

**ASSOCIATION OF INTERNATIONAL SHIPPING LINES, INC., IN ITS
OWN BEHALF AND IN REPRESENTATION OF ITS MEMBERS:
AMERICAN TRANSPORT LINES, INC., AUSTRALIAN NATIONAL LINE,
FLEET TRANS ...**

G.R. No. 172029. August 06, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

PAYMENT of nighttime and overtime differential of harbor pilots is the object of this petition for review on certiorari[1] of the Decision[2] of the Court of Appeals (CA) partly setting aside the Order[3] of the Regional Trial Court (RTC), Branch 36, Manila pertaining to a motion for execution.

The Facts

On March 1, 1985, the Philippine Ports Authority (PPA) issued PPA Administrative Order (AO) No. 03-85 substantially adopting the provisions of Customs Administrative Order (CAO) No. 15-65[4] on the payment of additional charges for pilotage service[5] rendered "between 1800H to 1600H," or on "Sundays or Holidays," practically referring to "nighttime and overtime pay." Section 16 of the AO reads:

Section 16. Payment of Pilotage Service Fees. –Any vessel which employs a Harbor Pilot shall pay the pilotage fees prescribed in this Order and shall comply with the following conditions:

x x x x

c) When pilotage service is rendered at any port between 1800H to 1600H, Sundays or Holidays, an additional charge of one hundred (100%) percentum over the regular pilotage fees shall be paid by vessels engaged in foreign trade, and fifty (50%) percentum by coastwise vessels. This additional charge or premium fee for nighttime pilotage service shall likewise be paid when the pilotage service is commenced before and terminated after sunrise.

Provided, however, that no premium fee shall be considered for service rendered after 1800H if it shall be proven that the service can be undertaken before such hours after the one (1) hour grace period, as provided in paragraph (d) of this section, has expired. (Emphasis supplied)

On February 3, 1986, responding to the clamor of harbor pilots for the increase and rationalization of pilotage service charges, then President Ferdinand E. Marcos issued Executive Order (EO) No. 1088 providing for uniform and modified rates for pilotage services rendered in all Philippine ports. It fixed the rate of pilotage fees on the basis of the "vessel's tonnage" and provided that the "rate for docking and undocking anchorage, conduction and shifting and other related special services is equal to 100%." EO No. 1088 also contained a repealing clause stating that all orders, letters of instruction, rules, regulations, and issuances inconsistent with it are repealed or amended accordingly.[6]

Subsequently, pursuant to EO No. 1088, the PPA issued several resolutions disallowing overtime premium or charge and recalling its recommendation for a reasonable night premium pay or night differential pay, viz.:

RESOLUTION NO. 1486[7] RESOLVED, That on motion duly seconded, and in consideration of the proper court order(s) mandating PPA to implement the pilotage rates under Executive Order No. 1088, the overtime premium or charge collected by Harbor Pilots is hereby disallowed and Section 16(c) of Article III of PPA Administrative Order No. 03-85, prescribing general guidelines on pilotage services, be, as it is hereby repealed and modified accordingly;

RESOLVED FURTHER, That the General Manager, be, as he is hereby authorized, to issue the corresponding amendatory guidelines.

RESOLUTION NO. 1541[8] RESOLVED, That on motion duly seconded, and after taking into consideration the respective positions of the various Harbor Pilot associations and shipping groups, Board Resolution No. 1486, be, as it is hereby reiterated and affirmed, and Management, be, as it is hereby directed to adopt a policy of no overtime pay for pilotage services;

RESOLVED FURTHER, That in lieu of the "no overtime pay policy," Management be, as it is hereby directed, to recommend a reasonable night premium pay or night differential pay for the conduct of the basic pilotage services."

