



JUDICIARY OF
ENGLAND AND WALES

Reyes & Suryadi v Malki

Court of Appeal (Civil Division)

5 February 2015

SUMMARY TO ASSIST THE MEDIA

Miss Reyes is a Philippine national. She is a victim of trafficking. She was employed as a domestic worker by the defendants at the official diplomatic residence of the Saudi Arabian mission in London. The defendants were a Saudi diplomatic agent and his wife.

Ms Reyes brought proceedings in the Employment Tribunal claiming that she had suffered racial discrimination and harassment and had been paid less than the national minimum wage. The defendants successfully claimed that they were entitled to diplomatic immunity under the Vienna Convention on Diplomatic Relations.

The principal question arising on the appeal is whether a contract of employment entered into by a serving diplomatic agent with a domestic worker is to be regarded as “commercial activity exercised by the diplomatic agent in the receiving state (in this case the UK) outside his official functions” and therefore falling within one of the exceptions to diplomatic immunity.

This court unanimously dismisses the appeal. The employment of persons to provide domestic services in a diplomatic mission or an official diplomatic in the receiving state is conducive to the performance of diplomatic functions: it is not an action relating to “commercial activity” undertaken for the financial benefit of the diplomatic agent or relating to commercial activity “outside his official functions”.

The court also rejects Ms Reyes’ arguments based on her situation as a victim of trafficking and on the European Convention on Human Rights.

The court recognises that this may seem unfair to Ms Reyes. But the outcome reflects policy choices that have been made on the international plane. The international community believes that diplomatic immunity not only ensures the efficient functioning of diplomatic missions in foreign states. It also fosters goodwill and enhances relations between nations. Sometimes the apparent unfairness to an individual is outweighed by the harm that would be caused by a failure to give effect to diplomatic immunity in circumstances such as those that have arisen in this case.

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This summary is provided to assist in understanding the court's decision. It does not form part of the reasons for the decision. The full judgment of the court is the only authoritative document.