

662 Phil. 189; 108 OG No. 10, 1030 (March 12, 2012)

FIRST DIVISION

[G.R. No. 169575, March 30, 2011]

**IMELDA PANTOLLANO (FOR HERSELF AS SURVIVING SPOUSE
AND IN BEHALF OF HER 4 CHILDREN HONEYVETTE, TIERRA
BRYN, KIENNE DIONNES, SHERRA VEDA MAE, THEN ALL
MINORS, WITH DECEASED SEAMAN VEDASTO PANTOLLANO),
PETITIONER, VS. KORPHIL SHIPMANAGEMENT AND MANNING
CORPORATION, RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

The heirs of a missing seaman may file their claim for death compensation benefits within the three-year period fixed by law from the time the seaman has been presumed dead.

This Petition for Review on *Certiorari*^[1] assails the Decision^[2] dated June 30, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 78759, which granted the petition for *certiorari* and reversed and set aside the Resolutions dated May 30, 2003^[3] and July 31, 2003^[4] of the National Labor Relations Commission (NLRC) in NLRC NCR CASE No. OFW (M) 2000-05-00302-30 (NLRC NCR CA No. 031095-02).

Factual Antecedents

Korphil Shipmanagement and Manning Corporation (Korphil) is a domestic corporation engaged in the recruitment of seafarers for its foreign principals. On March 24, 1994, it hired Vedasto C. Pantollano (Vedasto) as 4th Engineer on board the vessel M/V Couper under a Philippine Overseas Employment Agency (POEA) approved contract^[5] of employment, with the following terms and conditions:

Duration of Contract	:	12 months
Position	:	Fourth Engineer
Basic Monthly Salary	:	USD 550.00
Hours of Work	:	48 hours per week
Overtime	:	USD 165.00
Vacation Leave With Pay	:	3 days/month

On August 2, 1994, at about 6:45 A.M., Vedasto was seen by Messman Nolito L. Tarnate (Messman Nolito) to be in deep thought, counting other vessels passing by and talking to himself. At about 8:15 A.M., the Chief Engineer of the vessel reported to the Master of the vessel, Mr. Kim Jong Chul, that Vedasto did not show up for his duty. The Master of the vessel thus ordered all personnel on stand by. The vessel then altered its course to search for Vedasto. Some crew members were tasked to search the vessel while others were assigned to focus their search on the open sea

to locate and rescue Vedasto. Assistance from other vessels was also requested. The search and rescue operation lasted for about six hours, but Vedasto was not found. On August 3, 1994, a Report^[6] was issued by the Master of M/V Couper declaring that Vedasto was missing. His wife, Imelda Pantollano (Imelda), was likewise informed about the disappearance of Vedasto while onboard M/V Couper. Since then, Vedasto was never seen again.

On May 29, 2000, Imelda filed a complaint⁷ before the NLRC where she sought to recover death benefits, damages and attorney's fees.

Ruling of the Labor Arbiter

On January 31, 2002, Labor Arbiter Renaldo O. Hernandez rendered a Decision^[8] holding that the legal heirs of Vedasto are entitled to the payment of death benefits and attorney's fees. The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, premises considered, judgment is entered finding respondents liable for the claimed death benefits to complainant-in-representation thus ORDERING respondent's] principal and local manning agent, along with the latter's corporate officers and directors, jointly and severally:

1. [T]o Pay to the deceased complainant's legal heirs/beneficiaries Imelda Pantollano and their four minor children, viz., Honeyvette L. Pantollano born 10/30/81, Tierra Bryn L. Pantollano born 04/17/84. Kienne Dionnes L. Pantollano born 08/29/89, and Sherra Veda Mae L. Pantollano born 11/21/90, death benefits under the POEA Rules and Regulations of US\$50,000.00 and US\$ 28,000.00 (US\$7,000.00 each) for the said 4 minor children;

2. [T]o give and/or pay to them the proceeds of seafarer V. Pantollano['s] coverage for Comprehensive Life, Health, Medical and Disability Insurance with various P and I Clubs for the Owner's Protection and Indemnity against any such claim against all hazards and risks in operating the vessel pursuant to maritime commerce;

3. [To] pay attorney's fees of 10% of the total monetary amount awarded.

Other claims of complainant-in-representation are denied for lack of merit.

SO ORDERED ^[9]

Ruling of the National Labor Relations Commission

Korphil sought recourse to the NLRC by submitting its Notice of Appeal^[10] With Memorandum of Appeal on March 6, 2002. On June 7, 2002, Korphil filed a Supplemental Appeal^[11] to their Memorandum of Appeal.

On July 31, 2002, the NLRC issued a Resolution^[13] reversing and setting aside the January 31, 2002 Decision of the Labor Arbiter. According to the NLRC, the death of Vedasto which was clearly shown by evidence to be a case of suicide was not compensable under the clear provisions of the POEA Standard Employment Contract.

Imelda filed a Motion for Reconsideration^[13] which was opposed by Korphil.^[14]

In a Resolution^[15] dated May 30, 2003, the NLRC reversed its July 31, 2002 Resolution and reinstated the January 31, 2002 Decision of the Labor Arbiter.

Korphil filed a Motion for Reconsideration^[16] which was denied by the NLRC through its Resolution^[17] dated July 31, 2003.

Ruling of the Court of Appeals

Aggrieved, Korphil filed with the CA a Petition for *Certiorari*.^[18] On October 10, 2003, Imelda filed her Comment.^[19] Korphil did not file its reply and so the CA in a Resolution^[20] dated December 4, 2003 deemed that it had waived the right to file its reply. The CA directed the parties to submit their respective memoranda and then the case was declared submitted for decision.

On June 30, 2005, the CA issued its assailed Decision which granted the petition, reversed and set aside the May 30, 2003 Resolution of the NLRC, and dismissed the case for lack of merit. It held that under Article 291 of the Labor Code, Imelda should have filed her complaint within three years from the time the cause of action accrued. Thus, Imelda should have filed her complaint within three years from Vedasto's disappearance on August 2, 1994. Having filed her complaint only on May 29, 2000, the same is already barred by prescription.

Imelda moved for reconsideration^[21] but to no avail. Hence, this appeal ascribing upon the CA the following errors:

1. The Honorable Court of Appeals erred in law when it held that Art. 291 of the xxx Civil Code [applies] only in case of settlement of estates, not in the claim for death compensation benefits under the Labor Code.
2. The Honorable Court of Appeals erred in law when it applied as precedent the case of Caltex (Phils.) Inc. vs. Cristela Villanueva, G.R. No. L-15658, August 21, 1961.
3. Assuming arguendo that Art. 391 of the xxx Civil Code does not apply, the Honorable Court of Appeals erred in law in refusing to apply the rule on estoppel against the respondent company, thereby giving premium on the respondent's deception of invoking prematurity when the petitioner timely demanded her death compensation benefits but then raised the defense of prescription when she reiterated her claim after waiting for the lapse of four (4) years as earlier advised by the respondent

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company.¹²²

The above issues boil down to a single issue of whether the claim of Imelda for death compensation benefits filed on May 29, 2000, or more than five years from the time her husband Vedasto was reported missing on August 2, 1994, is already barred by prescription following the provisions of Article 291 of the Labor

Imelda's Arguments

Imelda contends that her claim was not yet barred by prescription when she filed it on May 29, 2000. She avers that when she went to the office of Korphil to claim the death benefits due to the heirs of her husband, Korphil advised her that it was still premature and that she has to wait for the lapse of four years before her husband Vedasto could be declared dead. This is in accordance with the provisions of Article 391 of the Civil Code.

However, when she came back after four years, she was told that her claim has already prescribed pursuant to Article 291 of the Labor Code. Imelda asserts that Korphil is, therefore, estopped from interposing the defense of prescription in this case as it was Korphil itself which advised her to wait for at least four years before filing the claim for death benefits. However, the CA ignored this very material fact albeit conspicuously discussed as one of Imelda's arguments.

Imelda further contends that the CA erred when it held that Article 391 of the Civil Code applies only in cases of settlement of estates, and not to cases of death compensation claims as in this case.

Korphil's Arguments

Korphil, on the other hand, argues that prescription of actions for money claims arising from employer-employee relationship is governed by Article 291 of the Labor Code. The three-year prescriptive period referred to in Article 291 shall commence to run from the time the cause of action accrued.

According to Korphil, the unexplained disappearance on August 2, 1994 of Vedasto occurred on the high seas where there is inherent impossibility for him to leave the ship. The fact that he could not be found dead or alive despite best efforts of all the crew members and the other vessels which responded to the distress call, and the failure of Imelda to establish that Vedasto is still alive are more than substantial proofs to establish that the latter died on August 2, 1994. Therefore, prescription should be reckoned from this date which is considered as the time of death of Vedasto. It is also at this point that the obligation of Korphil to pay death compensation can be demanded as a matter of right by the heirs of Vedasto.

Korphil posits that since Imelda filed only on May 29, 2000, or almost five years and ten months from August 2, 1994, her claim to recover death benefits, damages, and attorney's fees is, therefore, already barred by the three-year prescriptive period under Article 291 of the Labor Code.

Our Ruling

The petition is impressed with merit.

In *Medline Management, Inc. v. Roslinda*,^[23] we declared that "in order to avail of death benefits, the death of the employee should occur during the effectivity of the employment contract. The death of a seaman during the term of employment makes the employer liable to his heirs for death compensation benefits. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable."

In this case, there is no dispute that Vedasto went missing on August 2, 1994, during the effectivity of his employment contract. Thus, his beneficiaries are entitled to the death benefits under the POEA Standard Employment Contract for Seafarers, Section 20 of which states:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

In the case of work-related 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.

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Thus, upon the death of Vedasto, his heirs, specifically Imelda and their four children, are entitled to US\$50,000.00 as well as US\$7,000.00 for each child under the age of 21. The status of Imelda and her four children as the legitimate beneficiaries of Vedasto was never questioned. The only issue raised by Korphil was the prescription of their claim.

Korphil is estopped from asserting that the reckoning point for prescription to set in is August 2, 1994.

Preliminarily, it must be stressed that Korphil is estopped from asserting that Imelda's cause of action accrued on August 2, 1994. Korphil could not deny the fact that it is a party to another case filed by Gliceria P. Echavez (Gliceria), the mother of Vedasto. In this case, Gliceria claimed death benefits due to the death of her son Vedasto. In a Decision^[24] dated October 15, 1997, Labor Arbiter Dominador A. Ahnirante ruled that the claim was prematurely filed and hence it must be dismissed without prejudice to the re-filing of the same at the right time. The case was re-filed on August 26, 1998. In a decision^[25] dated February 22, 1999, Labor Arbiter Almirante ruled that Korphil is liable for the payment of death benefits to Gliceria. Korphil appealed to the NLRC. On November 19, 1999, the NLRC rendered its Decision^[26] which dismissed the appeal and affirmed the Labor Arbiter's Decision.

Korphil filed with the CA a petition for *certiorari*^[27] which was docketed as CA-G.R. SP No. 58022. In the said petition, Korphil advanced the following arguments:

SR NO. 36933. In the said petition, Korphil advanced the following arguments:

In as much as the missing seaman's death cannot be proven, Mr. Pantollano cannot be presumed dead right away considering that the New Civil Code as well as the Rules of Court provide for a specific rule before a missing person can be properly presumed dead. We shall quote in full the said provision as follows:

After an absence of seven (7) years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession.

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Considering that Mr. Pantollano has been absent only for less than six (6) years, his death cannot be legally presumed. If Mr. Pantollano cannot be considered to have died at the time of his disappearance or cannot be legally presumed dead as of the present time by virtue of Article 390 of the Civil Code, public respondent NLRC cannot successfully apply the provision of Section 20 (A) (1) of the POEA Standard Employment Contract because the death of Mr. Pantollano indeed had never occurred. Even [if] a perspicacious, thorough and exhaustive perusal is made on the pertinent provisions of the POEA Standard Employment Contract, this Honorable Court cannot find a provision which gives death compensation to a seafarer who had just disappeared or was merely declared as missing.

In view of the fact that the death of the seaman was not duly proven and the period within which the missing seaman can be lawfully presumed dead has not been complied with, it becomes clear that public respondent NLRC indeed committed serious error when it affirmed the Decision of the Labor Arbiter awarding death compensation to private respondent. [28]

The CA dismissed the claim of Gliceria because the natural mother is not the beneficiary contemplated by law notwithstanding the fact that she was designated by her deceased son as the sole allottee and beneficiary. If there is any party entitled to the death compensation benefits, it is Vedasto's surviving spouse and children and not her mother.

Gliceria thus filed a petition for review with this Court which was docketed as G.R. No. 157424. In a Resolution dated August 6, 2003, the Court denied the same for the failure of Gliceria to file the appeal within the extended period in accordance with Section 2, Rule 45 of the Rules of Court and for her failure to properly verify the petition in accordance with Section 1, Rule 45 in relation to Section 4, Rule 7, since the verification is based on affiant's personal knowledge, information and belief, as a consequence of which the petition was treated as an unsigned pleading which under Section 3, Rule 7, produces no legal effect.

But what is obvious is that in the earlier claim for compensation benefits filed by Gliceria, who wanted to arrogate unto herself the said benefits, Korphil was claiming that it was still premature because the death of Vedasto was not yet duly proven and the period that must elapse before a seaman can be lawfully presumed dead has not been complied with. Consequently, Korphil is estopped from insisting in this later case filed by Imelda that Vedasto should be considered dead from the time he went missing on August 2, 1994 and therefore the claim was filed beyond the allowable period of three years

allowable period of three years.

This Court is mindful of the fact that as soon as Imelda came to know about the missing status of her husband on August 2, 1994, she went to Korphil to file her claim for the payment of death benefits. However, the latter informed her that it was still premature to claim the same and advised her instead to wait four more years before her husband could be presumed dead thereby entitling his heirs to death benefits. Korphil is therefore guilty of estoppel.

"Under the doctrine of estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon. A party may not go back on his own acts and representations to the prejudice of the other party who relied upon them. In the law of evidence, whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, to act upon such belief, he cannot, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it."^[29]

Imelda 's cause of action accrued only on August 2,1998 and not on August 2, 1994.

According to Korphil, Article 291 of the Labor Code is applicable in this case as it provides:

ART. 291. *Money Claims.* - All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

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Korphil posits that the three-year prescriptive period referred to in Article 291 shall commence to run from the time the cause of action accrued, i.e., at the time Vedasto died on August 2, 1994. Hence, when Imelda filed her claim on May 29,2000, the same has already prescribed.

We are not persuaded. On August 2, 1994, it cannot as yet be presumed that Vedasto is already dead. "The boat was not lost. This opens up a number of possibilities, x x x [N]othing is certain. Nobody knows what has happened to him. He could have transferred to another vessel or watercraft. He could even have swum to safety. Or he could have died. Or worse, he could have taken his own life. Legal implications - such as right to compensation, succession, the legal status of the wife - are so important that courts should not so easily be carried to the conclusion that the man is dead. The result is that death cannot be taken as a fact."^[30]

A person missing under the circumstances as those of Vedasto may not legally be considered as dead until the lapse of the period fixed by law on presumption of death, and consequently Imelda cannot yet be considered as a widow entitled to compensation under the law.

On August 2, 1994, when Vedasto was reported missing, Imelda cannot as yet file her claim for death benefits as it is still premature. The provisions of Article 391 of the Civil Code therefore become relevant, to wit:

The following shall be presumed dead for all purposes, including the division of the estate among the heirs;

(1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not been heard of for four years since the loss of the vessel or aeroplane;

(2) A person in the armed forces who has taken part in war, and has been missing for four years;

(3) A person who has been in danger of death under other circumstances and his existence has not been known for four years. (Emphasis supplied.)

With the known facts, namely, that Vedasto was lost or missing while M/V Couper was navigating the open sea, there is no doubt that he could have been in danger of death. Paragraph (3) of Article 391 of the Civil Code will then be applicable in this case. Thus, Vedasto can only be presumed dead after the lapse of four years from August 2, 1994 when he was declared missing. But of course, evidence must be shown that Vedasto has not been heard of for four years or thereafter. This is the case here.

Vedasto is presumed legally dead only on August 2, 1998. It is only at this time that the rights of his heirs to file their claim for death benefits accrued.

Korphil then further argued that although Vedasto was declared dead only on August 2, 1998, his death should be considered on the very day of the occurrence of the event from which death is presumed. Thus, the death of Vedasto should retroact to August 2, 1994. The three-year prescriptive period under Article 291 of the Labor Code will therefore be reckoned on August 2, 1994.

We do not agree.

If we allow such an argument, then no claim for death compensation benefits under this circumstance will ever prosper. This is so because the heirs of a missing seaman have to wait for four years as provided under Article 391 of the Civil Code before the seaman is declared as legally dead. After four years, the prescriptive period for filing money claims under Article 291 of the Labor Code would, obviously, lapse. This scenario could not have been the intention of the legislature in enacting

a social legislation, such as the Labor Code.

Imelda's claim for death compensation benefits was filed on time.

Having already established that Imelda's cause of action accrued on August 2, 1998, it follows that her claim filed on May 29, 2000 was timely. It was filed within three years from the time the cause of action accrued pursuant to Article 291 of the Labor

Code. Hence, Imelda and her children are entitled to the payment of said compensation.

WHEREFORE, the instant petition for review on *certiorari* is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP No. 78759 dated May 30, 2005, is **SET ASIDE** and the May 30, 2003 Resolution of the NLRC is **REINSTATED and AFFIRMED**.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] *Rollo*, pp. 23-48.

[2] *CA rollo*, pp. 291-300; penned by Presiding Justice Romeo A. Brawner and concurred in by Associate Justices Edgardo P. Cruz and Jose C. Mendoza

[3] *Id.* at 157-162.

[4] *Id.* at 175-176.

[5] *Id.* at 194.

[6] *Id.* at 195.

[7] *Rollo*, p. 73

[8] *CA rollo*, pp. 42-49.

[9] *Id.* at 48-49.

[10] *Id.* at 50-77.

[11] *Id.* at 101-110.

[12] *Id.* at 111-119.

The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the Appeal is GRANTED. Accordingly, the Decision appealed from is REVERSED and SET ASIDE and a new one entered dismissing the instant case for lack of merit.

SO ORDERED. (*Id.* at 118.)

[13] *Id.* at 120-140.

[14] Id. at 141-156.

[15] Id. at 157-162.

[16] Id. at 163-174.

[17] Id. at 175-176.

[18] Id. at 2-41.

[19] Id. at 234-259.

[20] Id. at 260.

[21] Id. at 303-311.

[22] *Rollo*, p. 36.

[23] G.R. No. 168715, September 15, 2010, citing *Southeastern Shipping v. Navarra, Jr.*, G.R. No. 167678, June 22, 2010 and *Prudential Shipping and Management Corporation v. Sta. Rita*, G.R. No. 166580, February 8, 2007, 515 SCRA 157, 168.

[24] *Rollo*, pp. 74-77.

[25] Id. at 104-108.

[26] Id. at 109-113.

[27] Id. at 78-103.

[28] Id. at 87.

[29] *Philippine Savings Bank v. Chowking Food Corporation*, G.R. No. 177526, July 4, 2008, 557 SCRA 318, 328.

[30] *Aboitiz Shipping Corporation v. Pepito*, 125 Phil. 197,200-201 (1966).



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