SUPREME COURT
SECOND DIVISION

SEASTAR MARINE SERVICES, INC. AND CICERO L. MALUNDA,
***Petitioners*,**

-versus-

G.R. No. 142609
November 25, 2004

LUCIO A. BUL-AN, JR.,
***Respondent*.**
x----------x

D E C I S I O N

CALLEJO, SR., *J.*:

This is a Petition for Review under Rule 45 of the Rules of Civil Procedure, as amended, of the Resolution[1] of the Court of Appeals (CA) dated April 29, 1999, dismissing the petition for certiorari filed by petitioner Seastar Marine Services, Inc. (Seastar), as well as the Resolution[2] dated February 29, 2000, denying the motion for reconsideration thereof.

The Antecedents

Respondent Lucio A. Bul-an, Jr. was hired by petitioner Seastar as an Able Seaman for and in behalf of H.S.S. Holland Ship Service, B.V., on board the M/V Blue Topaz. Under the contract of employment

which was approved by the Pre-Employment Services Office of the Philippine Overseas Employment Administration (POEA) on April 26, 1995, the respondent was to receive a monthly salary of US$350.00 for nine (9) months and would be working for 48 hours per week. The said contract was duly signed by the respondent and the President of petitioner Seastar, petitioner Captain Cicero L. Malunda.[3]

On April 28, 1995, the respondent boarded the M/V Blue Topaz off the coast of Castellon, Spain, with a complement composed mostly of Filipinos.[4] Shortly thereafter, or on June 16, 1995, Chief Mate Benjamin A. Paruginog mauled the respondent, causing bodily harm and physical injuries to the latter. The respondent immediately reported the incident to Master Captain Stumpe Luitje Jacobus, who assured him that he would settle the matter with Paruginog.

In a Letter[5] dated June 17, 1995, Captain Jacobus reported to his superiors at the Topaz Seal Shipping Company, Ltd. that the respondent was uncooperative, refused to obey his orders and those of the chief officer, and often pretended to be ill in order to be "free of duty." The Captain expressed his fears of getting into serious trouble in the future with the respondent, and for this reason, wanted to "have this man relieved." A note was inserted below the letter indicating that the respondent had left without permission on "the evening of June 26 at Villanueva, Spain." The letter was countersigned by several crew members, including Paruginog.

Apparently, the respondent had again been maltreated by Paruginog that day. Since the Captain was out on shore, the respondent had decided to immediately leave the boat after the incident. He returned after four (4) days with a priest and Atty. Rafael de Muller Barbat with the intention of taking up the matter with Captain Jacobus. However, the Captain refused to accept his explanation and sided with Paruginog.[6]

In a Letter[7] dated August 20, 1995 addressed to petitioner Malunda, Paruginog reported the respondent's unusual behavior since boarding the ship, and the circumstances leading to the latter's disembarkation. He denied the respondent's allegations that he (Paruginog) made threats to kill the respondent. Thereafter, Captain

Jacobus reiterated his complaints on the respondent's work and uncooperative attitude in another Letter[8] to his superiors dated August 21, 1995. The Captain explained that he was watching out for the respondent for fear that the latter would force the crew "to do something" so that he (the respondent) could get a free ticket home.

Because of the Captain's refusal to take him back as a member of the complement of the ship, the respondent was forced to seek help from the Philippine Embassy at Barcelona, Spain, and executed an Affidavit[9] on the matter on June 30, 1995. The respondent was left with no other recourse but to return to the Philippines on July 4, 1995.

Thereafter, the respondent filed a complaint for illegal dismissal with prayer for payment of back wages, as well as actual, moral and exemplary damages against the petitioners. The complaint was docketed as OCW Case No. 00-10-00400-95. The complainant alleged that due to the Captain's refusal to accept him upon his return to the ship, he was forced to return to the Philippines. He immediately reported the matter to the petitioners, but instead of receiving assistance, he was even scolded for returning home. Thus, he sent two letters to the petitioners dated July 12, 1995 and August 2, 1995, demanding the payment of his wages from April 26, 1995 to July 5, 1995. Since his demands were not acted upon, he was constrained to file the case for illegal dismissal.

