

FIRST DIVISION

[CA-G.R. SP No. 126731, June 02, 2014]

**EDWARD A. SARMIENTO, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (THIRD DIVISION) UNITED
PHILIPPINE LINES, INC., HOLLAND AMERICA LINE, INC.
AND/OR MR. DENNY ESCOBAR, RESPONDENTS.**

DECISION

BARRIOS, M. M., J.:

This petition for certiorari under Rule 65 of the Rules of Court assails, for having been rendered with grave abuse of discretion, the Decision dated 30 May 2012 and the Resolution dated 16 July 2012 of public respondent National Labor Relations Commission, Third Division in NLRC LAC No. (OFW-M) 04-000339-12(8), which dismissed petitioner's complaint and likewise denied petitioner's Motion for Reconsideration.

The Antecedents

Petitioner was hired by private respondents as Chief Housekeeper on vessel MS RYNDAM for a duration of four (4) months, plus another two (2) months upon mutual consent, pursuant to their contract dated 08 July 2011. Prior thereto, he had served out earlier contracts with private respondents on the vessels MS WESTERDAM, and MS VOLENDAM. Petitioner continued working for private respondents until he was terminated from employment on 07 September 2011 for violating the shipping lone's Marine Regulation 1000 (MR 1000), specifically "Trading for private gain, including the misappropriation of Company property" and "Violation of the Company's Business Ethics Guidelines", which infractions carry the penalty of Dismissal. It appears that petitioner brought on board a suitcase of fake Puma T-shirts (93 pieces) and shorts (20 pieces) which he asked a subordinate, Stateroom Inspection Bagus Barata, to sell on board the vessel for US\$15.00 and US\$10.00 respectively.

Claiming that he was unjustly removed, upon his arrival in Manila, petitioner filed a complaint for illegal dismissal against private respondents with prayer for payment of various money claims.

After due proceedings, Labor Arbiter Adolfo C. Babiano in a Decision^[1] dated 14 February 2012, ruled in favor of herein petitioner since the selling of the T-shirts and shorts that he bought from a factory in Manila involves "The resale of items on board the ship x x x" which merited only a "warning". The decretal part reads:

x x x

"WHEREFORE, judgment is hereby rendered ordering respondents to jointly and severally pay complainant as follows:

1. *US\$10,916.40 representing three (3) months of the unexpired portion of his modified contract, including US\$1,635.51 representing his guaranteed overtime pay for three (3) months and US\$1,453.80 as his vacation leave pay for three (3) months;*
2. *US\$810.00 representing the refund of his airfare;*
3. *P50,000.00 for exemplary damages and another P50,000.00 for moral damages; and.*
4. *US\$1,481.57 + P10,000.00 or 10% of the total award as attorney's fees.*

SO ORDERED."

x x x

Private respondents appealed to public respondent NLRC which later rendered the Decision^[2] dated 30 May 2012 reversing the Labor Arbiter. It posited that there was just cause to terminate petitioner's employment.

Now, petitioner files this petition for certiorari alleging that public respondent committed grave abuse of discretion amounting to want or excess of jurisdiction in dismissing his complaint, arguing that:

I.

THE DECISION, ANNEX "A" HEREOF, WAS ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, FOR BEING PATENTLY CONTRADICTORY TO THE FACTS AND EVIDENCE AS FOUND BY NO OTHER THAN THE PUBLIC RESPONDENT NLRC. PETITIONER WAS CLEARLY NOT AFFORDED BOTH SUBSTANTIVE AND PROCEDURAL DUE PROCESS AND THE PROVISIONS OF THE POEA STANDARD CONTRACT ON GRIEVANCE AND TERMINATION WERE NOT FOLLOWED WHEN HIS EMPLOYMENT WITH THE PRIVATE RESPONDENT WAS TERMINATED.

II.

THE ADMISSION MADE BY PETITIONER NEVER ACKNOWLEDGED THE ALLEGATIONS. ACCORDINGLY, PUBLIC RESPONDENT NLRC ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN STATING THAT PETITIONER ADMITTED TO THE BREACHES STATED IN THE NOTICE, CONTRARY TO THE FACTS AND EVIDENCE PRESENTED BY PETITIONER AND AS CORRECTLY APPRECIATED BY THE LABOR ARBITER.

III.

PUBLIC RESPONDENT NLRC ISSUED THE QUESTIONED DECISION AND RESOLUTION WITH INDECENT HASTE. AS A CONSEQUENCE, THE DECISION AND RESOLUTION ARE NULL AND VOID FOR BEING ISSUED