RESOLUTION NO. 1554[9] RESOLVED, That on motion duly seconded, and taking into consideration the arguments raised by the Association of International Shipping Lines, Inc., raising certain legal issues on the adoption of Resolution No. 1541, as adopted on November 13, 1995, the proposed PPA Administrative Order No. 19-95, hereto attached and incorporated by reference, recommending amendments to Section 16(c) of PPA Administrative Order No. 03-85, disallowing overtime pay and authorizing instead the collection of nighttime premium pay for pilotage services rendered during nighttime (1800H to 0600H), be, as it is hereby deferred, for further legal review;

RESOLVED FURTHER, That pending review and clarification by the Office of the Government Corporate Counsel of the legal issues on overtime pay/nighttime premium pay, Resolution No. 1541, be, as it is hereby recalled and Resolution No. 1486, as adopted on May 19, 1995, be, as it is hereby reaffirmed.

On the strength of PPA Resolution No. 1486, petitioners Association of International Shipping Lines (AISL) and its members refused to pay respondent United Harbor Pilots' Association of the Philippines, Inc. (UHPAP)'s claims for nighttime and overtime pay.[10] In response, UHPAP threatened to discontinue pilotage services should their claims be continually ignored.[11]

Petitioners then filed a petition for declaratory relief with the RTC, Branch 36, Manila, docketed as Civil Case No. 96-78400. The issues raised there were: (1) whether EO No. 1088 authorized the payment of nighttime and overtime pay; and (2) whether the rate of pilotage fees enumerated in EO No. 1088 were for "every pilotage maneuver" or for the "entire package of pilotage services."

On January 26, 1998, the RTC granted the petition and declared that respondent UHPAP is not authorized to collect any overtime or night shift differential for pilotage services rendered. The RTC disposed as follows:

WHEREFORE, judgment is hereby rendered granting the petition herein and it is hereby declared that (1) respondent PPA is bereft of authority to impose and respondent UHPAP is not authorized to collect any overtime or night shift differential for pilotage services rendered; and (2) the rates of fees for pilotage services rendered refer to the totality of pilotage services rendered and respondent UHPAP cannot legally charge separate fees for each pilotage service rendered. All billings inconsistent with this decision are declared null and void and petitioners are not liable therefor.

SO ORDERED.[12] (Emphasis supplied)

The trial court said that in view of the repealing clause in EO No. 1088, it was axiomatic that all prior issuances inconsistent with it were deemed repealed. Thus, the provisions of Section 16 of PPA AO No. 03-85 on nighttime and overtime pay were "effectively stricken-off the books." It further held that since the rate of pilotage fees enumerated in EO No. 1088 was based on the "vessel's tonnage," it meant that such rate referred to the "entire package of pilotage services." According to the trial court, to rule otherwise is to frustrate the uniformity envisioned by the rationalization scheme.

Respondent UHPAP moved for reconsideration but the motion was denied.

Desiring to secure for its members the payment of nighttime and overtime pay, respondent UHPAP filed directly before this Court a petition for review on certiorari, docketed as G.R. No. 133763, raising the following legal issues for determination: (1) whether EO No. 1088 repealed the provisions of CAO No. 15-65 and PPA AO No. 03-85, as amended, on payment of additional pay for holidays work and premium pay for nighttime service; (2) whether the rates, as fixed in the schedule of fees based on tonnage in EO No. 1088, are to be imposed on every pilotage movement; and (3) whether EO No. 1088 deprived the PPA of its right, duty and obligation to promulgate new rules and rates for payment of fees, including additional pay for holidays and premium pay for nighttime services.

On November 13, 2002, this Court granted the petition and reversed the RTC. This Court held then:

Section 3 of E.O. No. 1088 is a general repealing clause, the effect of which falls under the category of an implied repeal as it does not identify the orders, rules or regulations it intends to abrogate. A repeal by implication is frowned upon in this jurisdiction. It is not favored, unless it is manifest that the legislative authority so intended or unless it is convincingly and unambiguously demonstrated that the subject laws or orders are clearly repugnant and patently inconsistent that they cannot co-exist. This is because the legislative authority is presumed to know the existing law so that if repeal is intended, the proper step is to express it.

