissing the complaint, finding that the respondents voluntarily resigned from their jobs. He also found that four of them – Alcantara, Era, Anipan and Lumanta – even executed a compromise agreement (with quitclaim and release) before the POEA. He considered the POEA recourse a case of forum shopping.

[8] *Id.* at 269, 278, 282 and 296.
[9] *Id.* at 286.
[10] *Id.* at 141-154.

The respondents appealed to the National Labor Relations Commission (*NLRC*). They argued that the labor arbiter committed serious errors in (1) admitting in evidence the quitclaims and releases they executed in Dubai, which were mere photocopies of the originals and which failed to explain the circumstances behind their execution; (2) failing to consider that the compromise agreements they signed before the POEA covered only the refund of their airfare and not all their money claims; and (3) ruling that they violated the rule on non-forum shopping.

On May 12, 2009, the NLRC granted the appeal.[11] It ruled that the respondents had been illegally dismissed. It anchored its ruling on the new employment contracts they were made to sign in Dubai. It stressed that it is illegal for an employer to require its employees to execute new employment papers, especially those which provide benefits that are inferior to the POEA-approved contracts.

The NLRC rejected the quitclaim and release executed by the respondents in Dubai. It believed that the respondents executed the quitclaim documents under duress as they were afraid that they would not be allowed to return to the Philippines if they did not sign the documents. Further, the labor tribunal disagreed with the labor arbiter's opinion that the compromise agreement they executed before the POEA had effectively foreclosed the illegal dismissal complaint before the NLRC and that the respondents had been guilty of forum shopping. It pointed out that the POEA case involved pre-deployment issues; whereas, the complaint before the NLRC is one for illegal dismissal and money claims arising from employment.

[11] *Id.* at 155-162.

Consequently, the NLRC ordered the agency, Nacino and Modern Metal to pay, jointly and severally, the respondents, as follows:

> WHEREFORE, the Decision dated 30 April 2008 is hereby REVERSED and SET ASIDE, a new Decision is hereby issued ordering the respondents PERT/CPM MANPOWER EXPONENTS CO., INC., ROMEO NACINO, and MODERN METAL SOLUTIONS, INC. to jointly and severally, pay the complainants the following:

Employee	Underpaid Salary	Placement fee	Salary for the unexpired portion of the contract (1350 x 6 months)	Exemplary Damages
Vinuya, ARMANDO	150 x 6 = 900 AED	USD 400	8100 AED	₱20,000.00
Alcantara VIRGILIO	150 X 4 = 600 AED	USD 400	8100 AED	₱20,000.00
Era, MARINO	350 x 4 = 1400 AED	USD 400	8100 AED	₱20,000.00
Ladea, NOEL	150 x 5 = 750 AED	USD 400	8100 AED	₱20,000.00
Ordovez, LOUIE	250 X 3 = 750 AED	USD 400	8100 AED	₱20,000.00
Anipan, ROBELITO	150 x 4 = 600 AED	USD 400	8100 AED	₱20,000.00
Enjambre, SANDY	150 x 4 = 600 AED	USD 400	8100 AED	₱20,000.00
Lumanta, ARSENIO	250 x 5 = 1250 AED	USD 400	8100 AED	₱20,000.00
TOTAL:	6,850 AED	US$3,200	64,800 AED	₱400,000.00

> or their peso equivalent at the time of actual payment plus attorney[‘]s fees equivalent to 10% of the judgment award.[12]

The agency moved for reconsideration, contending that the appeal was never perfected and that the NLRC gravely abused its discretion in reversing the labor arbiter’s decision.

[12] *Id.* at 160.

