



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**BISON
CORPORATION,**

MANAGEMENT

Petitioner,

G.R. No. 256540

Present:

- versus -

CAGUIOA, J., *Chairperson*,
INTING,*
GAERLAN,
DIMAAMPAO, and
SINGH,** JJ.

AAA* AND DALE P. PERNITO,**
Respondents.

Promulgated:

February 14, 2024

x-----
Misdebat
----- x

DECISION

CAGUIOA, J.:

Before the Court is the petition for review¹ (Petition) under Rule 45 of the Rules of Court filed by petitioner Bison Management Corporation (Bison) assailing the Decision² dated November 18, 2020 and Resolution³ dated May 25, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 164083.

The CA affirmed the Decision⁴ dated September 30, 2019 and Resolution⁵ dated November 18, 2019 of the National Labor Relations Commission (NLRC) in NLRC LAC (OFW-M)-(L)-08-000564-19. The

Initials were used to identify respondent pursuant to Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 titled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances".

** Also appears as "Dale Pawawan Pernito" and "Dale Pawaan Pernito" in some parts of the *rollo*.

On official business but participated in the deliberations.

** On official business.

Rollo, pp. 11–36, excluding Annexes. Denominated as "Petition for Review Under Rule 45."

² *Id.* at 37–45. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ronaldo Roberto B. Martin and Carlito B. Calpatura.

Id. at 46–47.

Id. at 166–189. Penned by Commissioner Agnes Alexis A. Lucero-De Grano and concurred in by Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Isabel G. Panganiban-Ortiguerra.

Id. at 207–210.

NLRC had earlier reversed and set aside the Decision⁶ dated July 22, 2019 of the Labor Arbiter in NLRC NCR Case No. (L) 03-04320-19.

Preliminary Matter

Since this case involves a person who has tested positive for human immunodeficiency virus (HIV) and such medical diagnosis is central to the controversy at bar, the Court deems it proper to apply Supreme Court Amended Administrative Circular No. 83-2015, which provides:

I. COVERED CASES

....

3. This Protocol shall also apply to cases where the confidentiality of the identities of the parties, records, and court proceedings is mandated by laws or rules not expressly mentioned herein and by similar laws or rules to be enacted in the future.

Section 44 of Republic Act No. 11166,⁷ otherwise known as the “Philippine HIV and AIDS Policy Act,” guarantees “[t]he confidentiality and privacy of any individual who has been tested for HIV, has been exposed to HIV, has HIV infection or HIV- and AIDS-related illnesses, or was treated for HIV-related illnesses.” Under the law, medical confidentiality applies not only to the attending physician, consulting medical specialist, nurse, medical technologist, and all other health workers or personnel involved in any counseling, testing or professional care of the patient, but also to “any person who, in any official capacity, has acquired or may have acquired such confidential information.”⁸

The Court respects the confidentiality of the information and protects the privacy of respondent AAA.

Facts

The present petition stems from an amended Complaint⁹ dated March 1, 2019 for illegal dismissal and discrimination, non-payment of salary/wages, overtime pay, vacation leave pay, payment of the unexpired portion of the employment contract, attorney’s fees, damages, and legal interest filed by respondents AAA and Dale P. Pernito (Pernito) (collectively, respondents)

⁶ *Id.* at 113–127. Rendered by Labor Arbiter Nicolas B. Nicolas.

⁷ An Act Strengthening the Philippine Comprehensive Policy on Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) Prevention, Treatment, Care, and Support, and Reconstituting the Philippine National Aids Council (PNAC), Repealing for the Purpose Republic Act No. 8504, Otherwise Known as the “Philippine Aids Prevention and Control Act of 1998,” and Appropriating Funds Therefor (2019).

⁸ Republic Act No. 11166 (2019), sec. 3(cc).

⁹ *Rollo*, p. 56.

against Bison, Belen M. Al-Humayed¹⁰ (Al-Humayed), and Saraya Al Jazerah Contracting Est.¹¹ (Saraya).

Bison is the recruitment agency that placed and deployed respondents to the Kingdom of Saudi Arabia (Saudi Arabia) as overseas Filipino workers (OFW);¹² Al-Humayed is the President of Bison;¹³ while Saraya is the foreign recruitment agency of Bison.¹⁴

The antecedent facts are summarized by the CA as follows:

[AAA] . . . applied with [Bison] sometime in 2017 and, after undergoing the usual screening and interview, was hired as a Cleaning Laborer under a two (2)-year contract with a monthly salary of One Thousand Five Hundred Saudi Riyal (SR 1,500.00). He was deployed to the Kingdom of Saudi Arabia on 18 October 2017 and commenced work thereafter. In January of 2019 – after working for fifteen (15) months – [AAA] underwent routine medical examination and was found positive for Human Immunodeficiency Virus (HIV). On this basis, his foreign employer terminated the employment of [AAA] because under the laws of the Kingdom of Saudi Arabia, an HIV+ individual is considered unfit to work. He was repatriated to the Philippines on 08 February 2019.

As to [Pernito], he applied with [Bison] sometime in 2018 and was hired as a Restaurant Worker under a similar two (2)-year contract with a monthly salary of One Thousand Five Hundred Saudi Riyal (SR 1,500.00). He was deployed to the Kingdom of Saudi Arabia on 29 March 2018 and commenced work soon thereafter. Unfortunately, after working for around nine (9) months, he was terminated from employment supposedly because he had expressed interest to resign and transfer to another employer. However, [Pernito] vehemently denied this imputation, and claimed that he was actually terminated because his employer saw him and his co-workers conversing with each other during their break time. He was repatriated to the Philippines on 23 January 2019.¹⁵

Ruling of the Labor Arbiter

In a Decision dated July 22, 2019, the Labor Arbiter dismissed the complaint for illegal dismissal, but ruled that AAA is entitled to his unpaid salary from January 26, 2019 to February 7, 2019, vacation leave pay, and attorney's fees. The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered **DISMISSING** the complaint for illegal dismissal for lack of merit. However, respondent Bison Management Corporation and Saraya Al Jazerah Contracting Est. are ordered to jointly and severally pay complainant

¹⁰ Also appears as "Alhumayed" in some parts of the *rollo*.

¹¹ Also appears as "Saraya Al Jazerah Cont. Est.," "Zaraay Al Jasira," "Saraya Al Jajerah Cont. Est.," and "Saraja Al Jazirah Contracting Est." in some parts of the *rollo*.

¹² *Id.* at 39, CA Decision.

¹³ *Id.* at 167–168, NLRC Decision.

¹⁴ *Id.* at 168.

¹⁵ *Id.* at 39–40, CA Decision.

[AAA] the following:

1. Unpaid salary and unpaid vacation leave of [sic] as computed in this Decision; and
2. Attorney[']s fees equivalent to the 10% of the award.

Other claims are denied for lack of merit.

SO ORDERED.¹⁶ (Emphasis in the original)

Regarding AAA, the Labor Arbiter found that “[r]ecords show that under the policy of KSA, [persons who test positive for] HIV . . . are not allowed to work there.”¹⁷ The Labor Arbiter further decreed that the policy is “a state prerogative of KSA which deserves our respect”¹⁸ and postulated that Republic Act No. 8504¹⁹ or the “Philippine AIDS Prevention and Control Act of 1998” is a “local law” that should apply only “within our jurisdiction and not to KSA.”²⁰ It must be noted, however, that Republic Act No. 8504 had already been repealed²¹ by Republic Act No. 11166 at the time of AAA’s repatriation.

As to Pernito, the Labor Arbiter found that he had voluntarily resigned from work in Saudi Arabia to join his family in Bahrain.²² The Labor Arbiter relied on a purported email from Pernito’s foreign employer stating as follows:

[I] would like to inform you that there is nothing going on from what you are saying, as there is [sic] three Filipino been trying to transfer Iqama which we dont [sic] do in our company then they start create problem and not doing there [sic] job properly and this Dale came up lattley [sic] with anew [sic] thing that his family in Bahrain and need to go to Bahrain which he resign [sic] for the purpose of going to his family.²³

The Labor Arbiter also took against Pernito the period that lapsed from his repatriation on January 23, 2019 until his filing a complaint on March 1, 2019 (37 days), and stated that “[i]f he was truly aggrieved, Pernito should have been moved [by] his sense of urgency to instantly file his complaint.”²⁴

¹⁶ *Id.* at 126–127, Labor Arbiter’s Decision.

¹⁷ *Id.* at 123.

¹⁸ *Id.*

¹⁹ An Act Promulgating Policies and Prescribing Measures for the Prevention and Control of HIV/AIDS in the Philippines, Instituting a Nationwide HIV/AIDS Information and Educational Program, Establishing a Comprehensive HIV/AIDS Monitoring System, Strengthening the Philippine National Aids Council, and for Other Purposes (1998).

