

FIRST DIVISION

[G.R. No. 119080. April 14, 1998]

SINGA SHIP MANAGEMENT PHILS., INC., AND ROYAL CRUISE LINE, *petitioners*,
vs. NATIONAL LABOR RELATIONS COMMISSION and MARIO SANGIL, *respondent*

DECISION

BELLOSILLO, J.:

SINGA SHIP MANAGEMENT PHILS, INC., (SINGA), and Royal Cruise Line (ROYAL), petitioners, seek to reverse by way of *certiorari* the Order of the National Labor Relations Commission (NLRC) directing them to pay private respondent Mario Sangil jointly and severally the sum of US \$500.00 covering his salaries for the unexpired portion of his employment contract plus 10% thereof as attorney's fees.^{i[1]}

On 22 May 1990 respondent Mario Sangil signed an employment contract with petitioner SINGA in behalf of its foreign principal ROYAL of Piraeus, Greece. He was hired to work on board the passenger cruise vessel *Crown Odyssey* for twelve (12) months as utility man/assistant steward with a basic monthly salary of US \$50.00, plus tips.

On 2 June 1990 he left the country to board the *Crown Odyssey* in pursuance of his contract of employment. When Mario Sangil boarded the vessel he was unaware that there was an existing animosity on board between the Filipino crew and the Greek crew. Thus, on 20 July 1990, at around 9:00 o'clock in the morning, while the passengers of the luxury liner were disembarking in Stockholm, Sweden, a heated argument occurred between private respondent Sangil and Greek deck steward Athanasius "Thanasi" Zakkas which resulted in a scuffle between the two. Zakkas pushed respondent Sangil who fell hitting his head against the steel molding of the door. He suffered a cut in the head which had to be stitched by the ship doctor. He was then given three (3) days off from work during which he went to the Philippine Embassy in Stockholm and reported the incident to Consul Eduardo V. Aro. On the same day, Sangil was accompanied back to his ship by Consul Aro. Sangil informed Ship Captain Yannis Katraz that he was leaving the ship because of his head injury and of his fear that further trouble may erupt between him and the Greeks on board. Since he was still dizzy, he was brought to the Sabbatsberg Hospital in Stockholm where he was confined from 20 to 21 July 1990 for observation. That same afternoon of 20 July 1990 *Crown Odyssey* left for Copenhagen, Denmark, without him.

The following day, upon his discharge from the hospital, respondent Sangil went back to the Philippine Embassy in Stockholm and executed an affidavit before Consul Aro narrating how Zakkas and the other Greeks continuously ridiculed him, calling him names, such as *malaca*, which means son of a prostitute.^{iii[2]} The night before the incident, Zakkas even threatened to pour hot coffee on his head. The following morning,

while he was busy washing the alleyway of the crew deck, Zakkas started cursing him again resulting in the altercation where he sustained a cut on the scalp. On 24 July 1990 he was repatriated to the Philippines.

On 6 March 1991 respondent Sangil filed before the Philippine Overseas Employment Agency (POEA) a complaint for illegal dismissal and payment of wages covering the unexpired portion of his contract, overtime pay plus attorney's fees. On 20 March 1992 the POEA dismissed the complaint for lack of merit on the ground that respondent Sangil "voluntarily signed off from the vessel."ⁱⁱⁱ[3]

On 14 December 1994 the NLRC on appeal reversed the POEA Decision and ordered petitioners "to pay Mario Sangil jointly and severally his salary for ten (10) months at US \$50.00 a month or the sum of US \$500.00 covering his salary for the unexpired portion of his employment contract x x x as well as attorney' fees of 10% thereof."^{iv}[4] His claim for overtime pay and tips was dismissed for "lack of basis."^v[5]

On 20 January 1995 petitioners moved for a reconsideration of the NLRC Order, but the motion was denied on 6 February 1995 for lack of merit. Hence the instant petition.

Petitioners argue that the NLRC gravely abused its discretion and seriously erred "in stretching, at various points, what the evidence simply presented and disclosed,"^{vi}[6] in effect disregarding the rules of evidence pertaining to legal presumptions and the doctrine of *res ipsa loquitur*. They contend that there can be no illegal dismissal because the incident was respondent Sangil's own doing, and his refusal to go back to the vessel was voluntary as evidenced by his affidavit drawn before the Consul of the Philippine Embassy in Stockholm. They aver that respondent Sangil was responsible for the whole incident as it was he who went into a rage and leaped at the Greek who had to push him away in self-defense. And because there was water on the floor, he slipped and hit his head on the steel molding of the door. Petitioners maintain that they had nothing to do with the incident, and that it was in fact respondent Sangil who voluntarily left the ship.

We are not impressed. On the contrary, we find the conclusion of the NLRC supported by the evidence. Thus -

x x x this entry in the Logbook Abstract explains how the complainant got injured in the head. The above-quoted entry says that complainant was "pushed and fell down and suffered scalp trauma." So someone pushed complainant. Complainant did not therefore slip and hit his head against the tight door molding as alleged by respondents which was relied upon by the POEA Administrator in this appealed Decision.

