

744 Phil. 693

## SECOND DIVISION

[ G.R. No. 191034, October 01, 2014 ]

**AGILE MARITIME RESOURCES INC., ATTY. IMELDA LIM BARCELONA  
AND PRONAV SHIP MANAGEMENT, INC., PETITIONERS, VS.  
APOLINARIO N. SIADOR, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the present petition for review on *certiorari*<sup>[1]</sup> challenging the decision<sup>[2]</sup> dated September 25, 2009 and resolution<sup>[3]</sup> dated January 21, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 101211.

#### The Antecedents

On December 18, 2000, Dennis Siador (*Dennis*), son of respondent Apolinario Siador (*Apolinario*), entered into a seven-month contract of employment, as Ordinary Seaman<sup>[4]</sup> on board the vessel *LNG ARIES*, with petitioner Agile Maritime Resources, Inc. (*Agile*) – the local manning agent of petitioner Pronav Ship Management, Inc.

On December 12, 2001, Apolinario filed a complaint for death benefits, damages and attorney's fees against the petitioners, including Agile's President, Imelda Lim Barcelona (*Barcelona*), for the death of Dennis "who fell from the vessel [on June 28, 2001] and who died in the high seas x x x,"<sup>[5]</sup> while the vessel was cruising towards Sodegaura, Japan. Dennis' body was never recovered.

Apolinario claimed that Dennis' employment was governed by the Philippine Overseas Employment Administration Standard Employment Contract (*POEA-SEC*) and supplemented by the International Transport Workers Federation-Total Crew Cost (ITF-TCC) Collective Bargaining Agreement (*CBA*).

Under the POEA-SEC,<sup>[6]</sup> in case of death of a seafarer, the employer shall pay his beneficiaries the Philippine currency equivalent to Fifty Thousand United States dollars (US\$50,000.00).<sup>[7]</sup> The ITF-TCC CBA,<sup>[8]</sup> on the other hand, grants Sixty Thousand United States dollars (US\$60,000.00) to the immediate next of kin of the seafarer who lost his life.<sup>[9]</sup> As the sole heir of Dennis, Apolinario prayed for the upgraded death benefits under the ITF-TCC CBA.

The petitioners did not deny that the incident happened. Based on the "Master's Statement on S.A.R. Operation for Mr. Dennis Siador"<sup>[10]</sup> (*Master's Statement*), they

contended that at about 2:00 o'clock in the afternoon of June 28, 2001, Able Seaman Gil Tamayo (*AB Tamayo*) saw Dennis jump overboard. Tamayo immediately informed Third Officer Milan Crnogorac who sounded the *man-overboard alarm* – seven short blasts, followed by one long blast.

The Master of the vessel immediately ordered a life ring thrown into the water and put into motion the vessel's *man-overboard maneuver* by turning the vessel to a reciprocal course on her starboard side. Fitter Rolando Moreno (*Moreno*) was ordered to keep an eye on Dennis with the use of binoculars. Allegedly, Moreno saw Dennis floating on his back, making no effort to swim towards the life ring. He then saw Dennis sink in the water and disappear from sight despite the effort to rescue him by a team led by the Chief Officer. At 5:15 p.m., with the horizon darkening and the temperature remarkably dropping, the search and rescue effort was called off.

Agile notified Apolinario of Dennis' death through a letter dated July 30, 2001.<sup>[11]</sup> With the assistance of a counsel and the ITF, Apolinario demanded death and burial benefits, Dennis' accrued salary and leave pay from the petitioners who turned down the claim, particularly for death benefits under the CBA.<sup>[12]</sup> This refusal led to the filing of the complaint.

### **The Compulsory Arbitration Rulings**

In his decision<sup>[13]</sup> of January 12, 2004, Labor Arbiter (*LA*) Edgardo M. Madriaga (*Madriaga*) dismissed the complaint for lack of cause of action. LA Madriaga found that Dennis – saddled by heavy personal and psychological problems – took his own life by jumping overboard.

On Apolinario's appeal, the National Labor Relations (*NLRC*) affirmed LA Madriaga's ruling in its resolution dated January 24, 2007.<sup>[14]</sup> It found no sufficient justification to disturb the appealed decision. Apolinario moved for reconsideration, but the NLRC denied the motion. The denial prompted Apolinario to elevate the case to the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

### **The CA Proceedings**

Apolinario charged that the NLRC gravely abused its discretion when it affirmed LA Madriaga's finding that Dennis took his own life and thus is not entitled to death benefits. He decried the NLRC's "narrow-minded view of the incident;" it failed to consider that "days prior to his death, Dennis was already afflicted with mental disability and could not be blamed for jumping overboard."<sup>[15]</sup> Apolinario also assailed the NLRC's failure to apply the jurisprudential principle that self-destruction is not presumed.

### **The CA Decision**

The CA partially granted the petition. It reversed the labor tribunal's dismissal of the complaint and awarded Apolinario Sixty Thousand United States dollars (US\$60,000.00) as death benefits, but denied his claim for damages. It sustained

Apolinario's position that prior to his death, Dennis had been suffering from mental instability, and therefore could not be considered to have intentionally taken his life. It cited the personal accounts of the Filipino crewmembers on Dennis' unusual behavior days before the incident, which narrated that Dennis appeared to be very disturbed, anxious, depressed and restless. These personal accounts are contained in the "Statement on Mr. Dennis Siador"<sup>[16]</sup> (*Crewmembers' Statement*) that Master Capt. Dragan Tataj, the Master of the vessel, prepared on the very day the incident happened; the Filipino crewmembers affirmed the statement through their signatures.<sup>[17]</sup>

The CA opined that without the report of Dennis' previous unusual behavior, it would have been safe to presume that he willfully took his life, but the report on record cannot be disregarded.<sup>[18]</sup>

### **The Petition**

The petitioners ask the Court to set aside the CA ruling on the ground that the CA gravely erred in reversing the decision and the resolution of the LA and the NLRC, respectively, as they committed no grave abuse of discretion in deciding the case. They insist that there is "ample and convincing evidence" showing that Dennis took his own life and that his death was not caused by his mental problems.

The evidence, they point out, is found in the *Crewmembers' Statement*, where the crewmembers in contact with Dennis narrated that on the day of the incident "he was just depressed, that he was not ill and that he just wanted to be alone."<sup>[19]</sup> According to the petitioners, Dennis' statement negates the CA's finding that Dennis was mentally ill.

### **The Case for Apolinario**

In his Comment,<sup>[20]</sup> Apolinario prays for the dismissal of the petition. The CA's finding that Dennis was suffering from unsound mind days before the incident is fully supported by the records of the case, particularly by the petitioners' own evidence. Apolinario submits, too, that the CA ruling coincides with legal principle in labor compensation cases that self-destruction is not presumed.<sup>[21]</sup>

### **The Court's Ruling**

**We grant the petition.**

#### **Preliminary considerations**

##### ***a. Certiorari under Rule 65 and appeal under Rule 45***

In a Rule 45 review of a CA ruling rendered pursuant to Rule 65, the Court determines the legal correctness of the CA decision based on its determination of the presence or absence of grave abuse of discretion in the NLRC decision that the CA reviewed, not on the basis of whether the NLRC decision on the merits of the case was correct. In other

words, 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.

We draw attention at this point to the basic postulate that in the judicial review of labor tribunals' rulings, their factual findings and the conclusions from these findings are generally accorded respect by the courts because of the tribunals' expertise in their field. There is also the reality that the ruling brought under Rule 65 to the CA is already a final and executory ruling and can only be disturbed if it is void because the NLRC acted without jurisdiction.

This postulate should be related to the intrinsic limitations of a *certiorari* proceeding: it is a limited remedy aimed solely at the correction of acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion; it does not, and cannot, address mere errors of judgment.

Of course, the rule that a *certiorari* proceeding normally precludes an inquiry into the correctness of the labor tribunal's evaluation of the evidence on which its decision is based, is not absolute; circumstances may exist that would allow the court's review of the tribunals' factual findings and the supporting evidence. One instance is when there is a showing that the NLRC's factual findings and conclusions were arrived at arbitrarily or in disregard of the evidence on record. Another instance is when the tribunal, such as the NLRC in this case, made factual findings that are not supported by substantial evidence. By established jurisprudence, these kinds of rulings are tainted by grave abuse of discretion.

In the present case, the labor tribunals agree that Dennis committed suicide by jumping from the ship because of his heavy "personal and psychological problems,"<sup>[22]</sup> as shown by the unusual behavior he exhibited days before the incident. The CA disagreed with the labor tribunals and ruled that even with Dennis' unusual behavior, the "willfulness to take his own life could not be presumed when he jumped overboard" and in fact "cast serious doubt" on the petitioners' claim of willfulness. It added that AB Tamayo's statements that he saw Dennis jump overboard and thereafter make no effort to reach the life ring "are not conclusive proof" of suicide.

As matters stand, the Court needs only to determine whether the CA correctly found that the NLRC gravely abused its discretion in holding that substantial evidence exists to support its conclusion that Dennis willfully took his own life.

***b. Burden of proof in death benefits cases;  
burden of evidence***

In determining whether there was substantial evidence to support the NLRC's finding that Dennis committed suicide, we find it necessary to discuss the burden of proof and the corresponding shift in the burden of evidence in death benefits cases under the POEA-SEC. The relevant provision of the POEA-SEC pertinently reads:

D. No compensation 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.<sup>[23]</sup>

Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.<sup>[24]</sup> As a claimant for death benefits, Apolinario has the burden of proving that the seafarer's death (1) is work-related; and (2) happened during the term of the employment contract.<sup>[25]</sup> Unarguably, Apolinario has discharged this burden of proof.

In the usual course, such proof would have rendered the petitioners automatically liable, except that the same provision of the POEA-SEC allows an exemption from liability for death benefits if the employer can successfully prove that the seafarer's death was caused by an injury directly attributable to his deliberate or willful act. That the death of the seafarer was due to his willful act is a matter of defense that the employer has to prove. In legal parlance, the employer carries the burden of proof to establish its claim that it should not be held liable.

Whether it is the employer or the seafarer, the quantum of proof necessary to discharge their respective burdens is substantial evidence, *i.e.*, such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.<sup>[26]</sup>

Since Apolinario has initially discharged his burden of proof, the petitioners, in order to avoid liability, must similarly establish their defense. If the petitioners are able to establish their defense by substantial evidence, the burden now rests on Apolinario to overcome the employer's defense. In other words, ***the burden of evidence now shifts to the seafarer's heirs.***

While the rules of evidence are not controlling in the proceedings of the labor tribunals,<sup>[27]</sup> a structured approach as described above is necessary if the courts were to observe the limitations to their own power of review. Otherwise, as we hinted at in our preliminary consideration, resort to the courts will amount to the review of the intrinsic merits of the NLRC's ruling, in effect a review on appeal that statutory law does not (and, hence, the courts cannot) provide.

We shall proceed to determine whether the CA correctly determined if the NLRC committed grave abuse of discretion based on the above considerations.

### **Substantive considerations**

#### ***a. There was substantial evidence to prove that Dennis' death was directly attributable to his own action***

In the present case, the LA, NLRC and the CA<sup>[28]</sup> uniformly found that **Dennis jumped**

**from the ship.** Additionally, the petitioners cited the following personal circumstances that may have driven Dennis to do what he did: his dysfunctional family; the death of his mother after a lingering illness; the bitter parting with his father whom he had not seen for three (3)<sup>[29]</sup> after he and his two (2) brothers were thrown out from their home in Talisay, Cebu; and his disappointment with his sister whose medical education he supported, only to learn that she got married and did not even invite him to the wedding.<sup>[30]</sup>

Based on these facts and the legal presumption of sanity, we conclude that the NLRC did not gravely abuse its discretion when it affirmed the LA's dismissal of the complaint; we hold that the seafarer's death was due to his willful act, as the employer posited and proved.

Two analogous cases may be cited in support of this conclusion. In *Great Southern Maritime Services Corp. v. Leonila Surigao*,<sup>[31]</sup> the seafarer was found dead inside the bathroom of his hospital room with a belt tied around his neck. In denying the claim for death benefits, the Court ruled that substantial evidence suffices for the employer to show that the seafarer committed suicide even if there was no eyewitness to its commission and the possibility of a contrary conclusion existed. In *Crewlink, Inc. v. Teringtering*,<sup>[32]</sup> the seafarer, who had already previously jumped in the open sea, jumped again, resulting in his death due to drowning. In holding that it was a case of suicide, the Court ruled that the employer "was able to substantially prove that [the seafarer's] death was attributable to his deliberate act of killing himself by jumping into the sea."

***With the company's discharge of the burden to prove its defense, the burden of evidence shifted to Apolinario to rebut the petitioners' case.*** In other words, Apolinario has to prove by substantial evidence that Dennis may be insane at the time he took his life.

By holding that willfulness "could not be presumed" from Dennis' act of jumping overboard, we observe that the CA cluttered its appreciation of the evidence, contrary to the rules on the burden of proof and the burden of evidence that must be observed since the issue before the CA was not the intrinsic correctness of the NLRC's ruling but the existence of grave abuse of discretion.

As the LA and the NLRC found, the petitioners have discharged by substantial evidence the burden of proving willfulness through the cumulative consideration of the following circumstances:

1. Just a few hours before the incident, Filipino crew members spoke with Dennis in his cabin and asked him if there was anything wrong with his state of health; Dennis replied that everything was in order.
2. After Dennis jumped from the ship, he was seen calmly floating on his back and was not swimming towards the life ring or the lifeboat while

floating on the ocean.

3. Even the labor federation to which Dennis belonged, agreed that Dennis committed suicide.

Since the burden of evidence was shifted to Apolinario, the reversal of ***the NLRC's ruling could only be premised on Apolinario's successful proof by substantial evidence of Dennis' insanity or mental illness.*** The CA, however, instead of proceeding in this manner, imposed the burden of evidence on the petitioners on the ground that "willfulness x x x could not be presumed when [Dennis] jumped overboard."

By doing so, the CA acted as if the petition before it was part of an appellate process rather than an independent civil action of certiorari that is limited to questions of grave abuse of discretion.

Properly, the question for the CA to answer was whether Apolinario established by substantial evidence his claim of insanity.

#### ***b. Apolinario did not sufficiently meet the burden of evidence***

##### ***i. inapplicability of Lapid and Naess***

In an attempt to establish Dennis' mental illness, Apolinario relied on portions of the *Crewmembers' Statement* describing through the narration of several crewmembers, Dennis' demeanor and actuations a few days and moments before the incident. It reads:

According to all present, the behavior of Mr. Siador in the last few days was different from his previous one.

- On June 24<sup>th</sup>[,] Mr. Siador was together with Mr. Canones at the swimming pool and he was telling him some strange things about the future, Jesus, Angels, some visions/predictions that he have. He stated that he will write with his finger something on Mr. [Canones'] back and on the swimming pool bulkhead. His writing will be guided by Jesus. On June 25<sup>th</sup>, Mr. Siador wrote and draw some unclear messages on two paper napkins and handed them to Mr. Canones. Again he stated his hand is guided by Jesus. These napkins are available for closer look.

- He confided with Mr. Nobleza that there is a gap between him and his father. Yesterday[, ] he 'predicted' the future of Mr. Nobleza.

- Today[, at] around 1340 LT[, ] Mr. Dela Cruz spotted from the main deck Mr. Siador on the swimming pool deck. Mr. Siador was half naked and holding something in his hands. Mr. Dela Cruz called him but he just

[retreated] out of sight. Together with Mr. Tamayo, Mr. Dela Cruz went to swimming pool to locate Mr. Siador but with no avail. He disappeared. After that they went forward to see the Bosun and report this unusual behavior. Bosun decided to go to Engine room and find Mr. Moreno who is [a] good friend of Mr. Siador and try to [find] him and eventually find out the reason for such unusual behaviour.

- Today[, at] around 0500 LT, Mr. Siador called on the phone Mr. Moreno and asked to join him in his cabin. Mr. Moreno went and Mr. Siador said to him "Jesus win, Evil [lose], Bosun [lose]." Mr. Moreno replied OK and returned to his cabin.

- Mr. Alcantara noticed that Mr. Siador in last few days is taking less food than before and that he declined in his personal appearance/hygiene. Furthermore[,] Mr. Siador started to take his food later than the rest of the crew, apparently avoiding other persons. On [Mr. Alcantara's] enquiry about these changes, Mr. Siador said that he [had] one problem but he didn't specify anything.

- Mr. Ave, Mr. Moreno and Mr. Santos, today after lunch [at] around 1245 LT[,] spoke with Mr. Siador in his cabin and asked him if there is anything wrong with his state of health but [Mr. Siador's] reply was everything is in order.

According to Apolinario, the statements describing Dennis' actuations can only point to the conclusion that Dennis was already mentally disturbed a few days before he plunged into the ocean and drowned. Since Dennis was no longer in his right mind, his act of jumping into the open sea cannot be considered willful on his part.

The CA recognized merit in this argument, adding that Dennis' assignment to the Gas Cargo Engineer to perform work outside of his regular duties "obviously took a toll on his mental condition."<sup>[33]</sup> The CA cited the cases of *Lapid v. NLRC*<sup>[34]</sup> and *Naess Shipping Philippines, Inc. v. NLRC*<sup>[35]</sup> in upholding the presumption of self-preservation over the employer's claim of suicide.

We find the cited cases inapplicable to the present case.

In *Naess*,<sup>[36]</sup> the Court affirmed the award of death benefits to a seafarer who "jumped or fell overboard" as he ran towards the deck after fatally stabbing a co-worker. The Court reasoned out that the parties' contract makes Naess "unqualifiedly liable to pay compensation benefits for [the seafarer's] death while in its service." Given this conclusion, the Court only "parenthetically" observed that the "events surrounding the death of [the seafarer] have not been established with any degree of certitude." In short, the employer was liable without qualifications for death benefits because the employer's liability arises solely from the fact of the seafarer's death.

The contract in *Lapid* is different from *Naess*. It provides, as in the present case, that if

the death of the seafarer is due to his own willful act, then the employer is not liable for death benefits.

The seafarer in this case was found dead while hanging in an abandoned warehouse. While the employer presented a report, stating that the cause of death was asphyxia by hanging, the employer failed to investigate and, consequently, to present evidence on the circumstances surrounding the seafarer's death to indicate that it was a suicide rather than a crime.

The employer tried to bolster its theory of suicide by relying on the seafarer's co-employees' assertion that the deceased had an unidentified family problem. But this claim ran counter to the seafarer's own letters to his family showing his excitement to go home. Under this evidentiary situation, the Court ruled:

On these equivocal avowals, this Court is not prepared to rule that Ariel took his own life. The records are bereft of any substantial evidence showing that [the] respondent employer successfully discharged its burden of proving that Ariel committed suicide, so as to evade its liability for death benefits under POEA's Standard Employment Contract for Filipino Seaman.

