

[G.R. No. 160315, November 11, 2005]

LOURDES D. RIVERA, PETITIONER, VS. WALLEM MARITIME SERVICES, INC., AND WALLEM SHIPMANAGEMENT, LTD., RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Court of Appeals (CA) dated April 23, 2003, in CA-G.R. SP No. 71807, as well as the Resolution^[2] dated October 8, 2003 denying the motion for reconsideration thereof.

The antecedents are as follows:

Spouses Rodolfo and Lourdes Rivera were residents of Meycauayan, Bulacan. Rodolfo had been working as a seaman since 1989, and had been repeatedly hired by Wallem Maritime Services, Inc. with Wallem Shipmanagement Ltd., as principal.

On January 25, 1997, Rodolfo signed a Contract of Employment^[3] as messman on board the Crown Jade with a basic monthly salary of US\$390.00 on a 44-hour work week, and guaranteed monthly overtime pay of US\$217 for 85 hours. As required by the contract, Rodolfo was subjected to a pre-employment medical examination^[4] where he was declared fit to work. He joined the crew of Crown Jade on February 3, 1997 for a nine-month voyage.

Before the expiration of his contract and prior to disembarkation, Rodolfo thrice sought medical attention for various complaints: on March 4, 1997, for swelling on the left ankle at the port of Santa Marta;^[5] on August 3, 1997, for "rashes on the right calf" at the port of Gothenburg where he was declared unfit to work and was advised bed rest for three to five days;^[6] and on November 17, 1997, also at the port of Gothenburg, for "testicular pain on right side," where he was again advised to rest for three to four days.^[7] He signed off from the vessel on November 19, 1997.

On December 5, 1997, Rodolfo claimed his leave pay and one day travel allowance from Wallem Shipping.^[8]

On December 24, 1997, Rodolfo, having suffered some weakness, was brought to the University of Santo Tomas Hospital.

In a Letter^[9] dated January 13, 1998, Lourdes informed Wallem Shipping that her husband was confined and was suffering from "end-stage renal disease 2nd degree Tubulo-interstitial nephritis." She then requested for assistance in claiming her

husband's retirement pay. Accordingly, Rodolfo's benefits amounting to US\$371.80 were released.^[10]

In January 1998, Lourdes filed a grievance complaint against Wallem Shipping for non-payment of disability benefits before the Associated Marine Officers and Seamen's Union of the Philippines-PTGWO-ITF. The parties did not reach a settlement, and the complaint was declared a deadlock on January 28, 1998.^[11]

Rodolfo eventually succumbed to congestive heart failure secondary to chronic renal disease and died on April 28, 1999.^[12]

On July 26, 1999, Lourdes filed a claim for death benefits, burial assistance, moral and exemplary damages, as well as attorney's fees before the National Labor Relations Commission (NLRC). The case was docketed as NLRC-NCR Case No. OFW (M)99-07-1152.^[13]

Lourdes alleged that her husband had served the respondents in separate and successive contracts for more than eight years. He was, likewise, a messman for many years, and often helped in cooking different styles of food. The complainant surmised that the spicy ingredients and other food garnishes to which her husband as a Filipino was unaccustomed to, along with his continuous exposure to heat, humidity, smoke, fumes and physical exhaustion contributed to the illness that caused his death. She pointed out that her husband's illness was acknowledged by the respondents as shown in the Master's Report.^[14] She insisted that the respondents did not bother to extend medical and financial assistance to her husband, because of which the latter failed to comply with the physician's advice to undergo several laboratory tests. The family's finances were completely depleted and she could no longer borrow money to defray the mounting medical hospitalization expenses, so she was forced to bring her husband home.

According to Lourdes, despite her repeated pleas for the release of her husband's compensation, the respondents refused to give any form of financial aid. She prayed that judgment be rendered in her favor awarding death compensation benefits of US\$50,000.00 and US\$7,000.00 for her minor child, Ryan Louie; US\$1,000.00 as burial assistance; P500,000.00 as moral damages; P250,000.00 as exemplary damages; and attorney's fees equivalent to 10% of the judgment award.^[15]

For their part, the respondents alleged that the complaint stated no cause of action. They pointed out that in response to the complainant's *pro-forma* Complaint dated July 19, 1999, they filed a Motion for Bill of Particulars, to which the complainant failed to respond, much less appear at the scheduled hearings of the case. When she appeared on October 13, 1999, she manifested that the parties be required to simultaneously file their respective position papers.

On December 11, 2000, the Labor Arbiter dismissed the complaint for "lack of merit and want of basis." The Labor Arbiter ruled that the complainant was not entitled to death benefits or burial expenses, considering that her husband died more than one year after he arrived in the Philippines. The Labor Arbiter also took note that Rodolfo was never confined or advised shore treatment during the course of his employment, but was merely directed to rest for three to five days. Moreover,

Rodolfo failed to comply with the mandatory reporting requirement under Section 20(B) of the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels.

Lourdes appealed the matter to the NLRC, which, after due proceedings, reversed the decision of the Labor Arbiter.^[16] According to the NLRC, Wallem Shipping could not be faulted for not extending the necessary medical examination upon disembarkation because, in the first place, the deceased failed to comply with what was required of him under the contract, *i.e.*, to submit himself to medical check-up within 72 hours upon arrival. However, this was not a bar for Lourdes to claim death benefits due her on account of her husband's death. Citing *Wallem Maritime Services, Inc. v. National Labor Relations Commission*,^[17] the NLRC ruled that it is not required that employment be the sole factor in the acceleration of the illness as to entitle the claimant to death benefits. The dispositive portion of the decision reads:

WHEREFORE, the decision appealed from is REVERSED and SET ASIDE and a new one ENTERED ordering the respondents, jointly and severally, to pay the complainant the following:

1. Death compensation Benefits

For complaint	US\$50,000.00
For Ryan Rivera (minor child)	7,000.00

2. Burial assistance 1,000.00

3. Attorney's fees equivalent
to 10% of the total monetary
awards

SO ORDERED.^[18]

Unsatisfied, Wallem Shipping elevated the matter to the CA.

According to the appellate court, there was no basis to grant Lourdes' claim for disability benefits because her husband was "repatriated" not because he was ill but because his contract had been completed. It stressed that Rodolfo failed to comply with the reporting requirement under paragraph 3, Section 20(B). Moreover, the medical certificate relied upon by the NLRC did not sufficiently prove that Rodolfo's illness was work-related.^[19] Thus, the CA ruled –

WHEREFORE, premises considered, the Petition is hereby **GRANTED**. The assailed decision and resolution of the NLRC are hereby **SET ASIDE** and the decision of the Labor Arbiter is **REINSTATED** dismissing the complaint.

SO ORDERED.^[20]

The petitioner now comes before the Court on the following sole issue:

... Whether the petitioner is entitled to claim the death benefits under the POEA Contract which arose from the death of seafarer Rodolfo Rivera and what amount of evidence is required from the petitioner to prove her entitlement thereto.^[21]

According to the petitioner, the CA decided factual questions of substance not in accord with the law and settled jurisprudence. She points out that her deceased husband died of congestive heart failure with chronic renal disease as the underlying cause. He could not have acquired the illness elsewhere since he was diagnosed with end-stage renal disease a month after he returned to the Philippines. The petitioner further points out that her husband had been employed by the respondents from 1989 to 1997. She insists that there is "a medical connection between the infirmities which the deceased seaman previously suffered while he was on board and the very cause of his death." While Rodolfo died after the employment contract had already expired, the signs and symptoms of the disease which ultimately led to his death were already present at the time he was still under the respondents' employ. The petitioner insists that it has been clearly established that her husband died of a work-related disease.

Citing *Wallem Maritime Services Inc. v. NLRC*,^[22] the petitioner claims that, like her husband, the seafarer therein died after the term of his employment contract, but the Court granted the benefits being recovered notwithstanding the argument of the employers that such death occurred after the expiration of the contract. The petitioner further insists that she is entitled to attorney's fees under Article 2208 of the Civil Code of the Philippines, considering that the respondents' act or omission compelled her to incur expenses to enforce her lawful claims.

For their part, the respondents claim that the instant petition involves a pure question of fact, outside the scope of Rule 45 of the Rules of Court. Moreover, the findings of facts of the Labor Arbiter and the CA are supported by evidence sufficient to justify the decision. The respondents also point out that the petitioner received a copy of the CA Decision on May 13, 2003, and filed the Motion for Reconsideration only on May 29, 2003; thus, the requisite motion for reconsideration initiated by the petitioner before the CA was filed out of time (one day late). Consequently, the instant petition for review was, likewise, filed out of time.

The respondents also claim that the validity, legality and applicability of the POEA standard employment contract has been upheld by this Court, and under Article 1315 of the Civil Code, the contract is the law between the parties.

The respondents also point out that the deceased seafarer died more than one year after the termination of the employment contract. They allege that death benefits claims will only prosper if the seafarer died during the term of the contract. Assuming that the instant claim had been anchored on a disability or ailment acquired during the term of the contract, the ailing seaman is still required to report for a medical check-up within three working days from the date of arrival, otherwise, benefits under the POEA standard employment contract would be nullified. The respondents point out that in this case, the deceased seaman failed to report within the said period. Thus, the respondents pray that the instant petition for review be dismissed for utter lack of merit and for being filed out of time.

The petitioner counters that, contrary to the respondents' contentions, the Court has