

NEW FILIPINO MARITIME AGENCIES, INC., TAIYO NIPPON KISEN CO., LTD., AND ANGELINA T, RIVERA, PETITIONERS, VS. VINCENT H. D ATAYAN – HEIR OF SIMON VINCENT H. DATAYAN III, RESPONDENT.

G.R. No. 202859. November 11, 2015

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

As a rule, the death of a seafarer during the term of his employment makes his employer liable for death benefits. The employer, may, however, be exempt from liability if it can successfully establish that the seafarer's death was due to a cause attributable to his own willful act.[2]

This Petition for Review on Certiorari assails title February 22, 2012 Decision[3] of the Court of Appeals (CA) in CA-G.R. SP No. 119775. The CA granted the Petition for Certiorari filed therewith and reversed and set aside the October 28, 2010 Decision[4] and March 15, 2011 Resolution[5] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 07-000536-10, which, in turn, affirmed the May 31, 2010 Decision[6] of Labor Arbiter Arden S. Anni (LA) dismissing the complaint in NLRC-NCR OFW Case No. (M)05-07052-09.

Likewise challenged is the July 24, 2012 CA Resolution[7] denying the motion for reconsideration for lack of merit.

Factual Antecedents

On August 8, 2007, New Filipino Maritime Agencies, Inc. (NFMA), for and on behalf of St. Paul Maritime Corp. (SPMC), employed Simon Vincent Datayan II (Simon) as deck cadet on board the vessel Corona Infinity. His employment was for nine months with basic monthly salary of US\$235.00.[8] Prior to his deployment, Simon underwent pre-employment medical examination (PEME) and was declared fit for sea duties. On August 17, 2007, he boarded the vessel and assumed his duties as deck cadet.[9]

On December 30, 2007, at 12:40 a.m., the Master authorized the conduct of an emergency fire drill in which the crew participated. At about 1:25 a.m., he declared that Simon jumped overboard. A futile search-and-rescue operation ensued. After a few weeks, Simon was declared missing and was presumed dead.[10]

Simon's father, Vincent H. Datayan (respondent), alleged that he went to NFMA to claim death benefits but his claim was unheeded.[11] On May 11, 2009, he filed a complaint[12] for death benefits and attorney's fees against NFMA, Taiyo Nippon Kisen Co., Ltd.,[13] and Angelina T. Rivera (petitioners).

Respondent averred that because Simon died during the term of his employment, the provisions of the collective bargaining agreement (CBA) among All Japan Seamen's Union, Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP), and the International Mariners Management Association of Japan, must be applied in the grant of death benefits and burial assistance in his favor, being the heir of Simon.[14]

Respondent also stated that the fire drill was conducted at 12:40 a.m. where there was heavy concentration of fishing boats in the area; and during which the water temperature was expected to cause hypothermia. He asserted that petitioners were presumed to be at fault or had acted negligently, unless they could prove that Simon's death was due to causes not legally compensable.[15] He declared that there was no evidence that Simon committed suicide and maintained that his death was a result of negligence and reckless instruction of the Master.[16]

On the other hand, petitioners alleged that on December 29/2007, the crew, except those on duty, were in the mess hall for a birthday celebration. They stated that Simon was invited by the Master to join the party but he refused.[17] At about 12:40 a.m. of December 30, 2007, the Master ordered the conduct of a fire and emergency drill. After the drill, a crew meeting was held where the Master reprimanded Simon for his poor performance. They stated that Simon left even before the meeting was concluded. Thus, the Master ordered the crew to search for him. At about 1:25 a.m. to 1:30 a.m. of December 30, 2007, Raymond Ocleasa (Ocleasa) saw Simon jump overboard.[18]

Additionally, petitioners declared that they exerted efforts to search, locate and rescue Simon.[19] They alleged that the vessel retraced its course to where he fell. The Master also informed the Japan Coast Guard about the incident. In response, the Yokohama Coastguard Patrol conducted a search-and-rescue operation to no avail.[20]

Petitioners also averred that during a search made on the vessel, a note from Simon was found.[21]

Petitioners argued that respondent had no cause of action against them because Simon's death was a result of his (Simon's) deliberate act. They insisted that based on the Philippine Overseas Employment Administration (POEA) Standard Employment Contract (SEC) and CBA, a complainant is not entitled to death benefits when the cause of the seaman's death was the latter's willful act.[22] Petitioners added that the Master's Report, Statement of Facts, Marine Note of Protest and Investigation Report conclusively proved that Simon committed suicide. They stated that this conclusion was bolstered by the suicide note found on the vessel, signed by Simon himself.[23]