The respondents, on the other hand, moved for partial reconsideration, maintaining that their salaries should have covered the unexpired portion of their employment contracts, pursuant to the Court's ruling in *Serrano v. Gallant Maritime Services, Inc.*[13]

The NLRC denied the agency's motion for reconsideration, but granted the respondents' motion.[14] It sustained the respondents' argument that the award needed to be adjusted, particularly in relation to the payment of their salaries, consistent with the Court's ruling in *Serrano*. The ruling declared unconstitutional the clause, "or for three (3) months for every year of the unexpired term, whichever is less," in Section 10, paragraph 5, of R.A. 8042, limiting the entitlement of illegally dismissed overseas Filipino workers to their salaries for the unexpired term of their contract or three months, whichever is less. Accordingly, it modified its earlier decision and adjusted the respondents' salary entitlement based on the following matrix:

Employee	Duration of Contract	Departure date	Date dismissed	Unexpired portion of contract
Vinuya, ARMANDO	2 years	29 March 2007	8 August 2007	19 months and 21 days
Alcantara, VIRGILIO	2 years	3 April 2007	8 August 2007	20 months and 5 days
Era, MARINO	2 years	12 May 2007	8 August 2007	21 months and 4 days
Ladea, NOEL	2 years	29 March 2007	8 August 2007	19 months and 21 days
Ordovez, LOUIE	2 years	3 April 2007	26 July 2007	21 months and 23 days
Anipan, ROBELITO	2 years	3 April 2007	8 August 2007	20 months and 5 days
Enjambre, SANDY	2 years	29 March 2007	26 July 2007	20 months and 3 days
Lumanta, ARSENIO	2 years	29 March 2007	8 August 2007	19 months and 21 days[15]

[13] G.R. No. 167614, March 24, 2009, 582 SCRA 254.
[14] *Rollo*, pp. 246-251; resolution dated September 2, 2009.
[15] *Id.* at 250.

Again, the agency moved for reconsideration, reiterating its earlier arguments and, additionally, questioning the application of the *Serrano* ruling in the case because it was not yet final and executory. The NLRC denied the motion, prompting the agency to seek recourse from the CA through a petition for *certiorari.*

The CA Decision

The CA dismissed the petition for lack of merit.[16] It upheld the NLRC ruling that the respondents were illegally dismissed. It found no grave abuse of discretion in the NLRC's rejection of the respondents' resignation letters, and the accompanying quitclaim and release affidavits, as proof of their voluntary termination of employment.

The CA stressed that the filing of a complaint for illegal dismissal is inconsistent with resignation. Moreover, it found nothing in the records to substantiate the agency's contention that the respondents' resignation was of their own accord; on the contrary, it considered the resignation letters "dubious for having been lopsidedly-worded to ensure that the petitioners (employer[s]) are free from any liability."[17]

The appellate court likewise refused to give credit to the compromise agreements that the respondents executed before the POEA. It agreed with the NLRC's conclusion that the agreements pertain to the respondents' charge of recruitment violations against the agency distinct from their illegal dismissal complaint, thus negating forum shopping by the respondents.

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[16] *Supra* note 2.
[17] *Id.* at 118.

Lastly, the CA found nothing legally wrong in the NLRC correcting itself (upon being reminded by the respondents), by adjusting the respondents' salary award on the basis of the unexpired portion of their contracts, as enunciated in the *Serrano* case.

The agency moved for, but failed to secure, a reconsideration of the CA decision.[18]

The Petition

The agency is now before the Court seeking a reversal of the CA dispositions, contending that the CA erred in:

1. affirming the NLRC's finding that the respondents were illegally dismissed;

2. holding that the compromise agreements before the POEA pertain only to the respondents' charge of recruitment violations against the agency; and

3. affirming the NLRC's award to the respondents of their salaries for the unexpired portion of their employment contracts, pursuant to the *Serrano* ruling.

The agency insists that it is not liable for illegal dismissal, actual or constructive. It submits that as correctly found by the labor arbiter, the respondents voluntarily resigned from their jobs, and even executed affidavits of quitclaim and release; the respondents stated family concerns for their resignation. The agency posits that the letters were duly proven as

[18] *Supra* note 3.

they were written unconditionally by the respondents. It, therefore, assails the conclusion that the respondents resigned under duress or that the resignation letters were dubious.

The agency raises the same argument with respect to the compromise agreements, with quitclaim and release, it entered into with Vinuya, Era, Ladea, Enjambre, Ordovez, Alcantara, Anipan and Lumanta before the POEA, although it submitted evidence only for six of them. Anipan, Lumanta, Vinuya and Ladea signing one document;[19] Era[20] and Alcantara[21] signing a document each. It points out that the agreement was prepared with the assistance of POEA Conciliator Judy Santillan, and was duly and freely signed by the respondents; moreover, the agreement is not conditional as it pertains to all issues involved in the dispute between the parties.

