



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 26, 2023** which reads as follows:*

“UDK No. 15708 (RUBY F. OCENAR, Petitioner, v. SOCIAL SECURITY SYSTEM [PHILIMARE¹ SHIPPING, INC.], Respondents).
— Failure to comply with the requirements for filing an appeal is sufficient ground for its dismissal.

This Court resolves the Petition for Review on *Certiorari*² assailing the May 17, 2016 Resolution³ and July 19, 2016 Minute Resolution⁴ of the Court of Appeals, which denied Ruby F. Ocenar’s manifestation and motion for reconsideration, respectively.

The facts from the records are as follows:

On August 26, 1993, Mario D. Ocenar (Mario) was employed as a bosun⁵ by Philimare Shipping, Inc.,⁶ which assigned him to MV South County owned by Intership Navigation Co. Ltd.⁷

On March 31, 1994,⁸ Mario was hit on the back with a pallet which caused him great pain. He was signed off on April 16, 1994, due to the accident.⁹

¹ Philimare in some parts of the *rollo*.

² *Rollo*, pp. 8- 17.

³ *Id.* at 20–22. The Resolution docketed as CA-G.R. SP No. 07147-MIN was penned by Associate Justice Ruben Reynaldo G. Roxas and was concurred in by Associate Justices Edgardo T. Lloren and Rafael Antonio M. Santos of the Twenty-Third Division, Court of Appeals, Cagayan De Oro.

⁴ *Id.* at 27.

⁵ A bosun is a petty officer on a merchant ship having charge of hull maintenance and related work. See MERRIAM WEBSTER DICTIONARY, *Bosun*, available at <https://www.merriam-webster.com/dictionary/bosun>.

⁶ *Rollo*, p. 29.

⁷ *Id.* at 52.

⁸ *Id.* at 44.

⁹ *Id.* at 46.

On July 31, 1995, during his pre-employment medical examination¹⁰ for his application as a bosun with a new shipping company, Prudential Shipping & Management Corp., the attending physician diagnosed him with tuberculosis but suggested a repeat x-ray because his lungs were still stable and were not calcified.

On December 5, 2000, Mario died in Divine Word Hospital, Tacloban City due to pulmonary tuberculosis.¹¹

Shortly thereafter, Ruby F. Ocenar (Ruby), Mario's wife, filed a claim for death benefits before the Social Security System.¹²

The Social Security System denied Ruby's claim because there was no longer any employer-employee relationship between Mario and Philimare Shipping, Inc. at the time of his death.¹³

Ruby appealed the Social Security System's decision before the Employees' Compensation Commission.¹⁴

On March 1, 2007, the Commission dismissed Ruby's appeal, arguing as follows:

Granting appellant's claim will set a bad precedent considering that six years elapsed from the time her husband stopped working as a seaman up to the time he died. If we were to grant it, this Commission might unduly burden the State Insurance Fund (SIF) and jeopardize the same with a flood of unsubstantiated claims. There is no showing that Mario Ocenar was suffering from a lung ailment at the time he was onboard a vessel. Besides, this Commission cannot remain oblivious to the possibility that, within that six-year period, other factors could have intervened to cause the death of Mario Ocenar. The appellant was thus under an even greater compulsion to proffer evidence to negate this possibility and establish the causal connection between her husband's work and his death. The six-year gap between the end of Mario Ocenar's employment in 1994 and his death in 2000 was a gaping hole in appellant's claim. While this Commission commiserates with the plight of the appellant, the jurisdictional foundation of the Employees' Compensation Law (P.D. 626, as amended), the existence of employer-employee relationship, is already wanting. Absence of this requirement negates recovery of compensation under the said law.¹⁵

The dispositive of the Commission's Decision reads:

¹⁰ *Id.* at 47.

¹¹ *Id.* at 30.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 30-31.

WHEREFORE, the appealed decision is **AFFIRMED** and the claim is dismissed for lack of merit.

SO ORDERED.¹⁶

On December 15, 2015,¹⁷ Ruby appealed¹⁸ the Commission's Decision before the Court of Appeals. To explain the delay in filing, Ruby alleged that she only received a copy of the Decision from the Barangay Office of Doña Carmen, Tagbina, Surigao del Sur on November 23, 2015.¹⁹

Ruby further claimed that Mario's March 31, 1994 accident on board MV South County left him paralyzed and unable to work until his death on December 5, 2000.²⁰

On January 8, 2016, the Court of Appeals in a Minute Resolution, required Ruby to rectify the jurisdictional and procedural defects in her petition.²¹ However, instead of complying, Ruby moved for the reconsideration of the Minute Resolution.²²

On March 10, 2016, the Court of Appeals resolved to note without action the motion for reconsideration and dismissed the petition for failure to comply with the Minute Resolution.²³

On April 12, 2016, Ruby filed a manifestation asking that the case be decided on the merits.²⁴

On May 17, 2016, the Court of Appeals²⁵ resolved to note without action Ruby's manifestation.

