

PACIFIC ASIA OVERSEAS SHIPPING CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND TEODORO RANCEES, RESPONDENTS.

G.R. No. 76595. May 06, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

The petitioner, Pacific Asia Overseas Shipping Corporation (Pascor, in short), seeks the annulment and setting aside of the Resolutions of the public respondent National Labor Relations Commission (NLRC) dated 14 August 1986 and 19 November 1986, denying Pascor's appeal for having been filed out of time and denying its Motion for Reconsideration, respectively.

Sometime in March 1984, private respondent Teodoro Ranees was engaged by petitioner Pascor as Radio Operator of a vessel belonging to Pascor's foreign principal, the Gulf-East Ship Management Limited. Four (4) months later, and after having been transferred from one vessel to another four times for misbehaviour and inability to get along with officers and crew members of each of the vessels, the foreign principal terminated the services of private respondent Ranees citing the latter's poor and incorrigible work attitude and incitement of others to insubordination.[1]

Petitioner Pascor filed a complaint against private respondent with the Philippine Overseas Employment Administration (POEA) for acts unbecoming a marine officer and for "character assassination," which case was docketed as POEA Case No. M-84-09-848. Private respondent denied the charges set out in the complaint and by way of counterclaim demanded an amount of US\$1,500.00 which a court in Dubai had, he contended, awarded in his favor against petitioner's foreign principal. In due course, on 4 September 1985, the POEA found private respondent liable for inciting another officer or seaman to insubordination and challenging a superior officer to a fist fight and imposed six (6) months suspension for each offense or a total of twelve (12) months suspension, with a warning that commission of the same or similar offense in the future would be met with a stiffer disciplinary sanction. The POEA decision passed over sub silentio the counterclaim of private respondent.[2]

On 10 October 1985, private respondent filed a complaint against petitioner, docketed as POEA Case No. M-85-10-0814 and entitled "Teodoro Ranees v. Pacific Asia Overseas Shipping Corporation." In this complaint, he sought to carry out and enforce the same award obtained by him in Dubai allegedly against Pascor's foreign principal which he had pleaded as a counterclaim in POEA Case No. M-84-09-848. Private respondent claimed that he had filed an action in the Dubai court for US\$9,364.89, which claim was compromised by the parties for US\$5,500.00 plus "a return ticket to (private respondent's) country," with the proviso that "the opponent" would pay "to the claimant" US\$1,500.00 "in case the wife of the claimant (Ranees) doesn't agree with the amount sent to [her]." Private respondent further claimed that since his wife did not "agree with" the amount given to her as "an allotment for the 3-month period (of April, May and June 1984), he was entitled to recover the additional US\$1,500.00 "as mandated under the Compromise Agreement which was the basis of the decision of the Dubai

Civil Court."[3] As evidence of this foreign award, private respondent submitted what purports to be an "original copy (sic) of the decision" of the Dubai court written in Arabic script and language, with a copy of an English translation by an unidentified translator and a copy of a transmittal letter dated 23 September 1984 signed by one Mohd. Bin Saleh "Honorary Consul for Philippines." The full texts of the purported English translation of the Dubai award and of the transmittal letter are set out in the margin.[4]

In its answer filed on 11 December 1985, petitioner Pascor made four principal arguments: that the copy of the Dubai decision relied upon by private respondent could not be considered as evidence, not having been properly authenticated; that Pascor was not a party to the Dubai court proceedings; that the POEA had no jurisdiction over cases for the enforcement of foreign judgments; and that the claim had already been resolved in POEA Case No. M-84-09-848, having been there dismissed as a counterclaim.

In a decision dated 14 April 1986, the POEA held petitioner Pascor liable to pay private respondent Ranees the amount of US\$1,500.00 "at the prevailing rate of exchange at the time of payment." This decision was served on petitioner's counsel on 18 April 1986, which counsel filed a "Memorandum on Appeal and/or Motion for Reconsideration" on 29 April 1986.

Private respondent moved the next day for dismissal of the appeal and for issuance of a writ of execution, upon the ground that petitioner's appeal had been filed one (1) day beyond the reglementary period and that, consequently, the POEA decision had become final and executory.

Petitioner opposed dismissal of its appeal and issuance of a writ of execution, arguing that the one (1) day delay in filing its Memorandum on Appeal had been occasioned by an excusable mistake.

On 20 May 1986, the POEA issued an order denying petitioner's appeal for having been filed out of time. Petitioner moved for reconsideration, paid the docket fee and posted the required supersedeas bond in connection with its appeal.

