

SEAGULL MARITIME CORP. AND PHILIMARE SHIPPING & EQUIPMENT SUPPLY, PETITIONERS, VS. NERRY D. BALATONGAN, NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE OVERSEAS EMPLOYMENT AD...

G.R. No. 82252. February 28, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

On November 2, 1982, a "crew agreement" was entered into by private respondent Nerry D. Balatongan and Philimare Shipping and Equipment Supply (hereinafter called Philimare) whereby the latter employed the former as able seaman on Board its vessel "Santa Cruz" (renamed "Turtle Bay") with a monthly salary of US\$300,00. Said agreement was processed and approved by the National Seaman's Board (NSB) on November 3, 1982.[1]

While on board said vessel the said parties entered into a supplementary contract of employment on December 6, 1982[2] which provides among others:

"1. The employer shall be obliged to insure the employee during his engagement against death or permanent invalidity caused by accident on board up to:

US \$40,000 - for death caused by accident

US \$50,000 - for permanent total disability caused by accident."[3]

On October 6, 1983 Balatongan met an accident in the Suez Canal, Egypt as a result of which he was hospitalized at the Suez Canal Authority Hospital. Later, he was repatriated to the Philippines and was hospitalized at the Makati Medical Center from October 23, 1983 to March 27, 1984. On August 19, 1985 the medical certificate was issued describing his disability as "permanent in nature."

Balatongan demanded payment for his claim for total disability insurance in the amount of US \$50,000.00 as provided for in the contract of employment but his claim was denied for having been submitted to the insurers beyond the designated period for doing so.

Thus, Balatongan filed on June 21, 1985 a complaint against Philimare and Seagull Maritime Corporation (hereinafter called Seagull) in the Philippine Overseas Employment Administration (POEA) for non-payment of his claim for permanent total disability insurance with damages and attorney's fees.

After the parties submitted their respective position papers with the corresponding documentary evidence, the officer-in-charge of the Workers Assistance and Adjudication Office of the POEA rendered a decision on May 2, 1986, the dispositive part of which reads as follows:

"WHEREFORE, premises considered, respondents are hereby ordered to pay complainant the amount of US\$50,000.00 representing permanent total disability insurance and attorney's fees at 10% of the award. Payment should be made in this Office within ten (10) days from receipt hereof at the prevailing rate of exchange. This Office cannot however rule on damages, having no jurisdiction on the matter.

SO ORDERED."[4]

Seagull and Philimare appealed said decision to the National Labor Relations Commission (NLRC) on June 4, 1986. Pending resolution of their appeal because of the alleged transfer of the agency of Seagull to Southeast Asia Shipping Corporation, Seagull filed on April 28, 1987 a Motion For Substitution/Inclusion of Party Respondent which was opposed by Balatongan.[5] This was followed by an ex-parte motion for leave to file third party complaint on June 4, 1987 by Seagull. A decision was promulgated on December 7, 1987 denying both motions and dismissing the appeal for lack of merit.[6] A motion for reconsideration of said decision was denied for lack of merit in a resolution dated February 26, 1988.[7]

Hence, Seagull and Philimare filed this petition for certiorari with a prayer for the issuance of a temporary restraining order based on the following grounds:

1.

Respondent POEA erred in applying the Supplemental Contract;

2.

Respondents POEA and NLRC acted with grave abuse of discretion in holding that the Supplemental Contract was signed on board MV Santa Cruz by and between private respondent and your petitioner; and

3.

Respondent NLRC acted with grave abuse of discretion in not giving due course to your petitioners' Motion for Leave to File Third Party Complaint as well as their Motion for Inclusion/Substitution of respondents.[8]

On March 21, 1988, the Court issued a temporary restraining order enjoining respondents from enforcing the questioned decision and resolution of public respondents.

Petitioners argue that prior to private respondent's departure he executed a crew agreement on November 2, 1982 which was duly approved by the POEA; that the supplementary contract of employment that was entered into on board the vessel "Turtle Bay" which provides for a US \$50,000.00 insurance benefit in case of permanent disability was neither approved nor verified by respondent POEA; and that the same violates Article 34(i) of the Labor Code, as amended, which provides as follows:

"Art. 34. Prohibited Practices. – It shall be unlawful for any individual, entity, licensee, or holder of authority:

xxx xxx xxx

(i)

to substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the approval of the Department of Labor."

