

Republic of the Philippines
COURT OF APPEALS
Manila

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C.F. SHARP CREW MANAGEMENT,
INC. and NORWEGIAN CRUISE LINE.
LTD.,

Petitioners,

-versus-

CA-G.R. SP No. 157891

HEIRS OF BEN BUENAVENTURA, as
represented by GERALDINE
BUENAVENTURA,

Respondents.

-NORWEGIAN BREAKAWAY"

REC. _____
AMT. _____
FLA
606

NOTICE OF DECISION

SIR/MADAM:

Please take notice that on February 11, 2019, a Decision, copy attached was rendered by the SPECIAL NINTH DIVISION of the Court of Appeals in the above-mentioned case, the original of which is now on file in this office.

You are hereby required to inform this Court within five (5) days from receipt hereof of the date when you received this Notice and the attached copy of the Decision.

February 11, 2019.

Very truly yours,

ATTY. CELEDONIA M. OGSIMER
Division Clerk of Court

Copy furnished:

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Republic of the Philippines
Court of Appeals
 Manila

SPECIAL NINTH DIVISION

**C.F. SHARP CREW
 MANAGEMENT, INC. and
 NORWEGIAN CRUISE LINE,
 LTD.,**

CA-G.R. SP No. 157891

Petitioners, Members:

- versus -

*Bruselas, Jr., Chairman
 Inting, H.J.P.B.*, and
 Fiel-Macaraig, JJ.:*

**HEIRS OF BEN
 BUENAVENTURA, as
 represented by GERALDINE
 BUENAVENTURA,**

Promulgated:

11 FEB 2019

Respondents.

x=====  x

DECISION

Bruselas, Jr., I.

This is a petition for review¹ filed under Rule 43 of the 1997 Rules of Civil Procedure, as amended, seeking to annul and set aside the Decision² and Resolution³ of the Office of the Voluntary Arbitrators of the National Conciliation and Mediation Board (NCMB), which dismissed the petitioners' complaint in Case No. MVA-090-RCMB-NCR-005-01-01-17 for lack of jurisdiction.

The instant case emanated from a notice of arbitration filed by petitioners C.F. Sharp Crew Management, Inc. (C.F. Sharp) and Norwegian Cruise Line. Ltd. (NCL) against respondents Heirs of

* Vice J. Garcia-Fernandez pursuant to Office Order No. 19-19-RFB per raffle dated 22 January 2019.

¹ *Rollo*, pp. 3-21.

² *Id.*, at 23-31.

³ *Id.*, at 32-33.

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Ben Buenaventura on 09 September 2016 before the NCMB.

In their position paper,⁴ the petitioners contended that they hired Ben Buenaventura (Buenaventura) to work onboard the vessel M/S Norwegian Breakaway as a waiter for 8 months.⁵ Buenaventura joined the vessel and commenced his work on 07 May 2016. On 26 May 2016, Buenaventura was informed of a Rescue Boat Training to be conducted every month.⁶ On 20 July 2016, he suffered injuries as a result of an accident during the conduct of a lifeboat drill. He was immediately brought to Bermuda Hospital in Miami, Florida, United States of America (U.S.A.).⁷ On 27 August 2016, he met his untimely demise and was repatriated on 15 September 2016.⁸ While Buenaventura was still alive, his wife Geraldine Buenaventura (Geraldine) already claimed his employment benefits.

While the arbitration proceedings were on-going before the NCMB, Geraldine hired lawyers in the U.S.A. to negotiate with petitioner NCL. On 02 November 2016, she entered into a settlement agreement and received a total amount of USD110,000.00 as full death benefits under the collective bargaining agreement (CBA).⁹ Notwithstanding the said settlement, Geraldine continued to claim for additional compensation from the petitioners. The petitioners contended that they have already paid the full death benefits as provided in their CBA. Their remaining obligation, if at all there was any, was for the payment of the burial allowance as provided under the POEA Standard Employment Contract (POEA-SEC).

⁴ *Id.*, at 34-47.

⁵ *Id.*, at 48.

⁶ *Id.*, at 103.

⁷ *Id.*, at 105-106

⁸ *Id.*, at 247.

⁹ *Id.*, at 101-102

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In their position paper,¹⁰ respondents, thru Geraldine, averred that the lifeboat drill did not have any safety mechanisms in place. Thus, when the lifeboat's tethering broke, four people fell into the open water, including Buenaventura. The incident was reported to the Bermuda Police Service.¹¹ Buenaventura was confined in the intensive care unit until his demise. While the CBA provided for the payment of USD110,000.00 as death benefits, it also provided that the said payment shall be without prejudice to any claim for compensation made in law. Since the accident was due to the negligence of the petitioners, the respondents are not precluded from claiming compensation for their negligence or tort.

On 30 January 2018, the NCMB issued the assailed Decision which dismissed the petitioners' complaint for lack of jurisdiction. It ruled that the issue presented by the petitioners, i.e., the determination of the entitlements under the CBA and POEA-SEC and other claims arising from the death of Buenaventura, was akin to a declaratory relief; thus, the jurisdiction belonged to the regional trial courts. Furthermore, the issue of whether or not the petitioners committed gross negligence must be determined by full-blown trial by the court having jurisdiction over such quasi-delict.

