679 Phil. 297

SECOND DIVISION

[G.R. No. 177498, January 18, 2012]

STOLT-NIELSEN TRANSPORTATION GROUP, INC. AND CHUNG GAI SHIP MANAGEMENT, PETITIONERS, VS. SULPECIO MEDEQUILLO, JR., RESPONDENT.

D E C I S I O N

PEREZ, J.:

Before the Court is a Petition for Review on *Certiorari*[1] of the Decision[2] of the First Division of the Court of Appeals in CA-G.R. SP No. 91632 dated 31 January 2007, denying the petition for *certiorari* filed by Stolt-Nielsen Transportation Group, Inc. and Chung Gai Ship Management (petitioners) and affirming the Resolution of the National Labor Relations Commission (NLRC). The dispositive portion of the assailed decision reads:

> **WHEREFORE,** the petition is hereby **DENIED**. Accordingly, the assailed Decision promulgated on February 28, 2003 and the Resolution dated July 27, 2005 are **AFFIRMED.**[3]

The facts as gathered by this Court follow:

On 6 March 1995, Sulpecio Madequillo (respondent) filed a complaint before the Adjudication Office of the Philippine Overseas Employment Administration (POEA) against the petitioners for illegal dismissal under a first contract and for failure to deploy under a second contract. In his complaint-affidavit,[4] respondent alleged that:

1. On 6 November 1991(First Contract), he was hired by Stolt-Nielsen Marine Services, Inc on behalf of its principal Chung-Gai Ship Management of Panama as Third Assistant Engineer on board the vessel "Stolt Aspiration" for a period of nine (9) months;
2. He would be paid with a monthly basic salary of $808.00 and a fixed overtime pay of $404.00 or a total of $1,212.00 per month during the employment period commencing on 6 November 1991;
3. On 8 November 1991, he joined the vessel MV "Stolt Aspiration";
4. On February 1992 or for nearly three (3) months of rendering service and while the vessel was at Batangas, he was ordered by the ship's master to disembark the vessel and repatriated back to Manila for no reason or explanation;

5. Upon his return to Manila, he immediately proceeded to the petitioner's office where he was transferred employment with another vessel named MV "Stolt Pride" under the same terms and conditions of the First Contract;
6. On 23 April 1992, the Second Contract was noted and approved by the POEA;
7. The POEA, without knowledge that he was not deployed with the vessel, certified the Second Employment Contract on 18 September 1992.
8. Despite the commencement of the Second Contract on 21 April 1992, petitioners failed to deploy him with the vessel MV "Stolt Pride";
9. He made a follow-up with the petitioner but the same refused to comply with the Second Employment Contract.
10. On 22 December 1994, he demanded for his passport, seaman's book and other employment documents. However, he was only allowed to claim the said documents in exchange of his signing a document;
11. He was constrained to sign the document involuntarily because without these documents, he could not seek employment from other agencies.

He prayed for actual, moral and exemplary damages as well as attorney's fees for his illegal dismissal and in view of the Petitioners' bad faith in not complying with the Second Contract.

The case was transferred to the Labor Arbiter of the DOLE upon the effectivity of the Migrant Workers and Overseas Filipinos Act of 1995.

The parties were required to submit their respective position papers before the Labor Arbiter. However, petitioners failed to submit their respective pleadings despite the opportunity given to them.[5]

On 21 July 2000, Labor Arbiter Vicente R. Layawen rendered a judgment[6] finding that the respondent was constructively dismissed by the petitioners. The dispositive portion reads:

> WHEREFORE, premises considered, judgment is hereby rendered, declaring the respondents guilty of constructively dismissing the complainant by not honoring the employment contract. Accordingly, respondents are hereby ordered jointly and solidarily to pay complainant the following:
>
> 1. $12,537.00 or its peso equivalent at the time of payment.[7]

The Labor Arbiter found the first contract entered into by and between the complainant and the respondents to have been novated by the execution of the second contract. In other words, respondents cannot be held liable for the first contract but are clearly and definitely liable for the breach of the second contract.[8] However, he ruled that there

was no substantial evidence to grant the prayer for moral and exemplary damages.[9]

The petitioners appealed the adverse decision before the National Labor Relations Commission assailing that they were denied due process, that the respondent cannot be considered as dismissed from employment because he was not even deployed yet and the monetary award in favor of the respondent was exorbitant and not in accordance with law.[10]

On 28 February 2003, the NLRC affirmed with modification the Decision of the Labor Arbiter. The dispositive portion reads:

> WHEREFORE, premises considered, the decision under review is hereby, MODIFIED BY DELETING the award of overtime pay in the total amount of Three Thousand Six Hundred Thirty Six US Dollars (US $3,636.00).
>
> In all other respects, the assailed decision so stands as, AFFIRMED.[11]

