Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JERZON MANPOWER AND TRADING, INC., UNITED TAIWAN CORP., and CLIFFORD UY TUAZON, Petitioners,	**G.R. No. 230211**
	Present:
- versus -	GESMUNDO, *C.J., Chairperson,* CAGUIOA, LAZARO-JAVIER, LOPEZ, M., and LOPEZ, J., *JJ.*
EMMANUEL B. NATO,* and COURT OF APPEALS, ELEVENTH (11TH) DIVISION, Respondents.	Promulgated: OCT 06 2021

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DECISION

GESMUNDO, *C.J.*:

Overseas Filipino workers who are contractually and legally entitled to receive health insurance benefits may not be denied of their rights and privileges under the law, notwithstanding the termination of their employment, or the lack of proof that the illness contracted is work-connected. Corollary thereto, Department of Labor and Employment *(DOLE)*-accredited recruitment agencies must ensure that their foreign principals comply with this obligation, consistent with their responsibility to protect the interests of distressed migrant workers. Failure to do so constitutes gross neglect and bad faith which render these recruitment agencies solidarily liable with their foreign principals.

* Deceased; substituted by his surviving spouse Lorna A. Nato.

The Case

This Petition for *Certiorari*[1] under Rule 65 of the Rules of Court seeks to reverse and nullify the October 26, 2016 Decision[2] and January 13, 2017 Resolution[3] of the Court of Appeals *(CA)* in CA-G.R. SP No. 134814. The CA reversed and set aside the May 2, 2013 Decision[4] and January 30, 2014 Resolution[5] of the National Labor Relations Commission *(NLRC)* in NLRC LAC No. 10-000888-12, and reinstated the September 14, 2012 Decision[6] of the Labor Arbiter *(LA)*, which awarded to Emmanuel B. Nato *(respondent)* his unpaid salaries for three (3) months plus ₱1,000,000.00 financial assistance.

Antecedents

On May 22, 2008, Jerzon Manpower and Trading, Inc. *(Jerzon),* for and on behalf of its foreign principal, United Taiwan Corp. *(UTC),* hired respondent as a machine operator. Respondent's employment contract had a duration of one (1) year, seven (7) months, and seven (7) days, with a monthly wage of NT$17,280.00.[7] Respondent was deployed to Taiwan on June 8, 2008, and immediately had a routine medical checkup upon his arrival. He had a routine checkup after six months, and another one after a year.[8]

As a machine operator, respondent was responsible for monitoring machines, operating the machine control system, and doing minor repairs. He was constantly exposed to a hot working environment because of the vapors and emission from the machines, which he monitored and operated daily for eight to twelve hours.[9]

About a year after his deployment, respondent started to experience occasional stomachaches. When the pain constantly recurred, respondent decided to inform his superior about his condition. His superior, however, ignored his complaint and told him to carry on with his assigned work. Respondent continued to report for work despite feeling weak, having severe stomach pains, and vomiting regularly. Eventually, respondent's co-worker

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[1] *Rollo*, pp. 3-24.
[2] Id. at 83-94; penned by Associate Justice Sesinando E. Villon with Associate Justices Rodil V. Zalameda (now a Member of this Court) and Pedro B. Corales, concurring.
[3] Id. at 96-97.
[4] Id. at 61-68; penned by Presiding Commissioner Leonardo L. Leonida with Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap, concurring.
[5] Id. at 69-80; penned by Presiding Commissioner Grace E. Maniquiz-Tan with Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap, concurring.
[6] Id. at 55-60; penned by Labor Arbiter Vivian H. Magsino-Gonzalez.
[7] Id. at 119-120.
[8] Id. at 84.
[9] Id. at 120.

took him to the hospital for a checkup. Respondent was diagnosed with ulcer and was given medicine, but his condition continued to worsen.[10]

After a few days, respondent's co-worker brought him to the hospital again, where he learned that he had a chronic kidney disease specifically diagnosed as Chronic Glomerulonephritis Stage V (End Stage) Renal Disease, with internal hemorrhoid bleeding, nausea, anorexia, face swelling, and malaise. He was confined in the hospital and had daily dialysis for ten days.[11]

On July 16, 2009, respondent's broker had him discharged from the hospital and brought him to a hotel room to undergo a two-day quarantine. Before leaving him alone in the hotel room, respondent's broker advised him that he would be sent back to the Philippines. On July 18, 2009, respondent was brought to the airport and was given an airline ticket bound for the Philippines. Upon his arrival in the Philippines, respondent was immediately brought to the hospital from the airport due to the seriousness of his illness. No one from petitioners' office fetched him from the airport or even inquired about his condition while he was hospitalized.[12]

On June 22, 2012, respondent filed before the LA a complaint against Jerzon, UTC, and Jerzon's president, Clifford Uy Tuazon (collectively, *petitioners)*, for payment of disability and medical benefits, hospitalization expenses, airline ticket, and salary for the unexpired portion of his contract. Since the parties failed to reach an amicable settlement, the LA ordered them to file their respective position papers.[13]

In his Position Paper dated August 10, 2012, respondent averred that petitioners should have allowed him to recover before being repatriated to the Philippines since he had health care and labor insurance benefits under his employment contract. Respondent claimed that he incurred expenses for medical treatment, airplane fare, and other essentials amounting to ₱1,500,000.00.[14]

Petitioners failed to file their position paper despite the grant by the LA of their request for extension to submit said pleading. Thus, the LA deemed the case submitted for resolution.

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[10] Id. at 84.
[11] Id.
[12] Id. at 121-122.
[13] Id. at 55-56.
[14] Id. at 56-57.

The LA Ruling

In its September 14, 2012 Decision, the LA ruled as follows:

> **IN THE LIGHT OF THE FOREGOING,** respondents Jerzon Manpower & Trading Company, Inc., United Taiwan Corporation, and Clifford Uy Tuazon, are jointly and severally liable to pay complainant's unpaid salaries for three (3) months, or NT$ 51,840.00 or its equivalent in Philippine currency at the time of actual payment, plus One Million Pesos (₱1,000,000.00) by way of financial assistance.
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> All other claims are dismissed for lack of sufficient basis.
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> **SO ORDERED.**[15]

The LA held that respondent contracted his illness during the term of his employment contract, considering that he was declared fit before his deployment to Taiwan. As such, respondent had no fault in the pre-termination of his employment contract, and petitioners had no just, valid, or authorized cause to terminate his employment. The LA thus awarded respondent his unpaid salaries for three months in accordance with Section 10 of Republic Act *(R.A.)* No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Sec. 7 of R.A. No. 10022.[16]

The LA also applied Philippine laws on the issue of respondent's entitlement to labor and health insurance benefits under his employment contract, which expressly stated that the benefits shall be subject to the laws of Taiwan, Republic of China *(Taiwan)*. According to the LA, the Philippine labor laws should be applied due to the failure of respondent to prove the labor laws of Taiwan. The LA awarded respondent with financial assistance in the amount of ₱1,000,000.00 because respondent's illness lasted for more than 240 days, and he incurred expenses for his medical treatment.

