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*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division  
MAY 26 2016



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

**VIOLETA BALBA, for and in  
behalf of her minor children ROY  
VINCE and VIENNA GRACIA,  
both surnamed Balba,**

**G.R. No. 184933**

Present:

Petitioners, VELASCO, JR., J.,  
Chairperson,  
PEREZ,  
REYES,  
LEONEN,\* and  
JARDELEZA, JJ.

- versus -

**TIWALA HUMAN RESOURCES,  
INC., AND/OR TOGO MARITIME  
CORP.,**

Promulgated:

Respondents. April 13, 2016

*Wilfredo V. Lapitan*

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**DECISION**

**REYES, J.:**

Before this Court is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, filed by the legal heirs (collectively referred to as the petitioners) of the late Rogelio Balba (Rogelio), seeking to annul and set aside the Decision<sup>2</sup> dated May 31, 2007 and the Resolution<sup>3</sup> dated October 14, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 93606. The CA reversed the Decision<sup>4</sup> dated

\* Additional Member per Raffle dated February 18, 2015 *vice* Associate Justice Diosdado M. Peralta.

<sup>1</sup> *Rollo*, pp. 8-24.

<sup>2</sup> Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Fernanda Lampas-Peralta and Myrna Dimaranan Vidal concurring; *id.* at 25-37.

<sup>3</sup> *Id.* at 38-39.

<sup>4</sup> Penned by Commissioner Ernesto S. Dinopol, with Commissioners Roy V. Seferes and Romeo L. Go concurring; *id.* at 40-47.

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December 28, 2004 and Resolution<sup>5</sup> dated December 22, 2005 of the National Labor Relations Commission (NLRC), in NLRC NCR CA No. 033946-02, and reinstated the Decision<sup>6</sup> dated September 25, 2002 of the Labor Arbiter (LA), in NLRC NCR OFW Case No. 00-04-0683-00, which dismissed the claim of Rogelio for disability benefits for lack of merit.

### Statement of Facts

Sometime in 1998, Rogelio entered into a 10-month contract of employment with Tiwala Human Resources, Inc. for its foreign principal, Togo Maritime Corporation (respondents), wherein he was employed as chief cook on board the vessel M/V Giga Trans.<sup>7</sup> He was declared fit for work in his pre-employment medical examination and boarded the vessel M/V Giga Trans on November 13, 1998.<sup>8</sup>

Upon the expiration of his contract, Rogelio was repatriated to the Philippines in October 1999.<sup>9</sup>

From October to November 1999, Rogelio was treated by Dr. Benito Dungo (Dr. Dungo) for weakness and numbness of his left half body and lower extremities and was diagnosed to be suffering from moderately severe diabetes.<sup>10</sup>

In 2000, Rogelio was confined at the Seamen's Hospital and was found to have metastatic cancer. As such, he sought disability compensation and benefits from the respondents but these were denied.<sup>11</sup>

Consequently, Rogelio filed on April 6, 2000 a complaint against the respondents for disability benefits with damages and attorney's fees.<sup>12</sup>

On April 28, 2000, however, Rogelio was admitted at the Philippine General Hospital for lung cancer. He succumbed to his illness in July 2000. As a result of Rogelio's death, his complaint was subsequently amended and his wife, Violeta Balba, and two children, Roy and Vienna Gracia, were substituted as complainants.<sup>13</sup>

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<sup>5</sup> Penned by Commissioner Perlita B. Velasco, concurred by Commissioner Romeo L. Go and dissented by Commissioner Benedicto Ernesto R. Bitonio, Jr.; id. at 48-50.

<sup>6</sup> Issued by Labor Arbiter Jovencio Ll. Mayor, Jr.; id. at 51-61.

<sup>7</sup> Id. at 26.

<sup>8</sup> Id. at 159.

<sup>9</sup> Id. at 26.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

### **Ruling of the LA**

On September 25, 2002, the LA dismissed the complaint after finding that Rogelio's death was not compensable under the Philippine Overseas Employment Administration Standard Employment Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels (POEA-SEC).<sup>14</sup> Within the reglementary period, the petitioners appealed to the NLRC.

### **Ruling of the NLRC**

In a Decision dated December 28, 2004, the NLRC reversed the LA's Decision dated September 25, 2002 and declared that Rogelio contracted his illness while on board the vessel and during the existence of his contract.<sup>15</sup> The dispositive portion thereof states:

WHEREFORE, in view of the foregoing, the appealed Decision is hereby REVERSED and SET ASIDE and a new one ENTERED ordering respondents to jointly and severally pay [the petitioners] the amount of US\$60,000.00 representing the death benefits of [Rogelio] plus US\$7,000.00 each for the two minor children and US\$1,000.00 as burial benefits or in a total amount of US\$75,000.00, plus 5% thereof as attorney's fees.

SO ORDERED.<sup>16</sup>

The respondents filed a motion for reconsideration but the same was denied in a Resolution<sup>17</sup> dated December 22, 2005. Aggrieved, the respondents filed a petition with the CA and alleged that there was grave abuse of discretion on the part of NLRC in awarding benefits to the petitioners.

### **Ruling of the CA**

On May 31, 2007, the CA issued a Decision<sup>18</sup> granting the petition. It declared that the evidence on record is bereft of any proof linking Rogelio's cancer with his work as chief cook. The dispositive portion of the CA's decision reads:

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<sup>14</sup> Id. at 51-61.

<sup>15</sup> Id. at 40-47.

<sup>16</sup> Id. at 46.

<sup>17</sup> Id. at 48-50.

<sup>18</sup> Id. at 25-37.

**WHEREFORE**, premises considered, the petition for certiorari is hereby **GRANTED**. The assailed Decision dated December 28, 2004 and the Resolution dated December 22, 2005 of the [NLRC] in NLRC NCR CA NO. 033946-02 (NLRC NCR OFW CASE NO. 00-04-0683-00) are hereby **REVERSED** and **SET ASIDE**.

**SO ORDERED.**<sup>19</sup>

The petitioners filed a motion for reconsideration, which the CA denied in its Resolution<sup>20</sup> dated October 14, 2008. Undaunted, the petitioners filed the instant petition assailing the ruling of the CA.

### **The Issue**

The petitioners assign the sole issue to be resolved:

WHETHER OR NOT THE HONORABLE CA COMMITTED GRAVE ABUSE OF DISCRETION IN GRANTING THE RESPONDENTS' PETITION FOR *CERTIORARI* AND DENYING THE PETITIONERS' MOTION FOR RECONSIDERATION BY REVERSING AND SETTING ASIDE THE NLRC DECISION IN AWARDING DEATH BENEFITS UNDER THE POEA-SEC.<sup>21</sup>

### **Ruling of the Court**

A careful perusal of the petition shows that it fundamentally assails the findings of the LA, as affirmed by the CA, that the evidence on record is insufficient to establish the petitioners' entitlement to death and burial benefits as a result of Rogelio's death. This clearly involves a factual inquiry, the determination of which is the statutory function of the labor tribunals.

As a general rule, it must be emphasized that this Court is not a trier of facts and a petition for review on *certiorari* under Rule 45 of the Rules of Court must exclusively raise questions of law.<sup>22</sup> In the exercise of its power of review, the findings of fact of the CA are conclusive and binding on this Court and it is not our function to analyze or weigh evidence all over again. It is a recognized exception, however, that when the CA's findings are contrary to those of the NLRC, there is a need to review the records to

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<sup>19</sup> Id. at 36.

<sup>20</sup> Id. at 38-39.

<sup>21</sup> Id. at 14.

<sup>22</sup> *Sarona v. NLRC, et al.*, 679 Phil. 394, 414 (2012).



determine which of them should be preferred and more conformable to evidentiary facts.<sup>23</sup>

In the present case, considering the conflicting findings of the LA and CA on one hand, and the NLRC on the other, this Court is impelled to resolve the factual issues along with the legal ones.

Essentially, the fundamental issue to be resolved in this petition is whether or not the petitioners are entitled to death and burial benefits on account of Rogelio's death.

The Court rules in the negative.

In *Masangcay v. Trans-Global Maritime Agency, Inc., et al.*,<sup>24</sup> the Court held:

As with all other kinds of worker, the terms and conditions of a seafarers employment is governed by the provisions of the contract he signs at the time he is hired. But unlike that of others, deemed written in the seafarers contract is a set of standard provisions set and implemented by the POEA, called the Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which are considered to be the minimum requirements acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels. x x x.<sup>25</sup>

Taking into consideration that Rogelio was employed on November 13, 1998, it is the 1996 Revised POEA-SEC that is considered incorporated in his contract of employment and is controlling for purposes of resolving the issue at hand.

Section 20(A) of the 1996 Revised POEA-SEC provides that in order to avail of death benefits, the death of the seafarer must be work-related and should occur during the effectivity of the employment contract. The provision reads:

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<sup>23</sup> *Esguerra v. United Philippine Lines, Inc.*, G.R. No. 199932, July 3, 2013, 700 SCRA 687, 696.

<sup>24</sup> 590 Phil. 611 (2008).

<sup>25</sup> *Id.* at 626.

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## SECTION 20. COMPENSATION AND BENEFITS

## A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of death of the seafarer **during the term of his contract**, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

x x x x

4. The other liabilities of the employer when the seafarer dies as a result of injury or illness **during the term of employment** are as follows:
  - a. The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under this Contract.
  - b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the employer/master shall communicate with the manning agency to advise for disposition of seafarer's remains.
  - c. The employer shall pay the beneficiaries of the seafarer the Philippine currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment. (Emphases supplied)

Also, in *Southeastern Shipping, et al. v. Navarra, Jr.*,<sup>26</sup> the Court declared that in order to avail of death benefits, the death of the employee should occur during the effectivity of the employment contract. The death of a seaman during the term of employment makes the employer liable to his heirs for death compensation benefits. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable.<sup>27</sup>

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<sup>26</sup> 635 Phil. 350 (2010).

<sup>27</sup> Id. at 360.

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In the more recent case of *Talosig v. United Philippine Lines, Inc.*,<sup>28</sup> the Court again reiterated that the death of a seafarer must have occurred during the term of his contract of employment for it to be compensable.

In the present case, it is undisputed that Rogelio succumbed to cancer on July 4, 2000 or almost ten (10) months after the expiration of his contract and almost nine (9) months after his repatriation. Thus, on the basis of Section 20(A) and the above-cited jurisprudence explaining the provision, Rogelio's beneficiaries, the petitioners, are precluded from receiving death benefits.

Moreover, even if the Court considers the possibility of compensation for the death of a seafarer occurring after the termination of the employment contract on account of a work-related illness under Section 32(A) of the POEA-SEC, the claimant must still fulfill all the requisites for compensability, to wit:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer.<sup>29</sup>

In the present case, the petitioners failed to adduce sufficient evidence to show that Rogelio's illness was acquired during the term of his employment with the respondents. Instead, what the petitioners presented were medical certificate issued by Dr. Dungo dated November 12, 1999 attesting that Rogelio consulted him due to weakness and numbness of Rogelio's left half body and lower extremities and medical examination results in March and April 2000 showing that he had cancer. The Court, however, finds it not sufficient proof to show a causal connection or at least a work relation between the employment of Rogelio and his cancer. In the absence of substantial evidence, Rogelio's working conditions cannot be assumed to have increased the risk of contracting cancer.

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<sup>28</sup> G.R. No. 198388, July 28, 2014, 731 SCRA 180.

<sup>29</sup> *Klaveness Maritime Agency, Inc., et al. v. Beneficiaries of the Late Second Officer Anthony S. Allas*, 566 Phil. 579, 588 (2008).

In *Medline Management, Inc., et al. v. Roslinda, et al.*,<sup>30</sup> the Court held:

Indeed, the death of a seaman several months after his repatriation for illness does not necessarily mean that: a) the seaman died of the same illness; b) his working conditions increased the risk of contracting the illness which caused his death; and c) the death is compensable, unless there is some reasonable basis to support otherwise. x x x.<sup>31</sup>

In the instant case, Rogelio was repatriated not because of any illness but because his contract of employment expired. There is likewise no proof that he contracted his illness during the term of his employment or that his working conditions increased the risk of contracting the illness which caused his death.

Based on these considerations, it is apparent that the instant petition is without merit and that the CA was correct when it reversed and set aside the NLRC award of death benefits to the petitioners as heirs of Rogelio. While the Court adheres to the principle of liberality in favor of the seafarer in construing the POEA-SEC, we cannot allow claims for compensation based on surmises. When the evidence presented negates compensability, the Court has no choice but to deny the claim, lest we cause injustice to the employer.<sup>32</sup>

**WHEREFORE**, the petition is **DENIED**. The Decision dated May 31, 2007 and Resolution dated October 14, 2008 of the Court of Appeals in CA-G.R. SP No. 93606 are **AFFIRMED**.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

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<sup>30</sup> 645 Phil. 34 (2010).

<sup>31</sup> Id. at 52.

<sup>32</sup> Supra note 26, at 360.

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**JOSE PORTUGAL PEREZ**  
Associate Justice



**MARVIC M.V.F. LEONEN**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

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## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

MAY 26 2016

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