Ruling of the Labor Arbiter

On May 31, 2010, the LA dismissed the complaint.[24] The LA held that Simon's suicide was established by the evidence on record. Specifically, the Master's Report, as corroborated by Simon's suicide note, showed that he voluntarily jumped overboard. The LA stated that "the signature of the deceased seafarer in said note and in his POEA Contract would show similarity, if not identity. To say that it was fabricated or concocted will not lessen the credibility of the suicide note, absent any concrete evidence to the contrary." [25]

Ruling of the National Labor Relations Commission

On appeal, the NLRC affirmed the LA Decision.[26] Like the LA, the NLRC gave probative weight to the suicide note, the Master's Report, along with other pieces of documentary evidence adduced, to establish that Simon committed suicide. It held that considering that the death of the seafarer was due to his willful act, then his heir is not entitled to his death benefits.

On March 15, 2011, the NLRC denied respondent's motion for reconsideration.[27]

Ruling of the Court of Appeals

Respondent then filed a Petition for Certiorari with the CA maintaining that there was no evidence that Simon committed suicide hence his death is compensable.

On February 22, 2012, the CA rendered the assailed Decision,[28] finding for respondent, the decretal portion of which reads:

WHEREFORE, the petition for certiorari is GRANTED. The assailed October 28, 2010 Decision and March 15, 2011 Resolution of public respondent are REVERSED and SET ASIDE. A new judgment is rendered ordering private respondents New Filipino Maritime Agencies, Inc. and/or Taiyo Nippon Kisen Co., Ltd. and Angelina T. Rivera to pay petitioner Vincent H. Datayan as heir of Simon Vincent H. Datayan II, the following:

- US\$50,000.00 or its Philippine currency equivalent as death benefits in accordance with the 2000 POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean[-]Going Vessels;
- US\$1,000.00 or is [sic] Philippine currency equivalent as burial assistance;
- P50,000.00 as moral damages and P25,000.00 as exemplary damages;
- Attorney's fees equivalent to 10% of the total monetary awards; and
- Legal interest on the foregoing amounts from the date of filing of the complaint until fully paid.

SO ORDERED.[29]

The CA explained that it was beyond question that Simon died aboard the vessel and during the effectivity of his contract, thus, respondent is entitled to receive death benefits arising therefrom. It found that petitioners' evidence failed to prove that Simon committed suicide; and ruled that the Master who executed and signed the Master's Report, Marine Note of Protest and Statement of Facts failed to give positive testimony ascertaining Simon's actual suicide. It further pointed out that the crew members who signed the Investigation. Report had no personal knowledge of Simon's suicide. It added that Ocleasa, the alleged witness of the incident, did not sign the report or issue a sworn statement on the matter.

In addition, the CA stated that Simon underwent PEME and was not declared emotionally unfit. As such, it gave no probative weight to the alleged suicide note of Simon.

Finally, the CA reasoned that in computing the death benefits in favor of respondent, the applicable provisions are those under the POEA SEC not the CBA which covers disability benefits only; moreover, there was no evidence that Simon was an AMOSUP member.

On July 24, 2012, the CA denied petitioners' motion for reconsideration.[30] Hence, petitioners filed the instant Petition arguing that:

- x x x the Court of Appeals committed serious, reversible error of law in awarding death benefits in favor of respondent Mr. Vincent H. Datayan II despite the ruling of this Honorable Court in the case of Reyes vs. Maxim's Tea House, that findings of fact of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter and if supported by substantial evidence, are accorded respect and even finality by appellate courts.[31]
- x x x the Court of Appeals committed serious, reversible error of law in holding that the death of the deceased seafarer was compensable as the defense of suicide was not established with substantial evidence despite the suicide note made by the deceased seafarer whose authenticity was affirmed by the Labor Arbiter and the First Division of the NLRC.[32]
- x x x the Court of Appeals committed serious, reversible error of law in awarding damages, attorney's fees and legal interest in favor of respondent. The award of damages and attorney's fees has no basis as the denial of respondent's claim for death benefits was done in good faith. Further, the award of legal interests has no basis in fact and in law.[33]

Petitioners submit that the documentary evidence established that Simon killed himself, which makes respondent not entitled to death benefits. They contend the LA and the NLRC found said documents to be authentic and are sufficient proof that the cause of Simon's death was his willful act of committing suicide.

