

THIRD DIVISION

[GR. No. 196072, September 20, 2017]

**STEAMSHIP MUTUAL UNDERWRITING ASSOCIATION
(BERMUDA) LIMITED, PETITIONER, VS. SULPICIO LINES, INC.
RESPONDENT.**

[G.R. NO. 208603]

**SULPICIO LINES, INC. PETITIONER, VS. STEAMSHIP MUTUAL
UNDERWRITING ASSOCIATION (BERMUDA) LIMITED,
REPOUDENT.**

DECISION

LEONEN, J.:

An insured member may be compelled to arbitration pursuant to the Rules of the Protection and Indemnity Club, which were incorporated in the insurance policy by reference. Where there are multiple parties, the court must refer to arbitration the parties covered by the agreement while proceeding with the civil action against those who were not bound by the arbitration agreement.

G.R. No. 196072 is a Petition for Review^[1] seeking to set aside the November 26, 2010 Decision^[2] and March 10, 2011 Resolution^[3] of the Court of Appeals in CA-GR. SP No. 106103.

GR. No. 208603 is a Petition for Indirect Contempt^[4] filed by Sulpicio Lines, Inc. (Sulpicio) against Steamship Mutual Underwriting Association (Bermuda) Limited (Steamship). It prays, among others, that Steamship be (a) declared guilty of indirect contempt; (b) imposed a fine of P30,000.00; and (c) ordered to restitute to Sulpicio the amount of US\$69,570.99 or its equivalent in Philippine currency plus interest, computed from December 3, 2012 until fully restituted.^[5]

Steamship was a Bermuda-based Protection and Indemnity Club, managed outside London, England.^[6] It insures its members-shipowners against "third party risks and liabilities" for claims arising from (a) death or injury to passengers; (b) loss or damage to cargoes; and (c) loss or damage from collisions.^[7]

Sulpicio insured its fleet of inter-island vessels with Steamship for Protection & Indemnity risks through local insurance agents, Pioneer Insurance and Surety Corporation (Pioneer Insurance) or Seaboard-Eastern Insurance Co., Inc. (Seaboard-Eastern).^[8] One (1) of these vessels was the M/V Princess of the World, evidenced by a Certificate of Entry and Acceptance issued by Steamship, which provided:

CERTIFICATE OF ENTRY AND ACCEPTANCE

by the Club of your proposal for entering the ship(s) specified below, and
of
the tonnage set out against each, in:

Class 1 PROTECTION AND INDEMNITY

of the Club from

Noon 20th February 2005 to Noon 20th February 2006

or until sold, lost, withdrawn or the entry is terminated in accordance with the rules, to the extent specified and in accordance with the Act, By(e)-Laws and the Rules from time to time in force and the special terms specified overleaf.

Your name has been entered in the Register of Members of the Club as a Member.

FOR ACCOUNT OF Sulpicio Lines Inc., 1 st Floor, Reclamation Area, P.O. Box No. 137 Cebu City, Philippines.			CERTIFICATE NUMBER 155,534	
NAME OF SHIP	BUILT	ENTERED GROSS TONNAGE	CLASS	PORT OF REGISTRY
"PRINCESS OF THE OCEAN"	1975	Cebu City	B.V.	6,150
"PRINCESS OF THE UNIVERSE"	1983	Cebu City	B.V.	13,526
"PRINCESS OF THE CARIBBEAN"	1979	Cebu City	B.V.	3,768
"PRINCESS OF THE WORLD"	1972	Cebu City	B.V.	9,627
"PRINCESS OF THE STARS"	1984 (Rebuilt 1990)	Cebu City	X.X.	19,329
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NOTES				
1. REFERENCE IS REQUESTED TO THE RULES AS TO THE CIRCUMSTANCES OF ENTRY BEING CANCELLED AND AS TO THE CIRCUMSTANCES OF AN ALTERATION IN THE RULES OR BY(E)-LAWS.			2. THE RULES ARE PRINTED ANNUALLY IN BOOK FORM, INCORPORATING ALL PREVIOUS ALTERATIONS AND A COPY IS SENT TO EACH MEMBER. ALTERATIONS CAN BE MADE BY ORDINARY RESOLUTION	

	FOLLOWING A GENERAL MEETING NOTIFIED TO ALL MEMBERS. ^[9]
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On July 7, 2005, M/V Princess of the World was gutted by fire while on voyage from Iloilo to Zamboanga City, resulting in total loss of its cargoes. The fire incident was found by the Department of Interior and Local Government to be "accidental" in nature.^[10]

Sulpicio claimed indemnity from Steamship under the Protection & Indemnity insurance policy. Steamship denied the claim and subsequently rescinded the insurance coverage of Sulpicio's other vessels on the ground that "Sulpicio was grossly negligent in conducting its business regarding safety, maintaining the seaworthiness of its vessels as well as proper training of its crew."^[11]

On June 28, 2007, Sulpicio filed a Complaint^[12] with the Regional Trial Court of Makati City against Steamship; one (1) of its directors, Gary Rynsard; and its local insurance agents Pioneer Insurance and Seaboard-Eastern for specific performance and damages. This Complaint was docketed as Civil Case No. 07-577, was amended on August 10, 2007,^[13] and further amended on September 11, 2007.^[14]

Steamship filed its Motion to Dismiss and/or to Refer Case to Arbitration^[15] pursuant to Republic Act No. 9285, or the Alternative Dispute Resolution Act of 2004 (ADR Law), and to Rule 47^[16] of the 2005/2006 Club Rules, which supposedly provided for arbitration in London of disputes between Steamship and its members.^[17] The other defendants filed separate motions to dismiss.^[18]

Branch 149, Regional Trial Court, Makati City denied the motions to dismiss. In its July 11, 2008 Order,^[19] denying Steamship's motion and supplemental motion to dismiss and citing^[20] *European Resources and Technologies, Inc. v. Ingenieurburo Birkhann + Nolte, Ingeniurgesellschaft GmbH*^[21] the Regional Trial Court held that "arbitration [did] not appear to be the most prudent action, . . . considering that the other defendants . . . ha[d] already filed their [respective] [a]nswers."^[22] Steamship filed its Motion for Reconsideration,^[23] but it was likewise denied in the Order^[24] dated September 24, 2008.

Steamship assailed trial court orders before the Court of Appeals through a Rule 65 Petition, docketed as CA-G.R. SP No. 106103.^[25] The Court of Appeals dismissed the petition in its November 26, 2010 Decision.^[26] It found no grave abuse of discretion on the part of the trial court in denying Steamship's Motion to Dismiss and/or to Refer Case to Arbitration^[27] or any convincing evidence to show that a valid arbitration agreement existed between the parties.^[28] Steamship's Motion for Reconsideration of this Decision was likewise denied in the Resolution^[29] dated March 10, 2011.

On April 29, 2011, Steamship filed before this Court this Petition for Review,

docketed as **G.R. No. 196072**. In compliance with this Court's June 13, 2011 Resolution,^[30] Sulpicio filed its Comment^[31] on August 31, 2011 and Steamship filed its Reply^[32] on October 20, 2011.

On September 6, 2013, Sulpicio filed with this Court a Petition for Indirect Contempt^[33] under Rule 71 of the Rules of Court against Steamship. This Petition was docketed as **GR. No. 208603**.

Sulpicio alleges that sometime in September 2012, it settled its judgment liability of P4,121,600.00 in Civil Case No. CEB-24783, entitled *Verna Unabia v. Sulpicio Lines, Inc.*^[34] However, the actual amount reimbursed by Steamship was not P4,121,600.00, equivalent to US\$96,958.47, but only US\$27,387.48.^[35] Steamship deducted US\$69,570.99, which allegedly represented Sulpicio's share in the arbitration costs for the arbitration in London of the dispute in Civil Case No. 07-577.^[36]

Sulpicio accuses Steamship of indirect contempt for its "improper conduct tending directly, or indirectly, to impede, obstruct, or degrade the administration of justice"^[37] consisting of the following acts:

(a) Without Sulpicio's knowledge or consent, Steamship initiated and "concluded" during the pendency of this case an alleged "arbitration proceeding" in London for the "Arbitrator" there to "resolve" the very dispute involved in this case;

(b) Without Sulpicio's knowledge or consent, Steamship proclaimed itself the "victor" entitled to arbitration costs from Sulpicio;

(c) Without Sulpicio's knowledge or consent, Steamship unceremoniously deducted from the refund due to Sulpicio in the separate "Unabia Case" the huge amount of **U.S.\$69,570.99** despite the fact that: (a) Said "Unabia Case" is unrelated to the instant case; (b) The propriety of a London arbitration is still to be resolved in this case by this Honorable Court; (c) Steamship "enforced" by itself said "arbitration costs" against Sulpicio without the courtesy of even informing this Honorable Court about it[; and]

(d) Without Sulpicio's knowledge or consent, and more importantly, without the prior approval of this Honorable Court, Steamship initiated and "concluded" said London "arbitration" during the pendency of this G.R. No. 196072 and **before** this Honorable Court could render its ruling or decision.^[38] (Emphasis in the original)

Steamship filed its Comment/Opposition^[39] on January 30, 2014, to which Sulpicio filed its Reply^[40] on July 2, 2014.

In its Resolution^[41] dated January 15, 2014, this Court resolved to consolidate G.R. Nos. 208603 and 196072.

The issues for this Court's resolution are:

First, whether or not the petition in G.R. No. 196072 is proper under the Rules of Court;

Second, whether or not there is a valid and binding arbitration agreement between Steamship Mutual Underwriting (Bermuda) Limited and Sulpicio Lines, Inc.;

Third, whether or not the Court of Appeals gravely erred in affirming the Regional Trial Court Order denying referral of Sulpicio Lines, Inc.'s complaint to arbitration in London in accordance with the 2005/2006 Club Rules; and

Finally, whether or not Steamship Mutual Underwriting (Bermuda) Limited is guilty of indirect contempt.

This Court addresses first the procedural issue raised by Sulpicio.

I.A

Sulpicio contends that Steamship's Petition for Review should be dismissed outright on procedural grounds.^[42]

First, this Petition, couched as a Rule 45 Petition, is actually a Rule 65 Petition because it contained arguments dealing with "grave abuse of discretion" allegedly committed by the Court of Appeals.^[43]

Second, the Petition's Verification and Certification Against Forum Shopping is defective because it was signed and executed by Steamship's lawyer. Additionally, the Power of Attorney appended to the Petition did not indicate its signatory's name and authority.^[44]

Third, the issue of whether or not Sulpicio has been furnished with the Club's Rulebook, which contained the arbitration clause, is factual and beyond the realm of a Rule 45 petition.^[45]

In its Reply, Steamship avers that its counsel's law firm was duly authorized to sign its Verification and Certification against Forum Shopping. Moreover, Sulpicio never assailed this law firm's authority to represent Steamship before the Regional Trial Court, and therefore, is estopped to deny its authority before this Court.^[46] Together with its Reply, Steamship submitted a copy of the Secretary's Certificate^[47] to the July 24, 2007 Board of Directors' resolution authorizing Scott Davis (Davis) or his Assistant Secretaries to sign a Power of Attorney on behalf of Steamship. It also appended a Secretary's Certificate^[48] to the July 26, 2011 Board of Directors' resolution re appointing Davis and John Charles Ross Collis^[49] to their current positions as Secretary and Assistant Secretary, respectively.

Steamship further contends that the basic issues raised in the petition are questions of law that are cognizable by this Court.^[50] It adds that a reversal of some factual