PHILIMARE SHIPPING & EQUIPMENT SUPPLY INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND RAMON ZULUETA, RESPONDENTS.

G.R. No. 126764. December 23, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

PHILIMARE SHIPPING & EQUIPMENT SUPPLY, INC., in this petition for certiorari,[1] seeks to annul and set aside the Decision of the National Labor Relations Commission[2] which affirmed the Labor Arbiter's finding that private respondent Ramon Zulueta was illegally dismissed from his employment.

Respondent Ramon Zulueta was employed as Chief Cook of M/V Mico, a Bahamas registered ship, through its local manning agent, petitioner Philimare Shipping & Equipment Supply (PHILIMARE), with a basic monthly salary of US $510.00 for a duration of twelve (12) months.

On 30 June 1995 at around 11:30 p.m. while on board M/V Mico cruising in international waters the ship captain, Willie Kampana, boxed respondent Ramon Zulueta for placing eggs in the pantry instead of the refrigerator. As a result, respondent Zulueta suffered serious physical injuries on the face and other parts of his body thus disabling him from performing his duties as cook for one (1) week. Chief Mate Leocadio Gencaya and Radio Operator Marino Pagay witnessed the incident.

On 5 July 1995, upon arrival of M/V Mico at the port of Guanta, Venezuela, respondent Zulueta was forced to be repatriated to the Philippines. He was threatened by Captain Kampana that if he refused to be repatriated he would be thrown overboard in international waters. Before respondent could leave Venezuela, Capt. Kampana deducted US$1,090.60 from Zulueta's salary purportedly for his plane fare back to the Philippines. Capt. Kampana wrote on Zulueta's seaman’s book that he was discharged from the ship upon "his request."[3]

When he arrived in Manila on 8 July 1995 respondent Zulueta submitted himself to medical examination at the Ospital ng Maynila where he was treated for "multiple contussion hematoma on right and left shoulders and area of manubrium."[4] Further, on 10 July 1995 he went to petitioner’s office and reported the events leading to his illegal dismissal. However, due to the inaction of petitioner over his case, respondent Zulueta filed with the Labor Arbiter a complaint for illegal dismissal and payment of money claims.

In short, the parties filed their respective position papers after which they agreed to submit their case for resolution.

On 12 April 1996, Labor Arbiter Manuel R. Caday rendered a decision: (a) declaring that respondent Zulueta was illegally dismissed from his employment by petitioner; and, (b) ordering petitioner to pay respondent Zulueta the amount of P40,043.65 representing his salary for the remaining three (3) months of the unexpired portion of the employment contract and P21,588.88 as unpaid vacation leave pay, plus attorney’s fees of ten percent (10%) of the monetary award.

Petitioner appealed to public respondent National Labor Relations Commission (NLRC) but the latter dismissed the appeal for lack of merit.

Petitioner comes to this Court alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of NLRC (a) in finding that respondent Zulueta was illegally dismissed because he voluntarily quit and asked for his repatriation to the Philippines; and, (b) in failing to consider that the real party liable to respondent Zulueta is not petitioner but C.F. Sharp Crew Management, Inc., which is the new manning agent of the principal M/V Mico.

We reject the position of petitioner.

Where there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the case a matter of illegal dismissal.[5] The burden is on the employer to prove that the termination was for a valid or authorized cause. For an employee’s dismissal to be valid, (a) the dismissal must be for a valid cause, and (b) the employee must be afforded due process. Article 282 of the Labor Code lists the following causes for termination of employment by the employer: (a) serious misconduct or willful disobedience of lawful orders in connection with his or her work; (b) gross and habitual neglect of duties; (c) fraud or willful breach of trust; (d) commission of a crime or an offense against the person of the employer or his immediate family members or representative; and, (e) analogous cases.

In this case, petitioner clearly failed to show a valid and sufficient cause for the discharge of respondent Zulueta. While it insisted that the latter voluntarily quit his job and requested his repatriation petitioner did not deny the boxing incident in M/V Mico resulting in serious physical injuries to respondent Zulueta by ship captain Willie Kampana. Petitioner did not also refute the assertion of respondent Zulueta that he agreed to be returned to the Philippines because of the threat and intimidation by his ship captain, and that if he refused he would be thrown overboard in international waters. The intimidation on board was certainly enough to vitiate respondent Zulueta's consent to his repatriation. Hence, there can be no voluntary resignation to speak of. The allegation of repatriation "upon request" of respondent Zulueta, obviously, does not square with the recorded fact that on 10 July 1995 or two (2) days after his arrival in the Philippines, he immediately complained to petitioner that he was assaulted by his ship captain on board M/V Mico.

The argument of petitioner that respondent Zulueta failed to observe the grievance procedure provided in the Revised Standard Employment Contract for Seafarers requiring the prior filing of complaint with the head of the section in the vessel deserves scant consideration. The circumstances surrounding his dismissal and his immediate forced repatriation to the Philippines presented no opportunity for respondent Zulueta to faithfully follow the procedure. After all, technical rules of procedure should not be strictly applied to labor cases where the result would be detrimental to the working man.[6] Moreover, petitioner did not question the jurisdiction of the Labor Arbiter. By actively participating in the proceedings by the submission of its position paper petitioner had recognized the authority of the Labor Arbiter to take cognizance of the complaint and to resolve the issue of illegal dismissal.

Petitioner also claims that it cannot be made liable to respondent Zulueta for illegal dismissal because it had been replaced by C.F. Sharp Crew Management Inc. as the new manning agent of M/V Mico by virtue of an Affidavit of Assumption of Responsibility executed by C.F. Sharp Crew Management Inc. stating that it "is willing to assume any and all liabilities that may arise or that may have arisen with respect to the seamen recruited and deployed by Philimare Shipping Co."[7]

As correctly stated by the Office of the Solicitor General, respondent Zulueta was not privy to the assumption of responsibility by a new manning agent substituting petitioner. Such contract or agreement cannot therefore be

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binding on him. As the local recruiter who employed respondent Zulueta for or on behalf of the foreign principal, petitioner is the one liable to him for breach of contract of employment. An illegally dismissed worker like respondent Zulueta whose employment is for a fixed period is entitled to payment of his salaries corresponding to the unexpired portion of his contract.[8] The computation by the Labor Arbiter of the unpaid salaries and vacation leave pay due the dismissed seaman which was not disputed by petitioner is a factual matter binding on this Court.

WHEREFORE, the Petition is DISMISSED and the Decision of the National Labor Relations Commission dismissing the appeal of petitioner and affirming in effect that respondent Ramon Zulueta was illegally dismissed by petitioner is AFFIRMED. Likewise, the award by the Labor Arbiter to respondent Ramon Zulueta of money claims amounting to P40,043.65 representing his salary for the remaining three (3) months of the unexpired portion of his employment contract and P21,588.88 as unpaid vacation leave pay plus attorney's fees of ten percent (10%) of the monetary award is REITERATED and AFFIRMED. Costs against petitioner.
SO ORDERED.
Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Filed under Rule 65 of the Rules of Court.

[2] Rollo, p. 25.

[3] Rollo, p. 41.

[4] Records, p. 19.

[5] Gen. Baptist Bible College v. National Labor Relations Commission, G.R. No. 85534, 5 March 1993, 219 SCRA 549.

[6] Zurbano Sr. v. NLRC, G.R. No. 103679, 17 December 1993, 228 SCRA 556.

[7] Rollo, p. 21.

[8] Vinta Maritime Co, Inc. v. NLRC, G.R. No. 113911, 23 January 1998.

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