²⁰ *Rollo*, p. 123, Labor Arbiter’s Decision.

²¹ Republic Act No. 11166, which took effect on January 25, 2019, expressly provides:

SEC. 55. *Repealing Clause.* — Republic Act No. 8504, otherwise known as the “Philippine AIDS Prevention and Control Act of 1998,” is hereby repealed.

²² *Rollo*, p. 124, Labor Arbiter’s Decision.

²³ *Id.* at 75; *see also id.* at 120–121, Labor Arbiter’s Decision.

²⁴ *Id.* at 124, Labor Arbiter’s Decision.

Respondents filed a Memorandum of Partial Appeal²⁵ before the NLRC, asserting that they were illegally dismissed from employment. They also filed a Motion to Admit Additional Evidence/Supplement to Complainants' Appeal,²⁶ where they offered as evidence email/messaging app exchanges²⁷ between Pernito's co-workers to Bison, which tend to support his allegation that they were made to work 12 hours a day and that Pernito was dismissed from work because he was caught sleeping during his break time.

Ruling of the NLRC

On September 30, 2019, the NLRC resolved the partial appeal in favor of respondents. Contrary to the Labor Arbiter's finding, the NLRC found that both AAA and Pernito were illegally dismissed. The dispositive portion of the NLRC Decision reads:

WHEREFORE, complainants' Appeal is **PARTLY GRANTED**. The Decision dated July 22, 2019 rendered by Labor Arbiter Nicolas B. Nicolas is hereby **REVERSED and SET ASIDE**, and a new one is entered declaring complainants [AAA] and DALE P. PERNITO as having been **ILLEGALLY DISMISSED** by respondents.

Respondents BISON MANAGEMENT CORPORATION, SARAJA AL JAZIRAH CONTRACTING EST. and BELEN M. ALHUMAYED are ORDERED to jointly and severally pay complainants the following:

Complainant [AAA]

1. Salaries for the unexpired portion of his employment contract (February 8, 2019 to October 17, 2019) in the amount of SR 12,510.00;
2. Unpaid salaries for the period January 26 to February 7, 2019 in the amount of SR 762.53;
3. Vacation leave equivalent to 42 days or SR 2,423.08;
4. Moral damages in the amount of P50,000.00;
5. Exemplary damages in the amount of P50,000.00; and
6. Attorney's fees equivalent to 10% of the total monetary award.

Complainant Dale Pernito

1. Salaries for the unexpired portion of his employment contract

²⁵ *Id.* at 130-147.

²⁶ *Id.* at 152-155.

²⁷ *Id.* at 156-161.



(February 8, 2019 to March 29, 2020) in the amount of SR 21,450.00;

2. Vacation leave equivalent to 42 days or SR 2,423.08;
3. Moral damages in the amount of P50,000.00;
4. Exemplary damages in the amount of P50,000.00; and
5. Attorney's fees equivalent to 10% of the total monetary award.

All the foregoing monetary awards in complainants' favor shall earn legal interest of 6% per annum from the time this Decision becomes final and executory until fully satisfied.

SO ORDERED.²⁸ (Emphasis in the original)

On November 18, 2019, the NLRC denied the motion for reconsideration filed by Bison, Saraya, and Al-humayed.²⁹

Bison filed a petition for *certiorari*³⁰ before the CA.

Ruling of the CA

On November 18, 2020, the CA promulgated the assailed Decision with the following dispositive portion:

WHEREFORE, premises considered, the Petition for Certiorari is **DENIED**.

SO ORDERED.³¹ (Emphasis in the original)

The CA did not find any abuse of discretion, much less grave, on the part of the NLRC, as the latter's disposition was in accordance with pertinent labor laws and jurisprudence.³²

Regarding AAA, the CA agreed with the NLRC that Philippine law governs the terms of the employment contract as well as the rights of the employee; that such conclusion stems from the principle of *lex loci contractus*.³³ The CA also cited Section 35 of Republic Act No. 8504, which provides that "[d]iscrimination in any form from pre-employment to post-employment, including hiring, promotion or assignment, based on the actual, perceived or suspected HIV status of an individual is prohibited. Termination

²⁸ *Id.* at 187–188.

²⁹ *Id.* at 207–210, NLRC Resolution.

³⁰ *Id.* at 211–221.

³¹ *Id.* at 44, CA Decision.

³² *Id.*

³³ *Id.* at 42.



from work on the sole basis of actual, perceived or suspected HIV status is deemed unlawful.”³⁴ The CA ratiocinated that since the law “categorically prohibits the use of a person’s HIV+ condition as a ground for dismissal,” there was no valid cause to terminate AAA.³⁵

As for Pernito, the CA emphasized that it is the employer that has the burden to prove that the dismissal was valid, which burden Bison failed to discharge.³⁶ The CA found the email of Pernito’s employer to be self-serving and inadequate, unsupported by any documentary or concrete evidence.³⁷

In the assailed Resolution dated May 25, 2021, the CA denied Bison’s motion for reconsideration.

Hence, this Petition.

Issue

Bison argues that the CA erred in upholding the NLRC’s ruling that Pernito was illegally dismissed. Bison also argues that the CA erred in applying the principle of *lex loci contractus* rather than the principle of *pacta sunt servanda* in resolving the legality of AAA’s dismissal.

Ruling

Article XIII, Section 3 of the Constitution provides:

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

As the Court has succinctly worded in *Princess Talent Center Production, Inc. v. Masagca*³⁸ (*Princess Talent Center Production*), “[t]he Constitutional guarantee of security of tenure extends to Filipino overseas contract workers. . . . Employees are not stripped of their security of tenure when they move to work in a different jurisdiction.”³⁹

³⁴ *Id.* at 43.

³⁵ *Id.*

³⁶ *Id.* at 44.

³⁷ *Id.*

³⁸ 829 Phil. 381 (2018) [Per J. Leonardo-De Castro, First Division].

³⁹ *Id.* at 407–408, citing *Sameer Overseas Placement Agency, Inc. v. Cabiles*, 740 Phil. 403, 421 [Per J. Leonen, *En Banc*].

Let this case be an affirmation of the State's promise to protect Filipino workers, here and abroad.

A. As to Pernito

Both the NLRC and the CA found that Bison failed to discharge its burden of proving that Pernito had voluntarily resigned.⁴⁰

The Court will not disturb the factual finding of the NLRC and the CA based only on a “self-serving email”—as the CA had aptly described—that does not even contain relevant details such as the sender, recipient, their email addresses, and the date of sending. Further, Bison failed to advance any exceptional circumstance that would warrant an exception to the rule that only errors of law are cognizable in a Rule 45 petition.

Lastly on this issue, the Court observes that the supposed email opened with the following: “I would like to inform you that there is nothing going on from what you are saying.”⁴¹ From the statement, it can logically be inferred that it was the agency that had initiated contact with the foreign employer to inquire about something “going on.” Far from proving that 1) Pernito had resigned and 2) such resignation was voluntary, the email is corroborative of Pernito’s claim that he and his co-employees complained to the agency about being overworked,⁴² which work conditions eventually led to Pernito’s dismissal.

B. As to AAA

Bison invokes the principle of *pacta sunt servanda* based on the “Agreement on Labor Cooperation for General Workers Recruitment and Employment Between the Department of Labor and Employment of the Republic of the Philippines and the Ministry of Labor and Social Development of the Kingdom of Saudi Arabia”⁴³ (Agreement on Labor Cooperation), which provides that the “Second Party [(Department of Labor and Employment of the Republic of the Philippines)] shall . . . [e]nsure that the recruited general workers satisfy health requirements and are free of all communicable diseases by virtue of thorough medical examinations through reliable medical facilities accredited by the [sic] both governments.”⁴⁴

The argument is untenable and belied by Bison’s own representation that “[p]rior to his deployment and as part of the requirements, . . . [AAA] underwent a medical examination and he had a clean bill of health”⁴⁵ and that

⁴⁰ See *rollo*, pp. 43–44, CA Decision; *id.* at 181–182, NLRC Decision.

⁴¹ *Id.* at 75.

⁴² See *id.* at 152–161, Motion to Admit Additional Evidence/Supplement to Complainants’ Appeal, including Annexes.

⁴³ *Id.* at 51–54.

⁴⁴ *Id.* at 53; see also *id.* at 15, Petition for Review.

⁴⁵ *Id.* at 14, Petition for Review.

“[AAA] acquired his HIV illness after working in Saudi Arabia for more than one (1) year.”⁴⁶

The Court will not engage in an academic discussion on the principle of *pacta sunt servanda* where the case is essentially one for illegal dismissal of an OFW.

