

## THIRD DIVISION

[ G.R. No. 202791, June 10, 2013 ]

**PHILIPPINE TRANSMARINE CARRIERS, INC., PETITIONER, VS.  
LEANDRO LEGASPI, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the January 5, 2012 Resolution<sup>[1]</sup> and July 20, 2012 Resolution<sup>[2]</sup> of the Court of Appeals (CA), in CA-G.R. SP No. 116686, which denied the petitioner's motion to amend the dispositive portion of the June 29, 2011 CA Decision.

#### **The Factual and Procedural Antecedents**

Respondent Leandro Legaspi (*respondent*) was employed as Utility Pastry on board the vessel "Azamara Journey" under the employment of petitioner Philippine Transmarine Carriers, Inc. (*petitioner*). Respondent's employment was covered by a Collective Bargaining Agreement (CBA) wherein it was agreed that the company shall pay a maximum disability compensation of up to US\$60,000.00 only.

While on board the vessel, respondent suffered "Cardiac Arrest S/P ICD Insertation." He was checked by the ship's doctor and was prescribed medications. On November 14, 2008, respondent was repatriated to receive further medical treatment and examination. On May 23, 2009, the company- designated physician assessed his condition to be Disability Grade 2.

Not satisfied, respondent filed a complaint for full and permanent disability compensation against petitioner before the Labor Arbiter (LA).

#### ***The Labor Arbiter's Ruling***

In its January 25, 2010 Decision,<sup>[3]</sup> the LA ruled in favor of respondent, the dispositive portion of which reads:

WHEREFORE, respondents (*now petitioner*) are hereby ordered to pay complainant jointly and severally, the following:

1. US\$80,000.00 or its peso equivalent at the time of payment as permanent disability compensation;
2. US\$1,320.00 or its peso equivalent as sick wages;
3. Attorney's fees equivalent to 10% of the total award.

SO ORDERED.

Notably, the LA awarded US\$80,000.00 based on the ITF Cruise Ship Model Agreement for Catering Personnel, not on the CBA.

Not satisfied, petitioner appealed the LA decision before the National Labor Relations Commission (NLRC).

*The NLRC's Ruling*

In its May 28, 2010 Decision, the NLRC affirmed the decision of the LA. Petitioner timely filed its motion for reconsideration but it was denied by the NLRC in its July 30, 2010 Resolution. On September 5, 2010, the NLRC issued the Entry of Judgment stating that its resolution affirming the LA decision had become final and executory.

On October 22, 2010, during the hearing on the motion for execution before the NLRC, petitioner agreed to pay respondent US\$81,320.00. The terms and conditions of said payment were embodied in the Receipt of Judgment Award with Undertaking, [4] wherein respondent acknowledged receipt of the said amount and undertook to return it to petitioner in the event the latter's petition for *certiorari* would be granted, without prejudice to respondent's right to appeal. It was also agreed upon that the remaining balance would be given on the next scheduled conference. Pertinent portions of the said undertaking provide:

X X X X

3. That counsel (*of the petitioner*) manifested their willingness to tender the judgment award **without prejudice to the respondent's** (*now petitioner*) *right to file a Petition for Certiorari* and **provided, complainant** (*now respondent*) **undertakes to return the full amount without need of demand or a separate action in the event that the Petition for *Certiorari* is granted;**

4. That complainant's counsel was amenable to the arrangement and accepted the offer. NOW THEREFORE complainant and his counsel hereby acknowledge RECEIPT of the sum of EIGHTY-ONE THOUSAND THREE HUNDRED TWENTY AND 0/100 (US\$81,320.00) covered by CITIBANK CHECK with No. 1000001161 dated October 21, 2010 payable to the order of LEANDRO V. LEGASPI and **UNDERTAKES to RETURN the entire amount to respondent PHILIPPINE TRANSMARINE CARRIERS, INC. in the event that the Petition for Certiorari is granted without prejudice to complainant's right to appeal.** Such undertaking shall be ENFORCEABLE by mere motion before this Honorable office without need of separate action.[5] [Emphases and underscoring supplied]

On November 8, 2010, petitioner timely filed a petition for *certiorari* with the CA.[6]

In the meantime, on March 2, 2011, the LA issued a writ of execution which noted petitioner's payment of the amount of US\$81,320.00. On March 16, 2011, in compliance with the said writ, petitioner tendered to the NLRC Cashier the additional amounts of US\$8,132.00 as attorney's fees and P3,042.95 as execution fee. In its Order, dated March 31, 2011, the LA ordered the release of the aforementioned amounts to respondent.

### *The CA's Ruling*

Unaware of a) the September 5, 2010 entry of judgment of the NLRC, b) the October 22, 2010 payment of US\$81,320.00, and c) the writ of execution issued by the LA, the CA rendered its Decision, dated June 29, 2011. The CA *partially granted* the petition for *certiorari* and modified the assailed resolutions of the NLRC, awarding only US\$60,000.00 pursuant to the CBA between Celebrity Cruise Lines and Federazione Italianaa Transporti CISL.

Petitioner then filed its Manifestation with Motion to Amend the Dispositive Portion, submitting to the CA the writ of execution issued by the LA in support of its motion. Petitioner contended that since it had already paid the total amount of US\$89,452.00, it was entitled to the return of the excess payment in the amount of US\$29,452.00.

In its assailed January 5, 2012 Resolution, the CA denied the motion and ruled that the petition should have been dismissed for being moot and academic not only because the assailed decision of the NLRC had become final and executory on September 5, 2010, but also because the said judgment had been satisfied on October 22, 2010, even before the filing of the petition for *certiorari* on November 8, 2010. In so ruling, the CA cited the pronouncement in *Career Philippines Ship Management v. Geronimo Madjus*<sup>[7]</sup> where it was stated that the satisfaction of the monetary award rendered the petition for *certiorari* moot.

Petitioner filed a motion for reconsideration but it was denied by the CA in its assailed July 20, 2012 Resolution.

Hence, this petition.

## **ISSUES**

**I. WHETHER THE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR OF LAW IN RULING THAT PETITIONER IS ESTOPPED IN COLLECTING THE EXCESS PAYMENT IT MADE TO THE RESPONDENT NOTWITHSTANDING THE RECEIPT OF JUDGMENT AWARD SIGNED BY THE RESPONDENT**

**II. WHETHER THE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN INVOKING THE RULING OF *CAREER V. MADJUS***

Petitioner argues that it clearly filed its petition for *certiorari* within the 60-day reglementary period and, thus, the NLRC resolutions could not have attained finality. Citing *Delima v. Gois*,<sup>[8]</sup> petitioner avers that the NLRC cannot declare that a decision has become final and executory because the period to file the petition has not yet expired. Petitioner, thus, contends that the finality of the NLRC judgment did not render the petition moot and academic because such is null and void *ab initio*.

Petitioner also argues that the Receipt of the Judgment Award with Undertaking, which was never refuted by respondent, clearly stated that the payment of the judgment award was without prejudice to its right to file a petition for *certiorari* with the CA. Petitioner asserts that the case relied upon by the CA, *Career Philippines*, is not applicable as it is not on all fours with this case. Instead, it asserts that the applicable case should be *Leonis Navigation Co., Inc. v. Villamater*,<sup>[9]</sup> where it was held that the satisfaction of the monetary award by the employer does not render the petition for *certiorari* moot before the CA.

On the other hand, respondent reiterates the CA ruling, asserting that the voluntary satisfaction by petitioner of the full judgment award rendered the case moot, and insists that it was a clear indication that it had already been persuaded by the judiciousness and merits of the award for disability compensation. He also avers that this petition is merely pro-forma as it is a reiteration of petitioner's previous issues and arguments already resolved by the CA.

### **The Court's Ruling**

#### *Petition for Certiorari, Not Moot*

Section 14, Rule VII of the 2011 NLRC Rules of Procedure provides that decisions, resolutions or orders of the NLRC shall become final and executory after ten (10) calendar days from receipt thereof by the parties, and entry of judgment shall be made upon the expiration of the said period.<sup>[10]</sup> In *St. Martin Funeral Home v. NLRC*,<sup>[11]</sup> however, it was ruled that judicial review of decisions of the NLRC may be sought via a petition for *certiorari* before the CA under Rule 65 of the Rules of Court; and under Section 4 thereof, petitioners are allowed sixty (60) days from notice of the assailed order or resolution within which to file the petition. Hence, in cases where a petition for *certiorari* is filed after the expiration of the 10-day period under the 2011 NLRC Rules of Procedure but within the 60-day period under Rule 65 of the Rules of Court, the CA can grant the petition and modify, nullify and reverse a decision or resolution of the NLRC.

Accordingly, in this case, although the petition for *certiorari* was not filed within the 10-day period, petitioner timely filed it before the CA within the 60-day reglementary period under Rule 65. It has, thus, been held that the CA's review of the decisions or resolutions of the NLRC under Rule 65, particularly those which have already been executed, does not affect their statutory finality, considering that Section 4,<sup>[12]</sup> Rule XI of the 2011 NLRC Rules of Procedure, provides that a petition for *certiorari* filed with the CA shall not stay the execution of the assailed decision unless a restraining order is issued. In *Leonis Navigation*, it was further written: