

FIRST DIVISION

[G.R. No. 245370, July 13, 2020]

EAGLE CLARC SHIPPING PHILIPPINES, INC., MAMA SHIPPING SARL AND CAPT. LEOPOLDO ARCILLA, PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION) AND JOHN P. LOYOLA, RESPONDENTS.

DECISION

J. REYES, JR., J.:

Before the Court is a Petition for Review assailing the Decision^[1] dated August 31, 2018 and the Resolution^[2] dated February 21, 2019 of the Court of Appeals (CA) in CA-G.R. No. SP. No. 154877.

John P. Loyola (Loyola) was employed by Eagle Clarc Shipping, Philippines, Inc. (Eagle Clarc), for and in behalf of its foreign principal, Mama Shipping Sarl (Mama Shipping), as an Able Seaman under an eight-month contract which started on November 12, 2015. His basic monthly salary was US\$ 577.00, with fixed monthly overtime pay of US\$ 283.00 and US\$ 4.04 in excess of 70 hours, leave pay of US\$ 144.00 per month, weekend compensation of US\$ 150.00 and social benefits and bonus of US\$ 126.00. The contract was supplemented by the Italian Collective Bargaining Agreement (CBA).

On November 26, 2015, Loyola boarded the vessel *MV Grande Luanda* and he disembarked on February 2, 2016 or six months before the expiration of his contract.

On October 19, 2016, Loyola filed a complaint for illegal dismissal and monetary claims against Eagle Clarc, Mama Shipping and Capt. Leopoldo Arcilla, as officer of Eagle Clarc (herein petitioners), claiming that on January 29, 2016, he was called by Capt. Palerom Guiseppe and referred to Chief Mate Rago Francesco. He was shown a document which he refused to sign because he did not know the contents thereof. Because of his refusal to sign the document, Loyola was advised that he was terminated and forced to disembark from the vessel. He alleged that prior to his disembarkation, he was neither informed of the offense he allegedly committed nor afforded due process. He asked for the payment of his salary for the unexpired portion of his contract and other benefits, plus damages.

Petitioners meanwhile averred that Loyola had difficulty performing his tasks. The Ship Master served a first formal warning to him which informed him of his breach of the Code of Conduct, incompetence and inefficiency in performing his duties on-board. A disciplinary hearing was set to investigate his alleged poor performance. The petitioners maintained that Loyola's dismissal on the ground of 'incompetency and inefficiency' was based on Section 33 of the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) in relation to Article 297 of the Labor Code. They

alleged that Loyola's failure to comply with the standards set forth in the company's Code of Conduct was sufficient justification to terminate his contract. They also averred that he was afforded due process through the two notices which he refused to receive.

[3] After the investigation and hearing, Loyola was notified of the termination of his contract which stated that he did not pass the training/probation period as mentioned in the contract of employment. They argued that he was not entitled to monetary claims as there was no bad faith or malice on their part when they terminated his contract, and that he cannot claim attorney's fees because the severance of his contract was due to his own fault.[4]

Labor Arbiter Ruling

On June 16, 2017, the Labor Arbiter dismissed Loyola's complaint due to his failure to sign the verification in his position paper.[5]

Loyola filed a Memorandum on Appeal asserting that the complaint affidavit was duly executed and signed under oath. He also averred that the outright termination of his employment contract was a gross violation of Articles 297 and 298 of the Labor Code and the twin requirements of due process.[6]

NLRC Ruling

On June 16, 2017, the National Labor Relations Commission (NLRC) issued a Decision granting Loyola's appeal, in this wise:

WHEREFORE, the instant appeal is PARTLY GRANTED. The assailed Decision dated 16 June 2017 is hereby REVERSED and SET ASIDE and a new one is entered finding complainant to have been illegally dismissed. Consequently, respondents are jointly and severally liable to pay complainant –

1. The amount corresponding to the unexpired portion of his contract in its US dollar amount in USD 7,680.00 (USD 1,280 x 6 mos.) or its Philippine Peso equivalent at the time of payment;
2. Moral damages in the amount of P10,000.00;
3. Exemplary damages in the amount of P10,000.00;
4. Attorney's fees equivalent to ten percent (10%) of the total monetary award.

All other claims are DISMISSED.

SO ORDERED.[7]

The NLRC found that Loyola substantially complied with the procedural requirements when he duly authorized his counsel, through a Special Power of Attorney, to sign in his behalf the verification and certification of non-forum shopping in his position paper.

As for the legality of Loyola's dismissal, the NLRC found no evidence to support the allegation that he was grossly and habitually neglectful of his duties to be considered incompetent or inefficient, or to be assessed with unsatisfactory work performance. The NLRC noted that Loyola was not given ample time to answer the charge against him as he was directed to attend a disciplinary hearing on the same day that he purportedly

received the notice. As for the procedural requirements of termination, the notations in the notices that Loyola refused to sign or receive were not sufficient proof that the petitioners attempted to serve the notices to him. There was no detail as to what transpired during the alleged disciplinary investigation.

Petitioners' motion for reconsideration was denied by the NLRC on November 20, 2017.

[8]

Court of Appeals Ruling

Petitioners filed a petition for *certiorari* under Rule 65 with the CA claiming that the NLRC disregarded the evidence available on record which proved that Loyola violated his contract which warranted his dismissal. They also averred that they complied with the twin notice requirements.[9]

On August 31, 2018, the CA rendered its Decision, thus:

WHEREFORE the petition is DENIED DUE COURSE and it is consequently DISMISSED.

We, however, modify the amount of salary, which should include only, the basic monthly wages of Loyola multiplied by the remaining portion of the contract, to be computed as follows:

US\$ 577.00 x six months = US\$ 3,462 (or its Philippine Peso equivalent at the time of payment).

Given that the petitioners already paid in full the judgment award in compliance with the writ of execution dated 18 May 2018, the private respondent John P. Loyola is directed to return to the petitioners the excess payment made in view of the modification of the computation of the monetary award.

IT IS SO ORDERED. [10]

The CA held that Loyola substantially complied with the verification and certification requirements while petitioners failed to support their claims with substantial evidence.

The CA held that petitioners failed to prove why Loyola did not pass the training or probation period which would warrant the termination of his contract. The alleged Notification of Disciplinary Hearing cited "poor ability to steering" or breach of paragraph C2-02 of the Code of Conduct. But the notice of termination stated that Loyola's disembarkation was due to his not passing the training or probation period. This, notwithstanding the fact that the contract that Loyola and Capt. Arcilla signed did not indicate that Loyola was to serve a probationary period. The CA held that nothing in the submitted evidence showed Loyola's unsatisfactory work performance. Not a single affidavit from any of Loyola's co-workers on-board was adduced by petitioners to corroborate their claim of valid and lawful dismissal. Petitioners also did not offer in evidence entries in the ship's official logbook that would have shown the performance assessment or rating of Loyola while on-board.[11]

The CA then affirmed the NLRC's decision with modification only as to the amount of salary due the respondent.^[12]

Both parties moved for reconsideration which the CA denied on February 21, 2019.^[13]

Present Petition

Eagle Clarc, Mama Shipping and Capt. Arcilla are now before the Court raising the following issues:

- I. THE HONORABLE COURT COMMITTED GRAVE ERROR WHEN IT AWARDED RESPONDENT WITH THE UNEXPIRED PORTION OF HIS CONTRACT.
- II. THE HONORABLE COURT GRAVELY ERRED WHEN IT AWARDED BENEFITS FOR ILLEGAL DISMISSAL. PRIVATE RESPONDENT'S DISMISSAL WAS LEGAL, VALID AND JUST UNDER THE CIRCUMSTANCES. LIKEWISE, THE TWIN NOTICE RULE IN TERMINATION DISPUTES HAS BEEN COMPLIED WITH.
- III. IN THE REMOTE EVENT ILLEGAL DISMISSAL IS FOUND TO BE PRESENT, THE AWARD SHOULD BE LIMITED TO PRIVATE RESPONDENT'S BASIC SALARY ONLY. THERE IS NO BASIS TO AWARD OTHER ALLOWANCES UNPROVEN BY PRIVATE RESPONDENT.
- IV. THE AWARD FOR ATTORNEY'S FEES AND DAMAGES SHOULD LIKEWISE BE DENIED. PETITIONERS CANNOT BE FAULTED FOR PURSUING AND DEFENDING AGAINST RESPONDENT'S UNFOUNDED CLAIM.
- V. MR. LEOPOLDO ARCILLA SHOULD NOT BE SOLIDARILY LIABLE WITH PETITIONERS.^[14]

The Court finds NO MERIT in the petition.

Petitioners argue that Loyola's lapses in procedure, particularly his failure to personally file the complaint, attend the mandatory hearings and execute the verification and certification against non-forum shopping, merit the dismissal of his complaint before the Labor Arbiter.^[15]

The NLRC and the CA were correct in not giving weight to these assertions.

The rule on verification of a pleading is a formal, not jurisdictional, requirement. Non-compliance with the verification requirement does not necessarily render the pleading fatally defective, as it is substantially complied with when signed by one who has ample knowledge of the truth of the allegations in the complaint or petition, and when matters alleged in the petition have been made in good faith or are true and correct.^[16]

Certification, not signed by a duly authorized person, meanwhile, renders the petition subject to dismissal. But there are cases when this Court acts with leniency due to the presence of special circumstances or compelling reasons. When the counsel who signed the certification was given a special power of attorney by the client, there is substantial compliance with the rules on verification and certification against forum shopping.^[17]

Consistent with the Court's vow to render and dispense justice, we will not hesitate in relaxing procedural rules, if needed, so as not to unjustly deprive a litigant the chance to present his or her case on the merits.^[18]

As for the issue of illegal dismissal, petitioners invoke Section 33 of the POEA Employment Contract, alleging that Loyola was guilty of incompetence and inefficiency. According to petitioners, respondent failed to pass the criteria set by petitioners in relation to his work, which is a sufficient ground to terminate him from employment. They claim that Loyola was notified of his poor performance on board and was given the opportunity to explain when he was given the formal warning. He was notified of the schedule of the hearing and eventually notified of his termination. To prove that he was duly notified of his termination, petitioners cite the notice of termination signed by the Chief Mate, Bosun and Master on board the vessel.^[19]

We agree with both the NLRC and the CA that petitioners failed to discharge its burden of proving that Loyola was dismissed due to a just and authorized cause and that the twin notice requirements were complied with.

The general rule is that factual findings of administrative or *quasi*-judicial bodies, which include labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.^[20]

In labor cases, the burden of proving that the termination of an employee was for a just or authorized cause lies with the employer. If the employer fails to meet this burden, the conclusion is that the dismissal was unjustified and, therefore, illegal.^[21] Moreover, not only must the dismissal be for a cause provided by law, it should also comply with the rudimentary requirements of due process, that is, the opportunity to be heard and defend one's self. Thus, for dismissal to be valid, the employer must show through substantial evidence – or such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion – that (1) the dismissal was for a just or authorized cause; and (2) the dismissed employee was afforded due process.^[22]

In this case, petitioners assert that Loyola's termination was due to his incompetence and inefficiency. Incompetence or inefficiency as a ground for dismissal contemplates the failure to attain work goals or work quotas, either by failing to complete the same within the allotted reasonable period, or by producing unsatisfactory results.^[23]

Apart from their bare allegation that Loyola was dismissed due to incompetence and inefficiency as he "failed to pass the criteria set by petitioners in relation to his work," petitioners failed to present any evidence to substantiate such claim. As noted by the NLRC and the CA, no evidence was presented to support the allegation that he was grossly and habitually neglectful of his duties that would merit his dismissal.

The Court has consistently held that uncorroborated and self-serving statements of employers are sorely inadequate in meeting the required quantum of proof to discharge their burden.^[24]

As for the notice requirements, it is settled that for the manner of dismissal in termination proceedings to be valid, the employer must comply with the employee's right to procedural due process by furnishing him with two written notices before the termination of his employment. The first notice apprises the employee of the specific acts or omissions for which his or her dismissal is sought, while the second informs the employee of the employer's decision to dismiss him or her.^[25]

Section 17 of the POEA-SEC provides for the disciplinary procedures against erring seafarers, to wit:

SEC. 17. DISCIPLINARY PROCEDURES. —

The Master shall comply with the following disciplinary procedures against an erring seafarer:

A. The Master shall furnish the seafarer with a written notice containing the following:

1. Grounds for the charges as listed in Section 31 of this Contract.
2. Date, time and place for a formal investigation of the charges against the seafarer concerned.

B. The Master or his authorized representative shall conduct the investigation or hearing, giving the seafarer the opportunity to explain or defend himself against the charges. An entry on the investigation shall be entered into the ship's logbook.

C. If, after the investigation or hearing, the Master is convinced that imposition of a penalty is justified, the Master shall issue a written notice of penalty and the reasons for it to the seafarer, with copies furnished to the Philippine agent.

D. Dismissal for just cause may be effected by the Master without furnishing the seafarer with a notice of dismissal if doing so will prejudice the safety of the crew or the vessel. This information shall be entered in the ship's logbook. The Master shall send a complete report to the manning agency substantiated by witnesses, testimonies and any other documents in support thereof.

In this case, we find no reason to reverse the findings of the CA and the NLRC that respondent was not given ample time to answer the charge against him. The notations in the notices that Loyola refused to sign or receive were also not sufficient proof that the petitioners attempted to serve the notices to him.

As for the monetary awards, we find that a modification of the CA decision is in order.

Prevailing jurisprudence provides that in cases where the employment contract of the illegally dismissed seafarer is for less than a year, said respondent should be paid his salaries for the unexpired portion of his employment contract. This amount includes all the seafarer's monthly vacation leave pay and other bonuses which are expressly

provided and guaranteed in his employment contract as part of his monthly salary and benefit package.^[26] Here, Loyola was employed by Eagle Clarc, as Able Seaman under an eight-month contract, with a basic monthly salary of US\$ 577.00, with fixed monthly overtime pay of US\$ 283.00, leave pay of US\$ 144.00 per month, weekend compensation of US\$ 150.00 and social benefits and bonus of US\$ 126.00.

The NLRC was, therefore, correct in ruling that herein petitioners are jointly and severally liable to pay US\$ 7,680.00, which is US\$ 1,280 x 6 months.

In addition, we find that Loyola is entitled to the full reimbursement of his placement fee with 12% interest per annum in accordance with the fifth paragraph of Section 10 of Republic Act (R.A.) No. 8042, as amended, or the Migrant Workers Act, which states:

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement of his placement fee and the deductions made with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract. x x x

As for the other monetary awards, the CA correctly affirmed the NLRC. We have held that moral damages are proper where the dismissal was tainted with bad faith or fraud, or where it constituted an act oppressive to labor, and done in a manner contrary to morals, good customs or public policy. Exemplary damages meanwhile are recoverable if the dismissal was done in a wanton, oppressive or malevolent manner.^[27]

Here, we find no reason to overturn the NLRC and CA rulings which awarded moral and exemplary damages in favor of Loyola, in view of the Ship Master's manner of dismissing Loyola and the lack of proof that Loyola was duly notified of the charges and disciplinary hearing or investigation against him. As for the attorney's fees, the same are likewise proper in view of the fact that Loyola was forced to litigate and thus, incur expenses to protect his rights and interest.^[28]

As to the question of whether Capt. Arcilla should be held solidarily liable with the other petitioners, Section 10 of R.A. No. 8042, as amended by R.A. No. 10022 provides that if the recruitment or placement agency is a juridical being, its corporate officers, directors and partners, as the case may be, shall be jointly and solidarily liable with the corporation or partnership for the claims and damages against it.^[29] Since Capt. Arcilla is the President and General Manager of Eagle Clarc, he cannot evade liability in this case.

WHEREFORE, the petition is **DENIED** for lack of merit. The Decision dated August 31, 2018 and Resolution dated February 21, 2019 of the Court of Appeals in CA-G.R. No. SP No. 154377 are hereby **AFFIRMED with MODIFICATION** in that the amount due John P. Loyola, corresponding to the unexpired portion of his contract is US\$ 7,680 or its Philippine Peso equivalent at the time of payment. In addition, he is entitled to the full reimbursement of his placement fee with 12% interest per annum. The monetary awards granted shall further earn legal interest at the rate of 6% per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

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

[1] Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Myra V. Garcia-Fernandez and Ronaldo Roberto B. Martin, concurring; *rollo*, pp. 67-84.

[2] *Id.* at 27-29; 85-87.

[3] *Id.* at 68-70.

[4] *Id.* at 71.

[5] *Id.* at 16-17.

[6] *Id.* at 17.

[7] *Id.* at 10.

[8] *Id.* at 13.

[9] *Id.* at 9-20.

[10] *Id.* at 25-26.

[11] *Id.* at 22-23.

[12] *Id.* at 80-81.

[13] *Id.* at 82-83.

[14] *Id.* at 48-58.

[15] *Id.* at 47-51.

[16] *Steamship Mutual Underwriting Association (Bermuda) Limited v. Sulpicio Lines, Inc.*, 818 Phil. 464-524 (2017).

[17] *Id.*

[18] *Victoriano v. Dominguez*, G.R. No. 214794, July 23, 2018.

[19] *Rollo*, pp. 52-54.

[20] *Magat v. Inter Orient Maritime Enterprises, Inc.*, G.R. No. 232892, April 4, 2018.

[21] *Maersk-Filipinas Crewing, Inc. v. Avestruz*, 754 Phil. 307-322 (2015).

[22] *Evic Human Resource Management, Inc. v. Panahon*, 814 Phil. 1040-1055 (2017)

[23] *Evic Human Resource Management, Inc. v. Panahon*, *supra*.

[24] *Id.*

[25] *Meco Manning & Crewing Services, Inc. v. Cuyos*, G.R. No. 222939, July 3, 2019.

[26] *Tangga-an v. Philippine Transmarine Carriers, Inc.*, G.R. No. 180636, March 13, 2013; *Meco Manning & Crewing Services, Inc. v. Cuyos*, *supra*.

[27] *Meco Manning & Crewing Services, Inc. v. Cuyos*, *id.*

[28] *Meco Manning & Crewing Services, Inc. v. Cuyos*, *id.*

[29] *Meco Manning & Crewing Services, Inc. v. Cuyos*, *id.*



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