There is nothing in E.O. No. 1088 that reveals any intention on the part of Former President Marcos to amend or supersede the provisions of PPA AO No. 03-85 on nighttime and overtime pay. While it provides a general repealing clause, the same is made dependent upon its actual inconsistency with other previous orders, rules, regulations or other issuance. Unfortunately for AISL, we find no inconsistency between E.O. No. 1088 and the provisions of PPA AO No. 03-85. At this juncture, it bears pointing out that these two orders dwell on entirely different subject matters. E.O. No. 1088 provides for uniform and modified rates for pilotage services rendered to foreign and coastwise vessels in all Philippine ports, public or private. The purpose is to rationalize and standardize the pilotage service charges nationwide. Upon the other hand, the subject matter of the controverted provisions of PPA AO No. 03-85 is the payment of the additional charges of nighttime and overtime pay. Plainly, E.O. No. 1088 involves the basic compensation for pilotage service while PPA AO No. 03-85 provides for the additional charges where pilotage service is rendered under certain circumstances. Just as the various wage orders do not repeal the provisions of the Labor Code on nighttime and overtime pay, the same principle holds true with respect to E.O. No. 1088 and PPA AO 03-85. Moreover, this Court adheres to the rule that every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. E.O. No. 1088 and PPA AO No. 03-85 should thus be read together and harmonized to give effect to both.

x x x x

While E.O. No. 1088 prescribes the rates of pilotage fees on the basis of the "vessel's tonnage," however, this does not necessarily mean that the said rate shall apply to the totality of pilotage services. If it were so, the benefit intended by E.O. No. 1088 to harbor pilots would be rendered useless and ineffectual. It would create an unjust if not an absurd situation of reducing take home pay of the harbor pilots to a single fee, regardless of

the number of services they rendered from the time a vessel arrives up to its departure. It must be remembered that pilotage services cover a variety of maneuvers such as "docking," "undocking anchorage," "conduction," "shifting" and other "related special services." To say that the rate prescribed by E.O. No. 1088 refers to the totality of all these maneuvers is to defeat the benefit intended by the law for harbor pilots. It should be stressed that E.O. No. 1088 was enacted in response to the clamor of harbor pilots for the increase and rationalization of pilotage service charges through the imposition of uniform and adjusted rates. Hence, in keeping with the benefit intended by E.O. No. 1088, the schedule of fees fixed therein based on tonnage should be interpreted as applicable to "each pilotage maneuver" and not to the "totality of the pilotage services."

The use of the word "and" between the words "docking" and "undocking" in paragraph 2 of Section 1 of E.O. No. 1088 should not override the above-mentioned purpose of said law. It is a basic precept of statutory construction that statutes should be construed not so much according to the letter that killeth but in line with the purpose for which they have been enacted. Statutes are to be given such construction as will advance the object, suppress the mischief, and secure the benefits intended.

Furthermore, as can be gleaned from the drafts submitted by the PPA on the guidelines pertaining to the uniform pilotage services to be rendered in all pilotage districts, the PPA is of the interpretation that the rate of pilotage fees fixed by E.O. No. 1088 is to be separately imposed on every pilotage maneuver done by the harbor pilots. This interpretation is likewise made clear in PPA Memorandum Circular No. 42-98, dated October 8, 1998, which clarifies pilotage charges for docking and undocking, as follows -

"To prevent disruption in pilotage service and considering the pendency of the final and executory decision of the Supreme Court on the pilotage rates issue, it is hereby clarified that pilotage fees for docking and undocking of vessels shall be paid as two (2) separate services x x x."

The PPA is the proper government agency tasked with the duty of implementing E.O. No. 1088. As such, its interpretation of said law carries great weight and consideration. In a catena of cases, we ruled that the construction given to a statute by an administrative agency charged with the interpretation and application of a statute is entitled to great respect and should be accorded great weight by the courts. The exception, which does not obtain in the present case, is when such construction is clearly shown to be in sharp conflict with the governing statute or the Constitution and other laws. The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs, it also relates to accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.