Feeling aggrieved, petitioners appealed to the NLRC and contended that they were denied due process of law as they had no opportunity to file

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[15] Id. at 60.

[16] **Section 7.** Section 10 of Republic Act No. 8042, as amended, is hereby amended to read as follows:
SEC. 10. *Money Claims.* – x x x
x x x x
"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.

their position paper and reply. Petitioners denied terminating respondent's employment and claimed that it was respondent who requested for repatriation. Petitioners also argued that respondent's illness was not work-related.[17]

Respondent, on the other hand, denied that he requested for repatriation and claimed that petitioners unilaterally decided to repatriate him after learning that he had a terminal illness. Respondent insisted that he contracted his ailment while working for petitioners in Taiwan and that he incurred expenses for his medical treatment and hospitalization.[18]

In the meantime, on February 10, 2013, respondent died. He was substituted by his spouse, Lorna A. Nato, as party appellee before the NLRC.

The NLRC Ruling

On May 2, 2013, the NLRC rendered a Decision resolving to set aside the decision of the LA, and disposed in the following manner:

> **WHEREFORE,** premises considered, the Decision dated September 14, 2012 is hereby **VACATED AND SET ASIDE.** A new decision is rendered dismissing the complaint for illegal dismissal for lack of merit. However, appellants' *(sic)* are directed to extend financial assistance to appellee's surviving heirs in the amount of ONE HUNDRED THOUSAND (₱100,000.00) pesos.
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> SO ORDERED.[19]

The NLRC opined that petitioners had a valid basis under the employment contract to terminate respondent's employment. It cited Article VIII, paragraph 8.2(6) of the employment contract, which stated that one of the grounds for termination of employment is losing the ability to work. Consequently, it found the LA's award of unpaid salaries for three months to be bereft of legal and factual basis in view of the lawful termination of respondent's employment. The NLRC, however, recognized the sick leave pay, health insurance, and labor insurance benefits granted to respondent under the employment contract, which respondent did not avail of given the

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[17] *Rollo*, p. 64.
[18] Id.
[19] Id. at 67.

circumstances attending his illness. Hence, the NLRC granted financial assistance to respondent, albeit for a reduced amount of ₱100,000.00.

Respondent filed a motion for reconsideration and argued that his inability to work should not be used as a ground to justify the termination of his employment precisely because the nature of his work had caused his illness. Moreover, petitioners did not afford him due process of law as he was not given any notice before his dismissal. Respondent also contended that the NLRC erred in reducing the amount of the financial assistance awarded.[20]

In its January 30, 2014 Resolution, the NLRC modified the May 2, 2013 Decision by awarding ₱30,000.00 by way of nominal damages in favor of the surviving heirs of respondent, in addition to the previous award of ₱100,000.00 financial assistance. The NLRC based its ruling in *Agabon v. NLRC*,[21] where the Court awarded nominal damages to redress the violation of the employee's right to procedural due process.

Unsatisfied, respondent filed a petition for *certiorari* before the CA.

The CA Ruling

In its October 26, 2016 Decision, the CA granted respondent's petition and reinstated the LA's ruling. The CA ratiocinated that while petitioners had a valid cause for terminating respondent's employment, they, however, violated his right to procedural due process. In fixing the amount of financial assistance to be awarded to respondent, the CA took into account respondent's death and petitioners' failure to attend to his medical needs; to give him financial, medical, or moral assistance; to comply with the twin-notice requirement; and to give respondent his termination benefits.[22] The CA acknowledged that respondent had incurred medical and hospitalization expenses when he was confined in Taiwan and in the Philippines. Hence, the CA found the award of the LA to be amply justified.

Petitioners filed a motion for reconsideration but the CA denied the same in its January 13, 2017 Resolution. Petitioners, thus, filed before this Court a petition for *certiorari* under Rule 65 of the Rules of Court.

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[20] Id. at 74.
[21] 485 Phil. 248, 288 (2004).
[22] *Rollo*, pp. 90-93.

Assignment of Errors

Ascribing grave abuse of discretion to the CA for dismissing their petition for *certiorari,* petitioners anchor the present recourse on the following grounds:

I.

PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND SERIOUS ERROR IN LAW WHEN IT GAVE DUE COURSE TO THE PETITION OF PRIVATE RESPONDENT, WHEN THE SUBJECT DECISION/RESOLUTION OF [THE] NLRC HAD ALREADY BECOME FINAL AND EXECUTORY.

II.

PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED AND SET ASIDE THE DECISION OF [THE] NLRC, AND REINSTATED THE ERRONEOUS DECISION OF THE LABOR ARBITER DATED 14 SEPTEMBER 2012.[23]

Petitioners argue that respondent's petition for *certiorari* to the CA should have been dismissed outright since the decision and resolution of the NLRC had already become final and executory and an Entry of Judgment had already been issued.[24] Petitioners also contend that the LA decision, which the CA reinstated, was merely based on respondent's self-serving allegations because they failed to file their position paper.[25] Moreover, the CA erred when it ruled on the legality of respondent's dismissal since it was not a cause of action in respondent's complaint before the LA. As to the monetary claim, petitioners assert that respondent cannot claim medical and hospitalization expenses given that no receipts were showed as proof of payment.[26] Petitioners opined that respondent is not entitled to sickness or disability benefits since his ailment was not an occupational disease.

In his Comment[27] dated September 24, 2018, respondent averred that petitioners availed of the wrong remedy by filing a petition for *certiorari* before the Court. Respondent also argued that a petition for *certiorari* before the CA is an available remedy despite the NLRC decision becoming final and executory.

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[23] Id. at 13.
[24] Id. at 15.
[25] Id. at 16.
[26] Id. at 20-22.
[27] Id. at 117-134.

In their Reply,[28] petitioners reiterated their argument that the NLRC decision and resolution were final and executory, hence, unappealable; and that the financial assistance awarded by the LA and reinstated by the CA, has no sufficient basis.

ISSUES

In the light of the arguments raised by the parties, the following are the essential issues to be resolved:

1. Whether petitioners availed of the wrong remedy to assail the CA's decision and resolution.

2. Whether the CA correctly reinstated the September 14, 2012 Decision of the Labor Arbiter.

The Court's Ruling

At the outset, We find that petitioners availed of the wrong legal remedy in assailing the decision and resolution of the CA.