For its part, petitioner Seastar alleged that the respondent was "psychologically ill" and was dismissed for a justified and lawful cause. It was averred that even only after a few days of boarding the M/V Blue Topaz, the respondent already showed unusual behavior. He not only refused to obey orders from his superior officers; he also refused to work, spending working hours in his cabin, and totally alienated himself from the rest of the complement of the ship, inclusive of its master and officers. Thus:

> His actuation or manifestation of himself as the Captain, who is part owner of the vessel, described him, complainant is "just like he lost his common sense."

> At the beginning, that is, after about a week on board, he confronted the Master of the vessel and told him "that the vessel was too small for him and too many work." Just the same, he was told by the Master that he "still have to stay your tour." Complainant continuous (sic) to disobey his master and officers and behave indifferently as if he is mentally ill.

On June 26, 1995, while the vessel was anchored at Villanueva, Spain, complainant abandoned ship and was not found until he was reported to the local authorities who located him at Stella Maris Seaman's Club. He claimed that because of fear to be killed or thrown over board by the Chief Officer who is also a Filipino, he abandoned ship and hide (sic) at said Club.

Due to the troubles and problems being encountered by the Master of the vessel and the crew with complainant, he was dismissed and repatriated.[10]

On November 19, 1997, the labor arbiter rendered a decision in favor of the respondent. The dispositive portion reads:

> IN THE LIGHT OF THE FOREGOING, decision is hereby rendered in favor of the complainant and ordering the respondents to pay complainant:
>
> a. Eighteen Thousand Two Hundred Pesos (P18,200.00) representing unpaid salaries for the first two (2) months of complainant;
>
> b. Forty Thousand Nine Hundred Fifty Pesos (P40,950.00) equivalent to three (3) months salary for the unexpired portion of the employment contract;
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> c. Ten Thousand Pesos (P10,000.00) as actual damages;
>
> d. Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages; and

e. Ten percent (10%) of all sums owing to complainant as attorney's fees.[11]

The labor arbiter ruled that the petitioner was dismissed without just cause. According to the labor arbiter, the allegation that the respondent was insane was not proven by the petitioners and, as such, the presumption of sanity in favor of the respondent remained unrebutted. Furthermore, considering that the respondent was not given any notice prior to his dismissal, the petitioners failed to observe the twin requirement of notice and hearing, which constitute the essential elements of due process in cases of employee dismissal. The labor arbiter, likewise, stated that the duration of the respondent's contract with the petitioners was for nine months at $350.00 (approximately P9,100.00). Since the respondent's services were unjustly terminated only after two (2) months of employment, without his wages having been paid, the labor arbiter ruled that the respondent was entitled to "the full reimbursement of the placement fee with interest at twelve percent (12%) per annum, plus salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less," conformably to Section 10, paragraph 6 of Republic Act No. 8042, otherwise known as the Migrant Worker's Act. Citing Reta vs. NLRC,[12] the labor arbiter awarded actual damages in favor of the respondent for the petitioners' failure to observe due process. Moral and exemplary damages were also awarded in accordance with the ruling of the Court in Maglutac vs. NLRC,[13] including attorney's fees.

The labor arbiter also held that petitioner Seastar, as the private employment agency, is jointly and solidarily liable with its foreign principal, conformably to the ruling of the Court in Catan vs. NLRC.[14]

The petitioners assailed the decision of the labor arbiter before the National Labor Relations Commission (NLRC). The appeal was docketed as NLRC NCR CA Case No. 014485-98.