The charges and fees provided for in E.O. No. 1088 are therefore to be imposed for every pilotage maneuver performed by the harbor pilots, as properly interpreted by the PPA, the agency charged with its implementation.

x x x x

Finally, on the third issue, we rule that E.O. No. 1088 does not deprive the PPA of its power and authority to promulgate new rules and rates for payment of fees, including additional charges. As we held in *Philippine Interisland Shipping Association of the Philippines v. Court of Appeals*:

"The power of the PPA to fix pilotage rates and its authority to regulate pilotage still remain notwithstanding the fact that a schedule for pilotage fees has already been prescribed by the questioned executive order (referring to E.O. No. 1088). PPA is at liberty to fix new rates of pilotage subject only to the limitation that such new rates should not go below the rates fixed under E.O. No. 1088. x x x."

Our pronouncement is clearly in consonance with the provisions of Presidential Decree 857 which vests upon the PPA the power and authority (1) "to supervise, control, regulate x x x such services as are necessary in the ports vested in, or belonging to the Authority"; (2) "to control, regulate and supervise pilotage and the conduct of pilots

in any Port District"; and (3) "to impose, fix, prescribe, increase or decrease such rates, charges or fees x x x for the services rendered by it or by any private organization within a Port District." [13] (Emphasis supplied)

The decision became final and executory on February 14, 2003.

On April 8, 2003, respondent UHPAP filed a motion for the issuance of a writ of execution with the RTC. [14] Petitioners opposed [15] the motion.

On September 25, 2003, the RTC issued an Order [16] denying respondent UHPAP's motion and declaring that "pursuant to the decision of the Supreme Court in G.R. No. 133763, PPA Resolution Nos. 1486, 1541, and 1554 are valid and effective thereby disallowing the collection of overtime pay." [17] The RTC explained:

x x x [W]hen the Supreme Court ruled and declared that Executive Order 1088 does not deprive the PPA of its power and authority to promulgate rules and rates for payment of fees including additional charges, it had effectively ruled on the validity of PPA resolutions 1486, 1541, and 1554. Said resolutions did not violate any provision of Executive Order 1088 and did not constitute any diminution of the rates provided by said Executive Order. They merely repealed the collection of overtime premiums or charges which is provided not by Executive Order 1088 but by another PPA Administrative Order 03-85. This is not inconsistent with the ruling of the Supreme Court that Executive Order 1088 did not repeal the additional pay for holiday work and premium pay for nighttime service, collectively referred to as overtime pay provided in Customs Administrative Order No. 15-65 and PPA Administrative Order 03-85. The Supreme Court did not consider subsequent PPA resolutions or administrative orders affecting overtime pay because this was not brought out as an issue.

Resolutions 1486, 1541, and 1554 have no effect on Executive Order 1088 whatsoever. [18] (Emphasis supplied)

Respondent UHPAP then filed a petition for certiorari [19] under Rule 65 with the CA, docketed as CA-G.R. SP No. 87892. It contended that the RTC committed grave abuse of discretion amounting to lack of jurisdiction when it practically overturned the final and executory decision of this Court in G.R. No. 133763 by declaring in its September 25, 2003 Order that PPA Resolution Nos. 1486, 1541, and 1554 were valid and effective. [20]

CA Disposition

In a Decision dated October 19, 2005, the CA partly granted respondent's petition in that it affirmed the denial of the motion for the issuance of a writ of execution while, at the same time, deleting portions of the challenged Order. The decretal portion of the CA Decision states:

IN VIEW OF ALL THE FOREGOING, the herein petition is hereby PARTLY GRANTED, in such a way that the denial of UHPAP's motion for the issuance of a writ of execution is AFFIRMED, while the declaration in the assailed Order of September 25, 2003 stating that "pursuant to the decision of the Supreme Court in G.R. No. 133763, PPA resolutions 1486, 1541, and 1554 are valid and effective thereby disallowing the collection of overtime pay," is RECALLED and SET ASIDE and ordered DELETED from the said Order. No pronouncement as to cost.

SO ORDERED. [21] (Emphasis supplied)

The CA set aside the declaration in the RTC Order dated September 25, 2003 that "pursuant to the decision of the Supreme Court in G.R. No. 133763, PPA Resolution Nos. 1486, 1541, and 1554 are valid and effective thereby disallowing the collection of overtime pay." According to the CA, the RTC committed grave abuse of discretion as "it really not only modified but reversed a final and executory decision of the highest court of the land." [22] The appellate court ruled that when this Court, in G.R. No. 133763, declared ineffective the "pretended" repealing effect of EO No. 1088 on PPA AO No. 03-85, the subject PPA Resolutions implementing Section 3 of EO No.

