

## SECOND DIVISION

[ G.R. No. 138270, June 28, 2001 ]

**SEA POWER SHIPPING ENTERPRISES INC., PETITIONER, VS.  
COURT OF APPEALS, NATIONAL LABOR RELATIONS  
COMMISSION AND ROSALINDA E. SAQUILON, RESPONDENTS.**

### D E C I S I O N

**BUENA, J.:**

The Resolutions<sup>[1]</sup> of the Court of Appeals dated February 24, 1999, and March 30, 1999, in C.A. G.R. SP No. 50344 which dismissed petitioner's petition for *certiorari* and motion for reconsideration, are being impugned in this present petition.

The facts are as follows:

Adonis Saguilon, husband of private respondent, was recruited and hired by Fil-Pride Shipping Co. Inc. (Fil-Pride) to work as a fitter on board the vessel M/V Anne Gro (renamed M/V Etoile) owned by Oceanbulk Maritime S.A., a foreign corporation duly organized and existing under the laws of Greece.

On April 24, 1992, after undergoing the usual pre-employment medical examination and processing of documents and papers, Adonis Saguilon joined M/V Anne Gro. However, barely two (2) months and two (2) weeks after, Saguilon was signed off and hospitalized due to medical reasons. He was repatriated to Manila on July 11, 1992 and referred to the S.M. Lazo Medical Center where he was confined from July 13, 1992 to July 22, 1992. He died of cardio pulmonary arrest, r/o liver cirrhosis on August 21, 1992.

Private respondent demanded death and burial benefits, and medical and sickness allowance from petitioner Sea Power Shipping Enterprises, Western Shipping Agencies, Fil-Pride, Philippine Transmarine Carriers, Inc., and More Maritime Agencies Inc. Their failure and refusal to pay said claims impelled private respondent to file on May 11, 1993, a complaint for death and burial benefits and medical and sickness allowance before the Philippine Overseas Employment Administration (POEA), which case was later referred to the National Labor Relations Commission (NLRC) pursuant to R.A. No. 8042, otherwise known as the Migrant Workers Act.

All the respondents therein denied any liability. Fil. Pride and Western Shipping, claimed that they ceased to be the manning agent of M/V Anne Gro and that Philippine Transmarine Carriers has assumed responsibility for any seaman recruited and hired. Phil. Transmarine Carriers, on the other hand, argued that the deceased is not entitled to any death benefits and medical allowances in the absence of any evidence to prove that the death is compensable. It asserted that the cause of death did not occur during the term of his employment, it being apparent that the

deceased as already afflicted with liver cirrhosis even prior to his employment with M/V Anne Gro.

Petitioner, for its part, contended that it ceased to be the manning agent of M/V Anne Gro, the agency agreement with their foreign principal having been transferred to More Maritime Agencies, Inc. which assumed responsibility for all liabilities that may arise with respect to seamen recruited and deployed by M/V Anne Gro. More Maritime Agencies also claimed that they will only be held liable to seamen recruited and deployed by petitioner and that since the deceased was recruited and employed by Fil-Pride, it has no liability for any claims arising from said employment.

On October 30, 1997, Labor Arbiter Pablo Espiritu, Jr. rendered a decision in favor of private respondent, the dispositive portion of which reads:

"WHEREFORE, premises considered judgment is hereby rendered ordering all of the Respondents to jointly and solidarily pay complainant medical and sickness allowance of 120 days under the standard employment contract for Filipino seamen on board ocean-going vessels in the amount of US\$1,800.00 or its monetary equivalent in Philippine currency at the time of payment.

"Dismissing the complaint for death and burial benefits and other monetary claims of the complainant for want of merit.

"SO ORDERED."<sup>[2]</sup>

On appeal, the NLRC (Second Division) modified the aforesaid decision thus:

"WHEREFORE, the Appeal filed by respondent Fil-Pride Shipping Co., Inc. is hereby GRANTED in that it is absolved from liability arising from the Decision appealed from.

"However, as to the rest of the respondents who have neither appealed nor were otherwise heard from, the Decision of Labor Arbiter Pablo C. Espiritu, Jr., dated October 30, 1997 is now final and executory.

"SO ORDERED."<sup>[3]</sup>

On October 28, 1998, petitioner filed a motion for reconsideration alleging that it filed a notice of partial appeal with memorandum of appeal with the NLRC. The said motion was, however, denied on September 14, 1998.<sup>[4]</sup>

Aggrieved, petitioner assailed the aforesaid decision before the Court of Appeals through a petition for *certiorari* but was outrightly dismissed by the appellate court through its Resolution dated February 24, 1999, the fallo of which reads:

"x x x

"(a) It failed to comply with Rule 65, second paragraph, of the 1997 Rules of Civil Procedure, as amended, which states that: 'The petition shall be accompanied by a certified true copy of judgment, order, resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.' Thusly:

1) It is not accompanied by a copy of the Motion for Reconsideration of therein respondent (now Petitioner Sea Power Shipping Enterprises, Inc.) of the Decision dated September 14, 1993 (should be 1998) of the herein respondent National Labor Commission (Second Division) which motion for reconsideration is mentioned or adverted to in paragraph 14 of the present petition;

2) It is not accompanied by a copy of the original complaint filed by the herein private respondent Rosalinda E. Saquilon against the original respondent Western Shipping Agencies, nor yet of the amended complaint, filed on June 24, 1993 by therein complainant's counsel against herein party-respondent Philippine Transmarine Carriers, Inc., as additional party respondent, which original complaint and amended complaint are mentioned in paragraph 7 of the present petition;

3) It is not accompanied by a copy of the Affidavit of Assumption of Responsibility dated March 16, 1993, which was allegedly executed by the herein petitioner Sea Power Enterprises, Inc., through its President/General Manager Estefany Aquino-Dela Fuente as mentioned in paragraph 5 of the present petition;

4) It is not accompanied by a copy of the pertinent provisions of Section 6, Rule I, Book III of the POEA Rules and Regulations, a document mentioned in the same paragraph 5 of the present petition;

5) It is not accompanied by a copy of the Opposition to Manifestation which the herein private respondent Rosalinda E. Saquilon allegedly filed for and in behalf of herein respondent Philippine Transmarine Carriers, Inc., and the Motion to Substitute MORE Maritime Agencies, Inc., as party respondent, nor yet of the herein petitioner's alleged position paper dated May 10, 1996, all three of which pleadings are mentioned in paragraphs 9 and 10 of the present petition.

"(b) Notwithstanding that the petition contains a prayer or application for the issuance of a writ of preliminary injunction and/or temporary restraining order, the petitioner has not filed a bond nor offered to post one, which is a requirement under Rule 58, Section 4(b), of the 1997 Rules of Civil Procedure, as amended; hence, a cause or reason for the