

**RODOLFO VLLLANUEVA AND/OR PHILIPPINE EXPRESS AGENCY,
PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS, ET AL.,
RESPONDENTS.***G.R. No. L-17096. December 27, 1963*

Ponente: DIZON, J.

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Appeal by certiorari taken by Rodolfo Villanueva and/or Philippine Express Agency from a decision of the Court of Industrial Relations (Case Nos, 1051-V and 1110-V) ordering them to pay the salaries, wages and overtime pay of the officers and crew of the vessel M/V Regina from January 18, 1956 until the date of their discharge, and from its Resolution en banc of May 20, 1960 denying their motion for reconsideration.

It appears that on December 20, 1955, a Bareboat Charter Contract of the vessel M/V Retina, owned by the Royal Lines, Inc., for cargo service between the Philippines and nearby ports, was executed between Rodolfo Villanueva, General Manager of the Philippine Express Agency, as charterer, and Joseph Gotianuy, as General Manager of the Royal Lines, Inc. The contract was for a period of one month from the date of the delivery of the vessel to the charterer at the Cebu Harbor in good seaworthy condition, and provided, among other things, that the charterer shall 'provide his own officers and crew and pay for all provisions and wages of crew, * * * " and "be solely responsible and liable for any claim for compensation or damages that may be sought or demanded by the crew or any other person employed by them on board said vessel".

The vessel left Iloilo for Hongkong: with a load of 1,000 tons of sugar, but the trip suffered delays because the vessel developed several defects which had to be repaired. By reason thereof, the original set of officers and crew members under Capt. Villanueva resigned and the charterer brought in another set of officers and crew under Capt. L. del Casal (one of the respondents herein) on January 18, 1956.

The ship finally sailed for Hongkong on January 23, 1956. Before reaching the mouth of Hongkong Bay, her engine stopped and tugboats had to be used to help her dock at Hongkong-which she did on February 4, 1956.

On March 26, 1956, admiralty jurisdiction action No. 5 of 1956 against the M/V Regina was filed in Hongkong for the recovery of the salaries of the officers and crew and the debts incurred by the vessel while in that port. As a result of these proceedings, the vessel was sold judicially for HK\$340,000, from which were paid the various claims against the vessel in the total sum of HK\$329,806.18. Among the items paid were the salaries of the crew amounting to HK\$12,326.71 or P4,326.95.

On February 9, 1957, the officers and crew of the M/V Regina filed a petition for payment of wages and overtime claims with the Court of Industrial Relations (Case No. 1051—V), but the case was later withdrawn, without prejudice to filing another in a competent court. On October 8, 1958, they refilled their petition with the same court where it was docketed as Case No. 1110-V, alleging that they were the officers and crew members of the M/V Regina from January 18 to May 15, 1958; that respondent Joseph Gotianuy was the president and general manager of the Royal Lines, Inc., owner of the M/V Regina during the same period; that respondent Rodolfo

Villanueva and/or Philippine Express Agency was the charterer of the vessel for the period stated above; that they were not paid their wages and overtime pay for services rendered during said period in the total amount of P38,557.15, and that, despite demands made on respondents, the latter refused to pay the same.

Herein petitioners' answer alleged, inter alia, that the Court of Industrial Relations had no jurisdiction over the claims; that the claims were already barred by a prior judgment; and that the vessel's inability to put to sea at the port of Hongkong extinguished all rights of action arising therefrom, the wages and salaries being considered merely as general average, in accordance with maritime law.

After trial, the Court rendered the appealed judgment, sentencing:

"(a) Rodolfo Villanueva and/or Philippine Express Agency—the payment of salaries, wages and overtime of the officers and crew from January 18, 1956 until the time of their repatriation as appearing in Exhibit 'B' (Case No. 1051-V) "herein before "reproduced."

"(b) Joseph Gotianuy and/or Eoyal Lines, Inc., —the payment of salaries, wages and overtime of Cesar L. del Casal, Serafin Cruz, Jesus Ignacio, Eladio Sarmiento and Zoilo Polcat from May 12, 1956 until they were repatriated."

It is obvious that the present proceeding is exclusively for the recovery of unpaid wages and overtime pay. In this connection it is already settled law that such claims may be taken cognizance of by the Court of Industrial Relations only if, at the time of the filing of the claim, the claimants were still in the service of the employer, or having been unlawfully or improperly separated from such service, should ask for reinstatement; otherwise, such claims should be brought before the regular courts (*Nassco vs. CIR et al.*, 107 Phil., Pan American World Airways etc. vs. Pan American Employees Association, 111 Phil., 126).

Wherefore, the decision and resolution appealed from are set aside, without prejudice to the filing of the claims involved in this case with the competent court. With costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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