On the third issue, the agency posits that the *Serrano* ruling has no application in the present case for three reasons. *First*, the respondents were not illegally dismissed and, therefore, were not entitled to their money claims. *Second*, the respondents filed the complaint in 2007, while the *Serrano* ruling came out on March 24, 2009. The ruling cannot be given retroactive application. *Third*, R.A. 10022, which was enacted on March 8, 2010 and which amended R.A. 8042, restored the subject clause in Section 10 of R.A. 8042, declared unconstitutional by the Court.

The Respondents' Position

In their Comment (to the Petition) dated September 28, 2011,[22] the respondents ask the Court to deny the petition for lack of merit. They

[19] *Rollo*, p. 344.
[20] *Id.* at 345.
[21] *Id.* at 345-A.
[22] *Id.* at 453-465.

dispute the agency's insistence that they resigned voluntarily. They stand firm on their submission that because of their unbearable living and working conditions in Dubai, they were left with no choice but to resign. Also, the agency never refuted their detailed narration of the reasons for giving up their employment.

The respondents maintain that the quitclaim and release affidavits,[23] which the agency presented, betray its desperate attempt to escape its liability to them. They point out that, as found by the NLRC, the affidavits are ready-made documents; for instance, in Lumanta's[24] and Era's[25] affidavits, they mentioned a certain G & A International Manpower as the agency which recruited them — a fact totally inapplicable to all the respondents. They contend that they had no choice but to sign the documents; otherwise, their release papers and remaining salaries would not be given to them, a submission which the agency never refuted.

On the agency's second line of defense, the compromise agreement (with quitclaim and release) between the respondents and the agency before the POEA, the respondents argue that the agreements pertain only to their charge of recruitment violations against the agency. They add that based on the agreements, read and considered entirely, the agency was discharged only with respect to the recruitment and pre-deployment issues such as excessive placement fees, non-issuance of receipts and placement misrepresentation, but not with respect to post-deployment issues such as illegal dismissal, breach of contract, underpayment of salaries and underpayment and nonpayment of overtime pay. The respondents stress that the agency failed to controvert their contention that the agreements came

[23] *Id.* at 268, 272, 277, 280, 281, 285, 289 and 294.
[24] *Id*. at 277.
[25] *Id*. at 285.

about only to settle their claim for refund of their airfare which they paid for when they were repatriated.

Lastly, the respondents maintain that since they were illegally dismissed, the CA was correct in upholding the NLRC's award of their salaries for the unexpired portion of their employment contracts, as enunciated in *Serrano*. They point out that the *Serrano* ruling is curative and remedial in nature and, as such, should be given retroactive application as the Court declared in *Yap v. Thenamaris Ship's Management*.[26] Further, the respondents take exception to the agency's contention that the *Serrano* ruling cannot, in any event, be applied in the present case in view of the enactment of R.A. 10022 on March 8, 2010, amending Section 10 of R.A. 8042. The amendment restored the subject clause in paragraph 5, Section 10 of R.A. 8042 which was struck down as unconstitutional in *Serrano.*

The respondents maintain that the agency cannot raise the issue for the first time before this Court when it could have raised it before the CA with its petition for *certiorari* which it filed on June 8, 2010;[27] otherwise, their right to due process will be violated. The agency, on the other hand, would later claim that it is not barred by estoppel with respect to its reliance on R.A. 10022 as it raised it before the CA in CA-G.R. SP No. 114353.[28] They further argue that RA 10022 cannot be applied in their case, as the law is an amendatory statute which is, as a rule, prospective in application, unless the contrary is provided.[29] To put the issue to rest, the respondents ask the Court to also declare unconstitutional Section 7 of R.A. 10022.

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[26] G.R. No. 179532, May 30, 2011, 649 SCRA 369.
[27] *Rollo*, p. 205; date when petition was stamped received by the CA.
[28] *Id.* at 469-470.
[29] CIVIL CODE, Article 4.

Finally, the respondents submit that the petition should be dismissed outright for raising only questions of fact, rather than of law.