Before the NLRC, the petitioners assailed that they were not properly notified of the hearings that were conducted before the Labor Arbiter. They further alleged that after the suspension of proceedings before the POEA, the only notice they received was a copy of the decision of the Labor Arbiter.[12]

The NLRC ruled that records showed that attempts to serve the various notices of hearing were made on petitioners' counsel on record but these failed on account of their failure to furnish the Office of the Labor Arbiter a copy of any notice of change of address. There was also no evidence that a service of notice of change of address was served on the POEA.[13]

The NLRC upheld the finding of unjustified termination of contract for failure on the part of the petitioners to present evidence that would justify their non-deployment of the respondent.[14] It denied the claim of the petitioners that the monetary award should be limited only to three (3) months for every year of the unexpired term of the contract. It ruled that the factual incidents material to the case transpired within 1991-1992 or before the effectivity of Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995 which provides for such limitation.[15]

However, the NLRC upheld the reduction of the monetary award with respect to the deletion of the overtime pay due to the non-deployment of the respondent.[16]

The Partial Motion for Reconsideration filed by the petitioners was denied by the NLRC in its Resolution dated 27 July 2005.[17]

The petitioners filed a Petition for *Certiorari* before the Court of Appeals alleging grave abuse of discretion on the part of NLRC when it affirmed with modification the ruling of the Labor Arbiter. They prayed that the Decision and Resolution promulgated by the

NLRC be vacated and another one be issued dismissing the complaint of the respondent.

Finding no grave abuse of discretion, the Court of Appeals AFFIRMED the Decision of the labor tribunal.

The Court's Ruling

The following are the assignment of errors presented before this Court:

I.

THE COURT A QUO ERRED IN FINDING THAT THE SECOND CONTRACT NOVATED THE FIRST CONTRACT.

A. THERE WAS NO NOVATION OF THE FIRST CONTRACT BY THE SECOND CONTRACT; THE ALLEGATION OF ILLEGAL DISMISSAL UNDER THE FIRST CONTRACT MUST BE RESOLVED SEPARATELY FROM THE ALLEGATION OF FAILURE TO DEPLOY UNDER THE SECOND CONTRACT.
B. THE ALLEGED ILLEGAL DISMISSAL UNDER THE FIRST CONTRACT TRANSPIRED MORE THAN THREE (3) YEARS AFTER THE CASE WAS FILED AND THEREFORE HIS CASE SHOULD HAVE BEEN DISMISSED FOR BEING BARRED BY PRESCRIPTION.

II.

THE COURT A QUO ERRED IN RULING THAT THERE WAS CONSTRUCTIVE DISMISSAL UNDER THE SECOND CONTRACT.

A. IT IS LEGALLY IMPOSSIBLE TO HAVE CONSTRUCTIVE DISMISSAL WHEN THE EMPLOYMENT HAS NOT YET COMMENCED.
B. ASSUMING THERE WAS OMISSION UNDER THE SECOND CONTRACT, PETITIONERS CAN ONLY BE FOUND AS HAVING FAILED IN DEPLOYING PRIVATE RESPONDENT BUT WITH VALID REASON.

III.

THE COURT A QUO ERRED IN FAILING TO FIND THAT EVEN ASSUMING THERE WAS BASIS FOR HOLDING PETITIONER LIABLE FOR "FAILURE TO DEPLOY" RESPONDENT, THE POEA RULES PENALIZES SUCH OMISSION WITH A MERE "REPRIMAND."[18]

The petitioners contend that the first employment contract between them and the private respondent is different from and independent of the second contract

subsequently executed upon repatriation of respondent to Manila.

We do not agree.

Novation is the extinguishment of an obligation by the substitution or change of the obligation by a subsequent one which extinguishes or modifies the first, either by changing the object or principal conditions, or, by substituting another in place of the debtor, or by subrogating a third person in the rights of the creditor. In order for novation to take place, the concurrence of the following requisites is indispensable:

1. There must be a previous valid obligation,
2. There must be an agreement of the parties concerned to a new contract,
3. There must be the extinguishment of the old contract, and
4. There must be the validity of the new contract.[19]

In its ruling, the Labor Arbiter clarified that novation had set in between the first and second contract. To quote:

> xxx [T]his office would like to make it clear that the first contract entered into by and between the complainant and the respondents is deemed to have been novated by the execution of the second contract. In other words, respondents cannot be held liable for the first contract but are clearly and definitely liable for the breach of the second contract.[20]

This ruling was later affirmed by the Court of Appeals in its decision ruling that:

> Guided by the foregoing legal precepts, it is evident that novation took place in this particular case. The parties impliedly extinguished the first contract by agreeing to enter into the second contract to placate Medequillo, Jr. who was unexpectedly dismissed and repatriated to Manila. The second contract would not have been necessary if the petitioners abided by the terms and conditions of Madequillo, Jr.'s employment under the first contract. The records also reveal that the 2nd contract extinguished the first contract by changing its object or principal. These contracts were for overseas employment aboard different vessels. The first contract was for employment aboard the MV "Stolt Aspiration" while the second contract involved working in another vessel, the MV "Stolt Pride." Petitioners and Madequillo, Jr. accepted the terms and conditions of the second contract. Contrary to petitioners' assertion, the first contract was a "previous valid contract" since it had not yet been terminated at the time of Medequillo, Jr.'s repatriation to Manila. The legality of his dismissal had not yet been resolved with finality. Undoubtedly, he was still employed under the first contract when he negotiated with petitioners on the second contract. As such, the NLRC

> correctly ruled that petitioners could only be held liable under the second contract.[21]

We concur with the finding that there was a novation of the first employment contract.

We reiterate once more and emphasize the ruling in *Reyes v. National Labor Relations Commission*,[22] to wit:

> x x x [F]indings of quasi-judicial bodies like the NLRC, and affirmed by the Court of Appeals in due course, are conclusive on this Court, which is not a trier of facts.
>
> x x x x
>
> x x x Findings **of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect, but finality when affirmed by the Court of Appeals**. Such findings deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.(Emphasis supplied)[23]

With the finding that respondent "was still employed under the first contract when he negotiated with petitioners on the second contract",[24] novation became an unavoidable conclusion.

Equally settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, *i.e.*, the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[25] But these findings are not infallible. When there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts.[26] In this case, there was no showing of any arbitrariness on the part of the lower courts in their findings of facts. Hence, we follow the settled rule.

We need not dwell on the issue of prescription. It was settled by the Court of Appeals with its ruling that recovery of damages under the first contract was already time-barred. Thus:

> Accordingly, the prescriptive period of three (3) years within which Medequillo Jr. may initiate money claims under the 1st contract commenced on the date of his repatriation. xxx The start of the three (3) year prescriptive period must therefore be reckoned on February 1992, which by Medequillo Jr.'s own admission was the date of his repatriation to Manila. It

> was at this point in time that Medequillo Jr.'s cause of action already accrued under the first contract. He had until February 1995 to pursue a case for illegal dismissal and damages arising from the 1st contract. With the filing of his Complaint-Affidavit on March 6, 1995, which was clearly beyond the prescriptive period, the cause of action under the 1st contract was already time-barred.[27]

The issue that proceeds from the fact of novation is the consequence of the non-deployment of respondent.

The petitioners argue that under the POEA Contract, actual deployment of the seafarer is a suspensive condition for the commencement of the employment.[28] We agree with petitioners on such point. However, even without actual deployment, the perfected contract gives rise to obligations on the part of petitioners.

A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.[29] The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.[30]

The POEA Standard Employment Contract provides that employment shall commence "upon the actual departure of the seafarer from the airport or seaport in the port of hire."[31] We adhere to the terms and conditions of the contract so as to credit the valid prior stipulations of the parties before the controversy started. Else, the obligatory force of every contract will be useless. Parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.[32]

Thus, even if by the standard contract employment commences only "upon actual departure of the seafarer", this does not mean that the seafarer has no remedy in case of non-deployment without any valid reason. Parenthetically, the contention of the petitioners of the alleged poor performance of respondent while on board the first ship MV "Stolt Aspiration" cannot be sustained to justify the non-deployment, for no evidence to prove the same was presented.[33]

We rule that distinction must be made between the perfection of the employment contract and the commencement of the employer-employee relationship. The perfection of the contract, which in this case coincided with the date of execution thereof, occurred when petitioner and respondent agreed on the object and the cause, as well as the rest of the terms and conditions therein. The commencement of the employer-employee relationship, as earlier discussed, would have taken place had petitioner been actually deployed from the point of hire. Thus, even before the start of any employer-employee relationship, contemporaneous with the perfection of the employment contract was the birth of certain rights and obligations, the breach of which may give rise to a cause of action against the erring party. Thus, if the reverse had happened,

that is the seafarer failed or refused to be deployed as agreed upon, he would be liable for damages.[34]

Further, we do not agree with the contention of the petitioners that the penalty is a mere reprimand.

The POEA Rules and Regulations Governing Overseas Employment[35] dated 31 May 1991 provides for the consequence and penalty against in case of non-deployment of the seafarer without any valid reason. It reads:

> Section 4. Worker's Deployment. — An agency shall deploy its recruits within the deployment period as indicated below:
>
> xxx
>
> b. Thirty (30) calendar days from the date of processing by the administration of the employment contracts of seafarers.
>
> **Failure of the agency to deploy a worker within the prescribed period without valid reasons shall be a cause for suspension or cancellation of license or fine. In addition, the agency shall return all documents at no cost to the worker.**(Emphasis and underscoring supplied)

The appellate court correctly ruled that the penalty of reprimand[36] provided under Rule IV, Part VI of the POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers is not applicable in this case. The breach of contract happened on February 1992 and the law applicable at that time was the 1991 POEA Rules and Regulations Governing Overseas Employment. The penalty for non-deployment as discussed is suspension or cancellation of license or fine.

Now, the question to be dealt with is how will the seafarer be compensated by reason of the unreasonable non-deployment of the petitioners?

The POEA Rules Governing the Recruitment and Employment of Seafarers do not provide for the award of damages to be given in favor of the employees. The claim provided by the same law refers to a valid contractual claim for compensation or benefits arising from employer-employee relationship or for any personal injury, illness or death at levels provided for within the terms and conditions of employment of seafarers. However, the absence of the POEA Rules with regard to the payment of damages to the affected seafarer does not mean that the seafarer is precluded from claiming the same. The sanctions provided for non-deployment do not end with the suspension or cancellation of license or fine and the return of all documents at no cost to the worker. As earlier discussed, they do not forfend a seafarer from instituting an action for damages against the employer or agency which has failed to deploy him.[37]

We thus decree the application of Section 10 of Republic Act No. 8042 (Migrant Workers Act) which provides for money claims by reason of a contract involving Filipino workers for overseas deployment. The law provides:

> Sec. 10. *Money Claims*. – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages. x x x (Underscoring supplied)

Following the law, the claim is still cognizable by the labor arbiters of the NLRC under the second phrase of the provision.

Applying the rules on actual damages, Article 2199 of the New Civil Code provides that one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Respondent is thus liable to pay petitioner actual damages in the form of the loss of nine (9) months' worth of salary as provided in the contract. [38] This is but proper because of the non-deployment of respondent without just cause.

WHEREFORE, the appeal is **DENIED**. The 31 January 2007 Decision of the Court of Appeals in CA-G.R. SP. No. 91632 is hereby **AFFIRMED**. The Petitioners are hereby ordered to pay Sulpecio Medequillo, Jr., the award of actual damages equivalent to his salary for nine (9) months as provided by the Second Employment Contract.

SO ORDERED.

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

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[*] Designated as additional member per Special Order No. 1174 dated 9 January 2012.

[1] Rule 45, Rule on Civil Procedure.

[2] Penned by Associate Justice Mariano C. Del Castillo (now a Member of this Court) with Presiding Justice Ruben T. Reyes (former Member of this Court) and Associate Justice Arcangelita Romilla Lontok, concurring. *Rollo,* pp. 38-54.

[3] Id. at 53.

[4] Id. at 134-139.

[5] Id. at 61.

[6] Id. at 59-62.

[7] Id. at 62.

[8] Id.

[9] Id.

[10] Id. at 64.

[11] Id. at 68.

[12] Id. at 64-65.

[13] Id. at 65.

[14] Id. at 66.

[15] Id. at 67.

[16] Id.

[17] Id. at 72.

[18] Id. at 20-21.

[19] *Philippine Savings Bank v. Sps. Ma?alac, Jr.*, 496 Phil, 671, 686-687 (2005); *Azolla Farms v. Court of Appeals*, 484 Phil. 745, 754-755.

[20] *Rollo*, p. 61.

[21] Id. at 45-46.

[22] G.R. No. 160233, 8 August 2007, 529 SCRA 487.

[23] Id. at 494 and 499.

[24] *Rollo*, p. 46.

[25] *Prince Transport, Inc. v. Garcia*, G.R. No. 167291, 12 January 2011, 639 SCRA 312, 324 citing *Philippine Veterans Bank v. National Labor Relations Commission*, G.R. No. 188882, 30 March 2010, 617 SCRA 204.

[26] Id. at 324-325 citing *Faeldonia v. Tong Yak Groceries*, G.R. No. 182499, 2 October 2009, 602 SCRA 677, 684.

[27] *Rollo*, pp. 47-48.

[28] Id. at 48.

[29] Article 1305, New Civil Code.

[30] Article 1306, New Civil Code.

[31] *Rollo*, p. 48.

[32] Article 1315, New Civil Code.

[33] *Rollo*, p. 50.

[34] *Santiago v. CF Sharp Crew Management, Inc.*, G.R. No. 162419, 10 July 2007, 527 SCRA 165, 176.

[35] Section 4, par. (b), Rule II, Book III.

[36] Section 1 (C) 4. Failure to deploy a worker within the prescribed period without valid reason:

1st Offense – Reprimand.

[37] *Santiago v. CF Sharp Crew Management, Inc.*, Supra note 33 at 176-177.

[38] In *Legahi v. National Labor Relations Commission,* 376 Phil. 557, 566 (1999), we held: Petitioner's dismissal without a valid cause constitute a breach of contract. Consequently, he should only be paid the unexpired portion of his employment contract.