It has been definitively settled in *Industrial Personnel & Management Services, Inc. v. De Vera*,⁴⁷ which the CA correctly cited, that the principle of *lex loci contractus* applies, that as a rule, Philippine laws govern overseas employment contracts.⁴⁸ As a narrow exception, the parties may agree that a foreign law shall govern, but subject to the concurrence of the following requisites:

1. That it is expressly stipulated in the overseas employment contract that a specific foreign law shall govern;
2. That the foreign law invoked must be proven before the courts pursuant to the Philippine rules on evidence;
3. That the foreign law stipulated in the overseas employment contract must not be contrary to law, morals, good customs, public order, or public policy of the Philippines; and
4. That the overseas employment contract must be processed through the POEA.⁴⁹

It appears that the first and fourth requisites are present. However, the second requisite and the third requisite, which is the most important,⁵⁰ are absent.

i. The foreign law was not proven

To support its claim that Saudi Arabia allows the termination of employment based on an HIV-positive result, Bison presented the following:

- a. The Agreement on Labor Cooperation;
- b. An untitled document containing what appears to be collated information from unidentified sources,⁵¹ described by Bison as

⁴⁶ *Id.* at 22.

⁴⁷ 782 Phil. 230 (2016) [Per J. Mendoza, Second Division].

⁴⁸ *Id.* at 245.

⁴⁹ *Id.*

⁵⁰ In *Industrial Personnel & Management Services, Inc. v. De Vera*, the Court hastened to add that “these strict terms are pursuant to the jurisprudential doctrine that ‘parties may not contract away applicable provisions of law especially peremptory provisions dealing with matters heavily impressed with public interest,’ such as laws relating to labor.” (Citations omitted) *Id.* at 246.

⁵¹ *Rollo*, pp. 73–74.

“information culled online regarding the policy of the Kingdom [of Saudi Arabia] regarding HIV positive persons/individual”;⁵²

- c. Rules & Regulations for Medical Examination of Expatriates Coming to GCC States for Residence;⁵³ and
- d. News article entitled “KSA envoy seeks stricter HIV/AIDS test for OFWs”.⁵⁴

Noticeably absent is a copy of the purported foreign law.

To prove a foreign law, the party invoking it must present a copy thereof and comply with Rule 132, Sections 24 and 25 of the Revised Rules of Court.⁵⁵ Failure to prove the foreign law activates the doctrine of processual presumption, whereby the foreign law is deemed to be the same as Philippine law.⁵⁶

Citing *Dumez Company v. NLRC*⁵⁷ and *Norse Management Co. (PTE) v. National Seamen Board*,⁵⁸ Bison argues that technical rules of procedure that are applied in judicial trials, do not strictly apply to administrative proceedings.⁵⁹ Bison yet again invokes a legal concept without proper context. In both cited cases, the quasi-judicial bodies took judicial notice of foreign law and the Court sustained their prerogative. Here, the NLRC noted that “while [Bison] harped on the alleged policy of the Kingdom of Saudi Arabia prohibiting from employment foreign workers with HIV, [Bison] failed to adduce competent evidence to support [its] claim.”⁶⁰ The CA, therefore, did not err when it likewise did not take judicial notice of the matter.

ii. *The foreign law is contrary to law and public policy of the Philippines*

Even if it were truly “undeniable”⁶¹ and “it is all over the internet”⁶² that Saudi Arabia does not allow persons who test positive for HIV to work there, as Bison claims, the Court had already settled in *Pakistan International Airlines Corp. v. Ople*⁶³ (*Pakistan International Airlines*) that if the foreign

⁵² *Id.* at 71, Bison’s Reply filed before the Labor Arbiter.

⁵³ *Id.* at 198–201.

⁵⁴ *Id.* at 202.

⁵⁵ *Nedlloyd Lijnen B.V. Rotterdam v. Glow Laks Enterprises, Ltd.*, 747 Phil. 170, 179 (2014) [Per J. Perez, First Division], citing *ATCI Overseas Corp. v. Echin*, 647 Phil. 43, 50 (2010) [Per J. Carpio Moales, Third Division].

⁵⁶ See *EDI-Staffbuilders International, Inc. v. NLRC*, 563 Phil. 1, 22 (2007) [Per J. Velasco, Jr., Second Division].

⁵⁷ 328 Phil. 72 (1996) [Per J. Hermosisima, Jr., First Division].

⁵⁸ 202 Phil. 810 (1982) [Per J. Relova, First Division].

⁵⁹ *Rollo*, pp. 22–23, Petition for Review.

⁶⁰ *Id.* at 180, NLRC Decision.

⁶¹ *Id.* at 22, Petition for Review.