Unlike these cases, the circumstances surrounding Dennis were duly proven by the employer. That Dennis jumped, instead of fell, from the ship is a uniform finding of the labor tribunals and the CA. The employer also showed by substantial evidence what prompted Dennis to act as he did, without any contrary evidence submitted by Apolinario to dispute the employer's evidence.

***ii. Shift in the burden of evidence;  
proof of insanity***

Since the POEA-SEC requires the employer to prove not only that the death is directly attributable to the seafarer himself but also that the seafarer willfully caused his death, evidence of insanity or mental sickness may be presented to negate the requirement of willfulness ***as a matter of counter-defense***. Since the willfulness may be inferred from the physical act itself of the seafarer (his jump into the open sea), the insanity or mental illness required to be proven must be one that deprived him of the full control of his senses; in other words, there must be sufficient proof to negate voluntariness.

In this regard, selected circumstances prior to and surrounding his death might have provided substantial evidence of the existence of such insanity or mental sickness.<sup>[37]</sup> In *Crewlink*,<sup>[38]</sup> we observed:

xxx Homesickness and/or family problems may result to depression, but the same does not necessarily equate to mental disorder. The issue of insanity is a question of fact; for insanity is a condition of the mind not susceptible of the usual means of proof. As no man would know what goes on in the mind of another, the state or condition of a person's mind can only be measured

and judged by his behavior. Establishing the insanity of an accused requires opinion testimony which may be given by a witness who is intimately acquainted with the person claimed to be insane, or who has rational basis to conclude that a person was insane based on the witness' own perception of the person, or who is qualified as an expert, such as a psychiatrist. No such evidence was presented to support the respondent's claim.

But his ***strange behavior cannot be the basis for a finding of grave abuse of discretion because portions of the Crewmembers' Statement itself rendered the basis for a finding of insanity insufficient.*** To recall, a few hours before the accident, Filipino crew members approached Dennis to ask him if anything was wrong with him and Dennis simply replied that everything was in order. No proof was ever adduced as well showing that whatever personal problems Dennis had were enough to negate the voluntariness he showed in stepping overboard.

The Court observes that, more often than not, the question of willfulness in causing one's death is explained away as arising from insanity because the very nature of the defense that the employer is allowed to put up is mentally tough to grasp. Differences of opinion can arise and have arisen, as in this case; hence, it becomes imperative for the courts to proceed on the basis of a correct framework of review if stability and consistency in rulings can be approximated.

In the present case, as the petitioners correctly argued, the CA did not expressly find any grave abuse of discretion on the part of the NLRC. What is clear is that the CA ***simply disagreed*** with the NLRC's conclusion of willfulness. Unless the CA's basis for its disagreement, however, amounted to grave abuse of discretion, it is in legal error in reversing the final and executory ruling of the NLRC on *certiorari*.

By erroneously proceeding in its appreciation of the parties' respective burdens of proof and burden of evidence, the CA erroneously, too, required the petitioners to show "conclusive proofs"<sup>[39]</sup> of willfulness or establish it "with absolute certainty."<sup>[40]</sup> As a result, the CA itself had to engage in ***speculation*** to debunk the required willfulness that the petitioners already established. The CA held:

The Master's Statement that Able Seaman Tamayo saw Siador jump overboard and thereafter made no effort to reach the life ring after it was thrown to him **are not conclusive proofs** that Siador took his own life.

His alleged jumping overboard from a height equivalent to a five storey building might have caused undue pressure for him to temporarily lose his composure which prevented him from seeking the life ring. A life ring may likewise be not that visible at a distance of 25 meters from Siador's position considering the waves at the sea. [Emphasis ours]

While the NLRC may have erred in declaring that there is "*no doubt*"<sup>[41]</sup> that Dennis committed suicide by jumping overboard, this error does not amount to grave abuse of

discretion since conclusive proof is not necessary to establish willfulness.

Lastly, we must point out that this case is not one of *doubt reasonably arising from the evidence*. In that case, we would have resolved the case in favor of the seafarer. From the prism of the initial Rule 65 petition that the CA faced, and eventually the Rule 45 petition now before this Court, we find that the petitioners sufficiently established that Dennis willfully caused his death while Apolinario's evidence fell short of substantial evidence to establish its counter-defense of insanity. In other words, **Apolinario's complaint must be dismissed not because of doubt but because of the insufficiency of his evidence to support his claim of insanity.**

**WHEREFORE**, premises considered, the petition for review is **GRANTED**. The assailed decision and resolution of the Court of Appeals are **REVERSED** and **SET ASIDE**.

**SO ORDERED.**

*Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.*

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[1] *Rollo*, pp. 9-37; filed under Rule 45 of the Rules of Court.

[2] *Id.* at 48-57, penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Jose L. Sabio, Jr., and Sixto C. Marella, Jr.

[3] *Id.* at 45-46.

[4] *Id.* at 109.

[5] *Id.* at 95; Siador's Position Paper, par. 2.

[6] Section 20 (A) 1.

[7] And an additional amount of US\$7,000.00 to each child under the age of twenty-one (21) but not to exceed four (4) children.

[8] Article 26, Annex 4.

[9] And US\$15,000.00 to each dependent child under the age of twenty-one (21), subject to a maximum of three (3).

[10] *Rollo*, p. 130.

[11] *Id.* at 111.

[12] It appears though that Agile, through Barcelona, had no objection to paying

Apolinario's claim for Dennis' earned wages and leave pay, and could have in fact settled the claim as it no longer appeared in the complaint. *Rollo*, pp.113-114

[13] *Rollo*, pp. 148-156.

[14] *Id.* at 185-194.

[15] *Id.* at 50, ground no. I.

[16] *Id.* at 131-132.

[17] The following signed the Statement on Mr. Dennis Siador: Chief Officer Mr. D. Jerolimov, Bosun Mr. T. Ave, Fitter Mr. Rolando Moreno, Cook Mr. Edwin Santos, 2nd Cook Mr. A. Nobleza, Steward Mr. J. Canones, Messman Mr. G. Alcantara and Able Seaman Mr. Luis Dela Cruz, *id.* at 132.

[18] *Id.*

[19] *Supra* note 1, at 25, par. 3.

[20] *Rollo*, pp. 322-329.

[21] *Id.* at 322, last paragraph.

[22] *Id.* at 155.

[23] Section 20(D), POEA-SEC.

[24] Rule 131, Section 1, Rules of Court.

[25] *Sy v. Philippine Transmarine Carriers, Inc.*, G.R. No. 191740, February 11, 2013, 690 SCRA 202, 211.

[26] *Esguerra v. United Philippines Lines, Inc.*, G.R. No. 199932, July 3, 2013, 700 SCRA 687, 698.

[27] Article 221, Labor Code of the Philippines.

[28] *Rollo*, p. 53.

[29] Exact period unknown.

[30] *Id.* at 122; Respondent's Position Paper, p. 6, par. 1; cited by LA Madriaga's Decision dated January 12, 2004, *id.* at 152, par. 1.

[31] G.R. No. 183646, 616 Phil. 758 (2009).

[32] G.R. No. 166803, October 11, 2012, 684 SCRA 12, 21.

[33] CA Decision, p. 6, *rollo*, p. 53.

[34] 366 Phil. 10 (1999).

[35] 237 Phil. 641 (1987).

[36] *Id.* at 647.

[37] *Interorient Maritime Enterprises, Inc. v. National Labor Relations Commission*, 330 Phil. 493, 505 (1996).

[38] *Supra* note 32, at 21.

[39] *Rollo*, p. 54

[40] *Id.* at 55.

[41] *Id.* at 192.



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