Petitioners posit that the CA erred in holding that the best evidence to prove Simon's alleged suicide was his body, which was never found. They added that it would be unjust to hold that the fact of death was established but its cause was not shown from the evidence on record. They further aver that to follow this line of reasoning the fact of death must be established by clear and convincing evidence. As such, according to petitioners, respondent's cause of action would have accrued only after four years from the time Simon was presumed dead on December 30, 2007.

Likewise, petitioners state that the Marine Note of Protest, Master's Report, Statement of Facts and Investigation Report were not hearsay evidence because they were official documents issued by the Master. Also, they point out that these documents were notarized and were authenticated by an affidavit signed by the Master.

Petitioners also explain that the absence of signature of Ocleasa was addressed in the Investigation Report. The report indicated that Ocleasa had already disembarked when the investigation was conducted; he, nonetheless, reported to the local agents and narrated what he witnessed on the vessel.

Petitioners emphasize the finding of the LA that the signatures in the alleged suicide note and in the POEA contract were the same, if not identical.

Lastly, petitioners allege that damages were improperly awarded in favor of respondent considering that necessary procedures were undertaken to locate Simon. They also state that investigation was conducted to gather information from the crew regarding the circumstances surrounding his death.

For his part, respondent reiterates that there was no evidence that Simon committed suicide and that his death was a result of the Master's negligence. He insists that the alleged suicide note could not have been written by Simon considering the proximity of events, that is, at 12:40 a.m., the fire drill was conducted and at 1:25 a.m., Simon was said to have jumped overboard. He asserts that he is entitled to compensation for the death of his son because he had established that he died during the term of his employment contract with petitioners.

Issue

Is the CA correct in finding that the NLRC committed grave abuse of discretion in denying respondent's claim for death benefits?

Our Ruling

In labor cases, the review of the Court under Rule 45 of the Rules of Court involves the determination of the legal correctness of the CA Decision. This means that the Court must ascertain whether the CA properly determined the presence or absence of grave abuse of discretion in the NLRC Decision. Simply put, "in testing for legal correctness, the Court views the CA Decision in the same context that the petition for certiorari it ruled upon was presented to it."^[34] It entails a limited review of the acts of the NLRC, of whether it committed errors of jurisdiction. It does not cover the issue of whether the NLRC committed any error of judgment, unless there is a showing that its findings and conclusion were arbitrarily arrived at or were not based on substantial evidence.^[35]

In this case, both the LA and the NLRC ruled that respondent's claim for death benefits was without basis. They agreed that Simon committed suicide, as principally established by the Master's Report and Simon's suicide note. The CA ruled otherwise. It gave no weight to the suicide note because Simon underwent the PEME and was declared fit to work. The CA also refused to accord probative value to the Master's Report, among others, because

the Master gave no positive testimony on Simon's actual suicide.

To determine whether the CA correctly found that the NLRC gravely abused its discretion in finding that there is substantial evidence - or such relevant evidence a reasonable mind might accept as adequate to support a conclusion[36] - that Simon committed suicide, it becomes imperative to resolve whether the parties discharged their respective burdens of proof and the corresponding shift in the burden of evidence in this case.[37]

As claimant for death benefits, respondent has the burden to prove by substantial evidence that his son's death is work-related and that it transpired during the term of his employment contract. In this respect, respondent has discharged his burden. It is beyond question that Simon died during the term of his contract. The next question is whether Simon's death was due to his deliberate act. If such is the case, then respondent is not entitled to death benefits. That Simon's death was a result of his willful act is a matter of defense.[38] Thus, petitioners have the burden to prove this circumstance by substantial evidence.

The Court finds that petitioners discharged their burden to prove that Simon committed suicide. The Master's Report[39] clearly described the situation on the vessel prior to, during and after the time that Simon went overboard, to wit:

x x x WE CONDUCTED EMERGENCY FIRE DRILL AT NIGHT TIME 0040LT 30[th] DECEMBER 2007/ 1540TC 29[th] DECEMBER 2007. AFTER THE DRILL AT ABOUT 0055LT WE CONDUCTED MEETING AT CREW MESSHALL FOR MASTER'S EVALUATION AND AT THE SAME TIME SAFETY MEETING DURING EVALUATION, I STRONGLY MENTIONED ABOUT HIS (SIMON'S) BEHAVIOUR ON BOARD THE SHIP TO MOTIVATE HIM AND TO IMPROVE HIS PERFORMANCE SINCE HE IS A DECK CADET AND ABOUT TO BE PROMOTED AS ORDINARY SEAMAN x x x