The Court's Ruling

The procedural question

We deem it proper to examine the facts of the case on account of the divergence in the factual conclusions of the labor arbiter on the one hand, and, of the NLRC and the CA, on the other.[30] The arbiter found no illegal dismissal in the respondents' loss of employment in Dubai because they voluntarily resigned; whereas, the NLRC and the CA adjudged them to have been illegally dismissed because they were virtually forced to resign.

The merits of the case

We find no merit in the petition. **The CA committed no reversible error and neither did it commit grave abuse of discretion in affirming the NLRC's illegal dismissal ruling**.

The agency and its principal, Modern Metal, committed flagrant violations of the law on overseas employment, as well as basic norms of decency and fair play in an employment relationship, pushing the respondents to look for a better employment and, ultimately, to resign from their jobs.

First. The agency and Modern Metal are guilty of contract substitution. The respondents entered into a POEA-approved two-year

[30] *Fujitsu Computer Products Corp. of the Phils. v. Court of Appeals*, 494 Phil. 697, 716 (2005).

employment contract,[31] with Modern Metal providing among others, as earlier discussed, for a monthly salary of 1350 AED. On April 2, 2007, Modern Metal issued to them appointment letters[32] whereby the respondents were hired for a longer three-year period and a reduced salary, from 1,100 AED to 1,200 AED, among other provisions. Then, on May 5, 2007, they were required to sign new employment contracts[33] reflecting the same terms contained in their appointment letters, except that this time, they were hired as "ordinary laborer," no longer aluminum fabricator/installer. The respondents complained with the agency about the contract substitution, but the agency refused or failed to act on the matter.

The fact that the respondents' contracts were altered or substituted at the workplace had never been denied by the agency. On the contrary, it admitted that the contract substitution did happen when it argued, "[a]s to their claim for [underpayment] of salary, their original contract mentioned 1350 AED monthly salary, which includes allowance while in their Appointment Letters, they were supposed to receive 1,300 AED. While there was [a] difference of 50 AED monthly, the same could no longer be claimed by virtue of their Affidavits of Quitclaims and Desistance[.]"[34]

Clearly, the agency and Modern Metal committed a prohibited practice and engaged in illegal recruitment under the law. Article 34 of the Labor Code provides:

> Art. 34. Prohibited Practices. It shall be unlawful for any individual, entity, licensee, or holder of authority:
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> x x x x

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[31] *Supra* note 4.
[32] *Supra* note 6.
[33] *Supra* note 7.
[34] *Rollo*, p. 342.

> (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[.]

Further, Article 38 of the Labor Code, as amended by R.A. 8042,[35] defined "illegal recruitment" to include the following act:

> (i) To 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[.]

Second. The agency and Modern Metal committed breach of contract. Aggravating the contract substitution imposed upon them by their employer, the respondents were made to suffer substandard (shocking, as they put it) working and living arrangements. Both the original contracts the respondents signed in the Philippines and the appointment letters issued to them by Modern Metal in Dubai provided for free housing and transportation to and from the jobsite. The original contract mentioned free and suitable housing.[36] Although no description of the housing was made in the letters of appointment except: "Accommodation: Provided by the company," it is but reasonable to think that the housing or accommodation would be "suitable."

As earlier pointed out, the respondents were made to work from 6:30 a.m. to 6:30 p.m., with a meal break of one to one and a half hours, and their overtime work was mostly not paid or underpaid. Their living quarters were cramped as they shared them with 27 other workers. The lodging house was in Sharjah, far from the jobsite in Dubai, leaving them only three to four hours of sleep every workday because of the long hours

[35] Migrant Workers and Overseas Filipinos Act of 1995.

of travel to and from their place of work, not to mention that there was no potable water in the lodging house which was located in an area where the air was polluted. The respondents complained with the agency about the hardships that they were suffering, but the agency failed to act on their reports. Significantly, the agency failed to refute their claim, anchored on the ordeal that they went through while in Modern Metal's employ.

