SUSANA R. SY, PETITIONER, VS. PHILIPPINE TRANSMARINE CARRIERS, INC., AND/OR SSC SHIP MANAGEMENT PTE., LTD., RESPONDENTS.

G.R. No. 191740. February 15, 2013

Ponente: PERALTA, J.

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PERALTA, J.:

Assailed in this petition for review on certiorari ate the Decision[1] dated September 17, 2009 and the Resolution[2] dated February 26, 2010 of the Court of Appeals issued in CA-G.R. SP No. 107379.

The antecedent facts are as follows:

On June 23, 2005, Alfonso N. Sy (Sy) was hired by respondent Philippine Transmarine Carriers Incorporated for and in behalf of its foreign principal, CP-respondent SSC Ship Management Pte. Ltd. In their contract of employment, Sy was assigned to work as Able Seaman (AB) on board the vessel M/V Chekiang for the duration of ten months, with a basic monthly salary of US$512.00. Considered incorporated in AB Sy's Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) is a set of standard provisions established and implemented by the POEA, called the Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels.

On October 1, 2005, while the vessel was at the Port of Jakarta, Indonesia, AB Sy went on shore leave and left the vessel at about 1300 hours. At 1925 hours, the vessel's agent from Jardine received an advice from the local police that one of the vessel's crew members died ashore. At 1935 hours, the agent advised the vessel's master, Capt. Norman C. Marquez, about the incident. At 2050 hrs., Capt. Marquez and his 3 crew members went to Cipto Mangunkusumo Hospital where they confirmed the cadaver to be that of AB Sy.[3]

Based on the initial investigation conducted by the local police, AB Sy was riding on a motorcycle when he stopped the driver to urinate at the riverside of the road. Since AB Sy had not returned after a while, the motorcycle driver went to look for him at the riverside, but the former was nowhere to be found.[4] At 1830 hrs., AB Sy's corpse was found.[5] A forensic pathologist certified that AB Sy's death was an accident due to drowning, and that there was “alcohol 20mg%” in his urine.[6]

AB Sy's body was repatriated to the Philippines. On October 8, 2005, the Medico-Legal Officer of the National Bureau of Investigation (NBI) conducted a post-mortem examination on AB Sy's body and certified that the cause of death was Asphyxia by drowning.[7]

Petitioner Susana R. Sy, widow of AB Sy, demanded from respondents payment of her husband's death benefits and compensation. Respondents denied such claim, since AB Sy's death occurred while he was on a shore leave, hence, his death was not work-related and, therefore, not compensable. As her repeated demands were denied, petitioner filed, on March 1, 2006, a complaint against respondents for death benefits, burial assistance, moral and exemplary damages, and attorney's fees.

On August 28, 2007, the Labor Arbiter (LA) rendered a Decision,[8] the dispositive portion of which reads:

> WHEREFORE, premises considered, respondent is ordered to pay complainant the Philippine Currency equivalent to Fifty Thousand US Dollars (US$50,000.00) as death benefit and an additional amount of Philippine Currency equivalent to One Thousand U.S. Dollars (US$1,000.00) as burial expenses at the exchange rate prevailing at the time of payment.
>
> SO ORDERED.[9]

The LA found that AB Sy was still under the respondents' employ at the time he drowned although he was on shore leave; that while on shore leave, he was still under the control and supervision of the master or captain of the vessel as it was provided under Section 13 of the Contract that the seafarer before taking a shore leave must secure the consent of the master of the vessel; and his leave was conditioned on “considerations of operations and safety” of the vessel; that another indication that a seafarer is considered to be doing work-related functions even when on shore leave is found in subparagraph 4, paragraph B, Section 1 of the Contract where the duties of the seafarer are not limited to his stay while on board, but extend to his stay ashore.

The LA then ruled that since AB Sy was doing work-related functions during the term of his contract, only a finding that his death was self- inflicted or attributable to him would bar the payment of death benefits. It found that respondents’ evidence, which consisted of the Indonesia Police Autopsy Report, stating that the cause of death was drowning, did not establish the circumstance of death which would show that the death was the result of AB Sy's willful act on his own life; that there were traces of alcohol in his blood did not make him “intoxicated” as there was no proof that he was; and granting that he was intoxicated, such was accidental drowning and not an intentional taking of his own life.

Respondents filed their appeal with the National Labor Relations Commission (NLRC), reiterating that AB Sy's death was not work-related, hence, there was no basis for the LA's award. Petitioner also filed her appeal claiming that she was entitled to attorney's fees as well as moral and exemplary damages.