Ruby moved for the reconsideration²⁶ of the May 17, 2016 Resolution.

On July 19, 2016, the Court of Appeals denied the motion in a Minute Resolution. It also directed the Division Clerk of Court to issue an Entry of Judgment since no motion for reconsideration or petition to this Court was filed on the March 10, 2016 Resolution dismissing the Petition.²⁷

¹⁶ *Id.* at 31.

¹⁷ *Id.* at 21.

¹⁸ *Id.* at 32–39.

¹⁹ *Id.* at 32.

²⁰ *Id.* at 35–37.

²¹ *Id.* at 20–21.

²² *Id.* at 21.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 20–22.

²⁶ *Id.* at 23–26.

²⁷ *Id.* at 27.

On November 11, 2016, petitioner Ruby Ocena filed a Petition for Review on *Certiorari*²⁸ assailing the May 17, 2016 Resolution and July 19, 2016 Minute Resolution of the Court of Appeals. She stated that the Court of Appeals erred in dismissing her petition due to technicalities. She also stated that she filed the Petition on her own because she has no means to pay for the transportation costs to go to the Public Attorney's Office.²⁹

Petitioner asks that the Rules of Court be liberally construed as she could not afford to get certified true copies of the Employees' Compensation Commission's Decision, considering the cost it would take to travel from Mindanao to Makati, where the Commission holds office.³⁰

She also says that as an indigent, she filed a Motion for Exemption from Payment of Docket and Other Fees. She then states that she was able to show proof of service of copies in her affidavit of service.³¹

Finally, petitioner insists that she only received a copy of the Commission's March 1, 2007 Decision on November 23, 2015, so her Petition to the Court of Appeals, which was filed on December 15, 2015, was timely filed.³²

This Court directed³³ the Social Security System to file a comment on the Petition.

In its Comment,³⁴ the Social Security System asserts that petitioner's prayer for the relaxation of technical rules was rightfully denied because petitioner failed to provide a persuasive reason for an exception to the general rule of strict observance of procedural rules.³⁵

Petitioner was directed³⁶ to file a reply to the comment, but the filing of a reply was eventually dispensed with.

The sole issue for this Court's resolution is whether the Court of Appeals erred in refusing to apply liberality and in dismissing the Petition because of technicalities.

The Petition is devoid of merit.

²⁸ *Id.* at 8–17.

²⁹ *Id.* at 14–16.

³⁰ *Id.* at 15.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 55.

³⁴ *Id.* at 71–77.

³⁵ *Id.* at 76.

³⁶ *Id.* at 91, 115.

Appeals from quasi-judicial agencies to the Court of Appeals are governed by Rule 43³⁷ of the Revised Rules of Civil Procedure, which provides that appeals to the Court of Appeals “shall be taken within fifteen (15) days from notice.”³⁸ Rule 43, Section 6 also provides for the contents of the petition:

SECTION 6. *Contents of the petition.* — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

Failure to comply with the requirements is “sufficient ground for the dismissal”³⁹ of the Petition.

Here, the Court of Appeals noted several defects and directed petitioner to rectify the same:

The Court RESOLVES to DIRECT petitioner to rectify, within five (5) days from notice, the following defects of the petition, to wit:

1. Failure to accompany the petition with a *clearly*

³⁷ REVISED RULES OF CIVIL PROCEDURE, rule 43, section 1 provides:

Section 1. *Scope.* — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Invention Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

³⁸ REVISED RULES OF CIVIL PROCEDURE, rule 43, section 4 provides:

Section 4. *Period of appeal.* — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *u quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

³⁹ REVISED RULES OF CIVIL PROCEDURE, rule 43, section 7 provides:

Section 7. *Effect of failure to comply with requirements.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

legible duplicate original or certified true copy of the questioned decision dated 1 March 2007 of the Employees' Compensation Commission;

2. Failure to pay the amount of the *docket and other legal fees* in violation of Section 4, Rule 43 of the Rules of Court;

3. Failure to show *proof of service of copies of the petition upon the agency a quo and the adverse parties* in violation of Section 5, Rule 43 in relation to Section 13, Rule 13, *supra*.⁴⁰ (Emphasis supplied)

However, instead of complying with the directive and rectifying the defects of her Petition, petitioner filed a Motion for Reconsideration which eventually led to the issuance of the March 10, 2016 Resolution dismissing the same.

