

EN BANC

[G.R. No. 133763, November 13, 2002]

**THE UNITED HARBOR PILOTS' ASSOCIATION OF THE
PHILIPPINES, INC., PETITIONER, VS. ASSOCIATION OF
INTERNATIONAL SHIPPING LINES, INC., IN ITS OWN BEHALF
AND IN REPRESENTATION OF ITS MEMBERS AND PHILIPPINE
PORTS AUTHORITY, RESPONDENTS.**

DECISION

SANDOVAL-GUTIERREZ, J.:

As the maritime horizons of the world expanded with each new discovery and conquest, it became apparent that the safety of a vessel while operating in strange harbors would be enhanced if, in addition to the regular ocean pilot, an individual learned in the tides, currents and depths of the particular harbor were engaged to assist the master in moving his vessel through such waters. Thus, there arose the practice of pilotage service.^[1] Concomitantly, guilds or associations of harbor pilots were established for the purpose of securing the best compensation for their members. The practice continues to this day.

In an ardent desire to secure for its members the payment of nighttime and overtime pay, petitioner United Harbor Pilots' Association of the Philippines, Inc. (UHPAP) filed the present petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure against respondents Association of International Shipping Lines, Inc. (AISL) and Philippine Ports Authority (PPA). UHPAP assails the (a) Decision^[2] dated January 26, 1998 of the Regional Trial Court, Branch 36, Manila granting AISL's petition for declaratory relief; and (b) Order^[3] dated May 26, 1998 denying its (UHPAP's) motion for reconsideration of the Decision.

The facts are undisputed.

Petitioner UHPAP is the umbrella organization of various groups rendering pilotage service in the different ports of the Philippines. It services foreign and domestic shipping companies, including the members of private respondent AISL.

On March 1, 1985, public respondent 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 rendered "between 1800H to 1600H," or on "Sundays or Holidays," practically referring to "nighttime and overtime pay." Quoted hereunder is Section 16 of PPA AO No. 03-85:

"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:

x x x x x x x x

"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."^[5] (emphasis supplied)

On February 3, 1986, in response to the clamor of harbor pilots for the rationalization of pilotage fees, then President Ferdinand E. Marcos issued Executive Order No. 1088 providing for uniform and modified rates for pilotage services rendered in all Philippine ports. It fixes the rate of pilotage fees on the basis of the "vessel's tonnage" and provides that the "rate for docking and undocking anchorage, conduction and shifting and other related special services is equal to 100%," thus:

"SECTION 1. The following shall be the rate of pilotage fees or charges based on tonnage for services rendered to both foreign and coastwise vessels;

For Foreign Vessels Rate in US \$ or its Peso Equivalent

Less than 500GT \$ 30.00	
500GT to 2,500GT	43.33
2,500GT to 5,000GT	71.33
5,000GT to 10,000GT	133.67
10,000GT to 15,000GT	181.67
15,000GT to 20,000GT	247.00
20,000GT to 30,000GT	300.00
30,000GT to 40,000GT	416.67
40,000GT to	483.33

60,000GT	
60,000GT	550.00
to	
80,000GT	
80,000GT	616.67
to	
100,000GT	
100,000GT	666.67
to	
120,000GT	
120,000GT	716.67
to	
130,000GT	
130,000GT	766.67
to	
140,000GT	

"Over 140,000 gross tonnage \$0.05 or its peso equivalent every excess tonnage. Rate for docking and undocking anchorage, conduction and shifting and other related special services is equal to 100%. Pilotage services shall be compulsory in government and private wharves or piers,

For Coastwise Vessels:
Regular

100 and	P
under 500	41.70
gross tons	
500 and	55.60
under 600	
gross tons	
600 and	69.60
under	
1,000	
gross tons	
1,000 and	139.20
under	
3,000	
gross tons	
3,000 and	300.00
under	
5,000	
gross tons	
5,000 and	
over gross	
tons	

"SEC. 2. With respect to foreign vessels, payment of pilotage services shall be made in dollars or in pesos at the prevailing exchange rate."^[6]

In addition, E.O. No. 1088 contains a repealing clause stating that all orders, letters of instruction, rules, regulations and issuances inconsistent with it are repealed or amended accordingly.^[7]

Pursuant to E.O. No. 1088, PPA issued several resolutions disallowing overtime premium but authorizing reasonable night premium pay and differential, viz.:

a. PPA Resolution No. 1486^[8] dated May 22, 1995, disallowing the overtime premium or charge collected by Harbor Pilots under Section 16 (c) of PPA Administrative Order No. 03-85, for services rendered during holidays;

b. PPA Resolution No. 1541^[9] dated November 13, 1995, affirming Resolution No. 1486 and directing the PPA management to adopt a policy of no overtime pay for pilotage services on holidays and to recommend a reasonable night premium pay or night differential pay for the conduct of basic pilotage services;

c. PPA Resolution No. 1554^[10] dated December 19, 1995 (1) recalling PPA Resolution No. 1541 insofar as it recommended the grant of reasonable night premium pay or night differential pay; (2) reaffirming PPA Resolution No. 1486; and (3) deferring for further legal review by the Office of the Government Corporate Counsel the passage of the proposed PPA AO No. 19-95. PPA Administrative Order No. 19-95 was supposed to provide the amendments to Section 16 (c) of PPA Administrative Order No. 03-85, by disallowing overtime pay for holiday's work and authorizing the collection of nighttime premium pay for pilotage services rendered from 1800H to 1600H.

On the basis of PPA Resolution No. 1486, AISL refused to pay UHPAP's claims for nighttime and overtime pay. This constrained the latter to declare May 19, 1996 as the cut-off date for shipowners and agents to pay the said claims, otherwise, its harbor pilots would not render pilotage services and would work only from sunrise to sundown.^[11]

To resolve the conflict, AISL filed with the Regional Trial Court (RTC), Branch 36, Manila a petition for declaratory relief seeking the declaration of its rights and obligations under E.O. No. 1088 in relation to PPA AO No. 03-85. The issues presented therein are (a) whether E.O. No. 1088 authorizes the payment of nighttime and overtime pay; and (b) whether the rate of pilotage fees enumerated in E.O. No. 1088 is for "every pilotage maneuver" or for the "entire package of pilotage services."

On January 26, 1998, the RTC rendered a Decision^[12] in favor of AISL, the dispositive portion of which reads:

"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.”

In so holding, the RTC ratiocinated that in view of the repealing clause in E.O. No. 1088, it is axiomatic that all prior issuances inconsistent with it are deemed repealed. Consequently, the provisions of Section 16 of PPA AO No. 03-85 on nighttime and overtime pay are “effectively stricken-off the books.” On the second issue, the RTC held that since the rate of pilotage fees enumerated in E.O. No. 1088 is based on the “vessel’s tonnage,” it means that such rate refers to the “entire package of pilotage services.” To rule otherwise, according to the RTC, is to frustrate the uniformity envisioned by the rationalization scheme.

Unsatisfied, UHPAP filed a motion for reconsideration but was denied. Hence, the present recourse. UHPAP presents the following issues for our determination:

“I

WHETHER EXECUTIVE ORDER NO. 1088 REPEALED THE PROVISIONS OF CUSTOMS ADMINISTRATIVE ORDER NO. 15-65 AND PHILIPPINE PORTS AUTHORITY ADMINISTRATIVE ORDER NO. 03-85, AS AMENDED, ON PAYMENT OF ADDITIONAL PAY FOR HOLIDAYS WORK AND PREMIUM PAY FOR NIGHTTIME SERVICE.

II

WHETHER THE RATES, AS FIXED IN THE SCHEDULE OF FEES BASED ON TONNAGE IN EXECUTIVE ORDER NO. 1088, ARE TO BE IMPOSED ON EVERY PILOTAGE MOVEMENT.

III

WHETHER EXECUTIVE ORDER NO. 1088 DEPRIVED THE PHILIPPINE PORTS AUTHORITY, 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.”^[13]

UHPAP contends that E.O. No. 1088 does not repeal the provisions of PPA AO No. 03-85 on nighttime and overtime pay. It also asserts that the rate of pilotage fees fixed by E.O. No. 1088, though based on tonnage, is to be imposed on “every pilotage maneuver” and not on the “entire package of pilotage services.” A contrary argument would place the harbor pilots on a worse position than prior to the enactment of E.O. No. 1088. And lastly, UHPAP claims that E.O. No. 1088 does not deprive the PPA of its right to impose new rates, such as nighttime and overtime pay. Citing *Philippine Interisland Shipping Association of the Philippines vs. Court of Appeals*,^[14] it maintains that PPA may increase the rates but it may not decrease them below those mandated by E.O. No. 1088.