SUPREME COURT
SECOND DIVISION

INTERTROD MARITIME, INC. and TROODOS SHIPPING CO.,
***Petitioners*,**

-versus-

G.R. No. 81087
June 19, 1991

NATIONAL LABOR RELATIONS COMMISSION and ERNESTO DE LA CRUZ,
***Respondents*.**
x----------x

D E C I S I O N

PADILLA, *J.*:

This Petition seeks the annulment and/or modification of the Resolution[*] of the First Division of the National Labor Relations Commission promulgated on 11 December 1987 in NSB Case No. 3997-82 entitled "Ernesto de la Cruz vs. Intertrod Maritime, Inc. and Troodos Shipping Company," which reversed the decision of then POEA Administrator Patricia Sto. Tomas dated 20 December 1983.

On 10 May 1982, private respondent Ernesto de la Cruz signed a shipboard employment contract with petitioner Troodos Shipping

Company as principal and petitioner Intertrod Maritime, Inc., as agent to serve as Third Engineer on board the M/T "BREEDEN" for a period of twelve (12) months with a basic monthly salary of US$950.00.[1]

Private-respondent eventually boarded a sister vessel, M/T "AFAMIS" and proceeded to work as the vessel's Third Engineer under the same terms and conditions of his employment contract previously referred to.[2]

On 26 August 1982, while the ship (M/T "Afamis") was at Port Pylos, Greece, private respondent requested for relief, due to "personal reason."[3] The Master of the ship approved his request but informed private respondent that repatriation expenses were for his account and that he had to give thirty (30) days notice in view of the Clause 5 of the employment contract so that a replacement for him (private respondent) could be arranged.[4]

On 30 August 1982, while the vessel was at Port Said in Egypt and despite the fact that it was only four (4) days after private respondent's request for relief, the Master "signed him off" and paid him in cash all amounts due him less the amount of US$780.00 for his repatriation expenses, as evidenced by the wages account signed by the private respondent.[5]

On his return to the Philippines, private respondent filed a complaint with the National Seamen Board (NSB) (now POEA) charging petitioners for breach of employment contract and violation of NSB rules and regulations.[6] Private respondent alleged that his request for relief was made in order to take care of a Filipino member of the crew of M/T "AFAMIS" who was hospitalized on 25 August 1982 in Athens, Greece. However, the Master of the ship refused to let him immediately disembark in Greece so that the reason for his request for relief ceased to exist. Hence, when the Master of the ship forced him to step out in Egypt despite his protestations to the contrary, there being no more reason to request for relief, an illegal dismissal occurred and he had no other recourse but to return to the Philippines at his own expense.[7]

In its Answer to the complaint, petitioners denied the allegations of the complainant and averred that the contract was cut short because of private respondent's own request for relief so that it was only proper that he should pay for his repatriation expenses in accordance with the provisions of their employment contract.[8]

The sole issue to be resolved in this case is whether or not complainant's termination is illegal.

POEA rendered a decision dismissing the complaint for lack of merit.[9] On appeal to the NLRC, the decision was reversed.

The dispositive portion of the NLRC decision reads:

> "WHEREFORE, the appealed decision is hereby SET ASIDE and another one entered, directing respondents-appellees to: (1) pay complainant-appellant the amount of US$780.00 representing his plane fare from Egypt to Manila; and (2) pay complainant-appellant the amount of US$6,300.00 representing his unearned salary for nine (3) months, the unexpired portion of the contract.
>
> "Foreign exchange conversions shall be paid in Philippine currency at the rate of exchange at the actual payment thereof.
>
> "SO ORDERED."[10]

Hence, this petition.

Article 21(c) of the Labor Code requires that the Philippine Overseas Employment Administration (formerly NSB) should approve and verify a contract for overseas employment.[11] A contract, which is approved by the National Seamen Board, such as the one in this case, is the law between the contracting parties; and where there is nothing in it which is contrary to law, morals, good customs, public policy or public order, the validity of said contract must be sustained.[12]

In its resolution, the NLRC held that the immediate approval of private respondent's request for relief should have resulted in his disembarkation in Port Pylos, Greece; that failure of the Master to

allow disembarkation in Greece nullified the request for relief and its approval, such that private respondent's subsequent disembarkation in Egypt is no longer his doing but rather an illegal dismissal on the part of the Master.[13] We cannot support such a ruling for it fails to consider the clear import of the provisions of the employment contract between petitioners and private respondent.

Paragraph 5 of the Employment Contract between petitioners and private respondent Ernesto de la Cruz provides as follows:

> "5. That, if the seaman decide to terminate his contract prior to the expiration of the service period as stated and defined in paragraph 4 of this Employment Contract, without due cause, he will give the Master thirty (30) days notice and agree to allow his repatriation expenses to be deducted from wages due him."[14]

Clearly, therefore, private respondent Ernesto de la Cruz was required by the employment contract not only to pay his own repatriation expenses but also to give thirty (30) days notice should he decide to terminate his employment prior to the expiration of the period provided in the contract. When the Master approved his request for relief, the Master emphasized that private respondent was required to give thirty (30) days notice and to shoulder his own repatriation expenses. Approval of his request for relief, therefore, did not constitute a waiver by petitioners of the provisions of the contract, as private respondent would have us believe, for it was made clear to him that the provisions of the contract, insofar as the thirty (30) days notice and repatriation expenses were concerned, were to be enforced.