With petitioner's failure to pay the required docket fees, the Court of Appeals failed to obtain jurisdiction over her case.⁴¹ Furthermore, her failure to provide respondent copies of the Petition violated its right to due process, particularly its right to be heard.⁴² The Court of Appeals stated:

At the outset, We would like to emphasize that the Resolution dated 10 March 2016 ordering the dismissal of appeal is based on Section 7, Rule 41, specifically those contained in the Resolution dated 08 January 2016.

Section 7, Rule 43 of the Rules of Court provides:

"SEC. 7. *Effect of failure to comply with requirements.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof."

From the very start, the petitioner failed to attach to its (sic) petition for review, pertinent documents required by Section 6, Rule 43 of the Revised Rules on Civil Procedure. Petitioner should have complied with the requirement when it (sic) filed its motion for reconsideration, still the former failed to do so, offering no satisfactory explanation for her non compliance with the rules on procedure.

Moreover, even if these defects were to be rectified, the assailed ECC Decision dated 01 March 2007, has long become final and executory, it appearing from the records that the instant petition was only filed on 15 December 2015.⁴³

⁴⁰ *Rollo*, pp. 20–21.

⁴¹ *Manchester Development Corp. v. Court of Appeals*, 233 Phil. 579, 584–585 (1987) [Per J. Gancayco, *En Banc*].

⁴² *El Blanco Español-Filipino v. Palanca*, 37 Phil. 921, 937 (1918) [Per J. Street, *En Banc*].

⁴³ *Rollo*, pp. 21.

Clearly then, the Court of Appeals did not err in dismissing the Petition.

It likewise bears mentioning that petitioner failed to question the correct Court of Appeals Resolution. The Court of Appeals dismissed the Petition in its March 10, 2016 Resolution, but petitioner appealed the May 17, 2016 Resolution, which merely noted without action her manifestation praying that her Petition be decided on the merits.⁴⁴ The dismissal of her Petition has thus attained finality and there is nothing for this Court to pass upon.

Nonetheless, a careful review of the records convinces the Court that even if the Court of Appeals treated the case with liberality and considered petitioner's submissions as substantial compliance with the Rules of Court, there would still be no basis to reverse the Decision of the Employees' Compensation Commission.

Petitioner filed a claim with the Social Security System upon Mario's death, or six years after he was discharged from his vessel due to an accident. Petitioner narrated that her husband was paralyzed due to an accident while working as a seaman and that he was kept aboard the vessel for months despite his sign-off. She continued that he was only repatriated to the Philippines on June 25, 1995, or more than a year after his accident, and that he saw a company doctor a month after his repatriation, or on July 31, 1995.⁴⁵

Petitioner's claims do not engender belief.

Records show that on July 31, 1995, or more than a year after Mario signed off from MV South County, he underwent a pre-employment medical examination for his application as bosun with a new shipping company, Prudential Shipping & Management Corp.⁴⁶ This belies petitioner's assertion that a paralyzed Mario stayed aboard MV South County for months, because he was apparently well enough a year after his sign-off to apply again with another shipping company.

Further, the medical examination report stated that Mario had tuberculosis but noted that "the lung findings although stable, it is not fully calcified. Should take medication on board ship."⁴⁷ The attending physician also suggested that a repeat x-ray be conducted because the findings were still stable,⁴⁸ implying that Mario could still be declared fit to work despite a

⁴⁴ *Id.* at 21.

⁴⁵ *Id.* at 11-12.

⁴⁶ *Id.* at 47.

⁴⁷ *Id.*

⁴⁸ *Id.*

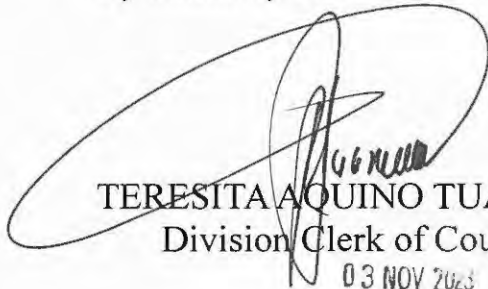
finding of tuberculosis.

Clearly, petitioner failed to substantiate her claim that her husband's accident in March 1994, which led to a contusion on his left lumbar,⁴⁹ ultimately led to his death in December 2000 due to tuberculosis.

ACCORDINGLY, the Petition is **DENIED**. The May 17, 2016 Resolution and July 19, 2016 Minute Resolution of the Court of Appeals in CA-G.R. SP No. 07147-MIN dismissing Ruby F. Ocenar's petition are **AFFIRMED**.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
03 NOV 2023

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⁴⁹ *Id.*