Third. With their original contracts substituted and their oppressive working and living conditions unmitigated or unresolved, the respondents' decision to resign is not surprising. They were compelled by the dismal state of their employment to give up their jobs; effectively, they were constructively dismissed. A constructive dismissal or discharge is "a quitting because continued employment is rendered impossible, unreasonable or unlikely, as, an offer involving a demotion in rank and a diminution in pay."[37]

Without doubt, the respondents' continued employment with Modern Metal had become unreasonable. A reasonable mind would not approve of a substituted contract that pays a diminished salary — from 1350 AED a month in the original contract to 1,000 AED to 1,200 AED in the appointment letters, a difference of 150 AED to 250 AED (not just 50 AED as the agency claimed) or an extended employment (from 2 to 3 years) at such inferior terms, or a "free and suitable" housing which is hours away from the job site, cramped and crowded, without potable water and exposed to air pollution.

We thus cannot accept the agency's insistence that the respondents voluntarily resigned since they personally prepared their resignation

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[36] *Supra* note 4.
[37] C.A. Azucena, Jr., The Labor Code (with Comments and Cases), Volume II, Sixth Ed., 2007, p. 889, citing *Philippine Japan Active Carbon Corporation v. NLRC*, 253 Phil. 149 (1989).

letters[38] in their own handwriting, citing family problems as their common ground for resigning. As the CA did, we find the resignation letters "dubious,"[39] not only for having been lopsidedly worded to ensure that the employer is rendered free from any liability, but also for the odd coincidence that all the respondents had, at the same time, been confronted with urgent family problems so that they had to give up their employment and go home. The truth, as the respondents maintain, is that they cited family problems as reason out of fear that Modern Metal would not give them their salaries and their release papers. Only Era was bold enough to say the real reason for his resignation — to protest company policy.

We likewise find the affidavits[40]of quitclaim and release which the respondents executed suspect. Obviously, the affidavits were prepared as a follow through of the respondents' supposed voluntary resignation. Unlike the resignation letters, the respondents had no hand in the preparation of the affidavits. They must have been prepared by a representative of Modern Metal as they appear to come from a standard form and were apparently introduced for only one purpose — to lend credence to the resignation letters. In Modern Metal's haste, however, to secure the respondents' affidavits, they did not check on the model they used. Thus, Lumanta's affidavit[41] mentioned a G & A International Manpower as his recruiting agency, an entity totally unknown to the respondents; the same thing is true for Era's affidavit.[42] This confusion is an indication of the employer's hurried attempt to avoid liability to the respondents.

The respondents' position is well-founded. The NLRC itself had the same impression, which we find in order and hereunder quote:

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[38] *Supra* note 8.
[39] *Supra* note 2, at 118.
[40] *Rollo*, pp. 268, 271, 272, 277, 280, 281, 285 and 289.
[41] *Id.* at 277.
[42] *Id.* at 285.

> The acts of respondents of requiring the signing of new contracts upon reaching the place of work and requiring employees to sign quitclaims before they are paid and repatriated to the Philippines are all too familiar stories of despicable labor practices which our employees are subjected to abroad. While it is true that quitclaims are generally given weight, however, given the facts of the case, We are of the opinion that the complainants-appellants executed the same under duress and fear that they will not be allowed to return to the Philippines.[43]

Fourth. The compromise agreements (with quitclaim and release)[44] between the respondents and the agency before the POEA did not foreclose their employer-employee relationship claims before the NLRC. The respondents, except Ordovez and Enjambre, aver in this respect that they all paid for their own airfare when they returned home[45] and that the compromise agreements settled only their claim for refund of their airfare, but not their other claims.[46] Again, this submission has not been refuted or denied by the agency.

On the surface, the compromise agreements appear to confirm the agency's position, yet a closer examination of the documents would reveal their true nature. Copy of the compromise agreement is a standard POEA document, prepared in advance and readily made available to parties who are involved in disputes before the agency, such as what the respondents filed with the POEA ahead (filed in 2007) of the illegal dismissal complaint before the NLRC (filed on March 5, 2008).

Under the heading "Post-Deployment," the agency agreed to pay Era[47] and Alcantara[48] ₱12,000.00 each, purportedly in satisfaction of the respondents' claims arising from overseas employment, consisting of

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[43] *Id.* at 159-160.
[44] *Supra* notes 19, 20 and 21.
[45] *Rollo*, p. 307.
[46] *Id*. at 299.
[47] *Id.*

unpaid salaries, salary differentials and other benefits, including money claims with the NLRC. The last document was signed by (1) Anipan, (2) Lumanta, (3) Ladea, (4) Vinuya, (5) Jonathan Nangolinola, and (6) Zosimo Gatchalian (the last four signing on the left hand side of the document; the last two were not among those who filed the illegal dismissal complaint).[49] The agency agreed to pay them a total of ₱72,000.00. Although there was no breakdown of the entitlement for each of the six, but guided by the compromise agreement signed by Era and Alcantara, we believe that the agency paid them ₱12,000.00 each, just like Era and Alcantara.

