

THIRD DIVISION

[G.R. No. 172029, August 06, 2008]

**ASSOCIATION OF INTERNATIONAL SHIPPING LINES, INC., IN ITS OWN BEHALF AND IN REPRESENTATION OF ITS MEMBERS: AMERICAN TRANSPORT LINES, INC., AUSTRALIAN NATIONAL LINE, FLEET TRANS INTERNATIONAL AND UNITED ARAB SHIPPING CO., DONGNAMA SHIPPING CO., HANJIN SHIPPING COMPANY, LTD., HAPAG-LLOYD A/G, KNUITSEN LINE, KYOWA LINE, NEPTUNE ORIENT LINE, ORIENT OVERSEAS CONTAINER LINE, P & O CONTAINERS, LTD., P & O SWIRE CONTAINERS AND WILH WILHELMSSEN LINE A/S, REGIONAL CONTAINERS LINES (PTE), LTD., SENATOR LINE BREMEN GERMANY, TOKYO SENPAKU KAISHA, LTD., UNIGLORY LINE, WAN HAI LINES, LTD., WESTWIND LINE, ZIM ISRAEL NAVIGATION CO., LTD., COMPANIA SUD AMERICANA DE VAPORES S.A., DEUTSCHE SEEREEDEREI ROSTOCK (DSR) GERMANY AND ARIMURA SANGYO COMPANY, LTD., PACIFIC INTERNATIONAL LINES (PTE), LTD., COMPAGNIE MARITIME D' AFFRETEMENT (CMA), YANGMING MARINE TRANSPORT CORP., NIPON YUSEN KAISHA, HYUNDAI MERCHANT MARINE CO., LTD., MALAYSIAN INTERNATIONAL SHIPPING CORPORATION BERHAD, BOLT ORIENT LINE, MITSUI O.S.K. LINES, LTD., PHILS. MICRONESIA & ORIENT NAVIGATION CO. (PMSO LINE), LLOYD TRIESTINO DI NAVIGAZIONE S.P.A.N., HEUNG-A SHIPPING COMPANY, KAWASAKI KISEN KAISHA ARIMURA SANGYO COMPANY, LTD., AMERICAN PRESIDENT LINES, LTD., MAERSK FILIPINAS, INC., EASTERN SHIPPING LINES, INC., NEDLLOYD LINES, INC., PHILIPPINE PRESIDENT LINES, LTD., SEA-LAND SERVICE, INC., MADRIGAL-WAN HAI LINES, PETITIONERS, VS. UNITED HARBOR PILOTS' ASSOCIATION OF THE PHILIPPINES, INC.,
RESPONDENT.**

D E C I S I O N

REYES, R.T., J.:

PAYMENT of nighttime and overtime differential of harbor pilots is the object of this petition for review on *certiorari*^[1] of the Decision^[2] of the Court of Appeals (CA) partly setting aside the Order^[3] of the Regional Trial Court (RTC), Branch 36, Manila pertaining to a motion for execution.

The Facts

On March 1, 1985, the Philippine Ports Authority (PPA) issued PPA Administrative Order (AO) No. 03-85 substantially adopting the provisions of Customs Administrative Order (CAO) No. 15-65^[4] on the payment of additional charges for

pilotage service^[5] rendered "between 1800H to 1600H," or on "Sundays or Holidays," practically referring to "nighttime and overtime pay." Section 16 of the AO reads:

Section 16. *Payment of Pilotage Service Fees.* –**Any vessel which employs a Harbor Pilot shall pay the pilotage fees** prescribed in this Order and shall comply with the following conditions:

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c) When pilotage service is rendered at any port between 1800H to 1600H, Sundays or Holidays, **an additional charge of one hundred (100%) percentum over the regular pilotage fees shall be paid by vessels engaged in foreign trade, and fifty (50%) percentum by coastwise vessels. This additional charge or premium fee for nighttime pilotage service shall likewise be paid when the pilotage service is commenced before and terminated after sunrise.**

Provided, however, that no premium fee shall be considered for service rendered after 1800H if it shall be proven that the service can be undertaken before such hours after the one (1) hour grace period, as provided in paragraph (d) of this section, has expired. (Emphasis supplied)

On February 3, 1986, responding to the clamor of harbor pilots for the increase and rationalization of pilotage service charges, then President Ferdinand E. Marcos issued Executive Order (EO) No. 1088 providing for uniform and modified rates for pilotage services rendered in all Philippine ports. It fixed the rate of pilotage fees on the basis of the "vessel's tonnage" and provided that the "rate for docking and undocking anchorage, conduction and shifting and other related special services is equal to 100%." EO No. 1088 also contained a repealing clause stating that all orders, letters of instruction, rules, regulations, and issuances inconsistent with it are repealed or amended accordingly.^[6]

Subsequently, pursuant to EO No. 1088, the PPA issued several resolutions disallowing overtime premium or charge and recalling its recommendation for a reasonable night premium pay or night differential pay, viz.:

RESOLUTION NO. 1486^[7]

RESOLVED, That on motion duly seconded, and in consideration of the proper court order(s) mandating PPA to implement the pilotage rates under Executive Order No. 1088, **the overtime premium or charge collected by Harbor Pilots is hereby disallowed** and Section 16(c) of Article III of PPA Administrative Order No. 03-85, prescribing general guidelines on pilotage services, be, as it is hereby repealed and modified accordingly;

RESOLVED FURTHER, That the General Manager, be, as he is hereby authorized, to issue the corresponding amendatory guidelines.

RESOLUTION NO. 1541^[8]

RESOLVED, That on motion duly seconded, and after taking into consideration the respective positions of the various Harbor Pilot associations and shipping groups, **Board Resolution No. 1486, be, as it is hereby reiterated and affirmed, and Management, be, as it is hereby directed to adopt a policy of no overtime pay for pilotage services;**

RESOLVED FURTHER, That **in lieu of the "no overtime pay policy," Management be, as it is hereby directed, to recommend a reasonable night premium pay or night differential pay for the conduct of the basic pilotage services."**

RESOLUTION NO. 1554^[9]

RESOLVED, That on motion duly seconded, and taking into consideration the arguments raised by the Association of International Shipping Lines, Inc., raising certain legal issues on the adoption of Resolution No. 1541, as adopted on November 13, 1995, the proposed PPA Administrative Order No. 19-95, hereto attached and incorporated by reference, recommending amendments to Section 16(c) of PPA Administrative Order No. 03-85, disallowing overtime pay and authorizing instead the collection of nighttime premium pay for pilotage services rendered during nighttime (1800H to 0600H), be, as it is hereby deferred, for further legal review;

RESOLVED FURTHER, That **pending review and clarification by the Office of the Government Corporate Counsel of the legal issues on overtime pay/nighttime premium pay, Resolution No. 1541, be, as it is hereby recalled and Resolution No. 1486, as adopted on May 19, 1995, be, as it is hereby reaffirmed.**

On the strength of PPA Resolution No. 1486, petitioners Association of International Shipping Lines (AISL) and its members refused to pay respondent United Harbor Pilots' Association of the Philippines, Inc. (UHPAP)'s claims for nighttime and overtime pay.^[10] In response, UHPAP threatened to discontinue pilotage services should their claims be continually ignored.^[11]

Petitioners then filed a petition for declaratory relief with the RTC, Branch 36, Manila, docketed as Civil Case No. 96-78400. The issues raised there were: **(1) whether EO No. 1088 authorized the payment of nighttime and overtime pay;** and (2) whether the rate of pilotage fees enumerated in EO No. 1088 were for "every pilotage maneuver" or for the "entire package of pilotage services."

On January 26, 1998, the RTC granted the petition and declared that respondent UHPAP is not authorized to collect any overtime or night shift differential for pilotage services rendered. The RTC disposed as follows:

WHEREFORE, **judgment is hereby rendered granting the petition herein and it is hereby declared that (1) respondent PPA is bereft of authority to impose and respondent UHPAP is not authorized to**

collect any overtime or night shift differential for pilotage services rendered; and (2) the rates of fees for pilotage services rendered refer to the totality of pilotage services rendered and respondent UHPAP cannot legally charge separate fees for each pilotage service rendered. All billings inconsistent with this decision are declared null and void and petitioners are not liable therefor.

SO ORDERED.^[12] (Emphasis supplied)

The trial court said that in view of the repealing clause in EO No. 1088, it was axiomatic that all prior issuances inconsistent with it were deemed repealed. Thus, the provisions of Section 16 of PPA AO No. 03-85 on nighttime and overtime pay were "effectively stricken-off the books." It further held that since the rate of pilotage fees enumerated in EO No. 1088 was based on the "vessel's tonnage," it meant that such rate referred to the "entire package of pilotage services." According to the trial court, to rule otherwise is to frustrate the uniformity envisioned by the rationalization scheme.

Respondent UHPAP moved for reconsideration but the motion was denied.

Desiring to secure for its members the payment of nighttime and overtime pay, respondent UHPAP filed directly before this Court a petition for review on *certiorari*, docketed as G.R. No. 133763, raising the following legal issues for determination: (1) **whether EO No. 1088 repealed the provisions of CAO No. 15-65 and PPA AO No. 03-85, as amended, on payment of additional pay for holidays work and premium pay for nighttime service;** (2) whether the rates, as fixed in the schedule of fees based on tonnage in EO No. 1088, are to be imposed on every pilotage movement; and (3) whether EO No. 1088 deprived the PPA of its right, duty and obligation to promulgate new rules and rates for payment of fees, including additional pay for holidays and premium pay for nighttime services.

On November 13, 2002, this Court granted the petition and reversed the RTC. This Court held then:

Section 3 of E.O. No. 1088 is a general repealing clause, the effect of which falls under the category of an implied repeal as it does not identify the orders, rules or regulations it intends to abrogate. A repeal by implication is frowned upon in this jurisdiction. It is not favored, unless it is manifest that the legislative authority so intended or unless it is convincingly and unambiguously demonstrated that the subject laws or orders are clearly repugnant and patently inconsistent that they cannot co-exist. This is because the legislative authority is presumed to know the existing law so that if repeal is intended, the proper step is to express it.

There is nothing in E.O. No. 1088 that reveals any intention on the part of Former President Marcos to amend or supersede the provisions of PPA AO No. 03-85 on nighttime and overtime pay. While it provides a general repealing clause, the same is made dependent upon its actual inconsistency with other previous orders, rules, regulations or other issuance. Unfortunately for AISL, we find no inconsistency between E.O. No. 1088 and the

provisions of PPA AO No. 03-85. At this juncture, it bears pointing out that these two orders dwell on entirely different subject matters. E.O. No. 1088 provides for uniform and modified rates for pilotage services rendered to foreign and coastwise vessels in all Philippine ports, public or private. The purpose is to rationalize and standardize the pilotage service charges nationwide. Upon the other hand, the subject matter of the controverted provisions of PPA AO No. 03-85 is the payment of the additional charges of nighttime and overtime pay. Plainly, E.O. No. 1088 involves the basic compensation for pilotage service while PPA AO No. 03-85 provides for the additional charges where pilotage service is rendered under certain circumstances. **Just as the various wage orders do not repeal the provisions of the Labor Code on nighttime and overtime pay, the same principle holds true with respect to E.O. No. 1088 and PPA AO 03-85.** Moreover, this Court adheres to the rule that every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. E.O. No. 1088 and PPA AO No. 03-85 should thus be read together and harmonized to give effect to both.

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While E.O. No. 1088 prescribes the rates of pilotage fees on the basis of the "vessel's tonnage," however, this does not necessarily mean that the said rate shall apply to the totality of pilotage services. If it were so, the benefit intended by E.O. No. 1088 to harbor pilots would be rendered useless and ineffectual. It would create an unjust if not an absurd situation of reducing take home pay of the harbor pilots to a single fee, regardless of the number of services they rendered from the time a vessel arrives up to its departure. It must be remembered that pilotage services cover a variety of maneuvers such as "docking," "undocking anchorage," "conduction," "shifting" and other "related special services." To say that the rate prescribed by E.O. No. 1088 refers to the totality of all these maneuvers is to defeat the benefit intended by the law for harbor pilots. It should be stressed that E.O. No. 1088 was enacted in response to the clamor of harbor pilots for the increase and rationalization of pilotage service charges through the imposition of uniform and adjusted rates. Hence, in keeping with the benefit intended by E.O. No. 1088, the schedule of fees fixed therein based on tonnage should be interpreted as applicable to "each pilotage maneuver" and not to the "totality of the pilotage services."

The use of the word "and" between the words "docking" and "undocking" in paragraph 2 of Section 1 of E.O. No. 1088 should not override the above-mentioned purpose of said law. It is a basic precept of statutory construction that statutes should be construed not so much according to the letter that killeth but in line with the purpose for which they have been enacted. Statutes are to be given such construction as will advance the object, suppress the mischief, and secure the benefits intended.