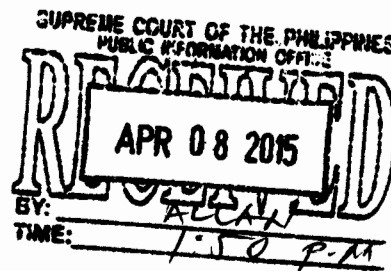




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 23, 2015** which reads as follows:

“G.R. No. 214872 (Armela Velasco, In Behalf of the Deceased Manuel Teruel, *petitioner*, v. Career Philippines Shipmanagement Inc./Sampaguita D. Marave, and/or Columbia Shipmanagement Ltd., Limassol, Cyprus, *respondents*)

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ and Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 127059 dated 22 May 2014 and 9 October 2014, respectively, which reversed and set aside the Decision dated 29 June 2012 of the National Labor Relations Commission (NLRC) affirming in *toto* the Labor Arbiter’s Decision dated 10 February 2012.

The undisputed facts of the case are as follows:

- over – six (6) pages

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¹ *Rollo*, pp. 51-63; Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Vicente S.E. Veloso and Jane Aurora C. Lantion, concurring.

² *Id.* at 65-66.

Petitioner filed a complaint for payment of death and other benefits, in behalf of her alleged late father Manuel Turuel (a seafarer), against respondents before the Labor Arbiter (LA). Consequently, on 10 February 2012, the LA rendered a decision in favor of petitioner, pertinent portions thereof are quoted hereunder for reference:

Viewed from the foregoing, complainant is entitled to death benefits and burial expenses for the death of [her] father, seaman Manuel Teruel. Considering that the late seaman's vessel of assignment, M/V CAPE AKROTIRI, is indisputably covered by an existing Collective Bargaining Agreement (CBA), pegged at US\$89,100.00 for ratings, complainant is entitled to death benefits equivalent to **US\$89,100.00**. She is likewise entitled to burial expenses of **US\$1,000.00** under the Section 20 (A) of the POEA SEC.

By reason of complainant's entitlement to death benefits, [she] is also entitled to the award of attorney's fees, not under Article 2208(2) of the Civil Code, "[w]hen the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest," but under Article 2208(8) of the same Code, involving actions for indemnity under workmen's compensation and employer's liability laws.

WHEREFORE, forgoing premises considered, judgment is hereby rendered ordering respondents CAREER PHILIPPINES SHIPMANAGEMENT, INC. and/or COLUMBIA SHIPMANAGEMENT LTD., jointly and severally, to pay complainant ARMELA A. VELASCO:

- a) **death benefits** in the amount of US\$89,100.00;
b) **burial expenses** in the amount of US\$1,000.00; and

Sub-total - US\$90,100.00
10% **attorney's fees** - 9,010.00

GRAND TOTAL – US\$99,110.00

- c) **attorney's fees** equivalent to ten percent (10%) of the judgment award – for a total award of US\$99,110 or its peso equivalent at the time of actual payment.

All other claims are hereby ordered dismissed for lack of merit.³

The aforesaid ruling of the LA was affirmed in *toto* by the NLRC in its Decision and Resolution dated 29 June 2012 and 23 August 2012, respectively.

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Aggrieved, respondents appealed by *certiorari* before the CA positing the following assignment of errors: (1) the NLRC committed grave abuse of discretion amounting to lack or in excess of its jurisdiction, and likewise seriously erred when it awarded US\$99,110.00 as death benefits of a seafarer who finished his contract without any claim for sickness/infirmity or any issue, and died one year and three months after repatriation to Manila; (2) the NLRC committed grave abuse of discretion amounting to lack or in excess of its jurisdiction, and likewise seriously erred when it ruled that petitioner is entitled to attorney's fees; and (3) the NLRC gravely erred in awarding benefits to a claimant who has not established her right as an heir or as an adopted child; and to make matters worse, petitioner even produced court decree adoption documents which were certified by the Branch Clerk of Court of the Regional Trial Court of Malolos, Branch 77, as "all fake".