Petitioners also call attention to Article VIII, paragraph 2 of the Supplementary Contract which provides as

follows:

"2. Notwithstanding his claim against the insurers the employee hereby expressly waives all claims of his own or his heirs for compensation of damages due to death or permanent invalidity which he suffered during his engagement against the employers x x x unless his death or permanent invalidity has been caused by willful act of any of the above-named persons. "[9]

Petitioners stress that while public respondents upheld the applicability of said supplementary contract insofar as it increased the benefits to private respondent, public respondents considered the provision on the waiver against all claims by private respondent to be contrary to public policy.

In its questioned decision dated December 7, 1987, the respondent NLRC made the following disquisition:

"The focal issue for determination is the validity and enforceability of the second contract of employment entered into by and between complainant and respondents on board the vessel where the former had served as a member of its complement despite the absence of NSB verification or approval. With respect to the findings of facts in the appealed decision, We consider the same as duly supported by substantial evidence and the admissions of the parties in their pleadings.

Much stress and emphasis are made by the respondents in their appeal that this claim has no legal basis or footing inasmuch as the second contract of employment containing a total disability insurance benefit of US\$50,000.00, much more than that embodied in the first contract of employment which was approved by the defunct NSB, was not verified or approved by the latter. Accordingly, the respondents posit the argument that subject claim may not prosper pursuant to the provisions of Art. 34(i) of the Labor Code, as amended, which provides that it shall be unlawful for any individual, entity, licensee, or holder of authority (T)o substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the approval of the Department of Labor.

Did the POEA committee a reversible error when it considered the second contract of employment as valid sans any verification or approval thereof by the NSB? Our answer to this query is in the negative. Apparently, the intention of the law when Art. 34 of the Labor Code was enacted is to provide for the prohibited and unlawful practices relative to recruitment and placement. As shown in the 'Explanatory Note' of Parliamentary Bill No. 4531, pertaining to Art. 34 (supra), thus:

Many of the provisions are already existing and were simply restated. Some however were restated with modifications and new ones were introduced to reflect what in the past have been noted to be pernicious practices which tend to place workers at a disadvantage.

it is indubitably clear that the purpose of having overseas contracts of employment approved by the NSB (POEA) is whether or not such contracts conform to the minimum terms and conditions prescribed by the NSB (POEA). In other words, the law did not at all prohibit any alteration which provided for increases in wages or other benefits voluntarily granted by the employer. Precisely, under Section 2, Rule I, Book V of the Rules and Regulations of the POEA, '(t)he standard format of employment contracts shall set the minimum standards of the terms and conditions of employment. All employers and principals shall adopt the model contract in connection with the hiring of workers without prejudice to their adopting other terms and conditions of employment over and above the minimum standards of the Administration.' Where, as here, it is admitted that the second contract although not verified or approved by the NSB (POEA) granted more benefits by way of total disability insurance to the complainant, the respondents may not be allowed to disavow their own voluntary acts by insisting that such beneficial contract in favor of the seaman is null and void." (Emphasis supplied.)[10]

We agree.

The supplementary contract of employment was entered into between petitioner and private respondent to modify the original contract of employment. The reason why the law requires that the POEA should approve and verify a contract under Article 34(i) of the Labor Code is to insure that the employee shall not thereby be placed in a disadvantageous position and that the same are within the minimum standards of the terms and conditions of such employment contract set by the POEA. This is why a standard format for employment contracts has been adopted by the Department of Labor. However, there is no prohibition against stipulating in a contract more benefits to the employee than those required by law. Thus, in this case wherein a "supplementary contract" was entered into affording greater benefits to the employee than the previous one, and although the same was not submitted for the approval of the POEA, the public respondents properly considered said contract to be valid and enforceable. Indeed, said pronouncement of public respondents have the effect of an approval of said contract. Moreover, as said contract was voluntarily entered into by the parties the same is binding between them.[11] Not being contrary to law, morals, good customs, public policy or public order, its validity must be sustained.[12] By the same token, the court sustains the ruling of public respondents that the provision in the supplementary contract whereby private respondent waives any claim against petitioners for damages arising from death or permanent disability is against public policy, oppressive and inimical to the rights of private respondent. The said provision defeats and is inconsistent with the duty of petitioners to insure private respondent against said contingencies as clearly stipulated in the said contract.

