

FOR PUBLICATION

Appeal No. 01-018

IN THE SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

PERFECTO C. RAMOS,
Plaintiff/Appellant

v.

MAGUSA, INC.,
Defendant/Appellee,

and

DIRECTOR OF LABOR,
Defendant/Appellee.

OPINION

Cite as: Ramos v. Magusa, Inc., 2002 MP 25

Civil Action No. 99-0492

Hearing held March 20, 2002

Decided December 2, 2002

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BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO,
Associate Justice; JOHN A. MANGLONA, Associate Justice.

DEMAPAN, Chief Justice:

¶1 Appellant Perfecto C. Ramos (“Ramos”) appeals the trial court’s decision to uphold the Department of Labor and Immigration’s denial of Ramos’s claim for lost wages and transfer relief. We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands, 1 CMC § 3102(a), and 1 CMC § 9113. We affirm.

ISSUE PRESENTED AND STANDARD OF REVIEW

¶2 Did the Superior Court err in upholding the Department of Labor and Immigration’s denial of Ramos’s claim for lost wages and transfer relief? We review *de novo* the trial court’s legal conclusions and the factual determination that the Hearing Officer’s decision is based on substantial evidence. *In re Hafadai Beach Hotel Extension*, 4 N.M.I. 37, 40-41 (1993).

FACTS AND PROCEDURAL BACKGROUND

¶3 Ramos, a citizen of the Republic of the Philippines, entered Saipan on a nonresident worker’s employment contract in either 1986 or 1989.¹ He was authorized to work for Magusa, Inc. (“Magusa”), a small business that has been at various times a furniture store and a video rental business.

¶4 Romeo A. Ramos (“Romeo”), Ramos’s uncle, filed articles of incorporation for Magusa on November 7, 1989. Ramos, Romeo, and Maribel R. Mejia (“Mejia”) signed as incorporators. On November 7, 1989, Magusa also filed a stock affidavit, listing

¹ It is unclear in which year Ramos entered the CNMI, although the Department of Labor and Immigration Hearing Officer found that Ramos entered the CNMI in 1989.

Ramos, Romeo, and Mejia as shareholders, and designating Mejia as President, Romeo as Vice-President, and Ramos as Secretary-Treasurer. These designations were reiterated on annual corporation reports filed by Romeo from 1989 through 1998. These reports also list Ramos as owner of 2,000 shares of Magusa stock.

¶5 Romeo died on December 30, 1997. Ramos continued to work at Magusa until the business was sold on June 29, 1998. Ramos claimed in his complaint to the Department of Labor and Immigration that this sale caused him to be “abandoned” by Magusa. However, Ramos was a signatory to the “Absolute Deed of Sale,” pursuant to which full title and ownership of the company and its assets were transferred to Movieland Sales and Rental.

¶6 On June 15, 1998, Ramos filed Labor Complaint 98-337 against Magusa, claiming unpaid wages for March, April, and May 1998, and requesting transfer relief. During the course of his administrative hearing, Ramos dropped his claim for unpaid wages.²

¶7 On July 21, 1999, the Division of Labor held a hearing on Ramos’s case. The Hearing Officer concluded that Ramos’s complaint was unfounded, was without merit, was not brought in good faith, and had been filed for the improper purpose of prolonging Ramos’s stay in the CNMI. In accordance with these conclusions and pursuant to the relevant statutes,³ the Hearing Officer ordered Ramos to leave the Commonwealth within

² Inexplicably, Ramos provides this Court a hearing transcript which is missing the page on which Ramos presumably provides some explanation for dropping his claim for lost wages. Excerpts of Record at 65-66.

³ Pursuant to 3 CMC § 4602(f), a nonresident worker who has filed a frivolous complaint with the Department of Labor and Immigration shall not be entitled to transfer relief. Pursuant to 3 CMC § 4447(d), The filing of an action which is determined by the court to be unfounded or without merit shall be considered a material breach of contract and shall prevent reentry into the Commonwealth by the nonresident worker in the event the nonresident attempts reentry into the Commonwealth within five years from the date of the court’s decision.

20 days of the date of the Order, and further ordered that Ramos be barred from the Commonwealth for five years from the date of departure. The Hearing Officer also denied Ramos's request for transfer relief.

¶8 Following a timely request for administrative review, on August 19, 1999, the Secretary of Labor and Immigration issued a final order affirming the decision of the Hearing Officer. Pursuant to 1 CMC § 9112(b), Ramos requested the Superior Court to review the decision of the Department of Labor and Immigration. The Superior Court affirmed the Hearing Officer's decision on June 13, 2001. Ramos timely appeals.