So no less than the ship's Logbook Abstract tend to support complainant's allegation that he is not the aggressor but a mere victim. This in turn explains why Athanasius "Thanasi" Zakkas was fetched from the ship by the police in Stockholm for questioning.^{vii}[7]

It is thus clear that based on the ship's Logbook Abstract, respondent Sangil did not slip but was actually pushed by the Greek deck steward causing the former to fall and sustain an injury. And while it may be argued that the incident may have been a personal matter between respondent Sangil and the Greek deck steward, it could have simply been avoided had the ship captain been more vigilant in the supervision of his crew. For, in his affidavit drawn before the Philippine Consul, respondent Sangil narrated that he had earlier complained to the captain of the abuses of the Greeks, but the captain did not only ignore him but blamed him instead for joining the ship. The captain, as the general agent of the shipowner, could thus be held responsible for failing to make the workplace safe.

Corollarily, the contention of petitioners that respondent Sangil voluntarily quit and was not illegally dismissed is without merit. We defer to the findings of the NLRC -

Since complainant is not the aggressor, and since he figured a head injury, he is then afraid to go back to the ship and to mix with his aggressor. This apprehension or fear is normal to an ordinary prudent individual and is tantamount to self-preservation. Therefore, his decision to leave the ship "*Crown Odyssey*" is not voluntary. He did not leave the ship out of his own free will but his departure was precipitated by fear. Without that incident on 20 July 1990 he would have no reason not to go back to the ship but with that incident, he fears for his life and limb.^{viii}[8]

In *People's Security, Inc. v. NLRC* we said that "constructive dismissal exists when there is a quitting because continued employment is rendered impossible, unreasonable or unlikely x x x x"^{ix}[9] Then in *Philippine Advertising Counselors, Inc. v. NLRC* we held that "[c]onstructive dismissal, however, does not always involve such kinds of diminution; an act of clear discrimination, insensibility, or disdain by an employer may become so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment."^x[10]

In the instant case, respondent Sangil quit because he feared for his life and his fear was well founded. He already figured in an incident with the much taller, bigger and heavier Zakkas who had been intimidating him. He already suffered a cut in his head. Earlier, Zakkas threatened to pour hot coffee on his head.^{xi}[11] Indeed, the intense undercurrent between the Filipinos and the Greeks that could erupt into violence at the slightest provocation was apparent as manifested by the writings in blood on the wall of the word "*magkaisa*," as witnessed by another Greek steward on the day of the incident. And, Sangil could not get any protection from the Greek ship captain, not even the slightest assurance of safety from him. In fine, the decision of respondent Sangil to leave the ship was not voluntary at all but was impelled by a legitimate desire for self-preservation. He did not leave the ship out of his own free will, whim or caprice but was moved by fear for his life. Without that incident on 20 July 1990 where he was pushed by the Greek Zakkas, respondent Sangil would not have had any reason not to return to his ship.^{xii}[12] After all, he must have worked so hard to get on board "*Crown Odyssey*."

Consequently, we find no reason to reverse the findings of the NLRC as the well-settled rule confines the original and exclusive jurisdiction of this Court in the review of decisions of the NLRC to the issue of jurisdiction or grave abuse of discretion amounting to lack of jurisdiction. As we have repeatedly said, grave abuse of discretion is committed only when the judgment is rendered in a capricious, whimsical, arbitrary or despotic manner, which is not true in the present case.

Certainly, an abuse of discretion does not necessarily arise just because NLRC reversed the decision of POEA. Neither does variance in the evidentiary assessment of NLRC and that of POEA warrants, as a matter of course, another full review of the facts. The decision or order of the NLRC so long as it is not bereft of support from the records deserves respect from this Court.

WHEREFORE, the petition is DENIED. The appealed decision of the NLRC directing petitioners SINGA SHIP MANAGEMENT PHILS., INC., and ROYAL CRUISE LINE jointly and severally to pay private respondent MARIO SANGIL the sum of US \$500.00 plus ten percent (10%) thereof as attorney's fees, is AFFIRMED, with costs against petitioners.

SO ORDERED.

Davide, Jr., (Chairman), Vitug, Panganiban, and Quisumbing, JJ., concur.

i[1] NCR CA No. 003201-92, 14 December 1994; Decision penned by Presiding Commissioner Raul T. Aquino with Commissioner Victoriano R. Calaycay concurring and Commissioner Rogelio I. Rayala dissenting.

ii[2] Records, p. 13.

iii[3] POEA Case No. (M) ADJ 91-03-264; Decision penned by POEA Administrator Jose N. Sarmiento, p. 5, *Rollo*, p. 95.

iv[4] Order of the NLRC, p. 12, *Rollo*, p. 34.

v[5] *Ibid.*

vi[6] Petition, p. 12; *Rollo*, p. 18.

vii[7] Decision, p. 10; *Rollo*, p. 32.

viii[8] *Ibid.*

ix[9] G.R. No. 96451, 8 September 1993, 226 SCRA 146.

x[10] G.R. No. 120008, 18 October 1996, 263 SCRA 395.

xi[11] Records, p. 13.

xii[12] NLRC Decision, p. 10; *Rollo*, p. 32.