On 29 May 1986, the POEA denied private respondent's Motion for a Writ of Execution and elevated the case to the NLRC.

On 14 August 1986, public respondent NLRC denied petitioner's appeal as filed out of time. Petitioner's Motion for Reconsideration was similarly denied.

In the present Petition for Certiorari and Mandamus with prayer for Preliminary Injunction and Temporary Restraining Order, Pascor urges that public respondent NLRC acted with grave abuse of discretion or in excess of its jurisdiction in denying its appeal and motion for reconsideration.

We think petitioner's contention has merit. The record shows, not an intent to delay the proceedings but rather a genuine and substantial effort on the part of petitioner Pascor to file, in a timely manner, its Memorandum on Appeal which, in the circumstances of this case, should not have been disregarded by respondent NLRC. The circumstances surrounding the one (1) day delay in the filing of petitioner's Memorandum on Appeal are summed up by petitioner in the following terms:

"30.1. Mr. Ruben de la Cruz, who was newly hired as messenger in the law firm representing the petitioner was tasked with the delivery of the memorandum on appeal in the afternoon of April 28, 1986 (the last day for filing the same).

30.2. When Mr. de la Cruz read the caption of the memorandum, he noted that the same is addressed to the respondent NLRC and he erroneously concluded that it should be filed with the offices of the NLRC in Intramuros, Manila.

30.3. When Mr. de la Cruz presented petitioner's Appeal at the docket section of respondent NLRC, he was advised that the same should be filed with the offices of the POEA in Ortigas. San Juan, Metro Manila.

30.4. Mr. de la Cruz upon being apprised of his error immediately proceeded to the offices of the POEA in order to have petitioner's (PASCOR's) appeal received but unfortunately, by the time he arrived thereat, the POEA office had already closed for the day. Thus, the appeal was filed the following day."

To support the above explanation, in addition to an affidavit executed by Mr. Ruben de la Cruz, petitioner submitted a certification dated 2 May 1986 executed by Evelyn G. Sauza, receiving clerk of respondent NLRC stating that she had refused to receive the Memorandum on Appeal on or about 4:15 p.m., 28 April 1986, because the Memorandum was supposed to be filed with the POEA office in Ortigas and not with the NLRC in Intramuros.

The brevity of the delay in filing an appeal is not, of course, by itself a sufficient basis for giving due course to the appeal. In the present case, however, the factual circumstances combine with the legal merits of the case urged by the petitioner to move us to the conviction that respondent NLRC should have recognized and heeded the requirements of orderly procedure and substantial justice which are at stake in the present case by allowing the appeal. In *Siguenza v. Court of Appeals*,^[5] the Court stressed that the right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interests of substantial justice would be served by permitting the appeal:

"In the case of *Castro v. Court of Appeals* (132 SCRA 782). we stressed the importance and real purpose of the remedy of appeal and ruled:

'An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a party of the right to appeal (*National Waterworks and Sewerage Authority v. Municipality of Libmanan*, 97 SCRA 138) and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities

(*A-One Feeds, Inc. v. Court of Appeals*. 100 SCRA 590).

'The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure not override substantial justice. *Gregorio v. Court of Appeals* [72 SCRA 120]). Therefore, we ruled in *Republic v. Court of Appeals* (81 SCRA 453) that a six-day delay in the perfection of the appeal does not warrant its dismissal. And again in *Ramos v. Ragasao*. 96 SCRA 195. this Court held that the delay in four (4) days in filing a notice of appeal and a motion for extension of time to file a record on appeal can be excused on the basis of equity.'

We should emphasize, however, that we have allowed the filing of an appeal in some cases where a stringent application of the rules would have denied it. only when to do so would serve the demands of substantial justice and in the exercise of our equity Jurisdiction.

In the case at bar, the petitioner's delay in filing their record on appeal should not be strictly construed as to deprive them of the right to appeal especially since on its face the appeal appears to be impressed with merit."^[6]

We turn to the merits of the Petition. An examination of the complaint and of the Manifestation and Motion filed by respondent Ranees in POEA Case No. M-85-08-14. shows that the cause of action pleaded by respondent Ranees was enforcement of the decision rendered by a Dubai Court which purported to award him, among other things, an additional amount of US\$1,500.00 under certain circumstances. In the complaint dated 23 October 1985, respondent Ranees stated:

"Details of cause of action (Why are you complaining?) (To include place and date of occurrence of cause of action and amount of claim, if any) P2,295 LSS salary for three (3) months stated in the compromise of 1,500

US\$ total of 2.795.50 US\$ [as] per decision from Civil Court of Dubai U.A.E."[7]

The Motion/Manifestation dated 3 December 1985 filed by respondent Ranees may be quoted in extenso:

"1.

