

ELEVENTH DIVISION

[CA-G.R. SP NO. 126927, May 22, 2014]

**ROSALINDA M. MEDIAVILLO IN BEHALF OF DECEASED
SEAFARER NIDA B. MERCURIO, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION (FOURTH DIVISION),
MAGSAYSAY MARITIME CORP., CSCS INTERNATIONAL AND/OR
MR. EDUARDO MENESE, RESPONDENTS.**

D E C I S I O N

ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari^[1] filed by Rosalinda M. Mediavillo ("petitioner Mediavillo"), in behalf of deceased seafarer Nida B. Mercurio ("Nida"), imputing grave abuse of discretion on the National Labor Relations Commission ("NLRC") for issuing the Decision dated 06 June 2012^[2] ("assailed Decision"), and the Resolution dated 27 July 2012^[3] ("assailed Resolution") in NLRC NCR 01-01664-11.

The facts are as follows: On 27 January 2011, Rosalinda Mediavillo ("petitioner Mediavillo") filed the Complaint^[4] for non-payment of death benefits, and attorney's fees, on behalf of her sister, Nida Mercurio ("Nida"), against CSCS International ("respondent CSCS"), through its local manning agent, Magsaysay Maritime Corporation ("respondent MMC"), and MMC President Eduardo Menese ("respondent Menese;" collectively, "private respondents"). The case was docketed as NLRC NCR Case No. OFW(M)01-01664-11.

On 09 April 2011, petitioner Mediavillo filed the Position Paper (For the Complainant).^[5] The Position Paper (For the Complainant) alleged: on 15 September 2009, respondent CSCS, through respondent MMC, re-hired Nida as crew stewardess on "M/V Costa Europa" ("the Vessel");^[6] before reporting for duty, Nida underwent pre-employment medical examination, and was declared fit to work; on 28 September 2009, Nida commenced her duties as crew stewardess on the Vessel; on 26 February 2010, the Vessel crashed into a dock at the Egyptian Red Sea Resort; three members of the crew were killed, and four passengers were wounded in the incident; Mercurio and the rest of the crew were sent back to the Philippines; in her post-employment medical examination, Nida was diagnosed with "Hypertension, controlled," and was declared fit to work;^[7] Nida stayed at her house in Cavite City, and during her stay there, she often narrated the crash of the Vessel to petitioner Mediavillo; Nida suffered sleepless nights, and became restless and nervous because she recalled her ordeal on the Vessel; more or less 28 days after her return to the Philippines, Nida suffered from a heart attack, and died from "Acute pulmonary edema prob. Sec. to acute myocardial infarction; Hypertension II;"^[8] Nida was survived only by her sisters, petitioner Mediavillo and Lolita Mercurio ("Lolita");^[9] pursuant to Section 20(A)(1) of Philippine Overseas Employment Administration Standard Employment Contract ("POEA SEC"), the

work-related death of Nida entitled her heirs to death benefits and burial benefits; Nida's heirs made demands for the payment of death benefits upon private respondents, but the latter did not pay the said claims; the failure of private respondents to pay the claims compelled petitioner Mediavillo to secure the services of counsel.

The Position Paper (For the Complainant) prayed that: private respondents be ordered to pay \$50,000.00 as death benefits, \$1,000.00 as burial benefits, P500,000.00 as moral damages, P500,000.00 as compensatory damages, P500,000.00 as exemplary damages, attorney's fees, and other just and equitable reliefs.

On 12 May 2011, private respondents filed the Position Paper (For the Respondents).^[10] It alleged: Section 20(A)(1) provided for entitlement to death benefits when death is work-related, and it occurred during the term of the employment contract; when Nida returned to the Philippines on 01 March 2010, her employment contract was deemed terminated, and there was no longer any employer-employee relationship between her and private respondents; Nida died on 01 April 2010, one month after her employment contract ended; petitioner Mediavillo did not prove by substantial evidence that the Nida's cause of death was work-related; as per the Affidavit of Dr. Vedasto Lim ("Dr. Lim"),^[11] Nida's cause of death was not work-related; since Mediavillo's cause of death was not work-related, and occurred after the termination of her employment contract, her death was not compensable; petitioner Mediavillo was not able to prove her filiation to Nida; petitioner Mediavillo's hiring of counsel was unjustified; respondent Menese cannot be held liable since respondent MMC had a separate personality distinct from its officers and stockholders.

On 16 May 2011, petitioner Mediavillo filed the Reply (For the Complainant)^[12]. On 06 June 2011, private respondents filed the Reply (To Complainant's Position Paper).^[13] On 12 June 2011, petitioner Mediavillo filed the Rejoinder (For the Complainant).^[14] On 15 June 2011, private respondents filed the Respondents' Rejoinder^[15].

Labor Arbiter Quintin B. Cueto III ("LA Cueto") rendered the Decision dated 17 October 2011^[16], dismissing the Complaint for lack of merit.

On 14 November 2011, petitioner Mediavillo filed the Notice of Appeal with Memorandum on Appeal^[17] before the NLRC, reiterating the arguments in the Position Paper (For the Complainant). On 05 December 2011, private respondents filed the Opposition (To Complainant's Notice of Appeal and Memorandum of Appeal).^[18]

On 06 June 2012, the NLRC issued the assailed Decision. The dispositive portion of the assailed Decision read:

IN VIEW WHEREOF, the complainant's appeal is **DISMISSED** for lack of merit. The assailed Decision of the Labor Arbiter is hereby **AFFIRMED** *in toto*.

SO ORDERED.^[19]

On 26 June 2012, petitioner Mediavillo moved for the reconsideration of the assailed Decision.^[20] The NLRC denied the Motion in the assailed Resolution.

Thus, this Petition for Certiorari, with the following lone assignment of error:

1. Whether or not the Honorable Commission, *Fourth Division*, seriously and palpably erred and committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the complaint on the ground that the late Nida Mercurio died after termination of contract.^[21]

The issue is whether the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Decision, and the assailed Resolution.

The Petition for Certiorari answers in the affirmative. The NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Decision, and the assailed Resolution. It thrusts: prior to her employment on the Vessel, Nida did not have any heart disease; Nida's employment as crew stewardess on the Vessel involved a strenuous workload, and longer working hours; her job functions, and the crash of the Vessel on 26 February 2010 contributed to the development of Nida's myocardial infarction or heart disease; it is likewise possible that Nida developed posttraumatic stress disorder ("PTSD") because of the incident; PTSD was an independent risk factor for cardiovascular disease; Section 20(A)(1) of the POEA SEC provided that work-related cause of death entitled the seafarer to death and burial benefits; while death should occur during the effectivity of the employment contract, the redress sought by petitioner Mediavillo was warranted under justifiable circumstances; thus, under Section 20(A)(1) of the POEA SEC, petitioner Mediavillo was entitled to \$50,000.00 as death benefits, and \$1,000.00 as burial benefits, for the work-related death of Nida; petitioner Mediavillo was also entitled to 10% of the total money claims as attorney's fees, and cost of suit.

The Comment answers in the negative. The NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Decision, and the assailed Resolution. It parries: the terms and conditions of the POEA SEC governed the employer-employee relationship between private respondents and Nida; deemed written into the POEA SEC were the requisites for compensability of work-related deaths; the POEA SEC was terminated on 27 February 2009, while Nida died on 01 April 2009; since Nida was no longer in the employ of private respondents when she died, petitioner Mediavillo was not entitled to death and burial benefits; the claimant had the burden of proof to show by substantial evidence that there is a causal connection between the nature of the seafarer's employment and her illness, or that the risk of contracting the illness was increased by the seafarer's working conditions; Nida was not medically repatriated; Nida died two months after she disembarked from the Vessel; the cause of death which is Acute Pulmonary Edema, was not work-related; suffering from sleepless nights did not justify work-relation of the cause of death; petitioner Mediavillo was not able to show that the cardiac incident showed symptoms during the performance of the work, or that the cardiac attack was preceded by strain of work of sufficient severity, followed by clinical signs of cardiac insult within a 24-hour period, pursuant to Section 32-A(11)a-c of the POEA SEC; the work-relation of Nida's cause of death was disproved by the medical findings of Dr. Lim; since Nida's

cause of death was not work-related, petitioner Mediavillo was not entitled to death and burial benefits.

THE COURT'S RULING

We rule in the negative. The NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Decision, and the assailed Resolution.

Rule 65, Section 1 of the Rules of Court is applicable. It reads:

SECTION 1. *Petition for certiorari.* - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or other plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

(Emphasis supplied.)

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.^[22]

There is here no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC. Readings of the assailed Decision, and the assailed Resolution show that the NLRC had factual and legal bases for its ruling.

The NLRC was correct when it ruled that Nida's death was not compensable under Section 20(A) of the POEA SEC. However, in order to afford full protection to labor, we will discuss compensability under Sections 20(B)(1) and (4)(c), and 32-A-11 of the POEA SEC.

Sections 20(A)(1) and (4)(c) of the POEA SEC are relevant. They read:

SECTION 20. COMPENSATION AND BENEFITS