A special civil action for *certiorari* under Rule 65 of the Rules of Court is available only when the following essential requisites concur: (a) the petition must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (b) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (c) there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.[29] On the other hand, Sec. 1, Rule 45 of the Rules of Court explicitly states that a judgment or a final order or resolution of the CA may be appealed with the Court through a verified petition for review on *certiorari*.

A petition for review on *certiorari* under Rule 45 should not be confused with a petition for *certiorari* under Rule 65. The first is a mode of appeal and the latter is an extraordinary remedy used to correct errors of jurisdiction.[30] *Certiorari* will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as the court *a quo* acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.[31] To be sure, the availability of the right

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[28] Id. at 147-157.
[29] *Philippine Airlines Employees Association v. Cacdac*, 645 Phil. 494, 501 (2010).
[30] *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil. 389, 408 (2017).
[31] *Albor v. Court of Appeals*, 823 Phil. 901, 910 (2018).

to appeal under Rule 45 precludes the filing of a petition under Rule 65 because a special civil action for *certiorari* may be pursued only when appeal is not an available remedy.[32]

In *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*,[33] the Court held that the correct remedy to assail the decision of the CA is to file an appeal by petition for review on *certiorari* under Rule 45, to wit:

> A petition for *certiorari* under Rule 65 of the Rules of Court is a special civil action that may be resorted to only in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law. Contrary to petitioner's claim in the Jurisdictional Facts portion of its petition that there was no appeal or any other plain, speedy and adequate remedy in the ordinary course of law other than this petition for *certiorari*, the right recourse was to appeal to this Court in the form of a petition for review on *certiorari* under Rule 45 of the Rules of Court, Section 1 of which provides:
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> > Section 1. *Filing of petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the *Sandiganbayan,* the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari.* The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.
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> For purposes of appeal, the Decision dated July 1, 2002 of the Court of Appeals was a final judgment as it denied due course to, and dismissed, the petition. Thus, the Decision disposed of the petition of petitioner in a manner that left nothing more to be done by the Court of Appeals in respect to the said case. Thus, petitioner should have filed an appeal by petition for review on *certiorari* under Rule 45, not a petition for *certiorari* under Rule 65, in this Court. Where the rules prescribe a particular remedy for the vindication of rights, such remedy should be availed of.
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> The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the

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[32] *Oliveros v. Court of Appeals*, G.R. No. 240084, September 16, 2020.
[33] 716 Phil. 500 (2013).

> resort to *certiorari* because one of the requirements for the latter remedy is that there should be no appeal.[34]

In this case, the CA decision and resolution were final judgments as it disposed of respondent's petition for *certiorari*, which left the CA with nothing more to be done. Hence, the proper remedy to assail said issuances is through a petition for review on *certiorari* under Rule 45 and not a petition for *certiorari* under Rule 65.

Notably, petitioners herein failed to proffer any justification for availing of the wrong remedy. In fact, when respondent pointed out petitioners' error in his comment, they merely brushed off the same and stated that "Rule 65 of the subject rules speaks for itself and needs no further interpretation." Petitioners' incessant violation of the rules of procedure from the outset does not escape the Court's attention. First, petitioners did not file their position paper before the LA despite the grant of their request for extension to submit the said pleading. Second, petitioners attached a defective verification and certification of non-forum shopping in its memorandum on appeal filed before the NLRC. Third, even if the Court treats the present petition as an appeal by *certiorari* under Rule 45, it has been filed beyond the reglementary period allowed by law, thereby depriving the Court of jurisdiction over the appeal.

Petitioners' procedural gaffes may have arisen from their decision not to be represented by counsel, as the instant petition was signed by one of the petitioners and Jerzon's Chairman of the Board, Clifford Uy Tuazon *(Tuazon)*.

Under Sec. 34 of Rule 138 of the Rules of Court, a person may represent himself in any case before a court in which he is a party:

> **Section 34**. *By whom litigation conducted.* — In the court of a justice of the peace a party may conduct his litigation in person, with the aid of an agent or friend appointed by him for the purpose, or with the aid of an attorney. In any other court, a party may conduct his litigation personally or by aid of an attorney, and his appearance must be either personal or by a duly authorized member of the bar.

While the provision indeed allows an individual person to appear for himself before the court of law, juridical persons, such as Jerzon and UTC, must be assisted by a lawyer duly authorized by their board of directors to perform such function.[35] Thus, while Tuazon may represent himself and personally file the instant petition on his own behalf being himself a party to

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[34] Id. at 512-513.

[35] *Dadiangas West Central Elementary School Teachers Cooperative v. Leyva*, G.R. No. 219719, January 24, 2018 (Notice).

the case, he may not do so on behalf of Jerzon and UTC, who are required by law to be represented by a qualified member of the bar in cases pending before courts of law where they are parties.

Moreover, an individual who chooses to represent himself premised under Sec. 34 of Rule 138 "[is] restricted to the same rules of evidence and procedure as those who are qualified to practice law."[36] Hence, petitioners are, in like manner, bound by the rules of civil procedure, which require parties to file a petition for review on *certiorari* under Rule 45 when appealing a final judgment rendered by the Court of Appeals. Otherwise, petitioners' ignorance would be unjustifiably rewarded.[37]

The Court, nonetheless, allows the filing of a petition for *certiorari* under Rule 65 even if appeal is an available remedy (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.[38]

The second and fourth exceptions are applicable in the instant case since patent errors on the challenged CA decision are extant. The absence of any concrete justification by the LA and the CA in awarding the amount of ₱1,000,000.00 as financial assistance constitutes an oppressive exercise of judicial authority. While the LA and the CA have reason to believe that respondent is entitled to financial assistance, the amount cannot be pulled out of thin air. There should at least be a modicum of basis for such award.

The Court, in several instances, granted financial assistance to a dismissed employee as a measure of social justice and as an equitable concession.[39] As will be explained, respondent's entitlement to financial assistance is rooted from petitioners' decision to repatriate respondent and unceremoniously sever their employer-employee relationship.

Respondent was terminated without just or authorized cause.

Petitioners maintain that they did not terminate respondent, but instead claim that it was respondent who asked to be repatriated to the Philippines.[40] In effect, petitioners are claiming that respondent himself pre-terminated his

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[36] *Maderada v. Mediodea*, 459 Phil. 701, 716-717 (2003).
[37] Id. at 717.
[38] *AMA Computer College –Santiago City, Inc. v. Nacino*, 568 Phil. 465, 470 (2008).
[39] *Eastern Shipping Lines, Inc. v. Antonio*, 618 Phil. 601, 614 (2009), citing *Eastern Shipping Lines, Inc. v. Sedan*, 521 Phil. 61, 70 (2006).
[40] *Rollo*, p. 17.

employment, which is akin to voluntary resignation. Respondent, on the other hand, denied that he requested for repatriation as he himself was surprised when he was brought to the airport since he expected to be allowed recovery in Taiwan, especially because his employment contract provided him health and labor insurance benefits.[41]

The Court finds for respondent.