x x x AFTER THE MEETING [I] OBSERVED THAT HE WAS NOT AROUND IN THE MESSHALL. KNOWING THAT HE WAS SLIGHTED I ORDER TO LOOK FOR HIM IN WHICH THE CREW COMPLIED. ONE OF THE CREW WIPER RAYMOND C. OCLEASA xxx SAW DECK CADET SIMON VINCENT H. DATAYAN II WAS STANDING [SIC] ON THE FAIRLEAD PORT QUARTER AND AT THAT POINT HE (WIPER) SAW TORCH LIGHT PASS HIS (DECK CADET) FACE AND CAUGHT HIS (DECK CADET) ATTENTION THEN WHEN HE ATTEMPTED TO JUMP, HE (WIPER) CALLED HIS NAME BUT HE (DECK CADET) JUMPED OVERBOARD. THEN WIPER WENT TO SHIP'S OFFICE AND DIAL 0 FOR PUBLIC ADDRESS AND SHOUT MANOVERBOARD PORTSIDE. BUT THAT ANNOUNCEMENT WAS NOT CLEAR ENOUGH. SO WHEN I REACH THE BRIDGE I ASKED SECOND OFFICER WHICH SIDE HE FELL OVERBOARD BUT SECOND OFFICER ALSO NOT SURE [SIC] WHICH SIDE HE FELL. IN ORDER TO RETURN I ORDERED HARD STARBOARD TO MANEUVER WILLIAMSON TURN AND RETURN TO RECIPROCAL COURSE AND DROP LIFEBOUY WITH BOUYANT SMOKE SIGNAL AND SELF IGNITING LIGHT. TURN ON ALL DECK LIGHTS AND POSTED LOOKOUTS x x x[40]

At the same time, the Statement of Facts[41] submitted by petitioners indicated that after the vessel retraced its course to where Simon fell, the incident was reported to the Japan Coast Guard and to petitioners' local agents in the Philippines. The Yokohama Coastguard Patrol also conducted search-and-rescue but to no avail.

Moreover, in their Investigation Report,[42] the crew described Simon as a "very silent person, bright student, [f]ast learner but very sensitive person and will not talk unless you x x x question him. No problems with anybody since he embarked the vessel [sic]."

The Master Report and Statement of Facts were executed by the Ship Master Arthur Evangelista, who also subscribed and swore to his statements before a Notary Public.[43]

In *Unicol Management Services, Inc. v. Malipot*,[44] the Court considered the Master's Report and the

Investigation Report, among others, in ruling that the seaman's beneficiaries were not entitled to death benefits. It noted that these documents completely detailed the events that transpired prior to and the circumstances leading to the discovery of his death by suicide.

Similarly, in the instant case, the Master's Report as well as the Statement of Facts described the events that occurred prior to, during and after the incident when Simon went overboard. In particular, Simon declined the Master's invitation for him to join the party; thereafter, the Master reprimanded him because he performed poorly in the drill; Simon left the meeting and was later seen to jump overboard by Ocleasea. Added to this narration is the statement of the crew in the Investigation Report that Simon was a "very sensitive" person.

Also, the Investigation Report addressed the question on why Ocleasea did not sign said report. As stated therein, he already disembarked from the vessel when the report was executed and was investigated at the (local) office, where he stated that he saw Simon jump overboard.[45]

More importantly, the fact that Simon committed suicide is bolstered by the suicide note that he executed. His note[46] reads:

0100LT Dec. 30, 2007

Dear loved ones & shipmates,

I cannot take it anymore. Sorry for letting you pay for my shortcomings. I ask you to let me end my life. I cannot bear the shame of letting you all endure all what is due me. But I happily end my life because I know it is the only [way] I can repay you [sic]. You suffered for not letting myself obey my Master for a drink [sic], of which, he commenced a drill w/out anyones [sic] idea[.]

Sayonara & God bless.

w/ you always.

Simon

The suicide note is informative as to why Simon committed suicide. He declined to join the party held prior to the drill and was reprimanded for his poor performance in said drill. It can, thus, be inferred from the note that he blamed himself for the difficulties he assumed to have caused his colleagues.