1088 were automatically rendered without any legal effect as well.[23] It also ruled that since there was no inconsistency between EO No. 1088 and the provisions of PPA AO No. 03-85, the latter was rendered in full legal force and effect.[24]

On November 10, 2005, petitioners filed a motion for partial reconsideration.[25] It contended that in resolving the issue of whether EO No. 1088 repealed the provisions of CAO No. 15-65 and PPA AO No. 03-85 on nighttime and overtime pay, this Court, in G.R. No. 133763, did not discuss the logical consequence of the resolution of the issue on PPA Resolution Nos. 1486, 1541, and 1554.[26] It further asserted that PPA Resolution Nos. 1486, 1541, and 1554 remain valid as they were issued pursuant to PPA's authority to regulate pilotage services.[27]

In a Resolution dated March 23, 2006, the CA denied petitioners' motion for partial reconsideration. Hence, the present recourse.

Issue

Petitioners, via Rule 45, submit the lone assignment that THE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN INTERPRETING AND CONCLUDING THAT THE RULING OF THE SUPREME COURT IN THE CASE OF "THE UNITED HARBOR PILOTS' ASSOCIATION OF THE PHILIPPINES, INC. V. ASSOCIATION OF THE INTERNATIONAL SHIPPING LINES, INC., ET AL., G.R. 133763," RENDERED "WITHOUT LEGAL EFFECT" THE PPA RESOLUTION NOS. 1486, 1541, AND 1554 WHICH REPEALED OVERTIME AND NIGHTTIME PAY.[28]

Our Ruling

The petition lacks merit.

This Court's ruling in G.R. No. 133763 that "EO No. 1088 did not repeal the provisions of PPA AO No. 03-85 on nighttime and overtime pay," necessarily rendered PPA Resolution Nos. 1486, 1541 and 1554 without any legal effect. Petitioners posit that notwithstanding the declaration by this Court in G.R. No. 133763 that EO No. 1088 did not repeal the overtime and nighttime pay provided under PPA AO 03-85, PPA Resolution Nos. 1486, 1541, and 1554 were not rendered "without legal effect." They insist that in resolving in G.R. No. 133763 the issue of whether EO No. 1088 repealed the provisions of PPA AO No. 03-85 on nighttime and overtime pay, this Court did not discuss the logical consequence of the resolution of the issue on the subject PPA Resolutions.[29]

We are not persuaded.

At the outset, it should be stressed that the PPA issued the subject resolutions – which disallowed overtime pay and recalled PPA's recommendation for nighttime pay to harbor pilots – pursuant to Section 3 of EO No. 1088 stating that "all orders, letters of instruction, rules, regulations and issuances inconsistent with it are repealed or amended accordingly." The PPA, just like petitioners,[30] was of the belief that there was an actual inconsistency or an irreconcilable conflict between EO No. 1088 and the provisions of PPA AO No. 03-85 on nighttime and overtime pay, resulting in the implied repeal of the latter.[31]

But, as this Court pronounced in G.R. No. 133763, there is nothing in EO No. 1088 that reveals any intention on the part of Former President Marcos to amend or supersede the provisions of PPA AO No. 03-85 on nighttime and overtime pay. While Section 3 of EO No. 1088 provides a general repealing clause, the same is made dependent upon its actual inconsistency with other previous orders, rules, regulations or other issuance.

There is no inconsistency between EO No. 1088 and the provisions of PPA AO No. 03-85. These two orders dwell on entirely different subject matters. EO No. 1088 provides for uniform and modified rates for pilotage

services rendered to foreign and coastwise vessels in all Philippine ports, public or private. On the other hand, the subject matter of the provisions of PPA AO No. 03-85 is the payment of the additional charges of nighttime and overtime pay. Plainly, EO No. 1088 involves the basic compensation for pilotage service while PPA AO No. 03-85 provides for the additional charges where pilotage service is rendered under certain circumstances.

Obviously, this Court's ruling in G.R. No. 133763 was that EO No. 1088 did not repeal the provisions of PPA AO No. 03-85 on nighttime and overtime pay as there was no inconsistency between the two orders. The ruling rendered "without legal effect" PPA Resolution Nos. 1486, 1541, and 1554, which were all issued by PPA pursuant to Section 3 of EO No. 1088. Upon the other hand, the validity of the earlier PPA AO No. 03-85, which allowed nighttime and overtime pay to harbor pilots, was affirmed.

It is noteworthy that when this Court, in G.R. No. 133763, reversed the RTC Decision dated January 26, 1998 (which declared, among others, that in view of the repealing clause in EO No. 1088 respondent UHPAP is not authorized to collect any overtime or night shift differential for pilotage services rendered), the Court likewise recognized the right of the members of respondent UHPAP to overtime and nighttime pay under PPA AO No. 03-85. Indeed, a harbor pilot who has rendered nighttime and overtime work must be paid nighttime and overtime pay.

Members of respondent UHPAP are entitled to nighttime and overtime pay. Undoubtedly, pursuant to PPA AO No. 03-85, members of respondent UHPAP are legally entitled to nighttime and overtime pay.

It bears pointing out that additional compensation for nighttime work is founded on public policy.[32] Working at night is violative of the law of nature for it is the period for rest and sleep. An employee who works at night has less stamina and vigor. Thus, he can easily contract disease. The lack of sunlight tends to produce anemia and tuberculosis and predispose him to other ills. Night work brings increased liability to eyestrain and accident. Serious moral dangers also are likely to result from the necessity of traveling the street alone at night, and from the interference with normal home life.[33] Hygienic, medical, moral, cultural and socio-biological reasons are in accord that night work has many inconveniences and when there is no alternative but to perform it, it is but just that the laborer should earn greater salary than ordinary work so as to compensate the laborer to some extent for the said inconveniences.[34]

Anent the payment of overtime pay, the Court explained its rationale in *Philippine National Bank v. Philippine National Bank Employees Association (PEMA)*:[35]

x x x Why is a laborer or employee who works beyond the regular hours of work entitled to extra compensation called in this enlightened time, overtime pay? Verily, there can be no other reason than that he is made to work longer than what is commensurate with his agreed compensation for the statutorily fixed or voluntarily agreed hours of labor he is supposed to do. When he thus spends additional time to his work, the effect upon him is multi-faceted: he puts in more effort, physical and/or mental; he is delayed in going home to his family to enjoy the comforts thereof; he might have no time for relaxation, amusement or sports; he might miss important pre-arranged engagements; etc., etc. It is thus the additional work, labor or service employed and the adverse effects just mentioned of his longer stay in his place of work that justify and is the real reason for the extra compensation that he called overtime pay.

Overtime work is actually the lengthening of hours developed to the interests of the employer and the requirements of his enterprise. It follows that the wage or salary to be received must likewise be increased, and more than that, a special additional amount must be added to serve either as encouragement or inducement or to make up for the things he loses which we have already referred to. And on this score, it must always be borne in mind that wage is indisputably intended as payment for work done or services rendered.[36]

Moreover, We agree with the CA that the RTC correctly denied respondent's motion for execution. It will be

recalled that the original action before the RTC was one for declaratory relief filed by petitioners praying for:

(1)

a construction of Executive Order No. 1088 declaring that AISLI is not liable to pay overtime and night shift differential to respondent UHPAP; and

(2)

a construction of Executive Order No. 1088 declaring that the schedule of rates provided therein applies to the entire package of pilotage services under the compulsory pilotage scheme and that UHPAP cannot separately charge AISLI for each pilotage service rendered.[37]

The disposition of the RTC in favor of petitioners in the declaratory relief petition was the decision elevated by the UHPAP to this Court.[38] Upon the reversal of the RTC decision by this Court, UHPAP went back to the RTC on a motion for execution. Verily, that course of action on the part of UHPAP was procedurally infirm.

In such civil actions for declaratory relief under Rule 63 of the Rules of Court, the judgment does not entail an executory process, as the primary objective of petitioner is to determine any question of construction or validity and for a declaration of concomitant rights and duties.[39] The proper remedy would have been for members of respondent UHPAP to claim for overnight and nighttime pay before petitioners AISLI and its members.

WHEREFORE, the petition is DENIED and the appealed Decision AFFIRMED. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] Rollo, pp. 8-32.

[2] Id. at 33-44. CA-G.R. SP No. 87892. Penned by Associate Justice Conrado M. Vasquez, Jr. (now CA Presiding Justice), with Associate Justices Juan Q. Enriquez, Jr. and Vicente Q. Roxas, concurring.

[3] Id. at 76-81. Civil Case No. 96-78400. Penned by Judge Wilfredo D. Reyes.

[4] Customs Administrative Order No. 15-65, Chapter II, Par. VII provides:

"When pilotage service is rendered at any port between sunset and sunrise, an additional charge of one hundred percentum (100%) over the regular pilotage fees shall be paid for vessels engaged in foreign trade and fifty (50%) percentum for coastwise vessels. This additional charge or premium fee for night time pilotage service shall likewise be paid when the pilotage service is commenced before and finished after sunset or commenced before and finished after sunrise."

[5] As defined, pilotage service consists of navigating a vessel from a specific point, usually about two (2) miles off shore, to an assigned area at the pier and vice versa. Thus, when a vessel arrives, a harbor pilot takes over the ship from its captain to maneuver it to a berth in the port, and when it departs, the harbor pilot also maneuvers it up to a specific point off shore. The set up is required by the fact that each port has a peculiar topography with which a harbor pilot is presumed to be more familiar than a ship captain. (Philippine Interisland Shipping Association of the Philippines v. Court of Appeals, G.R. No. 100481, January 22, 1997, 266 SCRA 489, 495).

[6] Executive Order No. 1088, Sec. 3.

[7] Rollo, p. 48.

[8] Id. at 49.

[9] Id. at 50.

[10] UHPAP is the umbrella organization of various groups rendering pilotage service in the different ports of the Philippines. It services foreign and domestic shipping companies, including the members of petitioner AISL.

[11] UHPAP Resolution No. 1-96.

[12] Rollo, p. 37.

[13] Id. at 66-67.

[14] Id. at 69-71.

[15] Id. at 72-75.

[16] Id. at 76-81.

[17] Id. at 81.

[18] Id. at 79-80.

[19] Id. at 82-95.

[20] Id. at 89.

[21] Id. at 93.

[22] Id. at 40, 42.

[23] Id. at 42.

[24] Id.

[25] Id. at 151-160.

[26] Id. at 152.

[27] Id. at 158.

[28] Id. at 18.

[29] Id.

[30] United Harbor Pilots' Association of the Philippines, Inc. v. Association of International Shipping Lines, Inc., G.R. No. 133763, November 13, 2002, 391 SCRA 522, 531. In its comment on the petition for review on certiorari filed by respondent UHPAP in G.R. No. 133763, petitioner AISL argued that "there exists an actual inconsistency between EO No. 1088 and PPA AO No. 03-85, thus, EO No. 1088 should be construed as an implied repeal of PPA AO No. 03-85 provisions on nighttime and overtime pay."

[31] Id.

[32] Mercury Drug Co., Inc. v. Dayao, G.R. No. L-30452, September 30, 1982, 117 SCRA 99, 114; Civil Code, Art. 6.

[33] Shell Company v. National Labor Union, 81 Phil. 315, 328 (1948), citing Commons and Andrews, Principles

of Labor Legislation, 4th rev. ed., p. 142.

[34] Poquiz, Labor Standards Law with Notes and Comments, 1999 ed., pp. 176-177, citing Barbash, The Practice of Unionism, p. 145.

[35] G.R. No. L-30279, July 30, 1982, 115 SCRA 507.

[36] Philippine National Bank v. Philippine National Bank Employees Association (PEMA), id. at 527-528.

[37] Rollo, p. 37.

[38] G.R. No. 133763.

[39] Rule 63, Sec 1. Who may file petition. – Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. x x x

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