

756 PHIL. 14

THIRD DIVISION

[G.R. No. 183212, March 16, 2015]

**WALLEM PHILIPPINES SERVICES, INC. AND WALLEM SHIP
MANAGEMENT, LTD., PETITIONERS, VS. HEIRS OF THE LATE PETER
PADRONES, RESPONDENTS.**

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* assailing the Decision^[1] and Resolution^[2] of the Court of Appeals (CA), dated August 17, 2007 and May 19, 2008, respectively, in CA-G.R. SPNo. 94357.

The factual and procedural antecedents of the case are as follows:

Peter Padrones (*Padrones*) was employed as a "motorman" by petitioners on board the vessel M/V "Spirit" from December 30, 1998 to November 23, 1999.^[3] He finished his contract and was repatriated to the Philippines after completion thereof.

On April 25, 2001, Padrones died of cardio-respiratory arrest brought about by complications of lung cancer.^[4] Thereafter, or on July 18, 2001, herein respondents, filed with the National Labor Relations Commission (NLRC) a Complaint^[5] against herein petitioners for recovery of death benefits, exemplary and moral damages, child allowance, burial expenses and attorney's fees arising from the death of Padrones. In their Position Paper,^[6] respondents alleged that Padrones' death is compensable because the cause of such death was aggravated by tuberculosis, an illness which he acquired during the existence of his contract.

On October 30, 2003, the Labor Arbiter (LA) handling the case rendered judgment in favor of herein respondents. The dispositive portion of the LA's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered directing respondents Wallem Maritime Services, Inc. and Wallem Ship Management Ltd. to pay the complainants heirs of Peter Padrones, jointly and solidarity the sum of US\$65,000.00 equivalent to death benefits under the POEA Standard Employment Contract, and attorney's fees [equivalent] to ten percent (10%) of the award as well as dismissing the prayer for damages for lack of merit.

The award is payable in Philippine peso at the rate of exchange prevailing at

the time of payment.

SO ORDERED.^[7]

Aggrieved, petitioners filed an appeal with the NLRC contending that, contrary to the claims of respondents that Padrones died of tuberculosis, he, in fact, died of lung cancer.^[8] Petitioners also argued that Padrones' death is not compensable because he did not die during the effectivity of his contract; instead, he died one year and five months after his employment contract expired and that his death was due to an illness which was not related to nor contracted from his employment.^[9]

On April 18, 2005, the NLRC promulgated its Decision^[10] reversing the Decision of the LA and dismissing respondents' complaint for lack of merit. The NLRC held that:

x x x x

x x x "as over emphasized by appellant [herein petitioners] the seafarer [Padrones] passed away one year and five months from the time he finished his employment contract. The employment contract expired on October 30, 1999, but was repatriated on November 23, 1999; Mr. Padrones, the seafarer died on April 25, 2001. Clearly, the employment contract was no longer in force when the seafarer died. Applying the POEA SEC [Standard Employment Contract], complainants are not entitled to death benefits.

Respondents-appellants were able to belie appellee's allegation that complainant was repatriated due to medical reasons. Appellants submitted in evidence a copy of the CLAIM FORM filled up by Mr. Padrones when he reported to respondent's office after sign off from the vessel. In the said claim form, the deceased was asked of his claims, including claims for illness or injury. Mr. Padrones affixed, N/A or "not applicable."

x x x x^[11]

Respondents filed a Motion for Reconsideration,^[12] but the NLRC denied it in its Resolution^[13] dated February 24, 2006.

Respondents then filed a special civil action for *certiorari* with the CA contending that the NLRC committed grave abuse of discretion in reversing the decision of the LA which granted death benefits in their favor.^[14]

In its assailed Decision promulgated on August 17, 2007, the CA ruled in respondents' favor. The CA held that, while respondents are not entitled to death benefits, they should be paid disability benefits which has accrued in favor of Padrones prior to his death. The CA held that:

X X X X

Clearly, Padrones is entitled to be compensated - not of death benefits as awarded by the Labor Arbiter - but of disability benefits caused by his illness. We cannot grant the award of death benefits as Padrones died after the completion of the employment contract. However, We rule and so hold that his death should not in any way forfeit his right to be entitled to disability benefits which has accrued even prior to his death.

X X X X

While there was no disability claim instituted by Padrones, this will not preclude this Court from awarding disability benefits rightly due to Padrones. From the circumstances leading to his death, there can be no other logical conclusion why Padrones was not able to file for disability benefits than the deterioration of his condition which prevented him from doing the same. In fact, he died after only one (1) year and five (5) months from his repatriation. During the time that he was ill, it cannot be expected that Padrones would have thought of, much less had the time to institute a claim and do other legal matters. His primary concern then was¹ his worsening condition. His disability claims had been overtaken by his death such that his heirs filed the instant complaint for death benefits. It would be unjust and unfair if We will not allow Padrones' entitlement to disability benefits merely by his failure to file one. The protection and compassion extended by the State to the seamen working on-board ocean-going vessels would best be served if We will treat this complaint as one for disability benefits which is rightly due to Padrones, as substituted by his heirs.

X X X X^[15]

Accordingly, the CA disposed of the case as follows:

WHEREFORE, premises considered, finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC in dismissing the complaint filed by petitioners, the instant petition for certiorari is **GRANTED**. The Decision dated April 18, 2005 and the Resolution dated February 24, 2006, respectively, of the NLRC are **SET ASIDE**. The Decision dated October 30, 2003 of the Labor Arbiter is hereby **REINSTATED** with a **MODIFICATION** that respondents should pay to Peter Padrones, herein represented by his heirs, the sum of US\$60,000.00 as **disability benefits** to be paid in Philippine currency equivalent at the exchange rate prevailing during the time of payment. The award of attorney's fees is likewise maintained.

SO ORDERED.^[16]

Petitioners filed a Motion for Reconsideration,^[17] but the CA denied it in its Resolution dated May 19, 2008.

Hence, the present petition raising the following issues:

I.

WHETHER THE COURT OF APPEALS MAY AWARD DISABILITY BENEFITS IN A CASE FOR DEATH BENEFITS

II.

WHETHER THE DECISION OF THE COURT OF APPEAL CONSTITUTES A DENIAL OF DUE PROCESS

III.

WHETHER THE DECISION OF THE COURT OF APPEALS IS ACCORDANCE WITH LAW^[18]

The basic issue in the present case is whether the CA erred in awarding disability benefits in favor of respondents who were asking for death benefits.

The Court finds the petition meritorious.

Preliminarily, the Court agrees with the CA and the NLRC that herein respondents are not entitled to death benefits.

It is settled that the terms and conditions of a seafarer's employment, including claims for death and disability benefits, is a matter governed, not only by medical findings, but by the contract he entered into with his employer and the law which is deemed integrated therein.^[19] In the present case, considering that Padrones' employment contract was executed in December 1998, the provisions of POEA Standard Employment Contract (POEA-SEC), based on POEA Memorandum Circular No. 55, series of 1996, govern. Section 20(A) of the POEA-SEC provides as follows:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of death of the seafarer **during the term of his contract**, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of

twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment. (Emphasis supplied.)

Thus, it is clear that for the death of a seafarer to be compensable, the same must occur during the term of his contract of employment.^[20] If the seaman dies after the termination of his contract, his beneficiaries are not entitled to death benefits.^[21] In the instant case, Padrones' employment contract ended on November 23, 1999. He died on April 25, 2001, more than one (1) year and five (5) months from the time his employment contract expired. It, therefore, follows that respondents, who are the beneficiaries of Padrones, are not entitled to death benefits.

Even if the Court were to consider the possibility of compensation for the death of Padrones after the termination of his employment contract on account of a work-related illness, respondents, nonetheless, did not present evidence to prove that he acquired lung cancer during his employment and that the said disease, which caused his death, was the reason for the termination of his contract. On the contrary, respondents claimed that Padrones was afflicted only with tuberculosis during his employment. In fact, they even failed to present substantial evidence to show that Padrones acquired this illness while he was employed nor were they able to prove their contention that it contributed to his death.

Not being entitled to death benefits, the question that follows now is whether respondents are, instead, entitled to the disability benefits awarded by the CA. The answer is no.

Respondents did not seek payment of disability benefits in their Complaint,^[22] Position Paper,^[23] Reply,^[24] Rejoinder,^[25] and Memorandum^[26] filed with the LA. In fact, in their Reply to herein petitioners' Position Paper, respondents argued as follows:

x x x x

There is no requirement under the POEA Contract that Mr. Padrones should comply with the mandatory reporting requirement. Sec. 20 (B) (3) of the POEA Standard Contract of Employment is not applicable in the instant case. Such provides for Compensation and Benefits for Injury or Illness, which are not the proper subject of the claims of Complainant. Complainant is asking for **Compensation and Benefits for Death.** x x x

x x x x^[27] (Underline supplied)

On the other hand, in their Comment/Opposition to [herein petitioners'] Notice of Appeal and Memorandum of Appeal,^[28] respondents only prayed that the grant of death benefits and attorney's fees in their favor be affirmed by the NLRC. Nothing therein shows that they raised before the LA, the NLRC or even the CA the issue of their or Padrones' entitlement to disability benefits. The resolution of this issue requires

the admission and calibration of evidence and since respondents did not specifically raise this matter in the proceedings before the LA and the NLRC, these tribunals were not given a chance to pass upon it in their assailed decisions. Hence, the issue of whether or not Padrones or his beneficiaries are entitled to disability benefits cannot be passed upon on appeal because it was not raised in the tribunals *a quo*. Well-settled is the rule that issues not raised below cannot be raised for the first time on appeal as to do so would be offensive to the basic rules of fair play and justice.^[29]

Petitioners are correct in arguing that they never had the opportunity to present proof that would have refuted the finding of the CA that respondents are entitled to an award of disability benefits. The Court agrees with petitioners' contention that had it been clearly set forth before the lower tribunals that the alleged disability of Padrones is an issue, then they (petitioners) could have presented evidence and arguments to show that "he was not prevented from engaging in the same line of work to which he was accustomed;" "that the situation of Mr. Padrones did not fall under any of the disability gradings as set out in the POEA Standard Employment Contract;" and "that he was not impeded from working for at least 120 days at the time that he was repatriated with a finished contract."^[30]

In their Comment to petitioners' Motion for Reconsideration of the CA Decision, as well as in their Comment to the present petition, respondents abandoned their claim for death benefits and focused solely on Padrones' supposed entitlement to disability benefits. However, nowhere in respondents' Comment did they refute petitioners' basic contention that they are not entitled to disability benefits on the ground that this issue was never litigated before the lower tribunals. Respondents argue as if the issue of their entitlement to disability benefits was a matter which was raised at the first instance. Respondents have, in effect, changed their theory of the case.

Settled is the rule that, in this jurisdiction, a party cannot change his theory of the case or his cause of action on appeal.^[31] It affirms that courts of justice have no jurisdiction or power to decide a question not in issue.^[32] Thus, a judgment that goes beyond the issues and purports to adjudicate something on which the court did not hear the parties, is not only irregular but also extrajudicial and invalid.^[33] The rule rests on the fundamental tenets of fair play.^[34] The exception to this rule is when the factual bases thereof would not require presentation of any further evidence by the adverse party in order to enable it to properly meet the issue raised in the new theory.^[35] In such a case, the court may give due course to the petition and resolve the principal issues raised therein.^[36] The instant case does not fall under this exception. To stress, the issue of whether or not Padrones or respondents, as his heirs, are entitled to disability benefits is a factual question that was never alleged, let alone proven before the LA, the NLRC and the CA. Understandably, petitioners did not present evidence before the lower tribunals to refute respondents' alleged entitlement to disability benefits because this was never an issue. It was only after the CA has awarded them disability benefits that respondents changed their theory by claiming that they are indeed entitled to such benefits instead of death benefits. Thus, respondents' belated change of their theory of the case should be disallowed and the instant petition granted.

The Court commiserates with respondents, but absent substantial evidence from which reasonable basis for the grant of benefits prayed for can be drawn, the Court is left with no choice but to grant the petition, lest an injustice be caused to petitioners.^[37] Otherwise stated, while it is true that labor contracts are impressed with public interest and the provisions of the POEA-SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on-board ocean-going vessels, still the rule is that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.^[38]

WHEREFORE, the instant petition is **GRANTED**. The Decision and Resolution of the Court of Appeals, dated August 17, 2007 and May 19, 2008, respectively, in CA-G.R. SP No. 94357 are **REVERSED** and **SET ASIDE**. The Decision of the National Labor Relations Commission, dated April 18, 2005, which dismissed respondents' Complaint, is **REINSTATED**.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr., Reyes, and Jardeleza, JJ., concur.

April 24, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on March 16, 2015 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on April 24, 2015 at 3:10 p.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

^[1] Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Marina L. Buzon and Mariflor P. Punzalan Castillo, concurring; Annex "A" to Petition, *rollo*, pp. 31-43.

^[2] Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Amelita

G. Tolentino and Mariflor P. Punzalan Castillo, concurring; Annex "B" to Petition, *id.* at 44-47.

[3] See Annexes "E," "F," and "G" to Petition, *id.* at 54-56.

[4] See Annex "H" to Petition, *id.* at 57.

[5] Annex "I" to Petition, *id.* at 58-59.

[6] CA *rollo*, pp. 43-58.

[7] *Id.* at 153-154.

[8] *Id.* at 155-176

[9] *Id.*

[10] *Id.* at 26-30.

[11] *Id.* at 29.

[12] *Id.* at 191-198.

[13] *Id.* at 32-35.

[14] *Id.* at 2-24.

[15] *Rollo*, pp. 38-40.

[16] *Id.* at 42-43. (Emphasis in the original)

[17] CA *rollo*, pp. 276-292.

[18] *Rollo*, p. 17.

[19] *Yap v. Rover Maritime Services, Corp.*, G.R. No. 198342, August 13, 2014.

[20] *Medline Management, Inc., et. al. v. Roslinda, et. al.*, 645 Phil., 34, 51 (2010); *Ortega v. Court of Appeals*, 576 Phil. 601, 605 (2008).

[21] *Klmeness Maritime Agency, Inc. v. Beneficiaries of the Late Second Officer Anthony S. Alias*, 566 Phil. 579, 586 (2008); *Prudential Shipping and Management Corp. v. Sta. Rita*, 544 Phil. 94, 106 (2007).

[22] *Rollo*, pp. 58-59.

[23] *Supra* note 6.

[24] *CA rollo*, pp. 64-71.

[25] *Id.* at 72-79.

[26] *Id.* at 80-95.

[27] See *CA rollo*, p. 66.

[28] *Id.* at 177-190.

[29] *Hermogenes v. Osco Shipping Services, Inc.*, 504 Phil. 564, 572 (2005).

[30] See *rollo*, p. 22.

[31] *Bote v. Veloso*, G.R. No. 194270, December 3, 2012, 686 SCRA 758, 768.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Panganiban v. Tara Trading Shipmanagement Inc., et. al.*, 647 Phil. 675, 691 (2010).

[38] *Id.*



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