Private respondent claims that his request for relief was only for the reason of taking care of a fellow member of the crew so much so that when he was not allowed to disembark in Port Pylos, Greece, the reaction no longer existed and, therefore, when he was forced to "sign off" at Port Said, Egypt even when he signified intentions of continuing his work, he was illegally dismissed.[15] We sympathize with the private respondent; however, we cannot sustain such contention. Resignation is the voluntary act of an employee who "finds himself in a situation where he believes that personal reasons

cannot be sacrificed in favor of the exigency of the service, then he has no other choice but to disassociate himself from his employment."[16] The employer has no control over resignations and so, the notification requirement was devised in order to ensure that no disruption of work would be involved by reason of the resignation. This practice has been recognized because "every business enterprise endeavors to increase its profits by adopting a device or means designed towards that goal."[17]

Resignations, once accepted and being the sole act of the employee, may not be withdrawn without the consent of the employer. In the instant case, the Master had already accepted the resignation and, although the private respondent was being required to serve the thirty (30) days notice provided in the contract, his resignation was already approved. Private respondent cannot claim that his resignation ceased to be effective because he was not immediately discharged in Port Pylos, Greece, for he could no longer unilaterally withdraw such resignation. When he later signified his intention of continuing his work, it was already up to the petitioners to accept his withdrawal of his resignation. The mere fact that they did not accept such withdrawal did not constitute illegal dismissal for acceptance of the withdrawal of the resignation was their (petitioners') sole prerogative.

Once an employee resigns and his resignation is accepted, he no longer has any right to the job. If the employee later changes his mind, he must ask for approval of the withdrawal of his resignation from his employer, as if he were re-applying for the job. It will then be up to the employer to determine whether or not his service would be continued. If the employer accepts said withdrawal, the employee retains his job. If the employer does not, as in this case, the employee cannot claim illegal dismissal for the employer has the right to determine who his employees will be. To say that an employee who has resigned is illegally dismissed, is to encroach upon the right of employers to hire persons who will be of service to them.

Furthermore, the employment contract also provides as follows:

> "4. That all terms and conditions agreed herein are for a service period of twelve (12) months provided the vessel is in a convenient port for his repatriation, otherwise at

> Masters discretion, on vessel's arrival at the first port where repatriation is practicable provided that such continued service shall not exceed three months."[18]

Under the terms of the employment contract, it is the ship's Master who determines where a seaman requesting relief may be "signed off." It is, therefore, erroneous for private respondent to claim that his resignation was effective only in Greece and that because he was not immediately allowed to disembark in Greece (as the employer wanted compliance with the contractual conditions for termination on the part of the employee), the resignation was to be deemed automatically withdrawn.

The decision of the NLRC is therefore set aside. To sustain it would be to authorize undue oppression of the employer. After all, "the law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer."[19]

WHEREFORE, the Petition is **GRANTED**. The questioned Resolution of the National Labor Relations Commission dated 11 December 1987 is hereby **REVERSED** and **SET ASIDE** and the Decision of then POEA Administrator Patricia Sto. Tomas dated 20 December 1983 is **REVIVED**. No pronouncement as to costs.

SO ORDERED.

Melencio-Herrera, Paras and Regalado, *JJ.*, concur.
Sarmiento, *J.*, is on leave.

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[*] Penned by Commissioner Conrado B. Maglaya and concurred in by Commissioners Edna Bonto Perez and Rosario G. Encarnacion.
[1] Rollo, pp. 20-21.
[2] Rollo, p. 4.
[3] Rollo, p. 19.
[4] Rollo, pp. 4-5.
[5] Rollo, p. 5.
[6] Rollo, p. 18.
[7] Rollo, p. 35.
[8] Rollo, p. 18.
[9] Rollo, p. 19.

[10] Rollo, p. 17.
[11] Labor Code of the Philippines, as amended by RA Nos. 6715, 6725 and 6727.
[12] Consolidated Textile Mills, Inc. vs. Reparations Commission, G.R. No. L-23859, February 28, 1968, 22 SCRA 717.
[13] Rollo, pp. 15-16.
[14] Rollo, p. 20.
[15] Rollo, p. 36.
[16] Dosch vs. National Labor Relations Commissions, GR. No. 51182, July 5, 1983, 123 SCRA 296.
[17] San Miguel Brewery Sales vs. Ople, G.R. No. 53615, February 8, 1989, 170 SCRA 25.
[18] Rollo, p. 20.
[19] Philippine Airlines, Inc. vs. Phil. Airlines Employee Association, G.R. No. L-24626, June 28, 1974, 57 SCRA 489.