Under Art. 300[42] of the Labor Code, an employee may pre-terminate his employment contract by serving a written notice of resignation at least one (1) month in advance. As it is equivalent to voluntary resignation, the *onus probandi* is on the employer, who must prove by clear, positive and convincing evidence that the resignation was voluntary.[43]

In this case, apart from their self-serving allegations, petitioners failed to provide sufficient proof that respondent pre-terminated his employment contract by requesting his repatriation. It is illogical, to say the least, for respondent to ask for repatriation since his employment contract granted him health and labor insurance benefits. Moreover, petitioners failed to present any proof that respondent resigned or, at the very least, had expressed any intention to resign.

On the contrary, the Court finds that petitioners were the ones who terminated respondent's employment. As his repatriation came immediately after his confinement and dialysis treatments in Taiwan, it can be reasonably concluded that petitioners' cause for terminating his employment was respondent's illness.

The CA, however, found that respondent was legally dismissed on the basis of the employment contract, which states that "*[I]n the event the Employee is found to be unsuitable for employment during the probationary period effective from the day he/she reports to the job, Employer may terminate this contract and repatriate him/her to his/her country of origin.*" According to the CA, it was within UTC's right to terminate respondent's employment due to sickness.

The Court disagrees.

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[41] Id. at 57.

[42] Formerly Article 285 of the Labor Code. See DOLE Department Advisory No. 1, series of 2015 (Renumbering of the Labor Code of the Philippines, as Amended).

[43] *FCA Security and General Services, Inc. v. Academia, Jr. II*, 815 Phil. 233, 241 (2017).

In *Industrial Personnel & Management Services, Inc. v. De Vera*,[44] the Court categorically held that an overseas Filipino worker is not stripped of his right to security of tenure, humane conditions of work, and a living wage under our Constitution. Even though employed abroad, migrant workers may only be terminated for a just or authorized cause and after compliance with procedural due process requirements.[45]

In finding that respondent was legally dismissed, the CA concluded that respondent's illness fell into the "unsuitability" criteria for terminating his employment contract, which consequently validated petitioners' act of dismissing respondent. In the first place, petitioners had consistently claimed that they did not terminate respondent's employment; rather it was respondent who asked to be repatriated.[46] Thus, the CA erred in assuming petitioners' basis in terminating respondent from service and in interpreting the provisions of the employment contract.

Moreover, the Court has previously ruled that allowing "foreign employers to determine for and by themselves whether an overseas contract worker may be dismissed on the ground of illness would encourage illegal or arbitrary pre-termination of [the] employment contract."[47] This is precisely what happened in the case at bar. Noteworthy is the lack of assistance or communication on the part of petitioners while respondent was undergoing dialysis in Taiwan, which explained why he was surprised when his broker brought him to the airport for repatriation.

Accordingly, the safeguards in place under Philippine labor laws for dismissal based on illness must be applied. It is well settled that the strict rule on evidence is not strictly applied in labor cases.[48] However, for parity of reasoning, the rules of evidence is applied in this case. Although respondent's employment contract was covered by the labor laws of Taiwan, the CA properly held that the doctrine of processual presumption should be applied because the parties failed to submit the applicable laws of Taiwan. The doctrine of processual presumption thus comes into play, which declares that where a foreign law is not pleaded or, even if pleaded, is not proved, the presumption is that the foreign law is the same as ours.[49]

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[44] 782 Phil. 230, 245 (2016).
[45] *Sameer Overseas Placement Agency, Inc. v. Cabiles*, 740 Phil. 403, 423 (2014).
[46] *Rollo*, p. 17.
[47] *Triple Eight Integrated Services, Inc. v. National Labor Relations Commission*, 359 Phil. 955, 969 (1998).
[48] See *Del Monte Land Transport Bus Co. v. Abergos*, G.R. No. 245344, December 2, 2020; see also *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, 649 Phil. 255, 261 (2010).
[49] *Philippine Export and Foreign Loan Guarantee Corporation v. V.P. Eusebio Construction, Inc.*, 478 Phil. 269, 289 (2004).

Furthermore, the fact that respondent was a migrant worker in Taiwan does not remove him from the protective mantle of the Labor Code of the Philippines when applicable.[50] This pronouncement is in keeping with the basic public policy of the State to afford protection to labor; promote full employment; ensure equal work opportunities regardless of sex, race or creed; and regulate the relations between workers and employers.[51] Hence, We shall apply Philippine laws in the instant case.

Under Art. 299[52] of the Labor Code, 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 is prejudicial to his health as well as to the health of his co-employees. To be a valid ground for termination, there must be a certification by a competent public authority that the disease is of such nature or at such stage that it cannot be cured within a period of six (6) months even with proper medical treatment.[53]

As a rule, the burden falls upon the employer to establish the requisites for validly terminating employment on the ground of disease.[54] Thus, it is the employer's obligation to submit in evidence a certification from a public authority regarding the employee's condition.[55] Without the required certification, the characterization or even diagnosis of the disease would primarily be shaped according to the interests of the parties rather than the studied analysis of the appropriate medical professionals. The requirement of a medical certificate cannot be dispensed with; otherwise, it would sanction the unilateral and arbitrary determination by the employer of the gravity or extent of the employee's illness and thus defeat the public policy in the protection of labor.[56] In the absence of a certification, the dismissal must necessarily be declared illegal.[57]

Here, petitioners failed to adduce in evidence any medical certification issued by a competent public authority showing respondent's health condition. Hence, their act of unilaterally deciding to repatriate respondent failed to abide by the requirement mandated by law.

Furthermore, in cases where the termination of employment is due to disease, the employer must furnish the employee with two written notices, namely: (1) the notice to apprise the employee of the ground for which his

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[50] *International Management Services v. Logarta*, 686 Phil. 21, 30 (2012).
[51] *Royal Crown Internationale v. National Labor Relations Commission*, 258A Phil. 342, 353 (1989).
[52] Formerly Article 284 of the Labor Code.
[53] The Omnibus Rules Implementing the Labor Code, Book VI, Rule I, Section 8.
[54] *Deoferio v. Intel Technology Philippines, Inc.*, 736 Phil. 625, 635-636 (2014).
[55] *Duterte v. Kingswood Trading Co., Inc.*, 561 Phil. 11, 18 (2007).
[56] *Crayons Processing, Inc. v. Pula*, 555 Phil. 527, 537 (2007).
[57] *Deoferio v. Intel Technology Philippines, Inc.*, supra note 54, at 637-638.

dismissal is sought; and (2) the notice informing the employee of his dismissal, to be issued after the employee has been given reasonable opportunity to answer and to be heard on his defense.[58]

In the present case, petitioners failed to comply with the twin-notice requirement and simply repatriated respondent back to the Philippines without any kind of assistance. After his dialysis sessions for ten consecutive days in Taiwan, respondent's broker brought him to the airport without any explanation as to his abrupt repatriation, despite his condition. UTC did not even reach out to him while he was at the hospital to tell him of its intention to terminate his employment, much less send a written notice to apprise him of the ground for his termination and to inform him of his eventual dismissal.

