

THIRD DIVISION

[G.R. NO. 153750, January 25, 2006]

ORIENTAL SHIPMANAGEMENT CO., INC., PETITIONER, VS. HON. COURT OF APPEALS, FELICISIMO S. CUESTA AND WILFREDO B. GONZAGA, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

For review on certiorari are (1) the **Decision**^[1] dated January 31, 2002 and (2) the **Resolution**^[2] dated May 29, 2002, of the Court of Appeals in CA-G.R. SP. No. 61073. The Court of Appeals had set aside the Decision^[3] dated June 30, 2000, and Resolution^[4] dated July 31, 2000 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 021454-99 which affirmed with modification the Labor Arbiter's Decision^[5] of August 18, 1999.

The antecedent facts are as follows:

Petitioner Oriental Shipmanagement Co., Inc. (Oriental, for brevity) is a recruitment agency duly licensed by the Philippine Overseas Employment Administration (POEA) to recruit seafarers for employment on board vessels accredited to it. Kara Seal Shipping Co., Ltd. (Kara Seal, for brevity) is petitioner's foreign-based principal, which owns and manages *M/V Agios Andreas*, a vessel accredited to petitioner.

Respondents Felicisimo Cuesta and Wilfredo Gonzaga were hired in the latter part of 1998 as Third Engineers on board *M/V Agios Andreas* for a one-year contract with a monthly salary of nine hundred US dollars (US\$900). It was through Oriental that Kara Seal hired them.

Cuesta boarded *M/V Agios Andreas* on November 14, 1998, at Durban, South Africa while Gonzaga boarded the ship on January 5, 1999, at the Port of Marseille, France.

On November 27, 1998, Kara Seal and *M/V Agios Andreas'* Shipmaster signed an Agreement with the International Transport Workers Federation (ITF for brevity) increasing the monthly salary of the vessel's employees. Based on said Agreement, respondents were entitled to an increased monthly salary of one thousand nine hundred thirty-six US dollars (US\$1,936).

On January 8, 1999, at the Port of Marseille, an ITF Inspector boarded *M/V Agios Andreas* for a routine check. He discovered that the vessel's crew had not been paid according to the ITF Agreement. The Shipmaster assured the ITF Inspector he would comply as soon as the vessel reached its next port, Piombino in Italy.

However, upon reaching Port Piombino on January 19, 1999, respondents were

ordered repatriated to Manila. Before their repatriation, they were made to sign Letters of Indemnity, which we quote:

Letter of Indemnity

TO WHOM IT MAY CONCERN:

This confirm that no disciplinary measures or legal proceedings or other action will be instituteted (sic) against Mr. CUESTA FELICISIMO — concerned (sic) his service aboard of M/v AGIOS ANDREAS — Cyprus Flag — as 3rd Engineer.

This certificate has been signed voluntarily and freely, it will not be withdrawn in any such circumstances; as his consent the International Transport Worker's Federation (I.T.F.) or other Union for the betterment of his employment.

The contract of employment of the above crewmember is terminated by mutual agreement up to 23rd January 1999, in the Port of Piombino (Italy).

The seamen (sic) hereby acknowledge has been received all what is due to him, arising from his employment on board of the mentioned vessel; consequently he declares to have no claim whatever against the Shipowner. [6]

Letter of Indemnity

TO WHOM IT MAY CONCERN:

This confirm that no disciplinary measures or legal proceedings or other action will be instituteted (sic) against Mr. GONZAGA WILFREDO — concerned (sic) his service aboard of M/v AGIOS ANDREAS — Cyprus Flag — as 3rd Engineer.

This certificate has been signed voluntarily and freely, it will not be withdrawn in any such circumstances; as his consent the International Transport Worker's Federation (I.T.F.) or other Union for the betterment of his employment.

The contract of employment of the above crewmember is terminated by mutual agreement up to 23rd January 1999, in the Port of Piombino (Italy).

The seamen (sic) hereby acknowledge has been received all what is due to him, arising from his employment on board of the mentioned vessel; consequently he declares to have no claim whatever against the Shipowner. [7]

On January 23, 1999, respondents received from Kara Seal the following payments for their services:

For respondent Cuesta: (Payment in US\$).

From November 13, 1998 to November 26, 1998 (14 days)

| | | |
|---------------------|--------------------------|-------|
| Wages: | (900 divided by 30 x 14) | = 420 |
| Vacation Leave Pay: | (75 divided by 30 x 14) | = 35 |
| Overtime Pay: | (270 divided by 30 x 14) | = 126 |
| Extra Overtime: | | 47.52 |

From November 27, 1998 to December 31, 1998 (34 days)

| | | |
|-----------------|----------------------------|------------|
| New Wages: | (1,936 divided by 30 x 34) | = 2,194.13 |
| Extra Overtime: | (27 x 6.61) | = 178.47 |

From January 1, 1999 to January 24, 1999 (24 days)

| | | |
|------------|----------------------------|------------------------|
| New Wages: | (1,936 divided by 30 x 24) | = 1,548 ^[8] |
|------------|----------------------------|------------------------|

For respondent Gonzaga: (Payment in US\$).

From January 5, 1999 to January 6, 1999 (1 day)

| | | |
|---------------------|-------------------------|--------|
| Wages: | (900 divided by 30 x 1) | = 30 |
| Vacation Leave Pay: | (75 divided by 30 x 1) | = 2.50 |

From January 7, 1999 to January 24, 1999 (18 days)

| | | |
|------------|----------------------------|---------------------------|
| New Wages: | (1,936 divided by 30 x 18) | = 1,161.59 ^[9] |
|------------|----------------------------|---------------------------|

Thus, on April 19, 1999, respondents filed a **Complaint**^[10] against Oriental and Kara Seal for illegal dismissal. They prayed that judgment be rendered ordering Oriental and Kara Seal to pay:

- a) US\$7,470.00 or US\$3,735.00, each, representing three (3) months salaries of complainants for the unexpired portion of their contracts;
- b) US\$175.00, as and by way of unpaid vacation leave pay of complainant Cuesta;
- c) P200,000.00, as moral damages;
- d) P100,000.00, representing exemplary damages;

e) Attorney's fees of not less than 10% of the total claims plus litigation expenses and costs of suit.^[11]

Respondents averred that Kara Seal repeatedly failed to pay their wages according to the ITF Agreement. They also claimed that they did not voluntarily resign, but were forced to sign the Letters of Indemnity under threat of possible disciplinary actions. They added that prior to their termination, they had demanded from the Shipmaster the payment of their unpaid wages. They also protested, before they were dismissed, the lack of adequate provisions such as medicine, winter jacket, and safety gears as well as the lack of a washing machine and air conditioning units at the vessel's control room and crew's cabin.

In defense, Oriental and Kara Seal alleged that respondents voluntarily resigned, as evidenced by the Letters of Indemnity bearing their signatures. They added that respondents were duly paid their full wages.

In its three-page Decision, the Labor Arbiter dismissed the complaint thus:

The validity of the resignation and repatriation of the complainants must be acknowledged. The voluntariness of their resignation is confirmed and reflected from the Letter of Indemnity they executed. They were executed in the presence and with the participation of the ITF. ITF acts as the protector of seamen's rights against any abuse or shortcomings of ship owners. They will not allow such eventuality had the complainants been under duress. Besides, there is really no evidence of threat or intimidation to the complainant's resignation. Accordingly, the validity of their resignation and repatriation must be upheld.

On the other hand, complainant Cuesta must be paid the sum of \$175.00 as payment for vacation leave of which he has not been paid and this claim was not at all disputed by the respondents.

WHEREFORE, the complaint for illegal dismissal is dismissed for lack of merit. However, the respondents are hereby ordered to pay complainant Cuesta the sum of \$175.00 as payment for vacation leave.

SO ORDERED.^[12]

On appeal, the NLRC affirmed the Labor Arbiter's Decision with modification. It reduced the vacation leave pay awarded to Cuesta from US\$175 to US\$75. Thus:

We sustain the Labor Arbiter's conclusion that the Letters of Indemnity were valid. Even complainants admit that said letter of indemnity were confirmed by representative of ITF. Hence, the presumption of regularity of the Letter of Indemnity must be considered in respondent's favor.

However, the award of vacation pay must be corrected. The contract show that Cuesta is only entitled to \$75.00 vacation pay and not \$175.00 as awarded.... Respondent's prayer for attorney's fees and litigation expenses must fail in view of lack of evidence showing bad faith on part of complainants.

WHEREFORE, the appealed Decision is hereby MODIFIED in that the award of vacation leave in favor of complainant Cuesta must be reduced to seventy five dollars only (\$75).

SO ORDERED.^[13]

Aggrieved, respondents filed a motion for reconsideration, which the NLRC denied for lack of merit. Thus, respondents filed with the Court of Appeals a special civil action for certiorari, alleging that grave abuse of discretion was committed by the NLRC.

In its assailed Decision, the Court of Appeals set aside the questioned Decision and Resolution of the NLRC. The dispositive part of the appellate court's Decision reads:

WHEREFORE, the petition is GRANTED. The assailed Decision of the Labor Arbiter, dated August 18, 1999 and the Decision and Resolution of the National Labor Relations Commission, respectively dated June 30, 2000 and July 31, 2000, are hereby ANNULLED and SET ASIDE. A new judgment is hereby entered DECLARING the subject "Letters of Indemnity", dated January 23, 1999, to be VOID AND WITHOUT ANY LEGAL EFFECT. Petitioners, FELICISIMO S. CUESTA and WILFREDO B. GONZAGA, are furthermore DECLARED to have been illegally dismissed from employment and private respondents, KARA SEAL SHIPPING CO., LTD and ORIENTAL SHIP MANAGEMENT CO., INC. are, therefore, ORDERED to solidarily PAY CUESTA and GONZAGA, as follows:

- a. Five thousand eight hundred eight US dollars (US\$5,808.00), each, representing their three-month salaries for the unexpired portion of their contracts;
- b. US\$142.50, as and by way of unpaid vacation leave pay for petitioner CUESTA;
- c. Ten thousand pesos (P10,000.00), each, as moral damages;
- d. Five thousand pesos (P5,000.00), each, as exemplary damages;
- e. Attorneys' fees equivalent to ten percent (10%) of five thousand eight hundred eight US dollars (US\$5,808.00), the amount of wages recovered; and the costs of suit.

SO ORDERED.^[14]

Oriental and Kara Seal filed a Motion for Reconsideration, which the Court of Appeals denied in its assailed Resolution.

Hence, the instant petition anchored on the sole ground that:

The Court of Appeals erred in setting aside the Labor Arbiter's and National Labor Relations Commissions' findings that private respondents voluntarily resigned from employment as shown by the Letters of Indemnity they executed as the said findings were based on substantial evidence and law and rendered without any grave abuse of discretion.^[15]