712 Phil. 459

SECOND DIVISION

[G.R. No. 186475, June 26, 2013]

POSEIDON INTERNATIONAL MARITIME SERVICES, INC., PETITIONER, VS. TITO R. TAMALA, FELIPE S. SAURIN, JR., ARTEMIO A. BO-OC AND JOEL S. FERNANDEZ, RESPONDENTS.

D E C I S I O N

BRION, J.:

We resolve in this petition for review on *certiorari*[1] the challenge to the September 30, 2008 Decision[2] and the February 11, 2009[3] Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 98783. These CA rulings set aside the December 29, 2006 and February 12, 2007 Resolutions[4] of the National Labor Relations Commission (NLRC) in NLRC CA No. 049479-06. The NLRC, in turn, affirmed *in toto* the May 2006 Decision[5] of the labor arbiter *(LA)* dismissing the complaint for illegal termination of employment filed by respondents Tito R. Tamala, Felipe S. Saurin, Jr., Artemio A. Bo-oc and Joel S. Fernandez against petitioner Poseidon International Maritime Services, Inc. *(Poseidon)*, and its principal, Van Doorn Fishing Pty, Ltd. *(Van Doorn)*.

The Factual Antecedents

In 2004, Poseidon hired the respondents, in behalf of Van Doorn, to man the fishing vessels of Van Doorn and those of its partners – Dinko Tuna Farmers Pty. Ltd. *(Dinko)* and Snappertuna Cv. Lda. *(Snappertuna)* - at the coastal and offshore area of Cape Verde Islands. The respondents' contracting dates, positions, vessel assignments, duration of the contract, basic monthly salaries, guaranteed overtime pay and vacation leave pay, as reflected in their approved contracts,[6] are summarized below:

	Artemio A. Bo-oc	Joel S. Fernandez	Felipe S. Saurin, Jr.	Tito R. Tamala
Date Contracted	June 1, 2004	June 24, 2004	July 19, 2004[7]	October 20, 2004
Position	Third Engineer	Chief Mate	Third Engineer	Ordinary Seaman
Vessel Assignment	M/V "Lukoran DVA"	M/V "Lukoran DVA"	M/V "Lukoran Cetriri"	M/V "Lukoran DVA"
Contract Duration	Twelve (12) months	Twelve (12) months	Twelve (12) months	Twelve (12) months
Basic Monthly	US$800.00	US$1,120.00	US$800.00	US$280.00

Salary				
Guaranteed Overtime Pay	US$240.00/mo.	US$336.00/mo.	US$240.00/mo.	US$84.00/mo.
Vacation Leave Pay	US$66.66	US$93.33	US$66.66	US$23.33

The fishing operations for which the respondents were hired started on September 17, 2004. On November 20, 2004, the operations abruptly stopped and did not resume. On May 25, 2005, before the respondents disembarked from the vessels, Goran Ekstrom of Snappertuna (the respondents' immediate employer on board the fishing vessels) and the respondents executed an agreement *(May 25, 2005 agreement)* regarding the respondents' salaries.[8] The agreement provided that the respondents would get the full or 100% of their unpaid salaries for the unexpired portion of their pre-terminated contract in accordance with Philippine laws. The respective amounts the respondents would receive *per* the May 25, 2005 agreement are:

Artemio A. Bo-oc	US$6,047.99
Joel S. Fernandez	US$7,767.90
Felipe S. Saurin, Jr.	US$6,647.99
Tito R. Tamala	US$7,047.99

On May 26, 2005, however, Poseidon and Van Doorn, with Goran of Snappertuna and Dinko Lukin of Dinko, entered into another agreement *(letter of acceptance)* reducing the previously agreed amount to 50% of the respondents' unpaid salaries *(settlement pay)* for the unexpired portion of their contract.[9] On May 28, 2005, the respondents arrived in Manila. On June 10, 2005, the respondents received the settlement pay under their letter of acceptance. The respondents then signed a waiver and quitclaim[10] and the corresponding cash vouchers.[11]

On November 16, 2005, the respondents filed a complaint[12] before the Labor Arbitration Branch of the NLRC, National Capital Region for illegal termination of employment with prayer for the payment of their salaries for the unexpired portion of their contracts; and for non-payment of salaries, overtime pay and vacation leave pay.[13] The respondents also prayed for moral and exemplary damages and attorney's fees.

The respondents anchored their claim on their May 25, 2005 agreement with Goran, and contended that their subsequent execution of the waiver and quitclaim in favor of Poseidon and Van Doorn should not be given weight nor allowed to serve as a bar to their claim. The respondents alleged that their dire need for cash for their starving families compelled and unduly influenced their decision to sign their respective waivers and quitclaims. In addition, the complicated language employed in the document rendered it highly suspect.

In their position paper,[14] Poseidon and Van Doorn argued that the respondents had no cause of action to collect the remaining 50% of their unpaid wages. To Poseidon and Van Doorn, the respondents' voluntary and knowing agreement to the settlement pay, which they confirmed when they signed the waivers and quitclaims, now effectively bars their claim. Poseidon and Van Doorn submitted before the LA the signed letter of acceptance, the waiver and quitclaim, and the cash vouchers to support their stance.

In a Decision[15] dated May 2006, the LA dismissed the respondents' complaint for lack of merit, declaring as valid and binding their waivers and quitclaims. The LA explained that while quitclaims executed by employees are generally frowned upon and do not bar them from recovering the full measure of what is legally due, excepted from this rule are the waivers knowingly and voluntarily agreed to by the employees, such as the waivers assailed by the respondents. Citing jurisprudence, the LA added that the courts should respect, as the law between the parties, those legitimate waivers and quitclaims that represent voluntary and reasonable settlement of employees' claims. In the respondents' case, this pronouncement holds more weight, as they understood fully well the contents of their waivers and knew the consequences of their acts.

The LA did not give probative weight to the May 25, 2005 agreement considering that the entities which contracted the respondents' services -Poseidon and Van Doorn — did not actively participate. Moreover, the LA noted that the respondents' signed letter of acceptance superseded this agreement. The LA likewise considered the respondents' belated filing of the complaint as a mere afterthought.

Finally, the LA dismissed the issue of illegal dismissal, noting that the respondents already abandoned this issue in their pleadings. The respondents appealed[16] the LA's decision before the NLRC.

The Ruling of the NLRC

By Resolution[17] dated December 29, 2006, the NLRC affirmed *in toto* the LA's decision. As the LA did, the NLRC ruled that the respondents' knowing and voluntary acquiescence to the settlement and their acceptance of the payments made bind them and effectively bar their claims. The NLRC also regarded the amounts the respondents received as settlement pay to be reasonable; despite the cessation of the fishing operations, the respondents were still paid their full wages from December 2004 to January 2005 and 50% of their wages from February 2005 until their repatriation in May 2005.

On February 12, 2007, the NLRC denied[18] the respondents' motion for reconsideration,[19] prompting them to file with the CA a petition for certiorari[20] under Rule 65 of the Rules of Court.

The Ruling of the CA

In its September 30, 2008 Decision,[21] the CA granted the respondents' petition and

ordered Poseidon and Van Doorn to pay the respondents the amounts tabulated below, representing the difference between the amounts they were entitled to receive under the May 25, 2005 agreement and the amounts that they received as settlement pay:

Artemio A. Bo-oc	US$3,705.00
Joel S. Fernandez	US$4,633.57
Felipe S. Saurin, Jr.	US$4,008.62
Tito R. Tamala	US$4,454.20

In setting aside the NLRC's ruling, the CA considered the waivers and quitclaims invalid and highly suspicious. The CA noted that the respondents in fact questioned in their pleadings the letter's due execution. In contrast with the NLRC, the CA observed that the respondents were coerced and unduly influenced into accepting the 50% settlement pay and into signing the waivers and quitclaims because of their financial distress. The CA moreover considered the amounts stated in the May 25, 2005 agreement with Goran to be more reasonable and in keeping with Section 10 of Republic Act *(R.A.)* No. 8042 or the *Migrant Workers and Overseas Filipinos Act of 1995*.

The CA also pointed out with emphasis that the *pre-termination of the respondents' employment contract was simply the result of Van Doorn's decision to stop its operations*.

Finally, the CA did not consider the respondents' complaint as a mere afterthought; the respondents are precisely given under the Labor Code a three-year prescriptive period to allow them to institute such actions.

Poseidon filed the present petition after the CA denied its motion for reconsideration[22] in the CA's February 11, 2009 Resolution.[23]

The Petition

Poseidon's petition argues that the labor tribunals' findings are not only binding but are fully supported by evidence. Poseidon contends that the CA's application of Section 10 of R.A. No. 8042 to justify the amounts it awarded to the respondents is misplaced, as the respondents never raised the issue of illegal dismissal before the NLRC and the CA. It claims that the respondents, in assailing the NLRC ruling before the CA, mainly questioned the validity of the waivers and quitclaims they signed and their binding effect on them. While the respondents raised the issue of illegal dismissal before the LA, they eventually abandoned it in their pleadings — a matter the LA even pointed out in her May 2006 Decision.

Poseidon further argues that the NLRC did not exceed its jurisdiction nor gravely abuse its discretion in deciding the case in its favor, pointing out that the respondents raised issues pertaining to mere errors of judgment before the CA. Thus, as matters stood, these issues did not call for the grant of a writ of *certiorari* as this prerogative writ is limited to the correction of errors of jurisdiction committed through grave abuse of

discretion, not errors of judgment.

Finally, Poseidon maintains that it did not illegally dismiss the respondents. Highlighting the CA's observation and the respondents' own admission in their various pleadings, Poseidon reiterates that it simply ceased its fishing operations as a business decision in the exercise of its management prerogative.

The Case for the Respondents

The respondents point out in their comment[24] that the petition raises questions of fact, which are not proper for a Rule 45 petition. They likewise point out that the petition did not specifically set forth the grounds as required under Rule 45 of the Rules of Court. On the merits, and relying on the CA ruling, the respondents argue that Poseidon dismissed them without a valid cause and without the observance of due process.

The Issues

At the core of this case are the validity of the respondents' waivers and quitclaims and the issue of whether these should bar their claim for unpaid salaries. At the completely legal end is the question of whether Section 10 of R.A. No. 8042 applies to the respondents' claim.

The Court's Ruling

We resolve to **partly GRANT** the petition.

Preliminary considerations

The settled rule is that a petition for review on *certiorari* under Rule 45 is limited to the review of questions of law,[25] *i.e.*, to legal errors that the CA may have committed in its decision,[26] in contrast with the review for jurisdictional errors that we undertake in original *certiorari* actions under Rule 65.[27] In reviewing the legal correctness of a CA decision rendered under Rule 65 of the Rules of Court, we examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, and not strictly on the basis of whether the NLRC decision under review is intrinsically correct.[28] In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it.[29]

Viewed in this light, we do not re-examine the factual findings of the NLRC and the CA, nor do we substitute our own judgment for theirs,[30] as their findings of fact are generally conclusive on this Court. We cannot touch on factual questions *"except in the course of determining whether the CA correctly ruled in determining whether or not the NLRC committed grave abuse of discretion in considering and appreciating [the] factual*

[issues before it]."[31]

On the Merits of the Case

The core issue decided by the tribunals below is the validity of the respondents' waivers and quitclaims. The CA set aside the NLRC ruling for grave abuse of discretion; the CA essentially found the waivers and quitclaims unreasonable and involuntarily executed, and could not have superseded the May 25, 2005 agreement. In doing so, and in giving weight to the May 25, 2005 agreement, the CA found justification under Section 10 of R.A. No. 8042.

The respondents are not entitled to the unpaid portion of their salaries under Section 10 of R.A. No. 8042

The application of Section 10 of R.A. No. 8042 presumes a finding of illegal dismissal. The pertinent portion of Section 10 of R.A. No. 8042 reads:

> SEC. 10. MONEY CLAIMS. — x x x
>
> x x x x
>
> In case of ***termination of overseas employment without just, valid or authorized cause*** as defined by law or contract[.] [emphasis and italics ours]

A plain reading of this provision readily shows that it applies only to ***cases of illegal dismissal or dismissal without any just, authorized or valid cause*** and finds no application in cases where the overseas Filipino worker was not illegally dismissed.[32] We found the occasion to apply this rule in *International Management Services v. Logarta*,[33] where we held that Section 10 of R.A. No. 8042 applies only to an illegally dismissed overseas contract worker or a worker dismissed from overseas employment without just, valid or authorized cause.[34]

Whether the respondents in the present case were illegally dismissed is a question we resolve in the negative for three reasons.

First, the respondents' references to illegal dismissal in their several pleadings were mere cursory declarations rather than a definitive demand for redress. The LA's May 2006 Decision clearly enunciated this point when she dismissed the respondents' claim of illegal dismissal "as complainants themselves have lost interest to pursue the same." [35]

Second, the respondents, in their motion for reconsideration filed before the NLRC, positively argued that the fishing operations for which they were hired ceased as a result of the business decision of Van Doorn and of its partners;[36] thus, negating by

omission any claim for illegal dismissal.

Third, the CA, in its assailed decision, likewise made the very same inference – that the fishing operations ceased as a result of a business decision of Van Doorn and of its partners. In other words, the manner of dismissal was not a contested issue; the records clearly showed that the respondents' employment was terminated because *Van Doorn and its partners simply* ***decided to stop their fishing operations*** *in the exercise of their management prerogative*, which prerogative even our labor laws recognize.

We confirm in this regard that, by law and subject to the State's corollary right to review its determination,[37] management has the right to regulate the business and control its every aspect.[38] Included in this management right is the freedom to close or cease its operations for any reason, as long as it is done in good faith and the employer faithfully complies with the substantive and procedural requirements laid down by law and jurisprudence.[39] Article 283 of our Labor Code provides:

> Art. 283. Closure of establishment and reduction of personnel. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or ***cessation of operation of the*** establishment or ***undertaking*** unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the [Department of Labor and Employment] at least one (1) month before the intended date thereof. x x x In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year. [Italics, underscores and emphases ours]

This provision applies in the present case as under the contract the employer and the workers signed and submitted to the Philippine Overseas Employment Agency *(POEA)*, the Philippine labor law expressly applies.

This legal reality is reiterated under Section 18-B, paragraph 2,[40] in relation with Section 23[41] of the POEA Standard Employment Contract (POEA-SEC) (which is deemed written into every overseas employment contract) which recognizes the validity of the cessation of the business operations as a valid ground for the termination of an overseas employment. This recognition is subject to compliance with the following requisites:

1. The **decision to close or cease operations must be *bona fide*** in character;

2. Service of **written notice** on the affected employees and on the Department of Labor and Employment *(DOLE)* **at least one (1) month prior to the effectivity of the termination**; and
3. Payment to the affected employees of **termination or separation pay** equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher.[42]

We are sufficiently convinced, based on the records, that Van Doorn's termination of the respondents' employment arising from the cessation of its fishing operations complied with the above requisites and is thus valid.

We observe that the records of the case do not show that Van Doorn ever intended to defeat the respondents' rights under our labor laws when it undertook its decision to close its fishing operations on November 20, 2004. From this date until six months after, the undertaking was at a complete halt. That Van Doorn and its partners might have suffered losses during the six-month period is not entirely remote. Yet, Van Doorn did not immediately repatriate the respondents or hire another group of seafarers to replace the respondents in a move to resume its fishing operations. Quite the opposite, the respondents, although they were no longer rendering any service or doing any work, still received their full salary for November 2004 up to January 2005. In fact, from February 2005 until they were repatriated to the Philippines in May 2005, the respondents still received wages, albeit half of their respective basic monthly salary rate. Had Van Doorn intended to stop its fishing operations simply to terminate the respondents' employment, it would have immediately repatriated the respondents to the Philippines soon after, in order that it may hire other seafarers to replace them — a possibility that did not take place.

Considering therefore the absence of any indication that Van Doorn stopped its fishing operations to circumvent the protected rights of the respondents, our courts have no basis to question the reason that might have impelled Van Doorn to reach its closure decision.[43]

In sum, since Poseidon ceased its fishing operations in the valid exercise of its management prerogative, Section 10 of R.A. No. 8042 finds no application. **Consequently, we find that the CA erroneously imputed grave abuse of discretion on the part of the NLRC in not applying Section 10 of R.A. No. 8042 and in awarding the respondents the unpaid portion of their full salaries.**

The waivers and quitclaims signed by the respondents are valid and binding

We cannot support the CA's act of giving greater evidentiary weight to the May 25, 2005 agreement over the respondents' waivers and quitclaims; not only do we find the latter documents to be reasonable and duly executed, we also find that they superseded the May 25, 2005 agreement.

Generally, this Court looks with disfavor at quitclaims executed by employees for being contrary to public policy.[44] Where the person making the waiver, however, has done so ***voluntarily, with a full understanding of its terms and with the payment of credible and reasonable consideration,*** we have no option but to recognize the transaction to be valid and binding.[45]

We find the requisites for the validity of the respondents' quitclaim present in this case. We base this conclusion on the following observations:

First, the respondents acknowledged in their various pleadings, as well as in the very document denominated as "waiver and quitclaim," that they voluntarily signed the document after receiving the agreed settlement pay.

Second, the settlement pay is reasonable under the circumstances, especially when contrasted with the amounts to which they were respectively entitled to receive as termination pay pursuant to Section 23 of the POEA-SEC and Article 283 of the Labor Code. The comparison of these amounts is tabulated below:

	Settlement Pay	Termination Pay
Joel S. Fernandez	US$3134.33	US$1120.00
Artemio A. Bo-oc	US$2342.37	US$800.00
Felipe S. Saurin, Jr.	US$2639.37	US$800.00
Tito R. Tamala	US$2593.79	US$280.00

Thus, the respondents undeniably received more than what they were entitled to receive under the law as a result of the cessation of the fishing operations.

Third, the contents of the waiver and quitclaim are clear, unequivocal and uncomplicated so that the respondents could fully understand the import of what they were signing and of its consequences.[46] Nothing in the records shows that what they received was different from what they signed for.

Fourth, the respondents are mature and intelligent individuals, with college degrees, and are far from the naive and unlettered individuals they portrayed themselves to be.

Fifth, while the respondents contend that they were coerced and unduly influenced in their decision to accept the settlement pay and to sign the waivers and quitclaims, the records of the case do not support this claim. The respondents' claims that they were in "dire need for cash" and that they would not be paid anything if they would not sign do not constitute the coercion nor qualify as the undue influence contemplated by law sufficient to invalidate a waiver and quitclaim,[47] particularly in the circumstances attendant in this case. The records show that the respondents, along with their other

fellow seafarers, served as each other's witnesses when they agreed and signed their respective waivers and quitclaims.

Sixth, the respondents' voluntary and knowing conformity to the settlement pay was proved not only by the waiver and quitclaim, but by the letters of acceptance and the vouchers evidencing payment. With these documents on record, the burden shifts to the respondents to prove coercion and undue influence other than through their bare self-serving claims. No such evidence appeared on record at any stage of the proceedings.

In these lights and in the absence of any evidence showing that fraud, deception or misrepresentation attended the execution of the waiver and quitclaim, we are sufficiently convinced that a valid transaction took place. **Consequently, we find that the CA erroneously imputed grave abuse of discretion in misreading the submitted evidence, and in relying on the May 25, 2005 agreement and on Section 10 of R.A. No. 8042.**

The respondents are entitled to nominal damages for failure of Van Doorn to observe the procedural requisites for the termination of employment under Article 283 of the Labor Code

As a final note, we observe that while Van Doorn has a just and valid cause to terminate the respondents' employment, it failed to meet the requisite procedural safeguards provided under Article 283 of the Labor Code. In the termination of employment under Article 283, Van Doorn, as the employer, is required to serve a written notice to the respondents and to the DOLE of the intended termination of employment at least one month prior to the cessation of its fishing operations. Poseidon could have easily filed this notice, in the way it represented Van Doorn in its dealings in the Philippines. While this omission does not affect the validity of the termination of employment, it subjects the employer to the payment of indemnity in the form of nominal damages.[48]

Consistent with our ruling in *Jaka Food Processing Corporation v. Pacot*,[49] we deem it proper to award the respondents nominal damages in the amount of P30,000.00 as indemnity for the violation of the required statutory procedures. Poseidon shall be solidarily liable to the respondents for the payment of these damages.[50]

WHEREFORE, in view of these considerations, we hereby **GRANT in PART** the petition and accordingly **REVERSE and SET ASIDE** the Decision dated September 30, 2008 and the Resolution dated February 11, 2009 of the Court of Appeals in CA-G.R. SP No. 98783. We **REINSTATE** the Resolution dated December 29, 2006 of the National Labor Relations Commission with the **MODIFICATION** that petitioner Poseidon International Maritime Services, Inc. is ordered to pay each of the respondents nominal damages in the amount of P30,000.00. Costs against the respondents.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and *Perlas-Bernabe, JJ*., concur.

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[1] Petition for review on *certiorari* dated March 5, 2009 and filed on March 6, 2009 under Rule 45 of the 1997 Rules of Civil Procedure; *rollo,* pp. 3-14.

[2] Penned by Associate Justice Isaias Dicdican, and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Marlene Gonzales-Sison; id. at 20-30.

[3] Id. at 32-33.

[4] Penned by Commissioner Gregorio O. Bilog III; id. at 86-94 and 112-113 respectively.

[5] Penned by Labor Arbiter Fe Superiaso-Cellan; id. at 58-66.

[6] CA *rollo*, pp. 30-33.

[7] Per the petition, respondent Felipe Saurin, Jr. was contracted on October 20, 2004; *rollo*, p. 6.

[8] CA *rollo*, pp. 54, 56, 58 and 61.

[9] Letter of Acceptance executed on May 26, 2005; id. at 71.

[10] Id. at 168-169.

[11] Id. at 164-167.

[12] Id. at 34-35.

[13] Respondents' Position Paper filed before the LA; *rollo*, pp. 34-46.

[14] Poseidon's position paper filed before the LA; id. at 51-55.

[15] *Supra* note 5.

[16] Memorandum on Appeal; *rollo*, pp. 67-80.

[17] *Supra* note 4.

[18] Ibid.

[19] *Rollo,* pp. 96-105.

[20] Id. at 115-127.

[21] *Supra* note 2.

[22] *Rollo,* pp. 141-148.

[23] *Supra* note 3.

[24] *Rollo,* pp. 196-203.

[25] See *Genuino Ice Company, Inc. v. Magpantay,* 526 Phil. 170, 178 (20006); and *Luna v. Allado Construction Co., Inc.*, G.R. No. 175251, May 30, 2011, 649 SCRA 262, 272.

[26] See *Wensha Spa Center, Inc. v. Yung,* G.R. No. 185122, August 16, 2010, 628 SCRA 311, 320.

[27] *Montoya v. Transmed Manila Corporation,* G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342-343.

[28] Ibid.; and *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna*, G.R. No. 172086, December 3, 2012.

[29] *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna, supra,* citing *Montoya v. Transmed Manila Corporation, supra* note 27, at 342-343.

[30] *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna, supra*.

[31] *Montoya v. Transmed Manila Corporation, supra* note 27, at 344.

[32] See *International Management Services v. Logarta,* G.R. No. 163657, April 18, 2012, 670 SCRA 22, 36-37. See also *Sadagnot v. Reinier Pacific International Shipping, Inc.,* 556 Phil. 252, 262 (2007); and *Dela Rosa v. Michaelmar Philippines, Inc.*, G.R. No. 182262, April 13, 2011, 648 SCRA 721, 731.

[33] *Supra*.

[34] Id. at 36.

[35] *Rollo*, p. 63.

[36] Id. at 97.

[37] *Espina v. Court of Appeals,* 548 Phil. 255, 272 (2007).

[38] See *United Laboratories, Inc. v. Domingo,* G.R. No. 186209, September 21, 2011, 658 SCRA 159, 175; and *Tinio v. Court of Appeals,* G.R. No. 171764, June 8, 2007, 524 SCRA 533, 540.

[39] See *Espina v. Court of Appeals, supra* note 37, at 273-274.

[40] SECTION 18. TERMINATION OF EMPLOYMENT

x x x x
B. *The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons*:

x x x x

2. When the seafarer signs-off due to shipwreck, ship's sale, lay-up of vessel, ***discontinuance of voyage*** or change of vessel principal ***in accordance with Sections*** 22, ***23*** and 26 ***of this Contract***. [italics and emphases ours]

[41] SECTION 23. TERMINATION DUE TO VESSEL SALE, LAY-UP OR DISCONTINUANCE OF VOYAGE

Where the vessel is sold, laid up, ***or the voyage is discontinued*** *necessitating the termination of employment before the date indicated in the Contract*, the seafarer shall be entitled to earned wages, repatriation at employer's cost and one (1) month basic wage as termination pay, unless arrangements have been made for the seafarer to join another vessel belonging to the same principal to complete his contract which case the seafarer shall be entitled to basic wages until the date of joining the other vessel. [Italics and underscore and emphasis ours]

[42] *Ramirez v. Mar Fishing Co., Inc.,* G.R. No. 168208, June 13, 2012, 672 SCRA 136, 144-145; and *Marc II Marketing, Inc. v. Joson,* G.R. No. 171993, December 12, 2011, 662 SCRA 35, 59-60.

[43] See *Marc II Marketing, Inc. v. Joson, supra,* at 59; and *Nippon Housing Phil., Inc. v. Leynes,* G.R. No. 177816, August 3, 2011, 655 SCRA 77, 89.

[44] *Ison v. Crewserve, Inc.,* G.R. No. 173951, April 16, 2012, 669 SCRA 481, 497; *Aujero v. Philippine Communications Satellite Corporation,* G.R. No. 193484, January 18, 2012, 663 SCRA 467, 483; and *Goodrich Manufacturing Corporation v. Ativo,* G.R. No. 188002, February 1, 2010, 611 SCRA 261, 266.

[45] *Ison v. Crewserve, Inc., supra,* at 497-498. See also *Plastimer Industrial Corporation v. Gopo,* G.R. No. 183390, February 16, 2011, 643 SCRA 502, 511; *Goodrich Manufacturing Corporation v. Ativo, supra,* at 266, citing *Periquet v. National*

Labor Relations Commission, G.R. No. 91298, June 22, 1990, 186 SCRA 724; and *Aujero v. Philippine Communications Satellite Corporation, supra,* at 482-483.

[46] *Supra* note 11.

[47] See *Aujero v. Philippine Communications Satellite Corporation, supra* note 44, at 483-484.

[48] *International Management Services v. Logarta, supra* note 32, at 37; and *Marc II Marketing, Inc. v. Joson, supra* note 42, at 62.

[49] 494 Phil. 114, 120-122 (2005).

[50] Pursuant to R.A. No. 8042, Section 10.