Respondent's entitlements

Verily, respondent's employment was terminated without authorized cause and without observance of procedural due process. Under Sec. 10 of R.A. No. 8042, as amended, he is entitled to full reimbursement of his placement fee with interest of twelve percent (12%) *per annum*, plus his salaries for the unexpired portion of his employment contract.

Respondent, however, failed to prove the amount he had paid as placement fee. While he claims to have paid ₱85,000.00 as processing fee,[59] the same was not substantiated by any evidence on record. The basic rule is that mere allegation is not evidence and is not equivalent to proof.[60] Thus, the Court cannot grant him such award.

As for respondent's salaries, the LA granted him with unpaid salary for three (3) months, by applying the phrase "or for three (3) months for every year of the unexpired term, whichever is less" under Sec. 7 of R.A. No. 10022 which amended Sec. 10 of R.A. No. 8042. However, the LA failed to consider the Court's ruling in *Sameer Overseas Placement v. Cabiles*[61] promulgated on August 5, 2014, which reiterated the finding in *Serrano v. Gallant Maritime*[62] that limiting wages to be recovered by an illegally dismissed overseas worker to three months is both a violation of due process and the equal protection clause of the Constitution. Hence, it was erroneous for the LA and the CA,

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[58] Id. at 639-640.
[59] *Rollo*, pp. 118-119.
[60] *Centro Project Manpower Services Corporation v. Naluis*, 760 Phil. 596, 604 (2015).
[61] Supra note 45, at 434.
[62] 601 Phil. 245, 304-305 (2009).

which reinstated the decision of the LA, to limit respondent's entitlement to unpaid salaries to only three (3) months.

Instead of only three (3) months, respondent is entitled to the unexpired portion of his contract. Notably, his employment contract had a fixed term of one year, seven months, and seven days, beginning on June 8, 2008. Thus, his employment contract was set to expire on January 15, 2010. Since he was repatriated on July 18, 2009, respondent is entitled to his salaries from July 18, 2009 until January 15, 2010, or in the total amount of NT$102,528.00, computed as follows:

Respondent's salary: NT$17,280.00 per month or NT$576.00[63] per day

July 18, 2009 to July 31, 2009 = 13 days x NT$576.00	= NT$7,488.00
August 2009 to December 2009 = 5 months x NT$17,280.00	=NT$86,400.00
January 1, 2010 to January 15, 2010 = 15 days x NT$576.00	=NT$8,640.00
TOTAL	**NT$102,528.00**

As to the peso equivalent of the above monetary award, it should be computed based on the exchange rate prevailing at the time of payment as provided under Sec. 1 of R.A. No. 8183,[64] which states:

> **Section 1.** All monetary obligations shall be settled in the Philippine currency which is legal tender in the Philippines. However, the parties may agree that the obligation or transaction shall be settled in any other currency at the time of payment.

Respondent is entitled to moral and exemplary damages.

Aside from his salaries for the unexpired portion of his contract, respondent is also entitled to moral and exemplary damages. Sec. 10 of R.A. No. 8042 particularly provides for the solidary and continuing liability of recruitment agencies against monetary claims of migrant workers, which may include claims for damages, to wit:

> **SEC. 10. MONEY CLAIMS.** - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to

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[63] NT$17,280.00 / 30 days = NT$576.00

[64] Entitled "An Act to Assure the Uniform Value of Philippine Coin and Currency; *International Skill Development, Inc. v. Montealto, Jr.*, G.R. No. 237455, October 7, 2020 (Notice).

hear and decide, within ninety (90) calendar days after filing of the complaint, **the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.**

The liability of the principal/employer and the recruitment/placement 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/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract. (emphasis supplied)

Sec. 1(f)(3), Rule II, Part II of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers also requires recruitment agencies to execute a verified undertaking, even before the issuance of their license to operate, that they shall be solidarily liable with the principal for all claims and liabilities due to the migrant worker:

RULE II

ISSUANCE OF LICENSE

Sec. 1. *Requirements for Licensing.* — Every applicant for license to operate a private employment agency shall submit a written application together with the following requirements:

x x x x

f. A verified undertaking stating that the applicant:

x x x x

3) Shall assume joint and solidary liability with the employer for all claims and liabilities which may arise in connection with the implementation of the contract, including but not limited to payment of wages, death and disability compensation and repatriations.

It is well settled that moral damages are recoverable where the dismissal of the employee was attended by bad faith or fraud or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.[65] Moral damages are also awarded in a breach of contract when the defendant acted in bad faith, or was guilty of gross negligence amounting to bad faith, or in wanton disregard of his contractual obligation.[66]

On the other hand, exemplary damages are proper when the dismissal was effected in a wanton, oppressive or malevolent manner, and public policy requires that these acts must be suppressed and discouraged.[67] The grant of temperate damages also paves the way for the award of exemplary damages.[68]

In this case, respondent sufficiently established petitioners' oppressive manner of repatriating him, which amounted to the termination of his employment. When respondent informed his superior regarding his recurring stomach pains, the latter merely ignored him and told him to continue working. Petitioners' intent to escape its obligation to provide labor and health insurance benefits to respondent under the employment contract is apparent in the abrupt manner of respondent's repatriation to the Philippines. Upon respondent's arrival in the Philippines, petitioners did not even provide him any moral assistance at the airport nor any medical or financial assistance while he was confined at the hospital during his battle with chronic kidney disease.[69] When he went to petitioners' office twice to request medical assistance, petitioners ignored his plea and even shouted invectives at him.[70]

Clearly, respondent is entitled to moral damages in view of petitioners' reckless and callous treatment of respondent from the very beginning, when respondent was still in Taiwan and first experienced stomach aches, until his repatriation in the Philippines, where he was constantly hospitalized due to his worsening condition. Petitioners, particularly Jerzon, neglected their moral and social obligation to ensure that respondent would, at the very least, be treated humanely and justly upon his arrival in the Philippines, considering his critical condition.

The Court is appalled by how petitioners had crassly refused to extend assistance to respondent. As recounted by respondent, a certain "Ms. Pacita," one of Jerzon's employees, hurled invectives at him and told him to "go to Taiwan and file a case there" while banging the telephone in front of them.