⁶² *Id.*

⁶³ 268 Phil. 92 (1990) [Per J. Feliciano Third Division].

law stipulated is contrary to law, morals, good customs, public order, or public policy, then Philippine laws shall govern.⁶⁴

In *Saudi Arabian Airlines (SAUDIA) v. Rebesencio*,⁶⁵ Philippine law was applied in deciding the dispute relating to employees who were terminated due to their pregnancy, as it involved “a matter of public interest and public policy.”⁶⁶

Likewise, Philippine law was applied in resolving the case of *Princess Talent Center Production*, involving an employee who was dismissed from work for allegedly “wearing skimpy and revealing dresses, dancing in a provocative and immoral manner, and going out with customers after working hours.”⁶⁷

Contractual stipulation is not a bar to applicability of Philippine law

In *Pakistan International Airlines*, the contract expressly stipulated that 1) Pakistan law applies and 2) the employer could terminate the employee at any time and for any cause satisfactory to itself. Even with said stipulations, the illegal dismissal case was decided under Articles 280 and 281 of the Labor Code of the Philippines. The Court therein proclaimed the labor relationship between an OFW and his or her foreign employer as “much affected with public interest and that the otherwise applicable Philippine laws and regulations cannot be rendered illusory by the parties agreeing upon some other law to govern their relationship.”⁶⁸

Termination on the ground of a positive HIV test result is not legal under Philippine law

Section 49(a) of Republic Act No. 11166 makes it unlawful for an employee to be terminated from work on the sole basis of their HIV status:

SEC. 49. *Discriminatory Acts and Practices.* – The following discriminatory acts and practices shall be prohibited:

⁶⁴ See *id.* at 101, 104–105. The ruling in *Pakistan International Airlines v. Ople* is rooted on Articles 17 and 1306 of the Civil Code, which provide:

ART. 17. . . .

. . . .
Prohibitive laws concerning persons, their acts or property, and those 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.

ART. 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.

⁶⁵ 750 Phil. 791 (2015) [Per J. Leonen, Second Division].

⁶⁶ *Id.* at 833.

⁶⁷ *Princess Talent Center Production, Inc. v. Masagca*, *supra* note 38, at 391.

⁶⁸ *Pakistan International Airlines, Corp. v. Ople*, *supra* note 63, at 104.

(a) *Discrimination in the Workplace.* – The rejection of job application, termination of employment, or other discriminatory policies in hiring, provision of employment and other related benefits, promotion or assignment of an individual solely or partially on the basis of actual, perceived, or suspected HIV status[.]

The CA correctly ruled that since Philippine law “categorically prohibits the use of a person’s HIV+ condition as a ground for dismissal . . . the inescapable conclusion is that there was no valid cause to terminate [AAA], and that doing so is tantamount to illegal dismissal.”⁶⁹

While it is true that disease may be a ground for termination under Article 299⁷⁰ of the Labor Code, as amended and renumbered, Bison has conceded that “HIV positive is not yet an illness/disease.”⁷¹

There being no other reason proffered for AAA’s dismissal apart from his HIV status, the Court upholds the ruling of the CA that the NLRC did not commit grave abuse of discretion in finding that AAA was illegally dismissed.

ACCORDINGLY, the Petition is **DENIED**. The Decision dated November 18, 2020 and Resolution dated May 25, 2021 of the Court of Appeals in CA-G.R. SP No. 164083 are hereby **AFFIRMED**.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁶⁹ *Rollo*, p. 43, CA Decision.


⁷⁰ ART. 299. [284] **Disease as Ground for Termination.** — An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees[.]

⁷¹ *Rollo*, p. 79, Bison’s Rejoinder filed before the Labor Arbitrator.

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

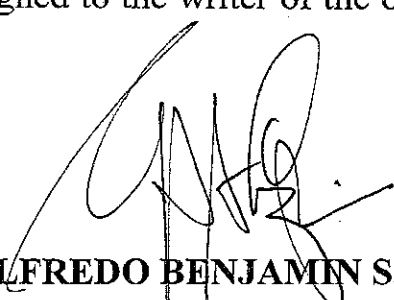


JAPAR B. DIMAAMPAO
Associate Justice

(On official business)
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

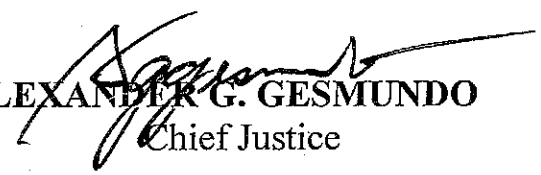
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice

