

## SECOND DIVISION

[ G.R. NO. 159606, December 13, 2005 ]

**MARILYN BUNAO, PETITIONER, VS. SOCIAL SECURITY SYSTEM  
AND OCEAN TANKER CORPORATION, RESPONDENTS,**

### DECISION

**CHICO-NAZARIO, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Resolution<sup>[1]</sup> dated 27 May 2003 of the Court of Appeals, which dismissed outright Marilyn Bunao's petition for review in CA-G.R. SP UDK No. 4525 for having been belatedly filed, and its Resolution<sup>[2]</sup> dated 11 August 2003, which denied the motion for reconsideration.

Artus E. Bunao (Artus), husband of petitioner, was employed by Ocean Tanker Corporation as an acting Second Marine Engineer on board the vessels M/T Palawan, M/T Guimaras and M/T Buenavista from 20 July 1995 until 06 August 1999. Per Job Description<sup>[3]</sup> from Ocean Tanker Corporation, Artus was tasked with the duties enumerated hereunder:

1. Plans and implements proper operation, maintenance and repairs of all deck and engine room machinery and equipment subject to the approval of the Chief Engineer.
2. Conducts routine check-up of all engine room machinery and advises Chief Engineer regarding malfunctions and operational defects particularly with regard to critical vessel operations relating to safety or pollution as detailed in the Shipboard Management Manual and recommends subsequent repairs needed.
3. Accomplishes monthly reports on all engine operational performance, maintenance and repairs conducted on all machinery.
4. Conducts meetings and submits confidential and other written reports upon the discretion of the Chief Engineer.
5. Keeps log of performance of other machinery and conscientiously maintains onboard engine room maintenance and operational records and furnishes same to Chief Engineer for inclusion in vessel machinery records and reports.
6. Ensures the upkeep and maintenance of the Engine Room by arranging, monitoring and controlling day to day engine room maintenance activities in coordination with Chief Engineer.

7. Ensures the smooth operation of the vessel main and auxiliary machinery.
8. Transfers and/or fills up fuel oil and lube oil settling and dry tanks, if necessary.
9. Sees to it that work is carried out safely and efficiently, and in accordance with good engineering and work practices at all times.
10. Assumes engineering watch in port or underway.
11. Acts as the Chief Engineer in his absence.
12. Performs other duties as may be assigned.

On 23 September 1999, Artus was rushed to the Mary Johnston Hospital, Tondo, Manila, because of body weakness. The diagnostic procedures revealed an impression of Renal Cell Cancer with Liver Metastasis. He was later discharged from the hospital on 25 September 1999.

On 15 October 1999, the occurrence of Artus's sickness was reported to the Social Security System (SSS).

On 14 November 1999, Artus was again admitted at the same hospital due to loose bowel movement and body weakness. He was discharged after two (2) days of confinement with the findings of Renal Cell Cancer with Liver Metastasis.

Artus died on 29 November 1999. According to the certificate of death, the cause of death was Hepatic Encephalopathy, Renal Cell Cancer.

Petitioner filed a claim for death benefits under Presidential Decree No. 626, as amended, before the SSS. The SSS, however, denied the claim on the ground that her husband's ailment, which caused his death, is not included in the list of occupational diseases, and that the same has no causal relationship with the nature of her husband's work.

Petitioner appealed the SSS decision to the Employees' Compensation Commission (ECC), and the appeal was docketed as ECC CASE NO. MS-11664-800. In a decision<sup>[4]</sup> dated 12 January 2001, the ECC affirmed the SSS decision and dismissed the appeal for lack of merit.

On 26 February 2002, petitioner received a copy of the ECC decision.

On 08 March 2002, petitioner, intending to file a petition for review before the Court of Appeals, sought the assistance of the Special and Appealed Cases Division of the Public Attorney's Office (PAO).

On 13 March 2002, the petitioner, through the assistance of Atty. Joefferon B. Toribion of the PAO, mailed to the Court of Appeals *via* registered mail a Manifestation attaching thereto a Notice of Appearance with Motion for Extension of Time to File Petition for Review. On the same date, petitioner likewise mailed to the Court of Appeals the required docket fees through postal money order.

In a Resolution<sup>[5]</sup> dated 26 March 2002, the Court of Appeals noted the Motion for Extension of petitioner in this wise:

Considering that the Petitioner had not remitted to the Court the requisite docket and other legal fees, her "Motion for Extension" is hereby NOTED.

Eventually, on 27 May 2003, the Court of Appeals dismissed outright petitioner's petition for review for having been filed out of time. The resolution<sup>[6]</sup> reads:

In view of the Resolution We issued on March 26, 2002 (Rollo, p. 016), the Petition for Review filed on April 1, 2002 was already filed out of time since petitioner's motion for extension, through the Public Attorney's Office, was not granted but only NOTED for failure to remit to this Court the requisite docket and other legal fees.

Petitioner sought for a reconsideration of the Court of Appeals Resolution, but the same was denied in a resolution dated August 11, 2003.

Hence, this petition for review on *certiorari*, raising these two issues:

## I

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN DISMISSING OUTRIGHT THE PETITION FOR REVIEW CONTRARY TO ESTABLISHED RULES, LAW AND JURISPRUDENCE.

## II

WHETHER OR NOT PETITIONER IS ENTITLED TO COMPENSATION BENEFITS UNDER PD 626.

Petitioner contends that the appellate court erred in dismissing her appeal outright since the notice of appearance with motion for extension was timely filed, together with the payment of docket fees.

On the other hand, the Office of the Solicitor General argues that the dismissal of the petition for review before the Court of Appeals was proper because the court *a quo*, in the exercise of its discretion, did not grant the motion for extension of time to file petition for review but it merely noted the same. Since the motion for extension to file petition for review which was filed on the last day of the reglementary period to appeal was not granted, the period to file a petition for review had already lapsed.

The SSS, in its memorandum, posits that the assailed resolution of the Court of Appeals dismissing the petition for review was rendered in the exercise of the appellate court's sound discretion.

Rule 43 of the Rules of Court governs the filing of a petition for review with the Court of Appeals from a decision of the ECC and other quasi-judicial agencies. Section 4 thereof provides in part:

SEC. 4. Period of appeal. - The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo* . . . Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review.

A plain reading of the above provision shows that the Court of Appeals, upon filing by the petitioner of a motion for extension and the payment of the appellate docket and other lawful fees within the reglementary period, may grant an additional period of fifteen (15) days within which to file the petition for review. The rule is that motions for extension are not granted as a matter of right but in the sound discretion of the court taking into account the facts attendant to the case.<sup>[7]</sup>

In the instant case, the appellate court dismissed outright the petition on the ground that the motion for extension was merely noted for failure to remit the required docket fees and other legal fees.

Records reveal, however, that petitioner paid the docket fee in two (2) checks amounting to One Thousand and Fifty Pesos (P1,050.00) through postal money order purchased at the Quezon City Central Post Office on 13 March 2002,<sup>[8]</sup> the last day for filing of her petition for review. The court *a quo*, therefore, erred in denying the motion for extension on the ground stated since petitioner paid the required docket fee on time.

The consequence of our ruling would be for the Court to set aside the resolution of the Court of Appeals and to direct it to reinstate the petition. Such step would, however, unduly prolong the disposition of the instant action. It is an accepted precept of procedural law that the Court may resolve the dispute in a single proceeding, instead of remanding the case to the lower court for further proceedings if, based on the records, pleadings, and other evidence, the matter can readily be ruled upon.<sup>[9]</sup> In view thereof, we shall act on the petition considering that the remaining issue raised is one of law.

Petitioner maintains that that the risk of contracting the fatal ailment that resulted in Artus's death was increased by the working environs to which the latter was exposed as 2<sup>nd</sup> Marine Engineer in Ocean Tanker Corporation from 20 July 1995 to 06 August 1999.

To bolster her argument, she asserts that Artus started his employment with Ocean Tanker Corporation in good health as evidenced by a certification<sup>[10]</sup> dated 29 September 1993 issued by Holy Angel Medical Clinic, Inc., which recommended him to be fit for work. She concluded that the renal cell cancer which caused Artus's demise developed and was brought largely by the conditions present in the nature of his job.

The SSS, on the other hand, mainly argues that Artus's ailment is not included in the list of occupational diseases and that petitioner failed to submit proof that would