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[65] *Montinola v. Philippine Airlines*, 742 Phil. 487, 505 (2014).
[66] *BPI Investment Corp. v. D. G. Carreon Commercial Corp.*, 422 Phil. 367, 380 (2001).
[67] *San Miguel Corporation v. Teodosio*, 617 Phil. 399, 419 (2009).
[68] *Canada v. All Commodities Marketing Corp.*, 590 Phil. 342, 351 (2008).
[69] *Rollo*, p. 122.
[70] Id.

Afterwards, Ms. Pacita and two other employees of Jerzon, forcibly ousted respondent and his companion from the office.[71] As aptly described by the Court in *Interorient Maritime Enterprises, Inc. v. NLRC*,[72] "such attitude harks back to another time when the landed gentry practically owned the serfs, and disposed of them when the latter had grown old, sick or otherwise lost their usefulness."

In *Corpuz, Jr. v. Gerwil Crewing Phils., Inc.*,[73] the Court reminded DOLE-accredited recruitment agencies that under R.A. No. 8042, their responsibility is not limited to the recruitment and deployment of Filipino workers, but extends to the promotion of the safety and welfare of Filipino workers in foreign countries. For its failure to ensure the right of the migrant worker against contract substitution, the Court ordered the recruitment agency, Gerwill Crewing Phils., Inc., to pay moral and exemplary damages in the amount of ₱100,000.00 each.

In *Becmen Service Exporter and Promotion Inc. v. Spouses Cuaresma*,[74] the Court emphatically awarded moral damages and exemplary damages in the amount of ₱2,500,000.00 each, in order to compensate the parents of Jasmin Cuaresma *(Jasmin)* for the nonchalant and uncaring attitude of the principal and the recruitment agencies when Jasmin's body was repatriated and during the investigation of her death. The Court ratiocinated:

> Thus, more than just recruiting and deploying OFWs to their foreign principals, recruitment agencies have equally significant responsibilities. In a foreign land where OFWs are likely to encounter uneven if not discriminatory treatment from the foreign government, and certainly a delayed access to language interpretation, legal aid, and the Philippine consulate, the recruitment agencies should be the first to come to the rescue of our distressed OFWs since they know the employers and the addresses where they are deployed or stationed. Upon them lies the primary obligation to protect the rights and ensure the welfare of our OFWs, whether distressed or not. Who else is in a better position, if not these recruitment agencies, to render immediate aid to their deployed OFWs abroad?
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> Article 19 of the Civil Code provides that every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith. Article 21 of the Code states that any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage. And, lastly, Article 24 requires that in all contractual, property or other relations, when one of the parties is at a

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[71] Id.
[72] 330 Phil. 493, 510 (1996).
[73] G.R. No. 205725, January 18, 2021.
[74] 602 Phil. 1058 (2009).

disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection.

Clearly, Rajab, Becmen and White Falcon's acts and omissions are against public policy because they undermine and subvert the interest and general welfare of our OFWs abroad, who are entitled to full protection under the law. They set an awful example of how foreign employers and recruitment agencies should treat and act with respect to their distressed employees and workers abroad. Their shabby and callous treatment of Jasmin's case; their uncaring attitude; their unjustified failure and refusal to assist in the determination of the true circumstances surrounding her mysterious death, and instead finding satisfaction in the unreasonable insistence that she committed suicide just so they can conveniently avoid pecuniary liability; placing their own corporate interests above of the welfare of their employee's — all these are contrary to morals, good customs and public policy, and constitute taking advantage of the poor employee and her family's ignorance, helplessness, indigence and lack of power and resources to seek the truth and obtain justice for the death of a loved one.

Giving in handily to the idea that Jasmin committed suicide, and adamantly insisting on it just to protect Rajab and Becmen's material interest — despite evidence to the contrary — is against the moral law and runs contrary to the good custom of not denouncing one's fellowmen for alleged grave wrongdoings that undermine their good name and honor.

Whether employed locally or overseas, all Filipino workers enjoy the protective mantle of Philippine labor and social legislation, contract stipulations to the contrary notwithstanding. This pronouncement is in keeping with the basic public policy of the State to afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. This ruling is likewise rendered imperative by Article 17 of the Civil Code which states that laws which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.

The relations between capital and labor are so impressed with public interest, and neither shall act oppressively against the other, or impair the interest or convenience of the public. In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer.

The grant of moral damages to the employee by reason of misconduct on the part of the employer is sanctioned by Article 2219 (10) of the Civil Code, which allows recovery of such damages in actions referred to in Article 21.[75]

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[75] Id. at 1079-1081.

In *International Skill Development, Inc. v. Montealto, Jr.*,[76] Montealto was denied hospitalization after falling ill because his medical insurance was cancelled by his foreign employer. His health coverage was unlawfully terminated after being reported as an abscondee by reason of his two-day absence despite informing his employer of his situation. The Court sustained the award of moral and exemplary damages in the amount of ₱100,000.00 each, in view of the malicious and oppressive treatment by Montealto's foreign employer.

In *Career Philippines Shipmanagement, Inc. v. Godinez*,[77] the Court affirmed the award of US$1,000.00 each as moral and exemplary damages in favor of Godinez after finding that his foreign principal and the local manning agency failed and refused to properly address his illness until it became worse. The Court also justified such award on account of the ship officers' inhumane treatment despite his grave affliction.

Despite the enactment of R.A. No. 8042 in 1995, and numerous jurisprudential rulings imposing damages against negligent recruitment agencies, it appears that these agencies and their foreign principals refuse to take heed of the Court's constant reminder to ensure the welfare of migrant workers. The cases that have reached the Court, including the instant case, involve incidents of oppression, inhumane treatment, and deception of Filipino workers abroad by giving them less than what they are contractually or legally entitled to.

Indeed, there is a need for a stricter enforcement of the law and rules and regulations pertaining to Filipino contract workers abroad, who almost always have to endure painful and difficult sacrifices for the sake of foreign employment and for the hope of a better future for their families. They bear the hardship of leaving their loved ones behind for a speck of opportunity in a foreign country where they are vulnerable to discrimination and abuses by their employers. Recruitment agencies are thus given the civic duty and social responsibility of ensuring faithful compliance by their foreign principals of all their obligations under the employment contract.[78] When they applied for a license to operate for the deployment of workers abroad, these agencies pledged to adhere to the provisions of R.A. No. 8042, as amended by R.A. No. 10022, and to ensure that the deployed workers and their interests are amply protected. They are expected to extend active and timely assistance to

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[76] Supra note 64.
[77] 819 Phil. 86, 125-126 (2017).
[78] The POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers, Part VIII, Rule 1, Section 1.

their deployed workers, especially those in distress. In fact, they are expected to be the first to come to the rescue of our migrant workers, whether in distress or not.[79]

The Court gives high regard to the welfare and protection of our migrant workers, especially those who were victims of oppression brought about by the fault or negligence of their employers and recruiters. To emphasize upon the recruitment agencies and their foreign counterparts, the need for conscientious treatment of Filipino migrant workers, and the vigilant performance of their duties under the law, the Court deems it necessary to increase the prevailing amount of damages awarded in similar cases where an overseas Filipino worker experienced oppression and neglect caused by either the recruitment agency, the foreign employer, or both. Thus, an award of ₱200,000.00 as moral damages is proper and commensurate to the oppressive manner of respondent's repatriation as a means by petitioners to evade their contractual obligation, and their failure to provide moral, financial, and medical assistance to respondent until his death on February 10, 2013.