In a Resolution[15] dated September 15, 1998, the NLRC ruled in favor of the respondent and dismissed the appeal for lack of merit, holding that under the facts and circumstances obtaining in the case at bar, the respondent could not be said to have abandoned or resigned from

his work. As such, the "inescapable conclusion" was that he was illegally dismissed and entitled to receive the money award given by the labor arbiter. It was further stated that the findings of fact of the labor arbiter are entitled to great respect and are generally binding on the Commission, as long as they are substantially supported by the established facts and evidence on record, as well as the applicable law and jurisprudence, and that in this case, the labor arbiter committed no grave abuse of discretion. As such, the appeal must be dismissed. The dispositive portion of the decision reads:

> WHEREFORE, the instant appeal is hereby DISMISSED for lack of merit and the appealed decision, dated 19 November 1997 of Labor Arbiter Ariel Cadiente Santos, is AFFIRMED.
>
> SO ORDERED.[16]

The motion for reconsideration of the petitioners was, likewise, denied by the NLRC for lack of merit in a Resolution[17] dated January 12, 1999.

On April 14, 2000, the petitioners filed a petition for review on certiorari under Rule 65 of the Rules of Court, as amended, before the Court of Appeals. However, the petitioners failed to allege the date when they filed their motion for reconsideration of the resolution of the NLRC dismissing their petition. Thus, in a Resolution[18] dated April 29, 1999, the appellate court dismissed the petition on such ground, ruling that it had no other way of determining the timeliness of the filing of the petition, conformably to Sections 3 and 5, Rule 46 of the 1997 Rules of Civil Procedure.

The petitioners then filed a Motion for Reconsideration with Prayer for Leave to Admit Amended Petition on June 2, 1999, which the appellate court, likewise, denied on February 29, 2000.

The petitioners now come to this Court via a petition for review, alleging that the appellate court erred as follows:

> THE COURT OF APPEALS ERRED IN ISSUING THE FIRST CHALLENGED ORDER DATED 29 APRIL 1999 DISMISSING THE PETITION FOR CERTIORARI FILED BY PETITIONERS

IN CA-G.R. SP. NO. 52270 AND IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION WITH PRAYER FOR LEAVE TO ADMIT AMENDED PETITION IN THE SECOND CHALLENGED ORDER DATED 29 FEBRUARY 2000 CONSIDERING THAT:

A. PETITIONERS SUBSTANTIALLY COMPLIED WITH THE REQUIREMENTS OF SECTIONS 3 AND 5, RULE 46 OF THE 1997 RULES OF CIVIL PROCEDURE.

B. IN ANY CASE, THE TIMELINESS OF THE FILING OF THE PETITION FOR CERTIORARI SHOULD BE RECKONED FROM DATE OF PETITIONERS' OFFICIAL RECEIPT OF THE NLRC RESOLUTION DATED 12 JANUARY 1999 ON 28 APRIL 1999.

C. THE COURT OF APPEALS SERIOUSLY ERRED IN NOT REVERSING THE NLRC AND FINDING THAT PRIVATE RESPONDENT WAS DISMISSED FOR JUST AND VALID CAUSE NOTWITHSTANDING THAT:

i) THE PRIVATE RESPONDENT BUL-AN WAS DISMISSED FOR A JUST AND VALID CAUSE AND WITH DUE PROCESS BY PETITIONERS.

ii) THE LABOR ARBITER FAILED TO CONDUCT TRIAL ON THE MERITS ALTHOUGH THE FACTS AND ISSUES INVOLVED WARRANT SUCH TRIAL.

iii) THE PRIVATE RESPONDENT IS NOT ENTITLED TO ANY OF HIS PECUNIARY CLAIMS.

iv) IN ANY CASE, PETITIONER MALUNDA CANNOT BE HELD PERSONALLY AND SOLIDARILY LIABLE WITH PETITIONER CORPORATION SEASTAR.[19]

The Present Petition

The petitioners beg the Court's indulgence, and seek the nullification of the resolution of the CA dismissing the petition on purely technical grounds. The petitioners stress that they begged for leave to file an amended petition indicating the date of the filing of their motion for reconsideration. The petitioners allege that they substantially complied with the requirements of Sections 3 and 5, Rule 46 of the 1997 Rules of Civil Procedure, considering that the motion for reconsideration of the NLRC decision was attached to the petition as Annex "B" thereof, where the date of the denial of the said motion for reconsideration was indicated.[20] Citing the ruling of the Court in Evangelista vs. Mendoza,[21] the petitioners contend that annexes which are attached to the pleading are to be read and considered as a part thereof, and as such, the petitioners insist that the timeliness of the filing of the petition for certiorari may easily be determined from the petition itself. The petitioners claim that, in any case, the timeliness of the filing of the petition should be reckoned from the date of official receipt of a copy of the resolution of the NLRC denying their motion for reconsideration, or on April 28, 1999.

The petitioners further contend that the respondent was validly dismissed on the ground of willful disobedience of the lawful orders of the representatives of his employers, and gross and habitual neglect of his duties, as provided for under Article 282, paragraphs (a) and (b) of the Labor Code. They assert that adequate and sufficient proof was presented to prove the respondent's gross insubordination and habitual neglect.

The petitioners further allege that the NLRC had acted without or in excess of jurisdiction when it upheld the labor arbiter's ruling. It was incumbent upon the NLRC to remand the case to the labor arbiter, considering that the material and factual issues involving the circumstances of the respondent's separation from employment could only be properly addressed and resolved in such proceedings. Furthermore, considering that the respondent was dismissed for a just and valid cause, the award for unpaid salaries, salaries accruing for the unexpired portion of his contract, actual damages, moral damages and attorney's fees was unjustified. No bad faith could be

attributed to the petitioners for the dismissal of the respondent; hence, petitioner Malunda could not be held personally and solidarily liable with petitioner Seastar.

For his part, the respondent claims that the CA did not err in dismissing the petition for having been filed out of time. Furthermore, the appellate court was correct in affirming the decision of the NLRC and in finding that the respondent was illegally dismissed. Considering that the findings of administrative agencies are accorded not only respect but also finality, the appellate court was correct in not disturbing the factual findings of the labor arbiter as affirmed by the NLRC.

The respondent further claims that the issues raised by the petitioners were validly addressed in his (respondent's) pleadings and were sufficiently resolved both by the labor arbiter and the NLRC. Furthermore, Section 4, Rule V of the New Rules of Procedure of the NLRC provides that it is the labor arbiter who is authorized to determine whether or not there is a necessity for conducting formal hearings in cases brought before them for adjudication even after the submission of the parties of their position papers or memoranda. According to the respondent, such determination made by the labor arbiter is entitled to great respect in the absence of arbitrariness, and cites the case of Coca-Cola Salesforce Union vs. NLRC.[22]

The determinative issue in the case at bar is whether or not the Court of Appeals erred in dismissing the petitioners' petition under Rule 65 of the Rules of Court, as amended, on the ground of the petitioners' failure to indicate the date of receipt of the Resolution of the NLRC denying their motion for reconsideration in the petition before the appellate court.

The Ruling of the Court

The petition has no merit.

It must be stressed that there are three (3) essential dates that must be stated in a petition for certiorari brought under Rule 65, which the Court enumerated and discussed in Santos vs. Court of Appeals:[23]

First, the date when notice of the judgment or final order or Resolution was received; second, when a motion for new trial or reconsideration was filed; and third, when notice of the denial thereof was received.

The requirement of setting forth the three (3) dates in a petition for certiorari under Rule 65 is for the purpose of determining its timeliness. Such a petition is required to be filed not later than sixty (60) days from notice of the judgment, order or Resolution sought to be assailed. Therefore, that the petition for certiorari was filed forty-one (41) days from receipt of the denial of the motion for reconsideration is hardly relevant. The Court of Appeals was not in any position to determine when this period commenced to run and whether the motion for reconsideration itself was filed on time since the material dates were not stated. It should not be assumed that in no event would the motion be filed later than fifteen (15) days. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the prompt, proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets. Utter disregard of the Rules cannot justly be rationalized by harking on the policy of liberal construction.[24]

It must be stressed that certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.[25]

A careful perusal of the records further shows that in their petition before the Court, the petitioners aver that they received the resolution of the NLRC dated January 12, 1999 denying their motion for reconsideration only on April 28, 1999, "the date the NLRC officially furnished petitioners a copy of said resolution as evidenced by a certified true copy issued by the NLRC."[26] However, in their petition before the appellate court, the petitioners made the following admission:

> 24. To date, undersigned counsel for petitioners have not been furnished a copy of the second questioned Resolution (Annex "B") despite the fact that undersigned counsel had previously entered his appearance for the

> petitioners as early as 26 March 1998. Accordingly, undersigned counsel had to procure a copy of said Resolution (Annex "B") from the NLRC, on 15 February 1999, the date petitioners, through undersigned counsel, officially received the same. Hence, the instant petition.[27]

It is settled that a judicial admission is binding on the person who makes it, and absent any showing that it was made through palpable mistake, no amount of rationalization can offset such admission.[28] Thus, the Court cannot countenance nor consider the petitioners' claim of actual receipt of the copy of the NLRC resolution on an altogether different date without even an explanation therefor.

The Court notes with approval the following ratiocination of the appellate court when it denied the petitioners' motion for reconsideration:

Movants contend that the timeliness of their petition can be determined from its Annex "B" (which forms part of the petition) stating, among others, that they filed their motion for reconsideration of the NLRC decision on December 10, 1998.

Assuming that movants' contention is in order, still their petition is dismissible as it was filed five days late.

We cannot give credence to movants' claim that they received a copy of the assailed NLRC resolution dated January 12, 1999 only on April 28, 1999 since the instant petition for certiorari was filed earlier or on April 14, 1999. Indeed, here is an absurd situation where the petition assailing the NLRC resolution was filed even before they received a copy thereof.[29]

Even if the Court were to disregard the merits of the instant case, the petition is still destined to fail.

The petitioners would want this Court to ascertain whether or not the findings of the NLRC, as affirmed by the CA, are substantiated by the evidence on record; hence, requiring a review of factual matters. However, the issues that can be

delved into in a petition for review under Rule 45 of the Rules of Civil Procedure are limited to questions of law.[30] The calibration of the evidence of the parties statutorily belongs to the NLRC. Judicial review of labor cases does not go beyond the evaluation of the sufficiency upon which its labor officials' findings rest.[31] Furthermore, this Court is not a trier of facts, and this doctrine applies with greater force in labor cases. Factual questions are for labor tribunals to resolve. Indeed, the findings of fact of quasi-judicial bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence.[32]

Anent the petitioners' allegation that the NLRC should have remanded the case to the labor arbiter for further proceedings, the following pronouncement of the Court in Cañete vs. National Labor Relations Commission[33] is instructive:

> It is clear that the labor arbiter enjoys wide discretion in determining whether there is a need for a formal hearing in a given case. He or she may use all reasonable means to ascertain the facts of each case without regard to technicalities. The case may be decided on the basis of the pleadings and other documentary evidence presented by the parties. In the absence of any palpable error, arbitrariness or partiality, the method adopted by the labor arbiter to decide a case must be respected by the NLRC.[34]

Thus, a formal trial-type hearing is not at all times and in all instances essential to due process. It is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present supporting evidence on which a fair decision can be based.[35] In fact, Rule V of the Rules of Procedure of the NLRC, as amended, outlines the procedure to be followed in cases before the labor arbiter, as follows:

> Section 3. Submission of Position Papers/Memorandum. –

Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the conferences, the Labor Arbiter shall issue an order stating therein the matters taken up and agreed upon during the conferences and directing the parties to simultaneously file their respective verified position papers.