Petitioners however argue that they could not have entered into said supplementary contract of employment as Philimare was a mere manning agent in the Philippines of the shipping company managed by Navales Shipping Management and Marine Consultant (PTE) Ltd., its principal. Petitioners assert that the said supplementary contract was entered into by private respondent with their principal, Navales Shipping Management and Marine Consultant (Pte) Ltd. on board the vessel Turtle Bay so petitioners cannot be held responsible thereunder.

This Court is not a trier of facts and the findings of the public respondents are conclusive in this proceeding. Public respondents found that petitioner Philimare and private respondent entered into said supplementary contract of employment on December 6, 1982. Assuming for the sake of argument that it was petitioners' principal which entered into said contract with private respondent, nevertheless petitioner, as its manning agent in the Philippines, is jointly responsible with its principal thereunder.[13]

There is no question that under the said supplementary contract of employment, it is the duty of the employer, petitioners herein, to insure the employee, during his engagement, against death and permanent invalidity caused by accident on board up to \$50,000.00. Consequently, it is also its concomitant obligation to see to it that the claim against the insurance company is duly filed by private respondent or in his behalf, and within the time provided for by the terms of the insurance contract.

In this case, the private respondent met the accident on October 6, 1983. Since then, he was hospitalized at the Suez Canal Authority Hospital and thereafter he was repatriated to the Philippines wherein he was also hospitalized from October 22, 1983 to March 27, 1984. It was only on August 19, 1985 that he was issued a medical certificate describing his disability to be permanent in nature. It was not possible for private respondent to file a claim for permanent disability with the insurance company within the one-year period from the time of the injury, as his disability was ascertained to be permanent only thereafter. Petitioners did not exert any effort to assist private respondent to recover payment of his claim from the insurance company. They did not even care to dispute the finding of the insurer that the claim was not filed on time.[14] Petitioners must, therefore, be held responsible for its omission, if not negligence, by requiring them to pay the claim of private respondent.

The Court finds that the respondent NLRC did not commit grave abuse of discretion in denying petitioners' motion for leave to file third-party complaint and substitution or inclusion of party respondents. Such motion is

largely addressed to the discretion of the said Commission. Inasmuch as the alleged transfer of interest took place only after the POEA had rendered its decision, the denial of the motion so as to avoid further delay in the settlement of the claim of private respondent was well-taken. At any rate, petitioners may pursue their claim against their alleged successor-in-interest in a separate suit.

WHEREFORE, the petition is hereby DISMISSED for lack of merit and the temporary restraining order issued by this Court on March 21, 1988 is hereby LIFTED. No costs. This decision is immediately executory.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex. 1 to Annex D of the Petition, Page 31, Rollo.

[2] Annex R of the Petition, Page 105 Rollo.

[3] Page 163, Rollo.

[4] Annex G to the Petition, pages 48 to 49, Rollo.

[5] Annexes K to L to the Petition, pages 58 to 68, Rollo.

[6] Annex O to the Petition, pages 82 to 96, Rollo.

[7] Annex T to the Petition, page 120, Rollo.

[8] Page 9, Rollo.

[9] Page 12, Rollo.

[10] Pages 87 to 89, Rollo.

[11] Ramos vs. Central Bank of the Philippines. 41 SCRA 565(1971).

[12] Castro vs. Court of Appeals, 99 SCRA 722 (1980); Philippine American General insurance Company, Inc., vs. Mutuc, 61 SCRA 22 (1974); Article 1306 and 1356, Civil Code.

[13] Hydro Resources Contractors Corporation vs. NLRC, et al., G.R. No. 80143-44, December 8, 1988.

[14] Annexes 2 and 1-A to Annex D the Petition, pages 33 to 35, Rollo.

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