Inevitably, petitioners are also liable for exemplary damages. Exemplary damages are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner.[80] It is also proper when there are violations of procedural due process requirements under the Labor Code.[81]

As in this case, UTC's indifference to respondent's condition at the outset, coupled with the lack of any form of assistance from Jerzon while respondent was still in Taiwan and even after his arrival in the Philippines when he was callously treated by its employees, cannot and should not be countenanced. Moreover, the fact that respondent was abruptly repatriated, and his employment contract terminated without prior notice, showed petitioners' indifference towards respondent's situation. These are badges of neglect and bad faith that are contrary to the State's policy of ensuring the welfare and safety of overseas Filipino workers, which is a continuing responsibility of recruitment agencies towards migrant workers.[82]

Even respondent's death did not cause petitioners to end their disdain and diatribes against him. In their Reply[83] filed before this Court, petitioners continued to deny respondent of the financial assistance he fought for while

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[79] *Becmen Service Exporter and Promotion, Inc. v. Spouses Cuaresma*, supra note 74, at 1079.
[80] *Monsanto Philippines, Inc. v. National Labor Relations Commission*, G.R. Nos. 230609-10, August 27, 2020.
[81] *Montinola v. Philippine Airlines*, supra note 65, at 502.
[82] *Corpuz v. Gerwil Crewing Phils., Inc.*, supra note 73.
[83] *Rollo*, pp. 147-156.

he was still alive. Deliberately adding insult to the injury, petitioners averred that respondent could not possibly claim ₱1,500,000.00 as medical expenses as it would not even be possible to earn half of such amount even if respondent completed his employment contract with UTC and rendered overtime work every day. Petitioners went on to allege that they paid for respondent's medical and hospitalization expenses, but failed to substantiate such claim.[84] Petitioners' callous treatment of respondent during his lifetime and even after his death, shows their apathy towards the plight of a distressed overseas worker such as respondent.

The important role of recruitment agencies in the protection of the interests and welfare of Filipino workers abroad cannot be overemphasized. They should first and foremost be the advocate of Filipino migrant workers, especially in the enforcement of contracts of employments and labor laws and rules and regulations, and should not let themselves be instruments of oppression.[85] In this case, Jerzon was not only UTC's instrument of oppression but the oppressor itself, which runs counter to its responsibility to protect the interests and rights of overseas Filipino workers.

Thus, a similar award of ₱200,000.00 as exemplary damages shall be imposed against petitioners to serve as deterrent against socially deleterious actions, especially against distressed Filipino migrant workers. This shall likewise serve as a stinging reminder to recruitment agencies and foreign employers to strictly comply with the provisions of R.A. No. 8042, as amended by R.A. No. 10022, as well as the POEA Rules and Regulations.

Respondent is entitled to financial assistance based on the health insurance provided under his employment contract.

Under respondent's employment contract, petitioners undertook to provide respondent with labor and health insurance benefits, subject to the applicable laws of Taiwan, to wit:

> 7.1 During the employment, employee shall be covered by labor insurance with imposition of premiums and compensation subject to provisions of R.O.C. statute of labor insurance.

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[84] Id. at 151.

[85] *Nahas v. Olarte*, 734 Phil. 569, 584 (2014); *Datuman v. First Cosmopolitan Manpower and Promotion Services, Inc.*, 591 Phil. 662, 675-676 (2008).

> 7.2 In addition to the labor insurance, employer will provide employee with a limit of NT$300,000 for accident insurance regardless of whether the accident occurred during or beyond working hours.
>
> 7.3 Employee shall also be provided with health insurance, in accordance with the national health insurance plan.[86]

Thus, petitioners' intent to give said benefits to respondent has been established, and the fact that respondent failed to prove the pertinent laws of Taiwan, as well as his actual expenses, will not militate against petitioners' intent to grant labor and health insurance benefits that were clearly spelled out in the employment contract.

Since respondent failed to prove the applicable laws of Taiwan regarding his claim of insurance benefits, the Court is constrained to apply our laws in order to compensate respondent for the benefits he is entitled to receive under his employment contract. In *Philippine National Bank v. Cabansag*,[87] citing *Royal Crown Internationale v. NLRC*,[88] the Court held:

> x x x Whether employed locally or overseas, all Filipino workers enjoy the protective mantle of Philippine labor and social legislation, contract stipulations to the contrary notwithstanding. This pronouncement is in keeping with the basic public policy of the State to afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. For the State assures the basic rights of all workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work [Article 3 of the Labor Code of the Philippines; *See also* Section 18, Article II and Section 3, Article XIII, 1987 Constitution]. This ruling is likewise rendered imperative by Article 17 of the Civil Code which states that laws 'which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determination or conventions agreed upon in a foreign country.

Under R.A. No. 7875, or the National Health Insurance Act of 1995, as amended by R.A. No. 9241 and R.A. No. 10606, all Filipinos shall be part of a National Health Insurance Program *(NHIP)* which aims to provide universal health insurance coverage and affordable, acceptable, available, and accessible health care services.[89] Consequently, the Philippine Health

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[86] *Rollo*, p. 57.
[87] 499 Phil. 512, 529 (2005).
[88] Supra note 51.
[89] Republic Act No. 7875, Article I, Section 1(v).

Insurance Corporation *(Philhealth)* was established to administer the National Health Insurance Program.[90] Sec. 4(a)(ii) of R.A. No. 7875, in relation to Secs. 3(hh) and 30, provides that overseas workers are compulsory members and categorized as paying members who shall pay the full amount of their contribution through the Overseas Workers' Welfare Administration *(OWWA)*. Furthermore, under Sec. 12 of R.A. No. 7875, members who have paid premium contributions for at least three months are entitled to the benefits of the NHIP.