Those verified position papers shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all the supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony. The parties shall, thereafter, not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause or causes of action not included in the complaint or position papers, affidavits, and other documents. Unless otherwise requested in writing by both parties, the Labor Arbiter shall direct both parties to submit simultaneously their position papers/memorandum with the supporting documents and affidavits within fifteen (15) calendar days from the date of the last conference, with proof of having furnished each other with copies thereof.

Section 4. Determination of Necessity of Hearing. – Immediately after the submission by the parties of their position papers/memorandum, the Labor Arbiter shall motu proprio determine whether there is a need for a formal trial or hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any from any party or witness.

Section 5. Period to Decide Case. – (a) Should the Labor Arbiter find it necessary to conduct a hearing, he shall issue an order to that effect setting the date or dates for the same which shall be determined within ninety (90)

days from initial hearing.

He shall render his decision within thirty (30) calendar days, without extension, after the submission of the case by the parties for decision, even in the absence of stenographic notes: Provided, however, that OFW cases shall be decided within ninety (90) calendar days after the filing of the complaint and the acquisition by the labor arbiter of jurisdiction over the parties.

(b) If the Labor Arbiter finds no necessity of further hearing after the parties have submitted their position papers and supporting documents, he shall issue an Order to that effect and shall inform the parties, stating the reasons therefore. In any event, he shall render his decision in the case within the same period provided in paragraph (a) hereof.[36]

WHEREFORE, the instant petition is **DENIED**. The assailed Resolutions of the Court of Appeals, dated April 29, 1999 and February 29, 2000, are **AFFIRMED**. Costs against the petitioners.

SO ORDERED.

Puno, *J.*, *Chairman*, Austria-Martinez, Tinga, and Chico-Nazario, *JJ.*, concur.

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[1] Penned by Associate Justice Angelina Sandoval Gutierrez (now an Associate Justice of the Supreme Court), with Associate Justices Romeo A. Brawner and Martin S. Villarama, Jr., concurring.
[2] Rollo, pp. 35-37.
[3] Id. at 61.
[4] Id. at 43.
[5] CA Rollo, p. 29.
[6] Rollo, p. 66.
[7] CA Rollo, pp. 31-32.
[8] Id. at 30.
[9] Rollo, p. 62.
[10] Respondent's Position Paper, pp. 2-3; CA Rollo, pp. 34-35.
[11] Rollo, p. 80.

[12] 232 SCRA 613 (1994).
[13] 189 SCRA 767 (1990).
[14] 160 SCRA 691 (1988).
[15] Rollo, pp. 102-109.
[16] Id. at 108.
[17] Annex "L," Id. at 110.
[18] Id. at 33.
[19] Id. at 13-14.
[20] Id. at 15.
[21] 1 SCRA 337 (1961).
[22] 243 SCRA 680 (1995).
[23] 360 SCRA 521 (2001).
[24] Id. at 527-528.
[25] University of Immaculate Concepcion, et al. vs. Secretary of Labor and Employment, et al., G.R. No. 143557, June 25, 2004.
[26] Rollo, p. 17.
[27] CA Rollo, p. 7.
[28] See Heirs of Miguel Franco vs. Court of Appeals, 418 SCRA 60 (2003).
[29] Rollo, p. 36.
[30] Philippine Telegraph and Telephone Corporation vs. Court of Appeals, 412 SCRA 263 (2003).
[31] CBL Transit, Inc. vs. NLRC, et al., G.R. No. 128425, March 11, 2004.
[32] Shoppes Manila, Inc. vs. NLRC, et al., G.R. No. 147125, January 14, 2004.
[33] 306 SCRA 324 (1999).
[34] Id. at 332.
[35] Id. at 325-326; Abiera vs. NLRC, 215 SCRA 476 (1992); Llora Motors, Inc. vs. Drilon, 179 SCRA 175 (1989).
[36] The Rules of Procedure of the NLRC, as amended by Resolution No. 3-99, Series of 1999, was further amended by Resolution No. 01-02, Series of 2002, on February 12, 2002. The amendment took effect on March 18, 2002.