FIRST DIVISION

[G.R. No. 223825, January 20, 2020]

LUIS G. GEMUDIANO, JR., PETITIONER, VS. NAESS SHIPPING PHILIPPINES, INC. AND/OR ROYAL DRAGON OCEAN TRANSPORT, INC. AND/OR PEDRO MIGUEL F. OCA, RESPONDENTS.

D E C I S I O N

REYES, J. JR., J.:

Assailed in this Petition for Review on *Certiorari* are the Decision[1] dated December 11, 2015 and the Resolution[2] dated March 28, 2016 of the Court of Appeals (CA) in CA-G.R. SP. No. 139164 dismissing the complaint for breach of contract filed by Luis G. Gemudiano, Jr. (petitioner) against Naess Shipping Philippines, Inc. (Naess Shipping) and/or Royal Dragon Ocean Transport, Inc. (Royal Dragon) and/or Pedro Miguel F. Oca (collectively referred to as respondents). The CA annulled and set aside the October 30, 2014 Decision[3] of the National Labor Relations Commission (NLRC) the dis positive portion of which reads:

> **WHEREFORE,** the Decision of the Labor Arbiter is AFFIRMED with modification. The Respondents are hereby ORDERED to pay the Complainant actual damages in the amount of the peso equivalent of P180,000.00 representing his salary for six months under the contract; moral damages in the amount of Thirty Thousand Pesos (P30,000.00); exemplary damages of Fifty Thousand Pesos (P50,000.00); attorney's fees equivalent to ten percent (10%) of the recoverable amount; and P18,000.00 for refund of the cost of the PEME.
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> **SO ORDERED.**[4]

The Antecedents

Sometime in December 2012, petitioner applied with Naess Shipping for possible employment as seaman upon learning of a job opening in its domestic vessel operations. He had an interview with Naess Shipping and completed the training on International Safety Management (ISM) Code at the Far East Maritime Foundation, Inc. As advised by Naess Shipping's crewing manager Leah G. Fetero (Fetero), petitioner underwent the mandatory pre-employment medical examination (PEME) where he was declared fit for sea service. The expenses for the PEME were shouldered by petitioner.

On February 15, 2013, petitioner signed an Embarkation Order duly approved by Fetero

stipulating the terms and conditions of his employment, and directing him to request for all the necessary documents and company properties from the person he was going to replace in his vessel of assignment.

On February 18, 2013, Naess Shipping, for and in behalf of its principal Royal Dragon, executed a "Contract of Employment for Marine Crew on Board Domestic Vessels" (contract of employment) engaging the services of petitioner as Second Officer aboard the vessel "M/V Meiling 11," an inter-island bulk and cargo carrier, for a period of six months with a gross monthly salary of P30,000.00. It was stipulated that the contract shall take effect on March 12 , 2013 . Subsequently, petitioner and respondents executed an " Addendum to Contract of Employment for Marine Crew Onboard Domestic Vessels" (Addendum) stating that the employment relationship between them shall commence once the Master of the Vessel issues a boarding confirmation to the petitioner. Petitioner also bound himself to abide by the Code of Discipline as provided for in the Philippine Merchant Marine Rules and Regulations.

On March 8, 2013, petitioner received a call from Fetero informing him that Royal Dragon cancelled his embarkation. Thus, he filed a complaint for breach of contract against respondents before the Arbitration Branch of the NLRC.

In his Position Paper,[5] petitioner alleged that respondents' unilateral and unreasonable failure to deploy him despite the perfected contract of employment constitutes breach and gives rise to a liability to pay actual damages. He also asserts that he is entitled to the award of moral and exemplary damages and attorney's fees on account of respondents' dishonesty and bad faith, as well as their wanton, fraudulent and malevolent violation of the contract of employment.

Respondents, on the other hand, argued that petitioner's employment did not commence because his deployment was withheld by reason of misrepresentation. They stressed that petitioner did not disclose the fact that be is suffering from diabetes mellitus and asthma which render him unfit for sea service. They claimed that the Labor Arbiter has no jurisdiction over the petitioner's complaint for breach of contract , invoking the absence of employer-employee relationship.

On March 28, 2014, the LA found respondents to have breached their contractual obligation to petitioner and ordered them to pay him P180,000.00 representing his salary for the duration of the contract. The LA applied Section 10 of Republic Act (R.A.) No. 8042, otherwise known as the " Migrant Workers and Overseas Filipinos Act of 1995," which provides that the labor arbiters shall have original and exclusive jurisdiction over " claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual , moral, exemplary and other forms of damages." The Labor Arbiter declared that upon perfection of the employment contract on February 18, 2013, the rights and obligations of the parties had already arisen. Thus, when respondents failed to deploy petitioner in accordance with their perfected contract, they became liable to pay him actual damages in the amount of P180,000.00.[6]

Aggrieved thereby, respondents filed an appeal with the NLRC assailing the March 28,

2014 Labor Arbiter's Decision. In its Decision dated October 30, 2014, the NLRC affirmed the Labor Arbiter Decision but with modification as to damages. It awarded petitioner moral damages in the amount of P30,000.00, exemplary damages of P50,000.00, attorney's fees equivalent to ten percent (10%) of the recoverable amount, and refund of the cost of the PEME in the amount of P18,000.00. It held that even without petitioner's actual deployment, the perfected contract already gave rise to respondents' obligations under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC).[7]

Respondents moved for reconsideration but the same was denied in a Resolution dated December 11, 2014.[8]

On appeal, the CA annulled and set aside the October 30, 2014 Decision and December 11, 2014 Resolution of the NLRC. It declared that the LA did not acquire jurisdiction over the petitioner's complaint because of the non-existence of an employer-employee relationship between the parties. It emphasized that the perfected contract of employment did not commence since petitioner's deployment to his vessel of assignment did not materialize. It enunciated that petitioner does not fall within the definition of " migrant worker " or " seafarer " under R . A. No. 8042 because his services were engaged for local employment[9]

Hence, this petition raising the sole issue:

> THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN HOLDING THAT THE LABOR ARBITER HAS NO JURISDICTION OVER THE COMPLAINT, AND IN NOT SUSTAINING THE AWARD OF DAMAGES IN FAVOR OF RESPONDENT.[10]

Petitioner maintains that his claim for damages was well-within the jurisdiction of the Labor Arbiter because an employer-employee relationship exists between the parties. He contends that the respondents' failure to deploy him constitutes breach of his employment contract that warrants his claim for unpaid wages, damages, and attorney's fees against respondents.

Respondents, on the other hand, argue that the Labor Arbiter has no jurisdiction over the case because of the absence of an employer-employee relationship between them. They assert that petitioner's non-deployment was a valid and sound exercise of management prerogative because of his misrepresentation that he was fit to work despite the fact that he was suffering from diabetes mellitus and asthma.

Our Ruling

We find merit in the petition.

To reiterate, on February 18, 2013, petitioner and respondents entered into a contract of employment stipulating that it shall take effect on March 12, 2013. Subsequently,

the parties executed an Addendum with an agreement that said Addendum shall form of employment. But respondents cancelled petitioner's embarkation and informed him that he would not be deployed because of his existing medical condition which he failed to disclose. Thus, petitioner was not able to leave even though he duly passed the PEME and was declared fit for sea service.

In the instant case, there is no doubt that there was already a perfected contract of employment between petitioner and respondents. The contract had passed the negotiation stage or "the time the prospective contracting parties manifest their interest in the contract."[11] It had reached the perfection stage or the so-called " birth of the contract" as it was clearly shown that the essential elements of a contract, *i.e.,* consent, object, and cause, were all present at the time of its constitution. Petitioner and Fetero, respondents' Crewing Manager, freely entered into the contract of employment, affixed their signatures thereto and assented to the terms and conditions of the contract *(consent),* under which petitioner binds himself to render service *(object)* to respondents on board the domestic vessel " M/V Meiling 11" for the gross monthly salary of P30,000.00 *(cause).* An examination of the terms and conditions agreed upon by the parties will show that their relationship as employer and employee is encapsulated in the perfected contract of employment. Thus, by virtue of said contract, respondents and petitioner as s u m ed obligations which pertain to those of an employer and an employee.

Under Section D of the Addendum, " the employment relationship between the Employer on one hand and the Seaman on the other shall commence once the Master has issued boarding confirmation to the seaman." Relying on this provision, the respondents insist that there is no employer employee relationship between them and petitioner and that the labor arbiter had no jurisdiction over the petitioner's complaint. True, the parties to a contract are free to adopt such stipulations, clauses, terms and conditions as they may deem convenient provided such contractual stipulations should not be contrary to law, morals, good customs, public order or public policy.[12] But such is not the case here .

The stipulation contained in Section D of the Addendum is a condition which holds in suspense the performance of the respective obligations of petitioner and respondents under the contract of employment, or the onset of their employment relations. It is a condition solely dependent on the will or whim of respondents since the commencement of the employment relations is at the discretion or prerogative of the latter's master of the ship through the issuance of a boarding confirmation to the petitioner. The Court in *Naga Telephone Co., Inc. v. Court of Appeals*[13] referred to this kind of condition as a "potestative condition," the fulfillment of which depends exclusively upon the will of the debtor, in which case , the conditional obligation is void. Article 1182 of the Civil Code of the Philippines reads:

> Art. 1182. When the fulfillment of the condition depends upon the sole will of the debtor, the conditional obligation shall be void. If it depends upon chance or upon the will of a third person, the obligations hall take effect in conformity with the provisions of this Code.

In this regard, the Court stressed in *Romero v. Court of Appeals:*[14]

> We must hasten to add, however, that where the so-called " potestative condition " is imposed not on the birth of the obligation but on its fulfillment, only the condition is avoided , leaving unaffected the obligation itself. (Citation omitted)

Clearly , the condition set forth in the Addendum is one that is imposed not on the birth of the contract of employment since the contract has already been perfected, but only on the fulfillment or performance of their respective obligations, *i.e.,* for petitioner to render services on board the ship and for respondents to pay him the agreed compensation for such services. A purely potestative imposition, such as the one in the Addendum, must be obliterated from the face of the contract without affecting the rest of the stipulations considering that the condition relates to the fulfillment of an already existing obligation and not to its inception.[15] Moreover, the condition imposed for the commencement of the employment relations offends the principle of mutuality of contracts ordained in Article 1308 of the Civil Code which states that contracts must bind both contracting parties , and its validity or compliance cannot be left to the will of one of them. The Court is thus constrained to treat the condition as void and of no effect, and declare the respective obligations of the parties as unconditional. Consequently , the employer-employee relationship between petitioner and respondents should be deemed to have arisen as of the agreed effectivity date of the contract of employment, or on March 12, 2013.

At this point, it is settled that an employer-employee relationship exists between respondents and petitioner.

We now come to the issue of whether the Labor Arbiter had jurisdiction over petitioner's claim for damages arising from breach of contract.

> Article 224 (now Art. 217) of the Labor Code provides:
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> ART. 217. Jurisdiction of Labor Arbiters and the Commission. - (a) Except as otherwise provided under this Code, the Labor Arbiter shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:
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> 1. Unfair labor practice cases;
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> 2. Termination disputes;
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> 3. If accompanied with acclaim for reinstatement, those cases that workers may file involving wages, rate[s] of pay, hours of work and other terms and conditions of employment;

4. Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;

> 5. Cases arising from any violation of Article 264 of this Code , including questions involving the legality of strikes and lockouts; and
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> 6. Except claims for employees compensation, social security , medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or house hold service ,involving an amount exceeding five thousand pesos (P5,000.00), whether accompanied with a claim for reinstatement. (Emphasis supplied)

Based on this provision, it is clear t hat claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations are under the original and exclusive jurisdiction of labor arbiters.

While there are cases which hold that the existence of an employer-employee relationship does not negate the civil jurisdiction of the trial courts,[16] in this particular case, we find that jurisdiction properly lies with the Labor Arbiter.

Not only are the terms under Article 224, above quoted, clear and unequivocal, practical considerations bolster the Court's resolve that jurisdiction of the instant case falls under the labor tribunals and not with the civil courts.

The determination of propriety of petitioner's non-deployment necessarily involves the interpretation and application of labor laws, which are within the expertise of labor tribunals. The question of whether respondents are justified in cancelling the deployment of petitioner requires determination of whether a subsequent advice from the same medical provider as to the health of petitioner could validly supersede its initial finding during the required PEME that petitioner is fit to work.

Moreover, if the Court were to make a distinction between the perfection of a contract of employment and the commencement of an employment relationship on its face, and so rule that a mere perfected contract would make the jurisdiction of the case fall under regular courts, the Court will arrive at a dangerous conclusion where domestic seafarers' only recourse in law in case of breach of contract is to file a complaint for damages before the Regional Trial Court. In so doing, domestic seafarers would have to pay filing fees which his overseas counterpart need not comply with in filing a complaint before the labor arbiters.[17] As a necessary consequence, the domestic seafarers would need to prove their claim by preponderance of evidence or "evidence which is of greater weight, or more convincing than that which is offered in opposition to it," which is greater than what overseas seafarers need to discharge in cases before labor arbiters, where they only have to prove their claims by substantial evidence or " hat amount of evidence which a reasonable mind might accept as adequate to support a conclusion."

WHEREFORE, the petition i s **GRANTED**. The December 11**,** 2015 Decision and the March 28 , 2016 Resolution of the Court of Appeals in CA-G.R. SP. No. 139164 are **REVERSED AND SET ASIDE.** The Decision dated October 30, 2014 of the National Labor Relations Commission is **REINSTATED.**

SO ORDERED.

Peralta, C.J., (Chairperson), Caguioa, Lazaro-Javier and *Lopez, JJ.,* concur.

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[1] Penned by Associate Justice Ramon R. Garcia with Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez concurring; *rollo,* pp. 251-265.

[2] Id. at 284-285.

[3] Id. at 165-176.

[4] Id. at 175.

[5] Id . at 34-47.

[6] Id. at 135-140.

[7] Id. at 165-176 .

[8] Id. at 187-189.

[9] Supra note I.

[10] *Rollo,* p. 14.

[11] *Swedish Match, AB v. Court of Appeals,* 483 Phil. 735, 750 (2004).

[12] *Lakas sa Industriya ng Kapatirang Haligi ng Alyansa-Pinagbuklod ng Manggagawa ng Promo ng Burlingame v. Burlingame Corp.,* 552 Phil. 58, 65 (2007).

[13] 300 Phil. 367, 389 (1994).

[14] 320 Phil. 269, 282 (1995).

[15] *Rustan Pulp & Paper Mills, Inc. v. Intermediate Appellate Court,* 289 Phil. 279, 286 (1992).

[16] *Georg Grotjahn GMBH & Co. v. Isnani,* 305 Phil. 231, 238 (1994); *Singapore Airlines Ltd. v. Paño,* 207 Phil. 585, 589-590 (1983); and *Philippine Commercial International Bank v. Gomez,* 773 Phil. 387, 394 (2015).

[17] *See* SEC. 10, R.A. No. 8042 or the Migrant Workers and Overseas Filipino Act of 1995.