On October 17, 2008, the NLRC rendered its Resolution,[10] the decretal portion of which reads:

> WHEREFORE, premises considered, Respondent's appeal is DISMISSED for lack of merit, while Complainant's appeal is partly GRANTED. The Labor Arbiter's assailed decision in the above-entitled case is hereby MODIFIED.
>
> In addition to the award of FIFTY THOUSAND U.S. DOLLARS (US$50,000.00) as death benefits and ONE THOUSAND U.S. DOLLARS (US$1,000.00) as burial expenses, Respondents are jointly and severally liable to Complainant for attorney's fees equivalent to ten percent (10%) of her total monetary award, to be paid in Philippine Currency equivalent to the exchange rate prevailing during the time of payment.[11]

The NLRC affirmed the LA's finding that AB Sy's death was compensable, saying that if not for his employment with respondents, he would have been in some other place and would not have been enjoying any employment benefit of shore leave in Jakarta, Indonesia on that fateful day; that if not for said employment, he would not have gone to the riverside and urinate, and would not have accidentally fallen into the river and drowned. It found petitioner entitled to an award of attorney's fees, since she was constrained to hire the services of a lawyer to protect her rights but found no basis for the grant of moral and exemplary damages.

Respondents filed their Motion for Reconsideration, which the NLRC denied in a Resolution[12] dated December 8, 2008.

Respondents filed a petition for certiorari with the CA to which petitioner was required to file her Comment, but failed to do so.

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In the meantime, petitioner moved for the execution of the NLRC Resolution. On March 5, 2009, petitioner executed an Affidavit[13] stating that she had received from respondents the sum of two million six hundred ninety-one thousand one hundred seventy-three pesos and 10/100 (P2,691,173.10) as conditional payment of all her claims against respondents; and that the payment was made to prevent further execution proceedings she initiated with the NLRC and without prejudice to respondents' petition then pending with the CA.

On September 17, 2009, the CA rendered its assailed Decision, the dispositive portion of which reads:

> WHEREFORE, the petition is hereby GRANTED. The NLRC's Decision dated October 17, 2008 and Resolution dated December 8, 2008 in NLRC LAC No. 10-000256-07 are hereby REVERSED.
>
> Accordingly, the complaint in NLRC NCR OFW Case No. (M) 06-03-00821-00 is hereby dismissed.
>
> The application for issuance of a temporary restraining order and/or preliminary mandatory injunction is hereby declared moot and academic.
>
> The private respondent, Susana R. Sy, is hereby ordered to return to the petitioners the full amount of Two Million Six Hundred Ninety-One Thousand One Hundred Seventy-Three pesos and 10/100 (P2,691,173.10) pursuant to her undertaking in the Conditional Satisfaction of Judgment with Urgent Motion to Cancel Appeal Bond dated March 5, 2009 and Affidavit executed by her also on March 5, 2009.[14]

In reversing the NLRC, the CA found AB Sy's death not work-related based on the following evidence, to wit: (1) AB Sy was on a shore leave at the time of the incident; (2) he was found dead by the police authorities in Indonesia and upon autopsy, the cause of death was established as drowning; (3) he was intoxicated when he died due to traces of alcohol in his urine; and (4) the Philippine government authorities, namely, the Department of Foreign Affairs and the NBI, confirmed the cause of his death was drowning. The CA said that under Section 20 (A) of POEA Memorandum Circular No. 9, series of 2000, it was not sufficient to establish that AB Sy's death had occurred during the term of his contract, but there must be a causal connection between his death and the work for which he had been contracted. In this case, when AB Sy died, he was on a shore leave and left the vessel, and his death neither occurred at his workplace nor while performing an act within the scope of his employment.

Petitioner filed her Motion for Reconsideration, which the CA denied in a Resolution dated February 26, 2010.

Hence, this petition where the sole issue raised is:

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN GRANTING RESPONDENTS' PETITION FOR CERTIORARI AND DENYING PETITIONER'S MOTION FOR RECONSIDERATION BY REVERSING AND SETTING ASIDE THE NATIONAL LABOR RELATIONS [COMMISSION'S] DECISION IN AWARDING DEATH BENEFITS UNDER THE POEA STANDARD CONTRACT[15]

We find the petition devoid of merit.

The terms and conditions of a seafarer's employment is governed by the provisions of the contract he signs with the employer at the time of his hiring, and deemed integrated in his contract is a set of standard provisions set and implemented by the POEA, called the Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which provisions are considered to be the minimum requirements acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.[16] The issue raised of whether petitioner is entitled to death compensation benefits from respondents is best resolved by the provisions of their Employment Contract which incorporated the 2000 Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels.[17] Section 20 (A) of the

Contract provides:

> SECTION 20. COMPENSATION AND BENEFITS
>
> A. COMPENSATION AND BENEFITS FOR DEATH
>
> 1. In the case of work-related death of the seafarer during the term of his contract, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US$50,000) and an additional amount of Seven Thousand US dollars (US$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.
>
> x x x.

Clearly, to be entitled for death compensation benefits from the employer, the death of the seafarer (1) must be work-related; and (2) must happen during the term of the employment contract. Under the Amended POEA Contract, work-relatedness is now an important requirement. The qualification that death must be work-related has made it necessary to show a causal connection between a seafarer's work and his death to be compensable.

