

706 Phil. 339

SECOND DIVISION

[G.R. No. 180636, March 13, 2013]

**LORENZO T. TANGGA-AN,* PETITIONER, VS. PHILIPPINE
TRANSMARINE CARRIERS, INC., UNIVERSE TANKSHIP DELAWARE
LLC, AND CARLOS C. SALINAS, RESPONDENTS.**

DECISION

DEL CASTILLO, J.:

This Court's labor pronouncements must be read and applied with utmost care and caution, taking to mind that in the very heart of the judicial system, labor cases occupy a special place. More than the State guarantees of protection of labor and security of tenure, labor disputes involve the fundamental survival of the employees and their families, who depend upon the former for all the basic necessities in life.

This Petition for Review on *Certiorari*^[1] seeks a modification of the November 30, 2006 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 00806. Also assailed is the November 15, 2007 Resolution^[3] denying petitioner's Motion for Reconsideration.

Factual Antecedents

The facts, as found by the CA, are as follows:

This is a case for illegal dismissal with a claim for the payment of salaries corresponding to the unexpired term of the contract, damages and attorney's fees filed by private respondent [Lorenzo T. Tangga-an] against the petitioners [Philippine Transmarine Carriers, Inc., Universe Tankship Delaware LLC, and Carlos C. Salinas^[4] or herein respondents].

In his position paper, [Tangga-an] alleged that on January 31, 200^[2], he entered into an overseas employment contract with Philippine Transmarine Carriers, Inc. (PTC) for and in behalf of its foreign employer, Universe Tankship Delaware, LLC. Under the employment contract, he was to be employed for a period of six months as chief engineer of the vessel the S.S. "Kure". He was to be paid a basic salary of US\$5,000.00; vacation leave pay equivalent to 15 days a months [sic] or US\$2,500.00 per month and tonnage bonus in the amount of US\$700.00 a month.

On February 11, 2002, [Tangga-an] was deployed. While performing his assigned task, he noticed that while they were loading liquid cargo at

Cedros, Mexico, the vessel suddenly listed too much at the bow. At that particular time both the master and the chief mate went on shore leave together, which under maritime standard was prohibited. To avoid any conflict, he chose to ignore the unbecoming conduct of the senior officers of the vessel.

On or about March 13, 2002, the vessel berthed at a port in Japan to discharge its cargo. Thereafter, it sailed to the U.S.A. While the vessel was still at sea, the master required [Tangga-an] and the rest of the Filipino Engineer Officers to report to his office where they were informed that they would be repatriated on account of the delay in the cargo discharging in Japan, which was principally a duty belonging to the deck officers. He imputed the delay to the non-readiness of the turbo generator and the inoperation of the boom, since the turbo generator had been prepared and synchronized for 3.5 hours or even before the vessel arrived in Japan. Moreover, upon checking the boom, they found the same [sic] operational. Upon verification, they found out that when the vessel berthed in Japan, the cargo hold was not immediately opened and the deck officers concerned did not prepare the stock. Moreover, while cargo discharging was ongoing, both the master and the chief mate again went on shore leave together at 4:00 in the afternoon and returned to the vessel only after midnight. To save face, they harped on the Engine Department for their mistake. [Tangga-an] and the other Engineering [O]fficers were ordered to disembark from the vessel on April 2, 2002 and thereafter repatriated. Thence, the complaint.

[Philippine Transmarine Carriers, Inc., Universe Tankship Delaware LLC, and Carlos C. Salinas] on the other hand, contended that sometime on [sic] March 2002, during a test of the cargo discharging conveyor system, [Tangga-an] and his assistant engineers failed to start the generator that supplied power to the conveyor. They spent 3 hours trying to start the generator but failed. It was only the third assistant engineer who previously served in the same vessel who was able to turn on the generator. When the master tried to call the engine room to find out the problem, [Tangga-an] did not answer and merely hang [sic] up. The master proceeded to the engine room to find out the problem by [sic] [Tangga-an] and his assistant engineers were running around trying to appear [busy].