ANALYSIS

¶9 Ramos posits that the issue for this Court to decide on appeal is whether the Hearing Officer was wrong to dismiss Ramos's complaint for lost wages and transfer relief on the grounds that Ramos was an officer and shareholder of Magusa. "In other words, the Hearing Officer's legal argument is that because the plaintiff was an officer and shareholder of the corporation, it was frivolous to file a complaint against the corporation which he partially owned. It is on this point that we disagree with the Hearing Officer." Opening Br. at 5. Ramos spends the remaining six pages of his brief arguing that a corporate officer may sue his own corporation for lost wages, a position entirely irrelevant to the case at hand.

¶10 While the Hearing Officer did find significance in Ramos's status as a corporate officer, shareholder, and signatory of Magusa's "Absolute Deed of Sale," this significance relates not to the Hearing Officer's dismissal of Ramos's wage claims, but instead to Ramos's claim that he is entitled to transfer relief due to being abandoned by Magusa. "[B]y filing a complaint against the corporation in which he serves as the

secretary and treasurer (Ramos) would have at least shared in the responsibility for creating the situation against which he now complains and seeks transfer relief.” Excerpts of Record at 11. Ramos has not presented any legal or factual arguments suggesting that his claim for transfer relief should not have been adjudged frivolous, when he was responsible for his own abandonment.

¶11 That Ramos caused his own abandonment was but one of the Hearing Officer’s reasons for dismissing Ramos’s complaint as unfounded and without merit. Among the other findings leading the Hearing Officer to this conclusion are that Ramos dropped his claim for lost wages during his administrative hearing, admitting that he did not file his claim for lost wages for the sake of recovering these lost wages;⁴ that Ramos violated the Nonresident Workers Act, 3 CMC §§ 4411-4452, specifically 3 CMC § 4437(d)⁵ in myriad ways including by working irregular hours, by accepting irregular payments, and by owning stock; and that Ramos was a foreign investor in violation of the Nonresident

Workers Act.⁶

⁴ Again, Ramos has failed to provide this Court with the only page of the hearing transcript on which some explanation of this admission might have been found. *See* Excerpt of Record at 65-66.

⁵ Pursuant to 3 CMC § 4437(d), “

No employer or nonresident worker shall execute any contract, make any other agreement, or change any existing contract, in writing or otherwise, regarding the employment of such worker, without the approval of the chief, and no nonresident worker shall perform labor or services within the Commonwealth except pursuant to an approved contract or an approved change to this contract. Any nonresident employment contract or change thereto which has not been approved by the chief or which violates any provisions of this chapter shall, in the discretion of the chief:

- (1) Be voidable;
- (2) Be grounds for certificate revocation;
- (3) Be grounds to disqualify an employer from further use of any nonresident labor.

⁶ Pursuant to 3 CMC § 4437(h),

No nonresident worker whose first entry into the Commonwealth for purposes of employment occurs after July 28, 1987, shall have a financial interest in or operate or engage in any business or become an employer.” The Hearing Officer found that Ramos had first entered the CNMI for purposes of employment in 1989, and that his stock ownership and status as corporate officer were in violation of this statute. Though there is conflicting testamentary evidence pertaining to when Ramos did first enter the

¶12 “A legal argument is non-frivolous if it is likely to succeed on the merits or if reasonable persons could differ as to the likelihood of its success on the merits.” *Tenorio v. Superior Court*, 1 N.M.I. 112, 123 (1990). Ramos has utterly failed to meet the burden of proving that the administrative decision is unsupported by substantial evidence. *In re Hafadai Beach Hotel Extension*, 4 N.M.I. at 37.

¶13 Under the “substantial evidence” standard of review, we uphold an administrative decision which is reasonable in light of the facts in the record opposing the agency position as well as those supporting it. *Id* at 44. Ramos does not take issue with any of the Hearing Officer’s factual conclusions or argue that these facts do not support the Hearing Officer’s conclusion that the claim for lost wages and transfer relief was frivolous. The record is similarly bereft of evidence persuading this Court that Ramos’s claim has any merit. The dearth of factual or legal evidence which would support his claim leaves this Court unable to find that the Hearing Officer’s dismissal of Ramos’s claims is unreasonable.

CONCLUSION

¶14 For the foregoing reasons, the judgment is hereby AFFIRMED.

SO ORDERED THIS 2nd DAY OF DECEMBER 2002.

CNMI for purposes of employment, Ramos does not dispute the Hearing Officer’s factual conclusion, and we find that there is substantial evidence supporting this conclusion.

/s/
MIGUEL S. DEMAPAN, Chief Justice

/s/
ALEXANDRO C. CASTRO, Associate Justice

/s/
JOHN A. MANGLONA, Associate Justice
