

THIRD DIVISION

[G.R. No. 216440, February 19, 2020]

JIMMY S. GALLEGO, PETITIONER, VS. WALLEM MARITIME SERVICES, INC., REGINALDO A. OBEN AND/OR SCANDIC SHIP MANAGEMENT, LTD., RESPONDENTS.

DECISION

CARANDANG, J.:

Before Us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court filed by petitioner Jimmy S. Gallego (Gallego) against Wallem Maritime Services, Inc. (WALLEM) and its foreign principal Scandic Ship Management, Ltd. (SCANDIC; collectively respondents). The petition assails the Amended Decision^[2] dated February 28, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 01314, dismissing the Petition for *Certiorari*^[3] filed by Gallego based on procedural lapses.

Facts of the Case

Gallego claims that he was repeatedly hired by WALLEM on a contractual basis as Marine Engineer since 1981. In 1999, he was rehired by WALLEM as Marine Engineer with a contract term beginning December 1999 until December 10, 2000 on board M/V Eastern Falcon.^[4]

On August 4, 2000, Gallego's contract term was cut short and he was repatriated to Manila. Gallego claims that he was an intra-company transferee worker for the foreign employer, SCANDIC. For this reason, he proceeded to the office of WALLEM shortly after his repatriation to process his re-engagement for M/V Eastern Falcon or for another vessel. WALLEM advised that Gallego needed to wait for the results of the training of the newly recruited crew members of M/V Eastern Falcon.^[5]

Several months have passed but Gallego did not receive any word from WALLEM on his re-deployment. Gallego returned to the office of WALLEM numerous times in 2001, 2002 until 2003, only to be told to wait for the results of the new recruits for M/V Eastern Falcon. Due to the empty promises of WALLEM that he would be re-deployed, on July 1, 2004, Gallego filed his complaint for illegal dismissal and nonpayment of salary and benefits against his employers.^[6]

WALLEM, on the other hand, argues that the termination of Gallego's employment is valid because the vessel, M/V Eastern Falcon, had been sold to another shipping company. In addition, the labor complaint was barred by prescription considering that Gallego's suit had been filed four years after Gallego's repatriation in August 2000. Under the Philippine Overseas Employment Administration-Standard Employment

Contract (POEA-SEC), claims arising from the employment shall be filed within three years from the date the cause of action accrues. Thus, Gallego's claims should be denied because he failed to timely file an action against the employers.^[7]

In a Decision^[8] dated December 16, 2004, the National Labor and Relations Commission (NLRC), through Labor Arbitrator (LA) Ricardo Barrios, Jr., held that Gallego was illegally dismissed. Gallego cannot be dismissed from his service without any just or valid causes as provided under the labor laws. The LA held that the respondents were "guilty of deliberate fraud in withholding from [Gallego's] knowledge that M/V Eastern Falcon was already sold x x x to another shipping company" when he was disembarked from the vessel.^[9] There was no proof that Gallego had been informed of the pre-termination of his employment because the vessel, M/V Eastern Falcon, was sold. There was also no proof that WALLEM complied with the provisions of the POEA-SEC on termination of employment. Gallego had only been assured by respondents that he would be re-deployed after the results of the training of the newly recruited crew members of M/V Eastern Falcon were released. The LA held that respondents disregarded Gallego's right to security of tenure, and failed to comply with the twin-notice requirement for a valid dismissal. Gallego was ordered reinstated without loss of seniority rights, privileges, and other benefits afforded to him by law. Respondents were also ordered to pay Gallego his unpaid salaries for fifteen months from September 2000 to December 2001 amounting to US\$29,200.00 and partial backwages from January 2002 to December 2004 amounting to US\$72,076.00. Moral and exemplary damages were also awarded in the total amount of US\$250,000.00.^[10]

Respondents appealed the Decision with the NLRC, which reversed the decision of the LA. The NLRC held that the action filed by Gallego was barred by prescription. Under Section 30 of the POEA-SEC, a suit on any claim arising from the employment contract of a seafarer shall be filed within three years from the time the cause of action accrues. The NLRC held that the reckoning point to apply the prescriptive period is from the time Gallego was dismissed from employment and repatriated in August 2000. The labor complaint was filed only on July 1, 2004, which is beyond three years from Gallego's repatriation. The NLRC held that Gallego may no longer pursue his claims against the respondents.^[11]

Gallego filed his Petition for *Certiorari*^[12] under Rule 65 with the CA arguing that his cause of action arose only in February 2003, when he realized that WALLEM had no intention to process his re-deployment; and not from the time of his repatriation in August 2000. In a Decision^[13] dated September 27, 2006, the CA ruled in favor of Gallego. The CA held that the NLRC erred in considering Gallego's repatriation in August 2000 as the reckoning point in applying the rule on prescription. Facts show that after repatriation, he had been told to wait for the result of the training of the newly recruited crew members of M/V Eastern Falcon. Gallego was given assurances that he would be rehired and was never told that his contract was shortened due to the sale of the ship. The CA agreed with Gallego that his cause of action accrued in February 2003, "for it was then that x x x Wallem made its last false promise to petitioner for the latter's reinstatement and so committed an act or omission 'constituting a breach of the obligation of the defendant [to] the plaintiff.'" Gallego's cause of action could have accrued when he previously requested for re-deployment

because the company assured him many times of rehiring so Gallego has not decided to assert his right at that time. The CA considered that the issues had not yet been joined. Since the cause of action accrued only in February 2003, the filing of the labor complaint on July 1, 2004 had not prescribed and finding that Gallego was dismissed from employment before the end of his contract on December 10, 2000, the CA ordered payment of the unexpired portion of the contract equivalent to four months and six days. The CA awarded moral and exemplary damages in the amount of US\$2,000.00 and US\$5,000.00, respectively, since respondents acted with bad faith and wanton disregard of Gallego's rights to security of tenure and to due process.^[14]

Unsatisfied with the foregoing decision, respondents filed their Motion for Reconsideration.^[15] In an Amended Decision^[16] dated February 28, 2011, the CA dismissed the petition filed by Gallego. The Decision dated September 27, 2006 of the CA was declared null and void for lack of jurisdiction over the persons of respondents. There was no proof of service on the respondents of any order or resolution from the CA ordering the respondents to file comment to the petition. There was also no proof that respondents filed a motion or any pleading seeking an affirmative relief before the case was submitted for resolution by the CA. Further, the CA issued a Resolution ordering Gallego to correct the formal defects of his petition and to secure the services of a counsel.^[17] Rather than correcting the formal defects, Gallego filed an Extremely Urgent Manifestation and Motion to file a Supplemental Petition. Since the CA did not act upon the Supplemental Petition,^[18] the same was expunged from the record. The CA acted on his original petition. The CA found it defective and eventually dismissed Gallego's original petition for failure to prosecute.

Gallego filed the instant Petition for Review on *Certiorari*.^[19] He argues that the CA acted capriciously in holding that there was lack of jurisdiction over respondents for failure of the CA to furnish the latter court processes and notices. Such failure to notify respondents of the proceedings and pleadings to be filed was not his doing. Therefore, he cannot be held accountable for such fault. The CA applied technical and procedural rules rigidly at the expense of dispensing justice. Further, it was erroneous for the CA to hold that Gallego failed to prosecute his case. It was by his own earnest efforts that he initially filed the Petition for *Certiorari* even without the assistance of a legal counsel, and a decision was rendered by the CA on his Supplemental Petition.

Respondents emphasize the procedural lapses in Gallego's Petition for *Certiorari*. They also argue that the instant petition lacked procedural requirements under Rule 45 of the Rules of Court, particularly, lack of a legible certified true copy of the assailed decision, lack of a duly executed verification and certificate of non-forum shopping, and lack of an affidavit of service.^[20]

The Court's Ruling

Procedural rules should not be belittled or dismissed because they are tools designed to facilitate the adjudication of cases.^[21] Court procedure should be strictly followed. They may be relaxed for the most persuasive of reasons, especially, to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure.^[22] Here, We find no reason to dismiss

Gallego's petition because he has sufficiently complied with the requirements under Rule 45 of the Rules of Court. In Our Resolution^[23] dated October 21, 2015,^[24] We took note and accepted Gallego's compliance of the lacking contents in his petition. Respondents' position on procedural lapses will not prosper.

Relatedly, the procedural lapses in the CA proceedings, specifically, the failure to furnish CA court processes and notices to respondents, is highly improbable. On record, We find that correspondences to respondents from the proceedings before the labor tribunals^[25] up to the filing of this petition^[26] were consistently mailed to "*Wallem Maritime Services, Inc., Corner Beaterio and Legaspi Streets, Intramuros, 1002, Manila.*" Respondents participated in the proceedings before the labor tribunals and filed their Comment^[27] to this petition indicating the same foregoing address. Notably, respondents were able to file their motion for reconsideration to the Decision dated September 27, 2006 of the CA. If indeed no CA order or notice were sent to respondents, then they would not have been able to file their motion for reconsideration and seek the reversal of the Decision of the CA. Moreover, the foregoing only shows that jurisdiction over the persons of respondents was acquired by the CA. Therefore, the CA acted accordingly in giving due course to Gallego's Petition.

Respondents strongly reiterate that Gallego failed to comply with the rules in filing a petition for *certiorari* with the CA. The docket fees were not paid in full at the time of the filing of the petition, Gallego's original petition did not contain a certification of non-forum shopping, and the Supplemental Petition was filed out of time and is a prohibited pleading. Considering these procedural errors, the Decision of the CA should not be upheld.

We do not agree.

As discussed, procedural rules may be relaxed in the exercise of the court's equity jurisdiction for the most persuasive of reasons and where strong considerations of substantive justice are manifest in the petition.^[28] In this case, the CA exercised its discretion to relax the application of the rules especially upon finding that Gallego is illegally dismissed from employment.

Respondents argue that there was valid termination of Gallego's employment due to the sale of the ship, M/V Eastern Falcon. Indeed, under Section 23 of the POEA-SEC, an employer may terminate a seafarer's contract due to sale of ship, lay-up or discontinuance of voyage. For such termination to be valid, the same provision states that the seafarer shall immediately be paid his earned wages, repatriation costs and one-month basic pay as termination pay, unless arrangements have been made for the seafarer to join another ship belonging to the same principal to complete his contract, and in the latter case, the seafarer shall be entitled to his basic wages until the date of joining the other ship.^[29] Applying the foregoing provision and labor principles, respondents have the burden of proving the observance of due process and compliance to Section 23 of the POEA-SEC to consider the dismissal of Gallego valid.

Respondents failed to observe the foregoing rules. We did not find any proof that Gallego was notified of the sale of the ship, M/V Eastern Falcon. If it were true that respondents had informed Gallego in August 2000 that his employment was terminated

due to the sale of the ship, respondents should have immediately paid his monetary benefits or alternatively arranged for him to join another ship to complete his contract. We give more credence to Gallego's position that he was repeatedly promised re-deployment. Respondents do not even dispute Gallego's position. The foregoing clearly shows that Gallego's contract was pre-terminated without a just or valid cause for failure to notify him of the sale of the ship and to immediately pay the monetary benefits due him or to redeploy him to another vessel to finish his contract under the POEA-SEC.

While Gallego is illegally dismissed from employment, We cannot uphold the LA's award of wages equivalent to 15 months from September 2000 to December 2001 and from January 2002 to December 2004. The LA treated Gallego as a regular employee awarding him backwages from the time of his illegal dismissal until the decision of the LA was rendered. We stress that Gallego is a seafarer and an overseas worker, whose contract is with a term. He is entitled to security of tenure at least for the period agreed upon in his contract.^[30] Hence, the provision of Section 10 of Republic Act No. 8042,^[31] as amended by Republic Act No. 10022, is applicable. The provision states that termination of overseas employment without just, valid or authorized cause shall entitle the worker to his or her salaries for the unexpired portion of his employment contract. In this case, Gallego had a one-year contract with respondents from December 1999 until December 10, 2000. He was repatriated on August 4, 2000. Therefore, Gallego still had an unexpired portion of contract of four months and six days for which he must be paid the value of US\$8,182.00.

As to the issue on prescription, We find that Gallego timely filed his complaint. Repatriated in August 2000, Gallego was repeatedly instructed to wait for the results of the training of the newly recruited crew members of the vessel, M/V Eastern Falcon, he previously boarded, and was likewise promised for re-deployment. Gallego patiently waited for three years or until February 2003. It cannot be said that his cause of action accrued from the time he was repatriated in August 2000 because he was thereafter promised re-deployment. Besides, We hold that Gallego was illegally dismissed. The prescriptive period to file a complaint for illegal dismissal is four years from the time the cause of action accrued.^[32] An action for illegal dismissal or when one is arbitrarily and unjustly deprived of his job or means of livelihood is essentially a complaint for "injury to rights," which falls under Article 1146 of the Civil Code of the Philippines.^[33] Therefore, Gallego's filing of the labor complaint on July 1, 2004 is within the four-year prescriptive period from the time the cause of action accrued in February 2003.

Gallego patiently waited for three years hoping that he would be re-deployed as promised by respondents. He could have looked for other gainful employment during this period especially since he is a marine engineer and has been a seafarer since 1981. Thus, awarding Gallego P200,000.00 moral damages is proper. In the same vein, We award P200,000.00 exemplary damages to serve as a deterrent to future and subsequent parties from the commission of a similar offense. We also award Gallego attorney's fees or 10% of the monetary award because Gallego was forced to litigate and incur expenses to protect his rights and interests.

WHEREFORE, the petition is **GRANTED**. The Amended Decision dated February 28, 2011 of the Court of Appeals in CA-G.R. SP No. 01314 is hereby **SET ASIDE**. The

Decision dated September 27, 2006 of the Court of Appeals is **AFFIRMED with MODIFICATION** in that respondents are jointly and severally **ORDERED** to pay petitioner Jimmy S. Gallego: (1) US\$8,182.00 representing his salary for the unexpired portion of the contract, subject to legal interest of twelve percent (12%) *per annum* from his illegal dismissal on August 4, 2000 to June 30, 2013 and six percent (6%) *per annum* from July 1, 2013 to the date that this Decision becomes final and executory; (2) P200,000.00 as moral damages; and (3) P200,000.00 as exemplary damages. All monetary awards to petitioner Jimmy S. Gallego shall be subject to ten percent (10%) rate as attorney's fees and shall earn the legal interest of six percent (6%) *per annum* from the date this Decision becomes final and executory until full satisfaction thereof.

SO ORDERED.

Leonen (Chairperson), Gesmundo, Zalameda, and Gaerlan, JJ., concur.

September 22, 2020

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on **February 19, 2020** 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 September 22, 2020 at 3:00 p.m.

Very truly yours,

**(Sgd.) MISAEL DOMINGO
C. BATTUNG III**
Division Clerk of Court

[1] *Rollo*, pp. 25-42.

[2] Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Edgardo Delos Santos (now a Member of this Court) and Agnes Reyes-Carpio, concurring; *id.* at 44-53.

[3] Not attached to the *rollo*.

[4] *Rollo*, p. 30.

[5] *Id.* at 30-31.

[6] *Id.* at 31.

[7] *Id.* at 71-72.

[8] *Id.* at 83-95.

- [9] Id. at 94-95.
- [10] Id. at 94.
- [11] Id. at 126.
- [12] Not attached to the *rollo*.
- [13] Penned by Associate Justice Romeo F. Barza, with Associate Justices Isaisas P. Dicdican and Priscilla Baltazar-Padilla, concurring; *rollo*, pp. 137-145.
- [14] Id. at 141-143.
- [15] Not attached to the *rollo*.
- [16] *Rollo*, pp. 44-53.
- [17] Id. at 47-51.
- [18] Id. at 165-186.
- [19] Id. at 25-41.
- [20] Id. at 151-154.
- [21] *Republic v. Kenrick Development Corp.*, 529 Phil. 876, 885 (2006).
- [22] Id.
- [23] *Rollo*, pp. 230-231.
- [24] Id.
- [25] Id. at 81, 123, 133.
- [26] Id. at 17, 148, 231, 247, 253, 255, 256, 266, 274, 276.
- [27] Id. at 149-164.
- [28] *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, 700 Phil. 575, 582 (2012).
- [29] Id.
- [30] *Gopio v. Bautista*, G.R. No. 205953, June 6, 2018.
- [31] Migrant Workers and Overseas Filipinos Act of 1995.
- [32] See *Teekay Shipping Philippines v. Concha*, 682 Phil. 574 (2012).

[33] See *Arriola v. Pilipino Star Ngayon, Inc.*, 741 Phil. 171 (2014).



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