The uniform insubstantial amount for each of the signatories to the agreement lends credence to their contention that the settlement pertained only to their claim for refund of the airfare which they shouldered when they returned to the Philippines. The compromise agreement, apparently, was intended by the agency as a settlement with the respondents and others with similar claims, which explains the inclusion of the two (Nangolinola and Gatchalian) who were not involved in the case with the NLRC. Under the circumstances, we cannot see how the compromise agreements can be considered to have fully settled the respondents' claims before the NLRC — illegal dismissal and monetary benefits arising from employment. We thus find no reversible error nor grave abuse of discretion in the rejection by the NLRC and the CA of said agreements.

Fifth. The agency's objection to the application of the *Serrano* ruling in the present case is of no moment. Its argument that the ruling cannot be given retroactive effect, because it is curative and remedial, is untenable. It points out, in this respect, that the respondents filed the complaint in 2007, while the *Serrano* ruling was handed down in March 2009. The issue, as the respondents correctly argue, has been resolved in *Yap v. Thenamaris*

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[48] *Id*. at 300.

Ship's Management,[50] where the Court sustained the retroactive application of the *Serrano* ruling which declared unconstitutional the subject clause in Section 10, paragraph 5 of R.A. 8042, limiting to three months the payment of salaries to illegally dismissed Overseas Filipino Workers.

Undaunted, the agency posits that in any event, the *Serrano* ruling has been nullified by R.A. No. 10022, entitled "*An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, As Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and For Other Purposes*."[51] It argues that R.A. 10022, which lapsed into law (without the Signature of the President) on March 8, 2010, restored the subject clause in the 5th paragraph, Section 10 of R.A. 8042. The amendment, contained in Section 7 of R.A. 10022, reads as follows:

> In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement "of" his placement fee and the deductions made with interest at twelve percent (12%) *per annum*, **plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.**[52] (emphasis ours)

This argument fails to persuade us. Laws shall have no retroactive effect, unless the contrary is provided.[53] By its very nature, the amendment introduced by R.A. 10022 — restoring a provision of R.A. 8042 declared unconstitutional — cannot be given retroactive effect, not only because there is no express declaration of retroactivity in the law, but because retroactive application will result in an impairment of a right that had

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[49] *Id.* at 298.
[50] *Supra* note 26.
[51] OFFICIAL GAZETTE, Vol. 106, No. 19, May 10, 2010, pp. 2729-2746.
[52] *Id.* at 2734.

accrued to the respondents by virtue of the *Serrano* ruling — entitlement to their salaries for the unexpired portion of their employment contracts.

All statutes are to be construed as having only a prospective application, unless the purpose and intention of the legislature to give them a retrospective effect are expressly declared or are necessarily implied from the language used.[54] We thus see no reason to nullify the application of the *Serrano* ruling in the present case. Whether or not R.A. 10022 is constitutional is not for us to rule upon in the present case as this is an issue that is not squarely before us. In other words, this is an issue that awaits its proper day in court; in the meanwhile, we make no pronouncement on it.

WHEREFORE, premises considered, the petition is **DENIED**. The assailed Decision dated May 9, 2011 and the Resolution dated June 23, 2011 of the Court of Appeals in CA-G.R. SP No. 114353 are **AFFIRMED**. Let this Decision be brought to the attention of the Honorable Secretary of Labor and Employment and the Administrator of the Philippine Overseas Employment Administration as a black mark in the deployment record of petitioner Pert/CPM Manpower Exponent Co., Inc., and as a record that should be considered in any similar future violations.

Costs against the petitioner.

SO ORDERED.

ARTURO D. BRION
Associate Justice

[54] A.M. Tolentino, Civil Code of the Philippines, Commentaries and Jurisprudence, 1990, Vol. 1, p. 28.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice