

## THIRD DIVISION

[ G.R. NO. 144638, August 09, 2005 ]

**MATAGUMPAY MARITIME CO., INC., NOIMI L. ZABALA AND  
CAPT. CRISANTO QUINTANA, PETITIONERS, VS. BENEDICT C.  
DELA CRUZ, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

For resolution is the petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions dated July 18, 2000<sup>[1]</sup> and August 30, 2000<sup>[2]</sup> rendered by the Court of Appeals in CA-G.R. SP No. 59607, entitled "*Matagumpay Maritime Co., Inc., Noimi L. Zabala and Capt. Crisanto Quintana vs. National Labor Relations Commission and Benedict C. Dela Cruz.*"

The facts as borne by the records are:

Matagumpay Maritime Co., Inc., *petitioner*, is a manning agency for Yeh Shipping Co., Ltd., a corporation engaged in the operation of shipping vessels, including M/V Kirillis Barbara.

On May 10, 1993, Benedict C. Dela Cruz, *respondent*, was employed by petitioner as a seaman in M/V Kirillis Barbara with a monthly salary of US \$440.00. His employment covered a period of one (1) year or from May 10, 1993 to May 10, 1994.

Barely two (2) months thereafter or on July 15, 1993, he was diagnosed with arthritis and thereafter repatriated to the Philippines for medical treatment at the Seaman's Hospital. Later, he suffered severe chest pains, prompting his confinement at the Manila Medical Center where he was diagnosed with rheumatic heart disease.

Subsequently or on October 15, 1993, his attending physician issued a medical certificate declaring him "fit to work." He immediately reported for work but was advised by petitioner to show up periodically. Meanwhile, he attended a one-week radar observation course.

Sometime in January, 1994, he visited a co-employee at petitioner's M/V Cedar Forest. There, he saw Noimi Zabala, *also impleaded as petitioner*, who told him that petitioner company refused to re-employ him because of his ailment.

Eventually, his attending physician issued another medical certificate dated June 14, 1994 confirming his sickness as "**work-oriented** arthritis, acute ® knee and rheumatic heart disease." This prompted respondent to file with the Overseas Workers Welfare Administration (OWWA) an application for permanent disability benefits, which he later withdrew.

On October 24, 1997, respondent filed with the Labor Arbiter a complaint for illegal dismissal and non-payment of wages and disability benefits against petitioner and its officers, docketed as NCR OFW Case No. 97-10-4347.

In due course, the Labor Arbiter rendered a Decision dated July 7, 1999 dismissing the complaint but awarding respondent US \$440.00 as financial assistance.

Upon appeal, the National Labor Relations Commission (NLRC) issued a Resolution dated November 17, 1999 affirming with modification the Arbiter's assailed Decision in the sense that respondent was also granted disability benefits in the sum of US \$10, 075.00, thus:

"WHEREFORE, premises considered, the Decision of the Arbiter dated 7 January 1999 is hereby AFFIRMED except with modifications. That in addition, respondents are jointly and severally adjudged to pay complainant disability benefits the peso equivalent of \$10,075.00, at the exchange rate prevailing during the time of payment, with legal interest of 6% p.a. from January, 1994 until finality of this Resolution and 12% p.a. from the date said Resolution becomes final and executory until actual payment.

No pronouncement as to costs.

SO ORDERED."

Petitioners then filed a motion for reconsideration but was denied by the NLRC in a Resolution dated April 24, 2000.

Consequently, on July 10, 2000, petitioners filed with the Court of Appeals a petition for *certiorari* with prayer for issuance of a temporary restraining order and/or preliminary injunction.

In a Resolution dated July 18, 2000, the Court of Appeals dismissed the petition for being late, holding that:

"The petition for certiorari states that petitioners received the Resolution dated November 17, 1999 of the respondent NLRC on December 7, 1999. Petitioners filed a Motion for Reconsideration to said Resolution on December 17, 1999. Thus, ten (10) days already lapsed from their original period of sixty (60) days pursuant to Sec. 4, Rule 65 of the Rules of Civil Procedure, as **amended**. The NLRC denied petitioners' Motion for Reconsideration in its April 20, 2000 Resolution which the latter received on May 11, 2000. From May 11, 2000, petitioners had only fifty (50) days left within which to file a petition for certiorari. They filed the petition only on July 10, 2000. From May 11 to July 10, 2000 was a period of sixty (60) days. Consequently, the petition was filed late by ten (10) days.

WHEREFORE, the petition being time-barred, the Court DISMISSES it.

SO ORDERED."