Originally, complainant's claim was US\$9,364.89 which he filed with the Dubai Court for adjudication. xxx
xxx xxx

2.

The US\$9,364.89 claim was compromised by the court in a decision dated September 12, 1984. Xerox copy of the decision is hereto attached as Annex "B" and the authentication as Annex "B- 1" and made an integral part thereof.

3.

Pertinent portion of the decision referred to above reads as follows:

"Both parties came to a decision that the opponent would pay to the claimant the amount of Five Thousand & Five Hundred dollars for the withdrawal of the claimant and providing him return ticket to his country. The opponent declared that he would pay One Thousand & Five Hundred Dollars to the opponent in case the wife of the claimant doesn't agree with the amount sent to.'

4.

During the hearing leading to the Compromise. I emphasized that the allotment I was giving my wife was US \$765.00 per month and at the time the case was filed the allotment was already 3 months in arrears which already amounted to US \$2,295.00.

5.

The amount sent my wife which is only P13,393.45 through PASCOR and confirmed by a Certification of the Philippine National Bank. Dagupan City Branch, hereto attached as Annex "C" is definitely very meager compared to the exchange value of US \$2,295.00;

6.

My wife certainly did not agree and cannot agree or admit that only P13,393.45 will be given her as an allotment for the 3- month period: hence, under the Compromise Agreement, we are entitled to recover the additional US\$1,500.00:

7.

The agreement insofar as the additional remittance to my wife of US\$1,500.00 is reasonable in that adding the same to the P13,393.45 my wife received would sum up to US \$2,295.00 corresponding to the accumulated 3 month allotment due my wife.

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Office to —

Cause or require respondent to remit and/or pay the undersigned or his wife of the amount of US\$1,500.00 as mandated under the Compromise Agreement which was the basis of the decision of the Dubai Civil Court."[8]

It should be noted that respondent Ranees submitted to the POEA only the Dubai Court decision; he did not submit any copy of the "Compromise Agreement" (assuming that to have been reduced to writing) which he presumably believed to have been absorbed and superseded by the Dubai decision.

That the cause of action set out in respondent Ranees' complaint was enforcement of the Dubai decision is further, indicated in the decision dated 14 April 1986 rendered by the POEA. This decision provided in part as follows:

"Complainant alleged that his original claim of US\$9,364.89 for unpaid salaries, termination pay and travel expenses was filed in Dubai. In a decision rendered by the Dubai Court, his claim was compromised in the amount of US\$5,500. 00 plus return plane ticket. The amount of US\$5,500.00 will be paid to his wife if she does not agree with the amount sent to her. The three (3) months unremitted allotments refers to the months of April, May and June 1984. As evidenced by the Allotment Slip, respondent approved the authority given by complainant stating that the amount of US \$76n.00) be remitted to his wife beginning with the month of April 1984. The amount remitted to his wife for allotment covering the three (3) month period was only PI 3.393.45. The basis of complainant's claim is the reservation in the decision of the Dubai Court which states that in case the wife of the claimant does not agree with the amount sent to her, the opponent shall pay US\$1,500.00)."[9]

Clearly, therefore, respondent Ranees' action was for enforcement of the Dubai decision to the extent that such decision provided for payment of an additional amount of US\$1,500.00 and that respondent relied upon such decision.

Petitioner argues vigorously that the POEA had no authority and jurisdiction to enforce the judgment of a foreign court. Under Section 1, Rule 1, Book VI of the POEA Rules and Regulations, it will be seen that the POEA has jurisdiction to decide all cases "involving employer-employee relations arising out of or by virtue of any law or contract involving Filipino workers for overseas employment, including seamen." Respondent Ranees, however, relied not upon the employer-employee relationship between himself and petitioner corporation and the latter's foreign principal, but rather upon the judgment obtained by him from the Dubai Court which had apparently already been partially satisfied by payment to respondent Ranees of US\$5,500.00. The POEA has no jurisdiction to hear and decide a claim for enforcement of a foreign judgment. Such a claim must be brought before the regular courts. The POEA is not a court; it is an administrative agency exercising, inter alia, adjudicatory or quasi-judicial functions. Neither the rules of procedure nor the rules of evidence which are mandatorily applicable in proceedings before courts, are observed in proceedings before the POEA.[10]

Even assuming (arguendo, merely) that the POEA has jurisdiction to recognize and enforce a foreign judgment, still respondent Ranees cannot rely upon the Dubai decision. The Dubai decision was not properly proved before the POEA. The Dubai decision purports to be the written act or record of an act of an official body or tribunal of a foreign country, and therefore a public writing under Section 20 (a) of Rule 132 of the Revised Rules of Court. Sections 25 and 26 of Rule 132 prescribe the manner of proving a public or official record of a foreign country in the following terms:

"Sec. 25. Proof of public or official record. —An official record or an entry therein, when admissible for any

purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

"Sec. 26. What attestation of copy must state. — Whenever a copy of a writing is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court." (*Italics supplied*)

In the instant case, respondent Ranees failed to submit any attestation issued by the proper Dubai official having legal custody of the original of the decision of the Dubai Court that the copy presented by said respondent is a faithful copy of the original decision, which attestation must furthermore be authenticated by a Philippine Consular Officer having jurisdiction in Dubai. The transmittal letter, dated 23 September 1984, signed by "Mohd. Bin Saleh, Honorary Consul for Philippines" does not comply with the requirements of either the attestation under Section 26 nor the authentication envisaged by Section 25."^[11]

There is another problem in respect of the admissibility in evidence of the Dubai decision. The Dubai decision is accompanied by a document which purports to be an English translation of that decision; but that translation is legally defective. Section 34 of Rule 132 of the Revised Rules of Court requires that documents written in a non-official language (like Arabic) shall not be admitted as evidence unless accompanied by a translation into English or Spanish or Filipino.^[12] In *Ahag v. Cabiling*,^[13]

Mr. Justice Moreland elaborated on the need for a translation of a document written in a language other than an official language:

". . . Moreover, when there is presented in evidence an exhibit written in any language other than Spanish, if there is an appeal, that exhibit should be translated into Spanish by the official interpreter of the court, or a translation should be agreed upon by the parties, and both original and translation sent to this court. In the case before us, there is an untranslated exhibit written in the Visayan language."^[14]

In *Teng Giok Yan v. Hon. Court of Appeals, et al.*,^[15] the Court, speaking through Mr. Justice Montemayor, had occasion to stress the importance of having a translation made by the court interpreter who must, of course, be of recognized competence both in the language in which the document involved is written and in English. The Court said:

"[t]he trial court was certainly not bound by the translation given by the Chinese Embassy, specially in the absence of a definite assurance that said translation was correct and that it was made by the Embassy Adviser himself. On the other hand, the translation made by the court interpreter is official and reliable not only because of the recognized ability of said interpreter to translate Chinese characters into English, but also because said interpreter was under the direct supervision and control of the court, xxx"^[16]

In the instant case, there is no showing of who effected the English translation of the Dubai decision which respondent Ranees submitted to the POEA. The English translation does not purport to have been made by an official court interpreter of the Philippine Government nor of the Dubai Government. Neither the identity of the translator nor his competence in both the Arabic and English languages has been shown. The English translation submitted by the respondent is not sworn to as an accurate translation of the original decision in Arabic. Neither has that translation been agreed upon by the parties as a true and faithful one.

The foregoing does not exhaust the difficulties presented by reliance upon the Dubai decision. The Dubai Court decision, even on the basis of the English translation submitted by respondent Ranees, does not purport on its face to have been rendered against petitioner Pascor nor against the foreign principal of petitioner. Respondent Ranees simply assumed that the decision was rendered against petitioner's foreign principal. The Dubai decision does not identify the parties to the litigation that was resolved by said decision. Accordingly, the Dubai decision can scarcely be enforced against petitioner Pascor. Further, even if the Dubai decision had on its face purported to be rendered against petitioner Pascor, we must note that petitioner Pascor has expressly denied that jurisdiction had ever been acquired by the Dubai court over the person of Pascor in accordance with the Rules of Procedure applicable before the Dubai Court.[17] Respondent Ranees has not proved the contents of the Dubai Rules of Procedure governing acquisition of jurisdiction over the person of a non-resident defendant.

Finally, if it be assumed (arguendo, once more) that the Dubai Court had indeed acquired jurisdiction over the person of Pascor's foreign principal — Gulf East Ship Management Ltd. — it still would not follow that Pascor would automatically be bound by the Dubai decision. The statutory agency (or suretyship) of Pascor is limited in its reach to the contracts of employment Pascor entered into on behalf of its principal with persons like respondent Ranees.[18] Such statutory liability does not extend to liability for judgments secured against Gulf East Ship Management Ltd., in suits brought against Gulf East outside Philippine territorial jurisdiction, even though such a suit may involve a contract of employment with a Filipino seaman.

We conclude that the POEA acted without or in excess of jurisdiction in rendering its Decision dated 14 April 1986 and its Order dated 20 May 1986. and that public respondent NLRC similarly acted without or in excess of jurisdiction in rendering its Orders dated 14 August 1986 and 19 November 1986 denying petitioner's appeal and Motion for Reconsideration. This, however, is without prejudice to the right of respondent Ranees to initiate

another proceeding before the POEA against petitioner Pascor, this time on the basis alone of the contract of employment which existed between said respondent and petitioner or petitioner's foreign principal; there, respondent Ranees may seek to show that he is still entitled to the allotments which he claims were not remitted by his employer to his wife.

ACCORDINGLY, the Petition for Certiorari is GRANTED and the Resolutions of public respondent NLRC dated 14 August 1986 and 19 November 1986 are hereby NULLIFIED and SET ASIDE. The Temporary Restraining Order issued by this Court on 8 December 1986 is hereby made PERMANENT. No pronouncement as to costs.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Annex "B" and Annex "E" of the Petition: Rollo, pp. 24. 28.

[2] Annex "H" of Petition; Rollo, p. 44.

[3] See Annex "J" of Petition; Rollo. pp. 51-52.

[4] "BIN SALEH GENERAL SERVICES

MANPOWER RECRUITING AGENTS

Demand Suit No.:

299/84

COURTS DEPARTMENT — DUBAI CIVIL

Wednesday's Sitting: 12/9/84
Under the Presidency of Kazi: Abdul Munim's Wafa.
Private Secretary: Ibrahim.
The claimant was present physically.
Saleem Olvi attended and told that he was the captain of the ship
(Sea-Eagle)

DECISION

Weekly Sitting: 15/9/84. with previous position.

The opponents were present as previous. And advocate Abdur Rahman was present with the claimant. Both the parties came to a decision that the opponent would pay to the claimant the amount of Five Thousand & Five hundred dollars for the withdrawal of the by the claimant and providing him return ticket to his country. The opponent declared that he would pay One Thousand & Five Hundred Dollars to the opponent in case the wife of the claimant doesn't agree with the amount sent to. Both the parties demanded declaration of compromise in the presence of the Sitting and doing it the manner of executing Document Power.

Whereas the compromise is not against the general rules and laws and protecting the dispute. So, the court approved their request.

Therefore, the court decided the decision of the compromising meeting and did it in the executing documentary power.

Signed by.
KAZI

TRUE COPY
(SGD.) BIN SALEH"

"BIN SALEH GENERAL SERVICES

MANPOWER RECRUITING AGENTS

Ref. 1723/83 Date 23/9/84

Mr. Teodoro G. Ranees
Caballero Street.
Pozorrubio
Pangasinan,
PHILIPPINES

Dear Mr. Ranees.

We the Philippines Consulate in Dubai has handled and successfully completed your case.

Please find enclosed the English translation and the Arabic version of your court proceeding of Court Case No: 992/84 and receipt of US \$550/- being amount received from you being the cost of translation and typing all papers in connection with the above case.

Wishing you the best of luck.

SGD. Mohd. Bin Saleh

Honorary Consul for Philippines."

[5] 137 SCRA 570 11985].

[6] 137 SCRA at 576: italics supplied.

[7] Rollo, p. 50: italics supplied.

[8] Rollo. pp. 51-52: italic supplied.

[9] Rollo. p. 320: italics supplied.

[10] Article 221. Labor Code.

[11] See Act No. 2103. enacted 26 January 1912. entitled "An Act providing for the acknowledgment and authentication of instruments and documents without the [Republic of the Philippines]"

[12] Under Section 7 of Article XIV of the 1987 Constitution. Spanish is no longer an official language, though Spanish and Arabic are directed to be promoted "on a voluntary and optional basis."

[13] 18 Phil. 415 (1911).

[14] 18 Phil, at 417; Italics supplied.

[15] 102 Phil. 404 (1957).

[16] 102 Phil, at 410; Italics supplied.

[17] See Section 50 of Rule 40 of (he Revised Rules of Court.

[18] See Section 1 (d) of Rule II. Book II of the Rules and Regulations Governing Overseas Employment, as amended (May. 1985).

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