In their motion for reconsideration,¹² the petitioners claimed that their complaint did not seek declaratory relief as the parties neither questioned the construction or validity of the CBA or the POEA-SEC. What the parties sought to be determined was the question of whether or not the petitioners' obligation towards the respondents have been deemed paid. Under Section 29 of the

¹⁰ *Id.*, at 214-228.

¹¹ *Id.*, at 242.

¹² *Id.*, at 301-309.

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POEA-SEC, any claim or dispute arising from employment shall be submitted to the original and exclusive jurisdiction of the the voluntary arbitrators. In addition, under Republic Act (R.A.) No. 8042, the voluntary arbitrators have jurisdiction over all money claims of Filipino overseas workers, including claims for tort or damages. The motion was perfunctorily denied by the NCMB in the assailed Resolution.

Hence, this petition for review, raising the sole issue of:

“Whether the Honorable Panel of Voluntary Arbitrators committed serious and reversible error in shoving off jurisdiction over the issue related to death compensation including damages under the POEA Contract/Collective Bargaining Agreement presented by the parties.”¹³

We grant the instant petition.

Article 273 of the Labor Code provides that the parties to a CBA shall establish a machinery for the resolution of grievances arising from the interpretation or implementation of their CBA and those arising from the interpretation or enforcement of company personnel policies. Thus, parties to a CBA shall name and designate in advance a voluntary arbitrator or panel of voluntary arbitrators, or include in the agreement a procedure for the selection of such voluntary arbitrator or panel of voluntary arbitrators, preferably from the listing of qualified voluntary arbitrators duly accredited by the NCMB. Furthermore, the Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1995 requires that money claims of overseas Filipino workers with CBAs shall submit their cases for voluntary arbitration in accordance with Articles 261 and 262 (now Articles 273 and 274) of the Labor Code.

¹³ *Supra*, note 1, at 8.

Under Article 29.6 (a) of the parties' CBA, any and all claims, grievances, and disputes between the petitioners and the seafarer shall be referred to arbitration pursuant to the United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards, except when otherwise provided in any government mandated contracts such as the POEA-SEC. Section 29 of the POEA-SEC, on the other hand, provides that in cases of claims and disputes arising from employment covered by the POEA-SEC, the parties covered by a CBA shall submit the claim or dispute to the original and exclusive jurisdiction of the voluntary arbitrator or panel of voluntary arbitrators.

The jurisdiction of a voluntary arbitrator is specifically laid down in Article 274 of the Labor Code, to wit:

"Art. 274. Jurisdiction of Voluntary Arbitrators or panel of Voluntary Arbitrators. The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding article. Accordingly, violations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement.

The Commission, its Regional Offices and the Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary Arbitration provided in the Collective Bargaining Agreement." (Emphasis added.)

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The Court is of the view that the issue of whether or not the petitioners are still liable to the respondents for money claims arising from the death of Buenaventura is well within the jurisdiction of the voluntary arbitrators. The dispute involves the implementation and interpretation of the CBA between the petitioners and Buenaventura.

The NCMB erroneously characterized the dispute between the parties as an action for declaratory relief. Under Rule 63 of the 1997 Rules of Civil Procedure, as amended, a declaratory relief action seeks to determine any question of construction or validity arising under a deed, will, contract, or other written instrument, and for a declaration of a person's rights or duties thereunder. Here, the petitioners do not question the validity nor do they assail the construction of the CBA or the POEA-SEC. They have no issue with regard to the said documents and do not seek to render them invalid. They do not dispute that the respondents are entitled to death benefits as a result of Buenaventura's death. The only matter they seek to be determined in the proceedings below pertained to the amount of claim the respondents are entitled to and whether or not the settlement agreement entered into between the respondents and petitioner NCL was sufficient to extinguish said obligation.

The NCMB also erred in refusing to take cognizance of the issue of damages resulting from the petitioners' alleged tortuous conduct. The respondents' claim for damages arising from the petitioners' alleged tortuous conduct has reasonable, causal connection with the death benefit claimed under the CBA. Since the matter of interpretation and implementation of the CBA is

well-within the exclusive jurisdiction of the voluntary arbitrators, it must be deemed to have jurisdiction over all incidental matters connected to the main issue. Furthermore, Section 20(J) of the POEA-SEC specifically provides that seafarer's death benefits shall cover all claims arising from employment, including damages arising from tort, fault, or negligence. To reiterate, disputes arising from employment under the POEA-SEC with existing CBA are within the original and exclusive jurisdiction of the voluntary arbitrators.

WHEREFORE, the petition is **GRANTED**. The assailed Decision and Resolution are **SET ASIDE**. The case is accordingly remanded for further proceedings.

IT IS SO ORDERED.

ORIGINAL SIGNED

APOLINARIO D. BRUSELAS, JR.

Associate Justice

WE CONCUR:

ORIGINAL SIGNED

HENRI JEAN PAUL B. INTING

Associate Justice

ORIGINAL SIGNED

GERALDINE C. FIEL-MACARAIG

Associate Justice

CERTIFIED TRUE COPY

Atty. CELEDONIA M. OGSIMEL
Division Clerk of Court

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the opinion of the Court was written.

ORIGINAL SIGNED
APOLINARIO D. BRUSELAS, JR.
Associate Justice
Chairman, Special Ninth Division

CERTIFIED TRUE COPY
Atty. CELEDONIA M. OGSIMEN
Division Clerk of Court