Under the 2000 POEA Amended Employment Contract, work-related injury is defined as an injury(ies) resulting in disability or death arising out of and in the course of employment. Thus, there is a need to show that the injury resulting to disability or death must arise (1) out of employment, and (2) in the course of employment.

In Iloilo Dock & Engineering Co. v. Workmen's Compensation Commission,[18] we explained the phrase "arising out of and in the course of employment" in this wise:

> x x x The two components of the coverage formula — "arising out of" and "in the course of employment" — are said to be separate tests which must be independently satisfied; however, it should not be forgotten that the basic concept of compensation coverage is unitary, not dual, and is best expressed in the word, "work-connection," because an uncompromising insistence on an independent application of each of the two portions of the test can, in certain cases, exclude clearly work-connected injuries. The words "arising out of" refer to the origin or cause of the accident, and are descriptive of its character, while the words "in the course of" refer to the time, place and circumstances under which the accident takes place.
>
> As a matter of general proposition, an injury or accident is said to arise "in the course of employment" when it takes place within the period of the employment, at a place where the employee reasonably may be, and while he is fulfilling his duties or is engaged in doing something incidental thereto.[19]

AB Sy was hired as a seaman on board M/V Chekiang on June 23, 2005 and was found dead on October 1, 2005, with drowning as the cause of death. Notably, at the time of the accident, AB Sy was on shore leave and there was no showing that he was doing an act in relation to his duty as a seaman or engaged in the performance of any act incidental thereto. It was not also established that, at the time of the accident, he was doing work which was ordered by his superior ship officers to be done for the advancement of his employer's interest. On the contrary, it was established that he was on shore leave when he drowned and because of the 20% alcohol found in his urine upon autopsy of his body, it can be safely presumed that he just came from a personal social function which was not related at all to his job as a seaman. Consequently, his death could not be considered work-related to be compensable.

Petitioner argues that AB Sy's death happened in the course of employment, because if not for his employment he could be somewhere else and was not on shore leave; and that he would not be in the riverside of Jakarta, Indonesia and had not answered the call of nature and fell into the river and drowned.

We are not persuaded.

While AB Sy's employment relationship with respondents did not stop but continues to be in force even when he was on shore leave, their contract clearly provides that it is not enough that death occurred during the term of the employment contract, but must be work-related to be compensable. There is a need to show the connection of AB Sy's death with the performance of his duty as a seaman. As we found, AB Sy was not in the performance of his duty as a seaman, but was doing an act for his own personal benefit at the time of the accident. The cause of AB Sy's death at the time he was en shore leave, which was drowning, was not brought about by a risk which was only peculiar to his employment as a seaman. In fact, he was in no different circumstance with other people walking along the riverside who might also drown if no due care to one's safety is exercised. Petitioner failed to establish by substantial evidence her right to the entitlement of the benefits provided by law.

Petitioner's claim that AB Sy's death was by accident, thus, not willfully done which would negate compensability, has no relevance in this case based on our aforementioned disquisition.

While we commiserate with petitioner, we cannot grant her claim for death compensation benefits in the absence of substantial evidence to prove her entitlement thereto, since to do so will cause an injustice to the employer. Otherwise stated, while it is true that labor contracts are impressed with public interest and the provisions of the POEA-SEC must be construed logically and liberally in favor or Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is in every case for the deserving to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.[20]

WHEREFORE, the petition is DENIED. The Decision dated September 17, 2009 and the Resolution dated February 26, 2010 of the Court of Appeals are hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Leonen, JJ., concur.

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[1] Penned by Associate Justice Bienvenido L. Reyes (now a member of this Court), with Associate Jutices Japar B. Dimaampao and Antonio L. Villamor, concurring; rollo, pp. 30-39.

[2] Id. At 21-29.

[3] Id. at 52.

[4] Id.

[5] CA rollo, p. 82

[6] Id. at 83.

[7] Id. at 85.

[8] Id. at 50-57; per Labor Arbiter Patricio P. Libo-on.

[9] Id. 57.

[10] Id. at 40-48; per Commissioner Victoriano R. Calaycay, concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan.

[11] Id. at 47-48. (Emphasis in the original).

[12] Id. at 58; Commissioner Gacutan took no part.

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[13] Id. at 240-241.

[14] Rollo, p. 38. (Citations omitted) (Emphasis in the original).

[15] Id. at 14.

[16] Nisda v. Sea Serve Maritime Agency, G.R. No. 179177, July 23, 2009, 593 SCRA 668, 693.

[17] Department Order No. 4, series of 2000, as amended by Memorandum Circular No. 9, series of 2000.

[18] No. L-26341, November 27, 1968, 26 SCRA 102; 135 Phil. 95, 110-113 (1968).

[19] Id. at 105-106.

[20] See Panganiban v. tara Trading Shipment, Inc., G.R. No. 187032, October 18, 2010, 633 SCRA 353, 369.

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