In reversing the NLRC's ruling, the appellate court anchored on the principle that in order to be entitled for death compensation benefits from the employer, the death of the seafarer must: (a) be work-related; and (2) happen during the term of the employment contract. Unfortunately, petitioner failed to prove that Manuel Teruel's ailment was work-related and was acquired during his 9-month sea deployment. The CA further explained that without a post-medical examination or its equivalent to show that the disease for which the seafarer died was contracted during his employment or that his working conditions increased the risk of contracting the ailment, the employer/s cannot be made liable for death compensation. Lastly, upon her own admission that petitioner is not the biological child of Manuel Teruel, and was not legally adopted by the Spouses Teruel, there is no basis to allow her to claim for death benefits in the absence of a court decree by merely relying on a "de facto adoption relationship" based on the circumstances that she had been consistently considered by said spouses as their own child.⁴

Dissatisfied, petitioner filed the instant petition and presented the issue of whether or not the CA committed serious reversible errors when it ruled that: (a) seafarer Manuel Teruel's illnesses are not work-related; and (b) petitioner has no personality to claim death benefits for the death of seafarer Manuel Teruel under the Civil Code of the Philippines.

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⁴ Id. at 59-61.



A perusal of the instant petition however reveals that the same was filed beyond the reglementary period allowed by law. Records show that, in an attempt to misdirect the attention of this Court as to the timeliness of her petition, petitioner posited that that she had until 6 December 2014⁵ within which to file a petition for review before this Court. On the contrary, based on the allegations of the material dates contained therein, when she filed a motion for extension of additional time of thirty (30) days to file a petition for review on *certiorari* from the original 15-day period to appeal the CA's assailed Decision, the reckoning of the said 30-day period should commence from 5 November 2014, and not 6 November 2014, as alleged by petitioner. Accordingly, assuming that this Court grants the aforesaid motion for extension of time, petitioner only had until 5 December 2014 to file the instant petition. In other words, we are constrained to declare that petitioner miserably failed to comply with the mandatory provision of Section 2, Rule 45 of the Rules of Court, as amended, when it belatedly filed her petition only on 9 December 2014.

Petitioner should not make an assumption that her motion for extension of time to file a petition for review on *certiorari* will be granted as the same is entirely dependent on the Court's sole discretion. The right to appeal is not a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.⁶ Stated differently, the right is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed. So it is with petitioner.

To emphasize, while it is true that rules of procedure are not cast in stone, it is equally true that strict compliance with the Rules is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.⁷ Unfortunately for petitioner, failure to file within the reglementary period to file the same is fatal to her appeal since it is petitioner's duty to strictly comply with the Rules of Court and to be vigilant in protecting her rights, thereby making the relief prayed for unavailing.

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⁵ Id. at 4.

⁶ *Villanueva v. Court of Appeals*, G.R. No. 99357, 27 January 1992, 205 SCRA 537, 544 citing *Tropical Homes, Inc. v. National Housing Authority*, 236 Phil. 580, 587 (1987); *Borre v. Court of Appeals*, 242 Phil. 345, 350 (1988); *Ozaeta v. Court of Appeals*, 259 Phil. 428, 432 (1989).

⁷ Id. at 545 citing *Alvero v. Dela Rosa*, 76 Phil. 428, 434 (1946).

Although we are not unaware that the Court, in the interest of equity and justice, sometimes allows a liberal reading of the rules, so long as the petitioner is able to prove the existence of cogent reasons to excuse its non-observance,⁸ we do not however find a justification to warrant such relaxation in the present case.


Be that as it may, we find the legal findings of the CA proper. This Court adopts its declaration that while the Court adheres to the principle of liberality in favor of the seafarer in construing the Standard Employment Contract, we cannot allow claims for compensation based on surmises. Thus, when the evidence presented negates compensability, this Court has no choice but to deny the claim, lest we cause injustice to the employer. By way of reiteration, this Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court.⁹ Thus, in the absence of any exception to the rule, the factual and legal findings of the CA are entitled not only to respect, but also to our final recognition in this appellate review.

WHEREFORE, premises considered, the petition is hereby **DENIED**.

The petitioner is hereby required to *SUBMIT* within five (5) days from notice hereof, a verified declaration of the motion for extension pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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⁸ *Delos Santos v. Elizalde*, 543 Phil. 12, 28-29 (2007).

⁹ *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, 28 April 2004 428 SCRA 79, 85-86.

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Nos. OFW [M] 07-10651-11)

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