At another time, during a cargo discharging operation requiring the use of a generator system and the conveyor boom, [Tangga-an] was nowhere to be found. Apparently, he went on shore leave resulting in a delay of 2 hours because the machine could not be operated well. Both incidents were recorded in the official logbook. Due to the delay, protests were filed by the charter [sic]. The master required [Tangga-an] to submit a written explanation to which he did but blamed the captain and the chief officer. He failed to explain why he did not personally supervise the operation of the generator system and the conveyor boom during the cargo discharging operations. His explanation not having been found satisfactory, [respondents] decided to terminate [Tangga-an's] services. Thus, a notice

of dismissal was issued against [Tangga-an]. He arrived in the Philippines on April 4, 2002.^[5]

Tangga-an filed a Complaint^[6] for illegal dismissal with prayer for payment of salaries for the unexpired portion of his contract, leave pay, exemplary and moral damages, attorney's fees and interest.

On January 27, 2004, Labor Arbiter Jose G. Gutierrez rendered a Decision^[7] finding petitioner to have been illegally dismissed. The Labor Arbiter noted that in petitioner's letter to respondent Universe Tankship Delaware, LLC dated April 1, 2002^[8] he categorically denied any negligence on his part relative to the delay in the discharge of the cargo while the vessel was berthed in Japan. In view thereof, the Labor Arbiter opined that an investigation should have been conducted in order to ferret out the truth instead of dismissing petitioner outright. Consequently, petitioner's dismissal was illegal for lack of just cause and for failure to comply with the twin requirements of notice and hearing.^[9]

As regards petitioner's claim for back salaries, the Labor Arbiter found petitioner entitled not to four months which is equivalent to the unexpired portion of his contract, but only to three months, inclusive of vacation leave pay and tonnage bonus (or US\$8,200 x 3 months = US\$24,600) pursuant to Section 10 of Republic Act (RA) No. 8042 or The Migrant Workers and Overseas Filipinos Act of 2005.

Regarding petitioner's claim for damages, the same was denied for failure to prove bad faith on the part of the respondents. However, attorney's fees equivalent to 10% of the total back salaries was awarded because petitioner was constrained to litigate.

The dispositive portion of the Labor Arbiter's Decision, reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered finding [Tangga-an] illegally dismissed from his employment and directing the respondent Phil. Transmarine Carriers, Inc. to pay [Tangga-an] the amount of **US\$24,600.00 PLUS US\$2,460.00** attorney's fees or a total aggregate amount of **US Dollars: TWENTY SEVEN THOUSAND SIXTY (US\$27,060.00)** or its peso equivalent at the exchange rate prevailing at the time of payment.

SO ORDERED.^[10]

Ruling of the National Labor Relations Commission

Respondents appealed to the National Labor Relations Commission (NLRC). They claimed that the Labor Arbiter committed grave abuse of discretion in finding that petitioner was illegally dismissed; in awarding unearned vacation leave pay and tonnage bonus when the law and jurisprudence limit recovery to the employee's basic

salary; and in awarding attorney's fees despite the absence of proof of bad faith on their part.

On August 25, 2004, the NLRC issued its Decision,^[11] the dispositive portion of which reads:

WHEREFORE, the Decision dated January 27, 2004 of the Labor Arbiter is **AFFIRMED**.

Respondents-appellants['] Memorandum of Appeal, dated 23 March 2004 is **DISMISSED** for lack of merit.

SO ORDERED.^[12]

The NLRC affirmed the finding of illegal dismissal. It held that no notice of hearing was served upon petitioner, and no hearing whatsoever was conducted on the charges against him. It ruled that respondents could not dispense with the twin requirements of notice and hearing, which are essential elements of procedural due process. For this reason, no valid cause for termination has been shown. The NLRC likewise found respondents guilty of bad faith in illegally dismissing petitioner's services.

On the issue covering the award of unearned vacation leave pay and tonnage bonus, the NLRC struck down respondents' arguments and held that in illegal dismissal cases, the employee is entitled to all the salaries, allowances and other benefits or their monetary equivalents from the time his compensation is withheld from him until he is actually reinstated, in effect citing Article 279^[13] of the Labor Code. It held that vacation leave pay and tonnage bonus are provided in petitioner's employment contract, which thus entitles the latter to the same in the event of illegal dismissal.