As such, to refute petitioners' position that Simon committed suicide, the burden of evidence shifts to respondent. Nonetheless, respondent failed to discharge his burden. Respondent relies on the alleged negligence of the Master in ordering the conduct of the drill and argues that Simon could not have written a suicide note because of the proximity of the time when the drill was conducted and the time when Simon jumped overboard. Respondent presented no proof that said suicide note was fabricated, as no specimen of Simon's handwriting was submitted to prove that it was not written by him.

On the contrary, the Court shares the observation of the LA that the signature[47] in the suicide note and the signature[48] of Simon in his employment contract appear to be the same.

Hence, by substantial evidence, there are adequate reasons and proof that Simon committed suicide.

Under Section 20(D) of the POEA SEC,[49] no compensation or benefits shall arise in case of death of a seafarer resulting from his willful act, provided that the employer could prove that such death is attributable to the seafarer.

Although Simon died during the term of his contract with petitioners, still, respondent is not entitled to receive benefits arising from his death. As clearly established, Simon died by his willful act of committing suicide and

death under that circumstance is not compensable under the POEA SEC.

In consideration of the foregoing, the Court finds that the CA erred in setting aside the NLRC Decision which affirmed the LA Decision dismissing the complaint for lack of merit.

WHEREFORE, the Petition is GRANTED. The February 22, 2012 Decision and July 24, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 119775 are REVERSED and SET ASIDE. The October 28, 2010 Decision of the National Labor Relations Commission in NLRC LAC No. 07-000536-10 is REINSTATED and AFFIRMED. Accordingly, the complaint in NLRC-NCR OFW Case No. (M)05-07052-09 is DISMISSED.

SO ORDERED.

Carpio, (Chairperson), Reyes,[*] Perlas-Bernabe,**] and Leonen, JJ., concur.

[*] Per Special Order No. 2274 elated November 10,2015,

[**] Per Special Order No. 2271 dated November % 2015.

[1] Referred in some parts of the records as Datayan II.

[2] Crewlink, Inc. v, Teringtering, G. R. No. 166803, October i 1,2012,684 SCR A 12,21.

[3] CA rollo, pp. 236-232; penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Marlene Gonzales-Sison and Leoncia R. Dimagiba.

[4] NLRC records, pp. 134-139; penned by Commissioner Romeo L. Go and concurred in by Presiding Commissioner Gsrardo C. Nograles and Commissioner Perlita B. Velasco.

[5] Id. at 147-148.

[6] Id. at 99-104.

[7] CA rollo, pp. 288-289.

[8] NLRC records, p. 36.

[9] Id. at 15.

[10] Id. at 15-16.

[11] Id. at 16.

[12] Id. at 1-2.

[13] Per Marine Note of Protest, id. at 63, M/V Corona Infinity is a Panamanian flag vessel owned by Corona Infinity Shipholding S.A.; and managed by Taiyo Nippon Kisen Co., Ltd.

[14] NLRC records, pp. 17-19, 28.

[15] Id. at 18-19.

[16] Id. at 20.

[17] Id. at 44-45.

[18] Id. at 45.

- [19] Id. at 92.
- [20] Id. at 46.
- [21] Id. at 47.
- [22] Id. at 48.
- [23] Id. at 51.
- [24] Id. at 99-104.
- [25] Id. at 103.
- [26] Id. at 134-139.
- [27] Id. at 147-148.
- [28] CA rollo, pp. 236-252.
- [29] Id. at 251-252.
- [30] Id. at 288-289.
- [31] Rollo, p. 43-44.
- [32] Id. at 45.
- [33] Id. at 54.
- [34] Agile Maritime Resources, Inc. v. Siador, G.R. No. 191034, October 1, 2014, 737 SCRA 360, 368
- [35] Id. at 368-369.
- [36] Crewlink, Inc. v. Teringtering, supra note 2.
- [37] Agile Maritime Resources, Inc. v. Siador, supra note 34 at 372-373.
- [38] Crewlink, Inc. v. Teringtering, supra note 2 at 19.
- [39] NLRC records, p. 65.
- [40] Id.
- [41] Id. at 66-67.
- [42] Id. at 68-69.
- [43] Id. at 71-72.
- [44] G.R. No. 206562, January 21, 2015.
- [45] NLRC records, p. 69.
- [46] Id. at 70.
- [47] Id.
- [48] Id. at 62.
- [49] Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going

Vessels

Section 20(D). No compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of his duties, provided however, that the employer can prove that such injury, incapacity, disability or death is directly attributable to the seafarer.

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