

SPECIAL SECOND DIVISION

[CA-G.R. SP. No. 127792, June 25, 2014]

VIRGILIO E. HALILI, PETITIONER, V. CREAMSHIP MANAGEMENT, INC., VROON OFFSHORE SERVICES, PTE., LTD. ANTONIO PUA, NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

D E C I S I O N

BRUSELAS, JR. J.:

Petitioner Virgilio E. Halili filed a petition for *certiorari*^[1] under Rule 65 of the Rules of Court, to invalidate, for having been rendered with grave abuse of discretion, the –

(a) Decision,^[2] the dispositive of which, reads –

"WHEREFORE, premises considered, the Decision dated 27 April 2012 is hereby MODIFIED as follows:

1) Respondents Cream Ship Management, Inc., Antonio Pua/Vroon Offshore Services PTE Ltd. are hereby ordered jointly and severally to pay complainant:

a) the amount of US\$837.84 or its equivalent in Philippine Peso at the prevailing rate of exchange at the time of actual payment, representing the unexpired portion of his employment contract;

and

b) attorney's fees equivalent to ten percent (10) of the judgment award.

2) The award of moral and exemplary damages is hereby DELETED.

SO ORDERED."

and-

(b) Resolution^[3] which denied the petitioner's motion for reconsideration of the assailed Decision.

The antecedent facts are as follows:

Halili filed a complaint for illegal dismissal, moral and exemplary damages and attorney's fees against respondents Creamship Management Inc., Antonio Pua and its foreign principal Vroon Offshore Services PTE., LTD. Halili alleged that he was hired by respondents Creamship Management, Inc. and Vroon Offshore Services Pte. Ltd to work as an Able Seaman on 17 June 2010 under a five-month contract,^[4] signed by respondent Antonio Pua, with a basic monthly salary of \$613.00. According to him, he was fooled by the respondents into thinking that he will be

attending a training in Bangkok on 19 November 2010. When he arrived in Bangkok, he was, however, informed that the training was postponed and he was asked to proceed to Manila. Halili objected because his contract was still unfinished but he was told that his position had been taken by a replacement crew. On 20 November 2010, he arrived in Manila and reported to the office of the respondents whereat he was told to renew his working papers. After having renewed his papers, he reported again to respondents' office but he was told that he may not be allowed to board another vessel of the respondents because his son filed a case against the respondents before the NLRC. He explained that he had nothing to do with his son's case and pleaded that he be allowed to board another vessel but to no avail. As a consequence, he and his family suffered anguish. He was also compelled to secure the services of counsel to protect his interest.

Halili contended that the respondents had already known that the alleged training course in Singapore had been completed, not postponed, when they bought his tickets^[5] at noon of 18 November 2010. Thus, there was patent bad faith and malicious machinations on the part of the respondents when they tricked him to go to Bangkok, Thailand for the alleged training there, without informing him in advance that it was supposed to be held in Singapore on 16-18 November 2010. The respondents had acted in a wanton, fraudulent, reckless, malevolent manner at his expense.

On the part of the respondents, they alleged that on 30 July 2010, Halili departed Manila bound for Singapore to join his assigned vessel. When Halili's employment contract was about to expire on or about November 2010 (the 4th month of his contractual period), he signed off from the vessel to attend an upgrading and training course in Singapore. Unfortunately, the upgrading and training course did not materialize and was discontinued thru no fault of the respondents. Halili was therefore advised to return to Manila as he can no longer go back to the vessel. He was repatriated and arrived in Manila on 19 November 2010. Upon his arrival in Manila, he reported to the office of the the respondents. Given the prevailing circumstances, the respondents requested Halili for his working documents (Passport/Seaman's Book and other Certificates) so that he can be re-hired when an opportunity for another engagement for the position of AB may arise. Halili, however, opted to hold on to his working documents, which was an indication, to the mind of the respondents, that he would rather seek another employment elsewhere. Thereafter, Halili never bothered the respondents except for some occasional visits, where Halili expressed that he was still available for another engagement. The respondents argued that it was Halili who signed off the vessel to take up upgrading and training courses in Singapore and when it did not materialize thru no fault of the respondents, they cannot be made to account for its consequences. Halili can not claim illegal dismissal when it had become impossible for him to go back to his former position on board the vessel because another one has taken his place on board. They further argued that there existed not only physical but also legal impossibility for them to comply with their obligation to complete the contractual period of Halili under his POEA Contract.

On 27 April 2012, the labor arbiter rendered a decision^[6] finding that Halili was constructively and illegally dismissed. According to the labor arbiter, the evidence revealed that the training program for "Confine Space Training" was to have been conducted on 16-18 November 2010, and yet Halili was informed only on 18 November 2010 that the training will be held on 19 November 2010 in Bangkok,

Thailand. The respondents also secured tickets for Halili on 18 November 2010, one for the trip from Hat Yai to Bangkok, and the second was for the trip from Bangkok to Manila. Upon arrival in Bangkok, the agent of the respondents, however, told Halili that the training was postponed so he had to proceed to Manila. Thus, patent was the fact that the training was not postponed as it was finished on 18 November 2010. Halili asserted that the motive for such early repatriation was the complaint filed by his son against the respondents. The respondents admitted in their Reply that Halili's son filed a claim for total and permanent disability but it was not given a favorable treatment. From the foregoing, the labor arbiter found that it was pristinely clear that after Halili was told that his supposed training in Bangkok, Thailand was postponed, he was immediately sent home. He was not afforded the opportunity to know the reason why it was postponed, neither was he informed of any reasons before he was repatriated which was tantamount to constructive and illegal dismissal. The labor arbiter awarded moral damages as the respondents acted in a wanton, fraudulent, reckless, malevolent manner. Exemplary damages were also awarded to Halili as the act of the respondents was found to be oppressive to labor and done in a manner contrary to morals, good customs and public policy. Finally, the labor arbiter, awarded attorney's fees to Halili for having secured the services of counsel to protect his rights and interests.

The respondents appealed the foregoing decision of the labor arbiter to the NLRC.

On 23 July 2013, the NLRC promulgated the assailed Decision which affirmed with modification the decision of the labor arbiter. The NLRC concurred with the labor arbiter in finding that Halili was illegally dismissed. According to the NLRC, the alleged training of Halili on 16-18 November 2010 which admittedly did not materialize, was not sufficient ground to terminate or cut short the five-month employment contract of Halili. There was no showing that there was an agreement in Halili's employment contract that the duration thereof can be cutoff or pre-terminated by reason of a training program. The NLRC, however, did not concur with the computation of the labor arbiter of Halili's salary for the unexpired portion of his contract and with the award of moral and exemplary damages. According to the NLRC, Halili failed to prove with substantial evidence his entitlement to the said damages. Finally, the NLRC affirmed the award of attorney's fees.

Halili's motion for reconsideration was denied, hence, this petition for *certiorari*, under Rule 65 of the Rules of Court, raising the following issues –

"I. WHETHER PETITIONER IS ENTITLED TO NOMINAL DAMAGE OF P30,000 PER AGABON CASE FOR HAVING BEEN ILLEGALLY DISMISSED WITHOUT DUE PROCESS OF LAW; AND

II. WHETHER HE IS ENTITLED TO THE DELETED MORAL AND EXEMPLARY DAMAGES."

Halili asserts that he had claimed nominal damages from the very start in all his pleadings, such as in his sworn complaint, position paper, reply, rejoinder, appeal memorandum and motion for reconsideration. The labor arbiter and the NLRC, however, abused their discretion when they did not even touch the issue on nominal damages. According to Halili, he should be entitled to nominal damages as he was illegally dismissed without due process.

Halili also contends that the NLRC committed grave abuse of discretion when it ruled that he failed to prove with substantial evidence his entitlement to moral and