Finally, on the issue of attorney's fees, the NLRC held that since respondents were found to be in bad faith for the illegal dismissal and petitioner was constrained to litigate with counsel, the award of attorney's fees is proper.

Respondents moved for reconsideration which was denied by the NLRC in its March 18, 2005 Resolution.^[14]

Ruling of the Court of Appeals

Respondents went up to the CA by Petition for Certiorari,^[15] seeking to annul the Decision of the NLRC, raising essentially the same issues taken up in the NLRC.

On November 30, 2006, the CA rendered the assailed Decision, the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the instant petition is **PARTIALLY GRANTED**. The Decision of public respondent is **MODIFIED** in the following manner:

- a. [Tangga-an] is entitled to three (3) months salary representing the unexpired portion of his contract in the total amount of US\$15,000.00 or its peso equivalent at the exchange rate prevailing at the time of payment;
- b. [Tangga-an's] placement fee should be reimbursed with 12% interest per annum;
- c. [T]he award of attorney's fees is deleted.

SO ORDERED.^[16]

The CA adhered to the finding of illegal dismissal. But on the subject of monetary awards, the CA considered only petitioner's monthly US\$5,000.00 basic salary and disregarded his monthly US\$2,500.00 vacation leave pay and US\$700.00 tonnage bonus. It likewise held that petitioner's "unexpired portion of contract" for which he is entitled to back salaries should only be three months pursuant to Section 10^[17] of RA 8042. In addition, petitioner should be paid back his placement fee with interest at the rate of twelve per cent (12%) per annum.

As to attorney's fees, the CA did not agree with the NLRC's finding that bad faith on the part of respondents was present to justify the award of attorney's fees. It held that there is nothing from the facts and proceedings to suggest that respondents acted with dishonesty, moral obliquity or conscious doing of wrong in terminating petitioner's services.

Petitioner filed a Motion for (Partial) Reconsideration,^[18] which was denied in the assailed November 15, 2007 Resolution. Thus, he filed the instant Petition.

Issues

In this Petition, Tangga-an seeks a modification of the CA Decision and the reinstatement of the monetary awards as decreed in the Labor Arbiter's January 27, 2004 Decision, or in the alternative, the grant of back salaries equivalent to four months which corresponds to the unexpired portion of the contract, inclusive of vacation leave pay and tonnage bonus, plus 10% thereof as attorney's fees.^[19]

Petitioner submits the following issues for resolution:

- I. Whether x x x the CA's issuance of the writ of certiorari reversing the NLRC decision is in accordance with law[;]
- II. Whether x x x the indemnity provided in Section 10, R. A. 8042 x x x be

limited only to the seafarer's basic monthly salary or x x x include, based on civil law concept of damages as well as Labor Code concept of backwages, allowances/benefits or their monetary equivalent as a further relief to restore the seafarer's income that was lost by reason of his unlawful dismissal[;]

III. Whether x x x the indemnity awarded by the CA in petitioner's favor consisting only of 3 months' basic salaries [conform] with the proper interpretation of Section 10 R. A. 8042 and with the ruling in *Skippers Pacific, Inc. v. Mira, et al.*, G.R. No. 144314, November 21, 2002 and related cases or is petitioner entitled to at least 4 months salaries being the unexpired portion of his contract[; and]

IV. Whether x x x the CA's disallowance of the award of attorney's fees, based on the alleged absence of bad faith on the part of respondent, is in accordance with law or is the attorney's fees awarded by the NLRC to petitioner, who was forced to litigate to enforce his rights, justified x x x[.]
[20]

Petitioner's Arguments

Petitioner essentially contends that respondents' resort to an original Petition for *Certiorari* in the CA is erroneous because the issues they raised did not involve questions of jurisdiction but of fact and law. He adds that the CA Decision went against the factual findings of the labor tribunals which ought to be binding, given their expertise in matters falling within their jurisdiction.

Petitioner likewise contends that the CA erred in excluding his vacation leave pay and tonnage bonus in the computation of his back salaries as they form part of his salaries and benefits under his employment contract with the respondents, a covenant which is deemed to be the law governing their relations. He adds that under Article 279 of the Labor Code, he is entitled to full backwages inclusive of allowances and other benefits or their monetary equivalent from the time his compensation was withheld up to the time he is actually reinstated.

Petitioner accuses the CA of misapplying the doctrine laid down in *Skippers Pacific, Inc. v. Skippers Maritime Services, Ltd.*^[21] He points out that the CA wrongly interpreted and applied what the Court said in the case, and that the pronouncement therein should have benefited him rather than the respondents.

Petitioner would have the Court reinstate the award of attorney's fees, on the argument that the presence of bad faith is not necessary to justify such award. He maintains that the grant of attorney's fees in labor cases constitutes an exception to the general requirement that bad faith or malice on the part of the adverse party must first be proved.

Finally, petitioner prays that this Court reinstate the Labor Arbiter's monetary awards in his January 27, 2004 Decision or, in the alternative, to grant him full back salaries

equivalent to the unexpired portion of his contract, or four months, plus 10% thereof as attorney's fees.

Respondents' Arguments

In seeking affirmance of the assailed CA issuances, respondents basically submit that the CA committed no reversible error in excluding petitioner's claims for vacation leave pay, tonnage bonus, and attorney's fees. They support and agree with the CA's reliance upon *Skippers Pacific, Inc. v. Skippers Maritime Services, Ltd.*,^[22] and emphasize that in the absence of bad faith on their part, petitioner may not recover attorney's fees.

Our Ruling

The Court grants the Petition.

There remains no issue regarding illegal dismissal. In spite of the consistent finding below that petitioner was illegally dismissed, respondents did not take issue, which thus renders all pronouncements on the matter final.

In resolving petitioner's monetary claims, the CA utterly misinterpreted the Court's ruling in *Skippers Pacific, Inc. v. Skippers Maritime Services, Ltd.*,^[23] using it to support a view which the latter case precisely ventured to strike down. In that case, the employee was hired as the vessel's Master on a six-months employment contract, but was able to work for only two months, as he was later on illegally dismissed. The Labor Arbiter, NLRC, and the CA all took the view that the complaining employee was entitled to his salary for the unexpired portion of his contract, but limited to only three months pursuant to Section 10^[24] of RA 8042. The Court did not agree and hence modified the judgment in said case. It held that, following the wording of Section 10 and its ruling in *Marsaman Manning Agency, Inc. v. National Labor Relations Commission*,^[25] when the illegally dismissed employee's employment contract has a term of less than one year, he/she shall be entitled to recovery of salaries representing the unexpired portion of his/her employment contract. Indeed, there was nothing even vaguely confusing in the Court's citation therein of Marsaman:

In *Marsaman Manning Agency, Inc. vs. NLRC*, involving Section 10 of Republic Act No. 8042, we held:

[W]e cannot subscribe to the view that private respondent is entitled to three (3) months salary only. A plain reading of Sec. 10 clearly reveals that the choice of which amount to award an illegally dismissed overseas contract worker, i.e., whether his salaries for the unexpired portion of his employment contract or three (3) months salary for every year of the unexpired term, whichever is less, **comes into play only when the employment contract concerned has a term of at least one (1) year or more.** This is evident from the [wording] "for every

year of the unexpired term” which follows the [wording] “salaries x x x for three months.” To follow petitioners’ thinking that private respondent is entitled to three (3) months salary only simply because it is the lesser amount is to completely disregard and overlook some words used in the statute while giving effect to some. This is contrary to the well-established rule in legal hermeneutics that in interpreting a statute, care should be taken that every part or word thereof be given effect since the lawmaking body is presumed to know the meaning of the words employed in the statute and to have used them advisedly. *Ut res magis valeat quam pereat.*

It is not disputed that private respondent’s employment contract in the instant case was for six (6) months. Hence, we see no reason to disregard the ruling in *Marsaman* that private respondent should be paid his salaries for the unexpired portion of his employment contract.^[26] (Emphases supplied)

At this juncture, the courts, especially the CA, should be reminded to read and apply this Court’s labor pronouncements with utmost care and caution, taking to mind that in the very heart of the judicial system, labor cases occupy a special place. More than the State guarantees of protection of labor and security of tenure, labor disputes involve the fundamental survival of the employees and their families, who depend upon the former for all the basic necessities in life.

Thus, petitioner must be awarded his salaries corresponding to the unexpired portion of his six-months employment contract, or equivalent to four months. This includes all his corresponding monthly vacation leave pay and tonnage bonuses which are expressly provided and guaranteed in his employment contract as part of his *monthly* salary and benefit package. These benefits were guaranteed to be paid on a monthly basis, and were not made contingent. In fact, their monetary equivalent was fixed under the contract: US\$2,500.00 for vacation leave pay and US\$700.00 for tonnage bonus each month. Thus, petitioner is entitled to back salaries of US\$32,800 (or US\$5,000 + US\$2,500 + US\$700 = US\$8,200 x 4 months). “Article 279 of the Labor Code mandates that an employee’s full backwages shall be inclusive of allowances and other benefits or their monetary equivalent.”^[27] As we have time and again held, “[i]t is the obligation of the employer to pay an illegally dismissed employee or worker the whole amount of the salaries or wages, plus all other benefits and bonuses and general increases, to which he would have been normally entitled had he not been dismissed and had not stopped working.”^[28] This well-defined principle has likewise been lost on the CA in the consideration of the case.

The CA likewise erred in deleting the award of attorney’s fees on the ground that bad faith may not readily be attributed to the respondents given the circumstances. The Court’s discussion on the award of attorney’s fees in *Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa MWC-East Zone Union v. Manila Water Company, Inc.*,^[29]

speaking through Justice Brion, is instructive, viz:

Article 111 of the Labor Code, as amended, governs the grant of attorney's fees in labor cases:

'Art. 111. *Attorney's fees.* – (a) In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

(b) It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of wages, attorney's fees which exceed ten percent of the amount of wages recovered.'

Section 8, Rule VIII, Book III of its Implementing Rules also provides, viz.:

'Section 8. *Attorney's fees.* – Attorney's fees in any judicial or administrative proceedings for the recovery of wages shall not exceed 10% of the amount awarded. The fees may be deducted from the total amount due the winning party.'

We explained in *PCL Shipping Philippines, Inc. v. National Labor Relations Commission* that there are two commonly accepted **concepts of attorney's fees** – the ordinary and extraordinary. In its **ordinary concept**, an attorney's fee is the reasonable compensation paid to a lawyer by his client for the legal services the former renders; compensation is paid for the cost and/or results of legal services per agreement or as may be assessed. In its **extraordinary concept, attorney's fees are deemed indemnity for damages ordered by the court to be paid by the losing party to the winning party.** The instances when these may be awarded are enumerated in Article 2208 of the Civil Code, specifically in its paragraph 7 on actions for recovery of wages, and is payable not to the lawyer but to the client, unless the client and his lawyer have agreed that the award shall accrue to the lawyer as additional or part of compensation.

We also held in *PCL Shipping* that Article 111 of the Labor Code, as amended, contemplates the **extraordinary concept** of attorney's fees and that **Article 111 is an exception to the declared policy of strict construction in the award of attorney's fees. Although an express finding of facts and law is still necessary to prove the merit of the award, there need not be any showing that the employer acted maliciously or in bad faith when it withheld the wages.** x x x

We similarly so ruled in *RTG Construction, Inc. v. Facto* and in *Ortiz v. San Miguel Corporation*. In *RTG Construction*, we specifically stated:

'Settled is the rule that in actions for recovery of wages, or where an employee was forced to litigate and, thus, incur expenses to protect his rights and interests, a monetary award by way of

attorney's fees is justifiable under Article 111 of the Labor Code; Section 8, Rule VIII, Book III of its Implementing Rules; and paragraph 7, Article 2208 of the Civil Code. **The award of attorney's fees is proper, and there need not be any showing that the employer acted maliciously or in bad faith when it withheld the wages. There need only be a showing that the lawful wages were not paid accordingly.'**

In *PCL Shipping*, we found the award of attorney's fees due and appropriate since the respondent therein incurred legal expenses after he was forced to file an action for recovery of his lawful wages and other benefits to protect his rights. From this perspective and the above precedents, we conclude that the CA erred in ruling that a finding of the employer's malice or bad faith in withholding wages must precede an award of attorney's fees under Article 111 of the Labor Code. To reiterate, a plain showing that the lawful wages were not paid without justification is sufficient.^[30]

In this case, it is already settled that petitioner's employment was illegally terminated. As a result, his wages as well as allowances were withheld without valid and legal basis. Otherwise stated, he was not paid his lawful wages without any valid justification. Consequently, he was impelled to litigate to protect his interests. Thus, pursuant to the above ruling, he is entitled to receive attorney's fees. An award of attorney's fees in petitioner's favor is in order in the amount of US\$3,280 (or US\$32,800 x 10%).

WHEREFORE, the Petition is **GRANTED**. Petitioner Lorenzo T. Tangga-an is hereby declared **ENTITLED** to back salaries for the unexpired portion of his contract, inclusive of vacation leave pay and tonnage bonus which is equivalent to US\$32,800 plus US\$3,280 as attorney's fees or a total of US\$36,080 or its peso equivalent at the exchange rate prevailing at the time of payment.

SO ORDERED.

Carpio, (Chairperson), Brion, Villarama, Jr.^{**}, and *Perlas-Bernabe, JJ.*, concur.

* Also spelled as Tanga-an in some parts of the records.

** Per Special Order No. 1426 dated March 8, 2013.

[1] *Rollo*, pp. 9-44.

[2] *CA rollo*, pp. 187-197; penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Arsenio J. Magpale and Antonio L. Villamor.

[3] *Id.* at 223-224; penned by Associate Justice Antonio L. Villamor and concurred in by Associate Justices Stephen C. Cruz and Amy C. Lazaro-Javier.

[4] President of Philippine Transmarine Carriers, Inc.

[5] CA *rollo*, pp. 188-189.

[6] NLRC records, pp. 1-2.

[7] *Id.* at 49-55.

[8] *Id.* at 27.

[9] *Id.* at 53-54.

[10] *Id.* at 54. Emphases in the original.

[11] *Id.* at 147-150; penned by Presiding Commissioner Gerardo C. Nograles and concurred in by Commissioners Edgardo M. Enerlan and Oscar S. Uy.

[12] *Id.* at 150. Emphases in the original.

[13] Article 279. *Security of Tenure.* - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

[14] NLRC records, pp. 174-176.

[15] CA *rollo*, pp. 6-22.

[16] *Id.* at 196. Emphases in the Original.

[17] SEC. 10. MONEY CLAIMS. - x x x

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest of twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.

[18] CA *rollo*, pp. 198-221.

[19] *Rollo*, p. 43.

[20] Id. at 326-327.

[21] 440 Phil. 906 (2002).

[22] Id.

[23] Id.

[24] Supra note 17.

[25] 371 Phil. 827 (1999).

[26] *Skippers Pacific, Inc. v. Skippers Maritime Services, Ltd.*, supra note 21 at 922-923.

[27] *Equitable Banking Corporation (EQUITABLE-PCI BANK) v. Sadac*, 523 Phil. 781, 811, (2006).

[28] *Sarona v. National Labor Relations Commission*, G.R. No. 185280, January 18, 2012, 663 SCRA 394, 424, citing *St. Louis College of Tuguegarao v. National Labor Relations Commission*, 257 Phil. 1002, 1008 (1989) and *East Asiatic Co., Ltd. v. Court of Industrial Relations*, 148-B Phil. 401, 429 (1971).

[29] G.R. No. 174179, November 16, 2011, 660 SCRA 263.

[30] Id. at 273-275. Emphases in the original. Citations omitted.



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