

## THIRD DIVISION

**[ G.R. No. 199162, July 04, 2018 ]**

**PHIL-MAN MARINE AGENCY, INC., AND DOHLE (10M) LIMITED,  
PETITIONERS, VS. ANIANO P. DEDACE, JR., SUBSTITUTED BY HIS  
SPOUSE LUCENA CAJES DEDACE, FOR AND IN BEHALF OF THEIR  
THREE [3] CHILDREN, NAMELY, ANGELICA, ANGELO AND STEVE  
MAC, ALL SURNAMED DEDACE, RESPONDENT.**

### D E C I S I O N

#### **MARTIRES, J.:**

This is a petition for review on certiorari seeking to reverse and set aside the 11 May 2011 Decision<sup>[1]</sup> and 24 October 2011 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 102527, which set aside the 6 March 2007<sup>[3]</sup> and 22 October 2007<sup>[4]</sup> Resolutions of the National Labor Relations Commission (NLRC) in NLRC-NCR CA No. 046726-05 which, in turn, affirmed the 12 October 2005 Decision<sup>[5]</sup> of the Labor Arbiter (LA) in NLRC-NCR Case No. OFW(M)-04-07-07888-00, a claim for permanent and total disability benefits by a seafarer.

#### **THE FACTS**

On 18 June 2003, petitioner Phil-Man Marine Agency, Inc. (*PhilMan*), a domestic corporation, engaged the services of respondent Aniano P. Dedace, Jr. (*Dedace*) to work on board the vessel *M/V APL Shanghai* for and on behalf of its principal, the petitioner Dohle (IOM) Limited (*Dohle*), under the following terms and conditions:

Duration of the Contract	: Nine Months
Position	: Able Seaman
Basic Monthly Salary	: USD 465.00/mo.
Hours of Work	: 48 hrs./Week
Overtime	: USD 2.79/hr.
Vacation	
Leave with Pay	: USD 78.00/mo. <sup>[6]</sup>

On 26 July 2003, Dedace boarded *M/V APL Shanghai* and performed his tasks thereon as an Able Seaman.<sup>[7]</sup>

Sometime in January 2004, Dedace started feeling frequent inermittent pains on his

lower right abdomen and left groin. On 20 February 2004, he was admitted to the Gleneagles Maritime Medical Centre (*GMMC*) in Singapore where he was examined and attended to by Dr. Lee Choi Kheong (*Dr. CK Lee*),<sup>[8]</sup> whose initial diagnosis was as follows:

Multiple (3) Right Liver Nodules Suspected Haemangiomas need to establish definitive diagnosis.

Right Kidney Cyst benign and need not be operated.

He is sent for CT Scan of the Abdomen this morning and tomorrow we will know more about his condition. At the moment there is no need for any operation and further tests will be performed.<sup>[9]</sup>

After undergoing further tests and Computed Tomography (*CT*) Scan, Dr. CK Lee diagnosed Dedace to be suffering from Disseminated Sepsis with Multiple Liver Abscesses. In his Medical Report, Dr. CK Lee elaborated:

This is the reason of the toxic and recurring attacks of fever and abdominal pain which fail to resolved [sic] with previous simple medication given before we managed him. Although at this stage we could not absolutely and conclusively exclude the possibility of Malignancy, there are [sic] strong evidence that he is improving with antibiotics therapy started. on admission. The three lesions detected at first by Ultrasound of the liver. has reduced to two meaning one has [been] resolved completely and the sizes of the lesions have [been] reduced from 2.21 cm to 1.7 cm.

We will need to continue the present treatment until 1<sup>st</sup> March 2003 by intravenous medication and thereafter his medication can be changed to oral route. On that day he can be discharged with medication to take with him for further treatment at home.<sup>[10]</sup>

Consequently, Dedace was repatriated to the Philippines on 1 March 2004,<sup>[11]</sup> and was referred to Dr. Nicomedes G. Cruz (*Dr. Cruz*). On 27 March 2004, the radiologist, Dr. Cesar S. Co, performed Magnetic Resonance Imaging (*MRI*) on Dedace, which revealed the following findings:

Two lesions are noted in the right lobe of the liver measuring 1.7 x 1.6 cm and 1.3 x 1.0 cm. It is hypointense on T1 and hyperintense on T2 sequences and shows enhancement after contrast infusions.

Gallbladder, ducts, pancreas and spleen are unremarkable.

A 1.3 x 1 cm lesion is seen in the mid-portion of the right kidney, which did not enhance on contrast study.<sup>[12]</sup>

It appeared that Phil-Man inquired from Dr. Cruz on whether. Dedace's illness was work-related. In his Reply, dated 20 May 2004, Dr. Cruz stated that their gastroenterologist was of the opinion that Dedace's illness is not work-related, to wit:

This is the response of our gastroenterologist further to your inquiry regarding Mr. Dedace, Jr.

1) Question: Is the illness of Mr. Dedace work-related or not and the specific basis thereof.

Answer: Mr. Dedace has two benign nodules in the liver which were noted by CT scan and fine needle aspiration biopsy. Our gastroenterologist opined that these lesions are not work[-]related.

DIAGNOSIS:

Disseminated sepsis with multiple liver abscess.

Liver nodules, benign.<sup>[13]</sup>

On 7 June 2004, Phil-Man, through its President/General Manager, Captain Manolo T. Gacutan wrote a letter to Dedace informing him that his illness is not work-related and therefore not compensable. Dedace was further informed that all payments and treatment will be stopped and any further claims with regard to his condition shall likewise be denied.<sup>[14]</sup>

This denial prompted Dedace to file his claims before the NLRC.

### ***The LA Ruling***

In its decision, the LA ruled that Dedace's illness was not work related. It observed that Dedace failed to prove that his Disseminated Sepsis with Multiple Liver Abscesses is among the compensable occupational diseases listed under Section 32-A of the 2000 Philippine Overseas Employment Administration-Standard Employment Contract for Filipino Seafarers (*POEA-SEC*). As such, there is neither factual nor legal basis for the claim of total and permanent disability benefits.

Nevertheless, the LA awarded Dedace sickness allowance equivalent to thirty (30) days of pay. It reasoned that while there was no basis for total and permanent disability benefits, it is undisputed that Dedace suffered from some illness, for which Phil-Man even paid him sickness allowance in an amount equivalent to ninety (90) days of his salary. Thus, considering that Section 20(B), paragraph 3 of the *POEA-SEC* allows payment equivalent to an amount not exceeding one hundred and twenty (120) days of salary, the LA deemed it proper to award Dedace an amount equivalent to the remaining thirty (30) days of his salary. The dispositive portion of the decision states:

**WHEREFORE**, respondents are hereby ordered to pay complainant the amount of US\$465.00 as sickness allowance plus attorney's fees equivalent to US\$46.50 or its equivalent in Philippine peso at the time of payment.

The other money claims are hereby DENIED for lack of merit.<sup>[15]</sup>

Unsatisfied, Dedace appealed before the NLRC.

### ***The NLRC Ruling***

In its 6 March 2007 resolution, the NLRC affirmed the decision of the LA. It observed that while Dedace's illness was disputably presumed to be work-related under Section 20(B), paragraph 4 of the POEA-SEC, such disputable presumption was overcome when Dr. Cruz declared said illness was not work-related. The NLRC further stated that Phil-Man's payment of Dedace's sickness allowance and medical expenses did not amount to recognition that his illness was work-related. The decretal portion of the resolution reads:

**WHEREFORE**, premises considered complainant's appeal is hereby dismissed for lack of merit and the Decision appealed from [is] **AFFIRMED** in toto.<sup>[16]</sup>

Dedace moved for reconsideration, but the same was denied by the NLRC in its 22 October 2007 resolution.

Aggrieved, Dedace filed a petition for certiorari before the CA.

### ***The CA Ruling***

In its assailed decision, the CA granted Dedace's petition. The CA opined that the petitioners failed to overcome the disputable presumption that Dedace's illness was work-related. It held that Dr. Cruz neither explained nor specified how he arrived at his conclusion that Dedace's illness was not work-related. Thus, it held that the NLRC gravely abused its discretion when it grossly misapprehended the facts of the case. The *fallo* states:

**IN VIEW OF THE FOREGOING**, the petition is **GRANTED**. The challenged Resolutions of respondent NLRC are NULLIFIED in so far as they denied petitioner's prayer for permanent disability benefits.

Accordingly, private respondents are held jointly and severally liable to pay petitioner: a) permanent total disability benefits of US\$60,000.00 at its peso equivalent at the time of actual payment; b) sickness allowance equivalent to thirty (30) days or one (1) month amounting to Four Hundred Sixty Five U.S. Dollars (U.S.\$465.00); and c) attorney's fees often percent (10%) of the total monetary award at its peso equivalent at the time of actual payment.<sup>[17]</sup>

The petitioners moved for reconsideration, but the same was denied by the CA in its 24 October 2011 resolution.

Hence, this petition for review alleging the following:

#### **ISSUES**

##### **I.**

WHETHER OR NOT THE COURT OF APPEALS COMMITTED PATENT AND

REVERSIBLE ERROR IN REVERSING BOTH THE FINDINGS OF THE NATIONAL LABOR RELATIONS COMMISSION AND THE LABOR ARBITER AND IN AWARDING RESPONDENT ANIANO P. DEDACE, JR. TOTAL PERMANENT DISABILITY BENEFITS.

## II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED PATENT AND REVERSIBLE ERROR IN RULING THAT ANIANO P. DEDACE, JR. IS ENTITLED TO ATTORNEY'S FEES.<sup>[18]</sup>

The petitioners assail the CA's decision for being erroneous. They argue that since Dedace's illness, *Sepsis*, is neither listed as a disability under Section 32 of the 2000 POEA-SEC nor listed as an occupational disease under Section 32-A of the same rule, the burden is upon Dedace to present substantial evidence which would show that there is causal connection between his illness and the nature of his employment. The petitioners aver that Dedace failed to discharge this burden. They point out that the records show Dedace did not, by way of a contrary medical finding, contest the medical assessment made by the company-designated physician. The petitioners invoked the case of *Magsaysay Maritime Corporation v. NLRC*<sup>[19]</sup> to support their stand.

The petitioners further argue that the CA erred when it awarded attorney's fees in favor of Dedace as the same lacks legal basis. They posit that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate.

In his Comment,<sup>[20]</sup> dated 2 April 2012, Dedace maintained that the CA did not commit any error. He pointed out that the CA resolved the case in his favor because the company-designated physician failed to explain his assessment that his illness was not work-related. Dedace also contended that the CA properly awarded attorney's fees as he was forced to retain the services of a counsel in order to protect his rights which the petitioners refused to recognize.

With the submissions by the parties, the Court is essentially tasked to resolve the following issues: (i) whether the CA erred when it ruled that Dedace's illness was work-related and therefore compensable; and (ii) whether the CA erred when it awarded Dedace attorney's fees.

## OUR RULING

The petition lacks merit.

***Dedace's illness is work-related; The company-designated physician failed to make an assessment within the 120-day period.***

Every employment contract between a Filipino seafarer and his employer is governed, not only by their mutual agreements, but also by the provisions of the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and

Employment, which contains the Standard Terms and Conditions Governing The Employment of Filipino Seafarers On-Board Ocean-Going Vessels. The provisions of the POEASEC are mandated to be integrated in every Filipino seafarer's contract.<sup>[21]</sup>

In this regard, Section 20(B) of the 2000 POEA-SEC requires an employer to compensate his employee who suffers from work-related disease or injury during the term of his employment contract, to quote:

Section 20

#### B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

x x x x

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness, the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and rules of compensation applicable at the time the illness or disease was contracted.

For disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it must be the result of a work-related injury or a work-related illness. The POEA-SEC defines work-related injury as "injuries resulting in disability or death arising out of and in the course of employment." On the other hand, work-related illness has been defined as "any sickness resulting in disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied."

However, the POEA-SEC's definition of a work-related illness does not necessarily mean that only those illnesses listed under Section 32-A are compensable. Section 20(B)(4) of the POEA-SEC provides that illnesses not listed under Section 32 are disputably presumed as work-related.

This disputable presumption operates in favor of the employee as the burden rests upon his employer to overcome the statutory presumption. Hence, unless contrary evidence is presented by the seafarer's employer, this disputable presumption stands.<sup>[22]</sup>

In this case, the Court agrees with the CA that the petitioners failed to overcome the presumption that Dedace's illness is work-related. Dr. Cruz's reply, dated 20 May 2004, in response to Phil-Man's query on whether Dedace's illness is work-related, cannot be considered as an effective assessment for purposes of the POEA-SEC.

The POEA-SEC requires the company-designated physician to make an assessment on the medical condition of the seafarer within one hundred twenty (120) days from the

seafarer's repatriation. Otherwise, the seafarer shall be deemed totally and permanently disabled. Section 20(B)(3) of the POEA-SEC provides:

Section 20.

#### B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

x x x x

**3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.**

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return, except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties. (emphasis supplied)

Upon his repatriation to the Philippines, Dedace immediately submitted himself to Dr. Cruz, the company-designated physician, for his post-employment examination. He also submitted himself to several tests under the care of other doctors assisting Dr. Cruz to fully determine his medical condition and the degree of his illness. However, even after undergoing several medical tests and consultations, Dedace was not issued a medical certificate to show Dr. Cruz's final medical assessment on him. The records show only Dr. Cruz's 20 May 2004 letter which was not even addressed to Dedace.

Even assuming, for the sake of argument, that Dr. Cruz's 20 May 2004 letter may be considered as his assessment on Dedace's medical condition and fitness to work, the same would be inadequate to overthrow the disputable presumption in favor of Dedace for being incomplete and uncertain. The Court had already stressed the importance of making a full, complete, and categorical medical assessment.

In *Libang, Jr. v. Indochina Ship Management, Inc.*,<sup>[23]</sup> the company-designated physician stated in his medical certificate that the seafarer's illness "could be pre-

existing" and that "it was difficult to say whether his diabetes mellitus and small pontine infarct are pre-existing or not." In ruling for the seafarer, the Court opined that the company-designated physician breached his obligation under Section 20(B)(3) of the POEA-SEC when he failed to give a definite assessment, thus:

Rather than making a full assessment of Libang's health condition, disability or fitness, Dr. Lim only reasoned in his medical certificate dated August 13, 2003, that "[Libang's] hypertension could be pre-existing" and that "it [was] difficult to say whether [his diabetes mellitus and small pontine infarct] are pre-existing or not." **His assessment was evidently uncertain and the extent of his examination for a proper medical diagnosis was incomplete.** The alleged concealment by Libang of his hypertension during his pre-employment medical examination was also unsubstantiated, but was a mere hearsay purportedly relayed to Dr. Lim by one Dr. Aileen Corbilla, his co-attending physician. A categorical statement from Dr. Lim that Libang's illnesses were pre-existing and nonwork-related was made only in his affidavit dated July 16, 2004, or after the subject labor complaint had been filed. Still, Dr. Lim gave no explanation for his statement that Libang's illnesses were not work-related.

x x x x

Clearly, there was a breach by Dr. Lim of his obligation as the company-designated physician. Although Libang repeatedly argued that Dr. Lim failed to give an assessment of his illness, herein respondents and Dr. Lim failed to explain and justify such failure. **In *Kestrel Shipping Co., Inc. v. Munar*, the Court emphasized that the company-designated physician is expected to arrive at a definite assessment of the seafarer's fitness or permanent disability within the 120 or 240 days, as the case may be; otherwise, he shall be deemed totally and permanently disabled.** The Court shall, nonetheless, not make such a declaration in this case because by Libang's plea for a reinstatement of the labor tribunals' ruling, he was of the position that his disability was not total and permanent.<sup>[24]</sup> (emphases supplied)

A similar observation obtains in this case, While the letter, dated 20 May 2004, stated that Dedace's illness is not work-related, nothing would suggest that the same is Dr. Cruz's definite medical assessment. In the first place, the said statement was based merely on the opinion of another specialist, a gastroenterologist, who was not even named. Certainly, Dr. Cruz did not even offer his own opinion on the matter. Furthermore, the records do not show that Dedace was examined by or was placed under the care of any gastroenterologist. Thus, the unnamed gastroenterologist's opinion on Dedace's illness is immaterial in this case.

Finally, neither Dr. Cruz nor the unnamed gastroenterologist gave an explanation for the statement that Dedace's illness is not work-related. While the company-designated physician must declare the nature of a seafarer's disability, the former's declaration is not conclusive and final upon the latter or the court. Its inherent merit will still be weighed and duly considered.<sup>[25]</sup> For this reason, it is not enough that the company-



designated physician merely state or claim that the illness is not work-related, or that the seafarer is fit for sea duties. He must justify said assessment using the medical findings he had gathered during his treatment of the patient-seafarer. Surely, the POEA-SEC requires a medical assessment, not a bare claim. An unsubstantiated assessment, even if made by the company-designated physician, is tantamount to a bare claim which must be rejected by the courts.

Considering that the company-designated physician effectively failed to make an assessment, Dedace is deemed totally and permanently disabled as of the date of the expiration of the 120-day period counted from his repatriation to the Philippines. Consequently, there could no longer be any issue on whether his illness is work-related or not.

The Court is not oblivious of the pronouncements made in several cases to the effect that notwithstanding the presumption in favor of compensability, on due process grounds, the claimant-seafarer must still prove by substantial evidence that his work conditions caused or, at least, increased the risk of contracting the disease.<sup>[26]</sup> Indeed, in *Magsaysay Maritime Corporation v. NLRC*,<sup>[27]</sup> the case invoked by the petitioners, it was held that the claimant-seafarer has the burden of presenting substantial evidence, or such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions. A careful analysis of these cases would reveal, however, that the pronouncements made therein do not apply to the present case.

For instance, in *Magsaysay*, the company-designated physician was able to give a full, complete, and categorical medical assessment on the illness of the seafarer. It was noted therein that:

While it is true that medical reports issued by the company designated physicians do not bind the courts, our examination of Dr. Ong Salvador's Initial Medical Report leads us to agree with her findings. **Dr. Ong-Salvador was able to sufficiently explain her basis in concluding that the respondent's illness was not work-related: she found the respondent not to have been exposed to any carcinogenic fumes, or to any viral infection in his workplace.** Her findings were arrived at after the respondent was made to undergo a physical, neurological and laboratory examination, taking into consideration his (respondent's) past medical history, family history, and social history. In addition, the respondent was evaluated by a specialist, a surgeon and an oncologist. The series of tests and evaluations show that Dr. Ong-Salvador's findings were not arrived at arbitrarily; neither were they biased in the company's favor.<sup>[28]</sup> (emphasis supplied)

Unfortunately for the petitioners, the same could not be said in this case. As already shown, the statement that Dedace's illness is not work-related was not sufficiently explained. The aforesaid statement was unsubstantial to support respondents' position that Dedace's illness is not compensable. All told, the Court finds that the petitioners

failed to present sufficient controverting evidence to overthrow the disputable presumption that Dedace's illness is work-related. To rule otherwise would render the statutory presumption under Section 20 of the POEA-SEC nugatory.

Moreover, Dedace was under no obligation to consult with a physician of his choice under the given circumstances. It must be stressed that the duty of a seafarer to consult with his own physician arises only if the company-designated physician was able to issue an assessment within 120-days from the date of his repatriation. In this case, since the petitioners' company-designated physician, Dr. Cruz, failed to make an assessment within the aforesaid. period, Dedace's failure to adduce a medical certificate from a physician of his choice is not fatal to his cause. It is not the issuance of a medical certificate showing that the seafarer's illness is work-related or that he is totally and permanently unfit for sea duties which makes the employer liable. A seafarer's cause of action for total and permanent disability benefits accrues when, among others, the company-designated physician fails to issue a declaration as to his fitness to engage in sea duty or disability rating even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability.<sup>[29]</sup>

In fine, the Court finds no error on the part of the CA when it reversed the ruling of the NLRC. The CA correctly ruled that the NLRC committed grave abuse of discretion when it grossly misapprehended the facts of the case. The awards of permanent total disability benefits and sickness allowance are proper.

### ***The CA properly awarded attorney's fees.***

Attorney's fees may be classified into two kinds: ordinary and extraordinary. Attorney's fees in its ordinary sense is the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter. Its basis is the fact of the lawyer's employment by and his agreement with his client. On the other hand, attorney's fees in its extraordinary concept refers to the indemnity for damages ordered by the court to be paid by the losing party in a litigation. The instances where these may be awarded are those enumerated in Article 2208 of the Civil Code, specifically paragraph 7 thereof which pertains to actions for recovery of wages, and is payable not to the lawyer but to the client, unless they have agreed that the award shall pertain to the lawyer as additional compensation or as part thereof. It is the extraordinary concept of attorney's fees which is contemplated by Article 111 of the Labor Code.<sup>[30]</sup>

The award of attorney's fees in labor cases, however, are not limited to those expressly covered by Article III of the Labor Code which states that attorney's fees may be awarded in cases of unlawful withholding of wages. The Court has repeatedly held that the award of attorney's fees is legally and morally Justifiable, not only in actions for recovery of wages, but also where an employee was forced to litigate and thus incur expenses to protect his rights and interest.<sup>[31]</sup>

The propriety of the award of attorney's fees in this case is clear. It could not be denied Dedace was forced to litigate and retain the services of his counsel thereby incurring expenses as a result of petitioners' refusal to pay the disability benefits rightfully due

him. Dedace is therefore entitled to attorney's fees equivalent to ten percent (10%) of his total monetary award.

In fine, the Court holds that the CA correctly found Dedace to be entitled to sickness allowance, permanent total disability benefits, and attorney's fees equivalent to ten percent (10%) of the total monetary awards.

**WHEREFORE**, the petition is **DENIED**. The Decision, dated 11 May 2011, and Resolution, dated 24 October 2011, of the Court of Appeals in CA-G.R. SP No. 102527 are hereby **AFFIRMED**.

**SO ORDERED.**

*Velasco, Jr., (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.*

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August 1, 2018

### **NOTICE OF JUDGMENT**

Sirs / Mesdames:

Please take notice that on **July 4, 2018** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 1, 2018 at 10:40 a.m.

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

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[1] *Rollo*, pp. 34-49; penned by Associate Justice Priscilla J. Baltazar-Padilla, and concurred in by Associate Justice Fernanda Lampas Peralta, and Associate Justice Agnes Reyes-Carpio.

[2] *Id.* at 51-52.

[3] *CA rollo*, pp. 24-30; penned by Commissioner Angelita A. Gacutan, and concurred in by Presiding Commissioner Raul T. Aquino.

[4] *Id.* at 31-32; penned by Commissioner Angelita A. Gacutan, and concurred in by Presiding Commissioner Raul T. Aquino, and Commissioner Victoriano R. Calaycay.

[5] *Id.* at 34-38; penned by Labor Arbiter Eduardo G. Magno.

[6] Id. at 33; Contract of Employment dated 18 June 2003.

[7] Id. at 40; Position Paper for the [Respondent].

[8] Id. at 51.

[9] Id.

[10] Id. at 52.

[11] Id. at 62; Position Paper for the [Petitioners].

[12] Id. at 53.

[13] Id. at 75.

[14] Id. at 54.

[15] Id. at 38.

[16] Id. at 29.

[17] *Rollo*, p. 48.

[18] Id. at 14.

[19] 630 Phil. 352 (2010).

[20] *Rollo*, pp. 345-361.

[21] *The Late Alberto B. Javier vs. Philippine Transmarine Carriers, Inc.*, 738 Phil. 374, 385 (2014).

[22] *Magsaysay Maritime Services v. Laurel*, 707 Phil. 210, 227-228 (2013).

[23] 743 Phil. 286, 299 (2014).

[24] Id. at 299-300.

[25] *Dohle-Philman Manning Agency, Inc. v. Heirs of Andres G. Gazzingan*, 760 Phil. 861, 880 (2015).

[26] *De Leon v. Maunlad Trans, Inc.*, G.R. No. 215293, 8 February 2017; *Philippine*

*Transmarine Carriers, Inc. v. Aligway*, 769 Phil. 792, 802-803 (2015).

[27] *Supra* note 19 at 365.

[28] *Id.*

[29] *C.F. Sharp Crew Management, Inc. vs. Taok*, 691 Phil. 521, 538 (2012).

[30] *PCL Shipping Philippines, Inc. v. National Labor Relations Commission*, 540 Phil. 520, 539-540 (2003) citing *Reyes v. CA*, 456 Phil. 520, 539-540 (2003).

[31] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 448 (2014) citing *Aliling v. Feliciano*, 686 Phil. 889, 923 (2012).



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