During respondent's battle with End Stage Renal Disease *(ESRD)* and at the time of his death, he was made aware that Philhealth provides a dialysis package for members who have ESRD, and need to undergo hemodialysis sessions, at the rate of ₱4,000.00 per session for a maximum of 45 sessions per calendar year.[91] For a patient with ESRD, such as respondent, he has to undergo three dialysis sessions per week,[92] which translates to 156[93] sessions in one calendar year.[94] Thus, in a year, an ESRD patient has to pay in full, from his own pocket, the remaining 111[95] sessions, not to mention the amount he has to shoulder for the 45 sessions included in Philhealth's dialysis package, considering that the package's case rate is lower than the actual cost of a dialysis session.

Respondent was diagnosed to have Chronic Glomerulonephritis Stage V (End Stage) and began his dialysis sessions in Taiwan before he was repatriated to the Philippines. Upon his arrival in the Philippines in 2009, and until his death on February 10, 2013, he had been in and out of the hospital for dialysis sessions to recover from his illness. Since respondent duly paid the premiums and contributions for the health care and insurance benefits defined in his employment contract, he should have been entitled to the maximum dialysis package granted to Philhealth members in its circulars, amounting to ₱180,000.00[96] per year, or a total amount of ₱720,000.00, for his four-year battle with ESRD. The labor and health insurance benefits to which respondent is entitled to could have immensely contributed to fund his expenses for his regular dialysis sessions; given that he eventually resorted to

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[90] Republic Act No. 7875, Article I, Section 3(d).
[91] Philhealth Circular No. 011-2011.
[92] *Rollo*, p. 56.
[93] 3 sessions x 52 weeks = 156 sessions.
[94] National Kidney Foundation, Inc.: Dialysis. https://www.kidney.org/atoz/content/dialysisinfo; accessed on September 4, 2021.
[95] 156 sessions – 45 sessions = 111 sessions.
[96] ₱4,000.00 x 45 sessions = ₱180,000.00.

borrowing money from his relatives and friends to pay for his medical and hospitalization expenses.[97]

To emphasize, the health insurance benefits contractually granted to respondent was not dependent on his employment or on whether the illness contracted was work-connected, contrary to petitioners' claim. The payment of the premium contributions itself initiated respondent's membership in Philhealth and activated the coverage and provisions of R.A. No. 7875, as amended by R.A. No. 9042. Hence, petitioners could not deny respondent of his rights and privileges under R.A. No. 7875, and its amendments, to which he had become legally and contractually entitled.

Consistent with the State's obligation under R.A. No. 8042 to provide adequate and **timely** social, economic, and legal services to Filipino migrant workers, petitioners are obligated to comply with their contractual obligations and to do so in a timely manner, especially to a distressed migrant worker. More often than not, the responsiveness of the employer and the recruitment agency to the needs of migrant workers, who have delayed access to legal or social aid in a foreign country, could mean life or death to the latter.

This is the case for respondent when petitioners failed to provide him with prompt medical and financial assistance through the health and labor benefits he was entitled to under his employment contract. The expenses he allotted for his regular dialysis sessions that were necessary for the treatment and management of his illness could have been diverted to his other medical needs and his, and his family's, daily subsistence. Veritably, the receipt by respondent of the insurance benefits he was entitled to could have brought about a different outcome of the fate he suffered. Petitioners could not therefore deny their failure to perform their contractual obligation of providing respondent his health and labor insurance benefits under the employment contract.

In affirming the ruling of the LA that respondent is entitled to financial assistance, the CA properly considered respondent's plight and how the treatment of both UTC and Jerzon aggravated his condition:

> When the Labor Arbiter awarded the financial assistance amounting to one million pesos (Php 1,000,000.00) she properly considered the circumstances of the case. The amount awarded as such should [be] commensurate to what was actually suffered by the employee. In ***Paz v.***

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[97] *Rollo*, p. 122.

> ***Northern Tobacco Redrying Co., Inc.,*** it was held that in the presence of special circumstances, courts can consider the same "social and compassionate justice" cited in several cases allowing financial assistance. These circumstances indubitably merit equitable concessions, *via* the principle of "compassionate justice" for the working class. Thus, we find no fault when the Labor Arbiter awarded the said amount to petitioner. The amount of the financial assistance need not be supported by actual receipts or documents as it depends on the sound discretion of the Labor Arbiter. It was not disputed that petitioner was hospitalized in Taiwan and also here in the Philippines. It was also established that due to petitioner's kidney failure, he had to undergo dialysis every day. This treatment was not availed of by petitioner for free, thus expenses for his hospitalization and eventually his demise, were incurred. Thus, the Labor Arbiter in the proper exercise of her discretion, appropriately granted the amount of Php 1,000,000.00 which is commensurate with the actual expenses that the deceased employee's family incurred, as well as for their sufferings relative to his hospitalization, repatriation, and death.[98] (emphasis in the original; citation omitted)

As already established, petitioners had a contractual obligation to provide health and labor insurance benefits to respondent. Respondent, however, was denied his entitlement and claim to said benefits when petitioners untimely repatriated him despite his critical condition and repeatedly rejected his pleas for medical and financial assistance. Thus, to the Court's mind, and in view of the circumstances obtaining in this case, an award of financial assistance equivalent to ₱500,000.00 is just and reasonable.

Respondent is entitled to attorney's fees and legal interest.

A dismissed employee compelled to litigate in order to seek redress and protect his rights is entitled to reasonable attorney's fees pursuant to Art. 2208 (2) of the Civil Code.[99] Respondent is thus entitled to attorney's fees of ten percent (10%) of the total monetary award.[100]

Finally, all monetary awards herein granted in favor of respondent, are subject to six percent (6%) interest *per annum* from the finality of this decision until its full payment, pursuant to the Court's ruling in *Nacar v. Gallery Frames*.[101]

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[98] Id. at 92-93.
[99] *Abaria v. National Labor Relations Commission*, 678 Phil. 64, 101 (2011).
[100] Article III of the Labor Code.
[101] 716 Phil. 267 (2013).

WHEREFORE, the petition for review is **PARTIALLY GRANTED**. The October 26, 2016 Decision and January 13, 2017 Resolution of the Court of Appeals, in CA-G.R. SP No. 134814, are **AFFIRMED with MODIFICATION**, in that petitioners Jerzon Manpower and Trading, Inc., United Taiwan Corporation, and Clifford Uy Tuazon, are hereby **ORDERED** to **PAY** the heirs of respondent Emmanuel B. Nato, jointly and solidarily, the following:

(1) The equivalent of NT$102,528.00 in Philippine peso at the time of payment, as respondent's pay for the unexpired portion of his employment contract;

(2) ₱200,000.00 as moral damages;

(3) ₱200,000.00 as exemplary damages;

(4) ₱500,000.00 as financial assistance;

(5) attorney's fees equivalent to ten percent (10%) of the total monetary award; and

(6) legal interest of six percent (6%) *per annum* on the total monetary award from finality of this Decision until fully paid.

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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.

ALEXANDER G. GESMUNDO
Chief Justice