Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

EASTERN MEDITERRANEAN MARITIME LTD. AND AGEMAR MANNING AGENCY, INC., Petitioners,	**G.R. No. 154213**
- *versus* -	Present:
ESTANISLAO SURIO, FREDDIE PALGUIRAN, GRACIANO MORALES, HENRY CASTILLO, ARISTOTLE ARREOLA, ALEXANDER YGOT, ANRIQUE BATTUNG, GREGORIO ALDOVINO, NARCISO FRIAS, VICTOR FLORES, SAMUEL MARCIAL, CARLITO PALGUIRAN, DUQUE VINLUAN, JESUS MENDEGORIN, NEIL FLORES, ROMEO MANGALIAG, JOE GARFIN and SALESTINO SUSA, Respondents.	LEONARDO-DE CASTRO, *Acting Chairperson,* BERSAMIN, VILLARAMA, JR., *PEREZ, and PERLAS-BERNABE, *JJ.*
	Promulgated:
	23 AUG 2012.

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DECISION

BERSAMIN, *J*:

On appeal is the decision the Court of Appeals (CA) promulgated on December 21, 2001 affirming the resolution of the National Labor Relations

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* Vice Associate Justice Mariano C. Del Castillo, who penned the decision of the Court of Appeals under review, per the raffle of July 25, 2012.

Commission (NLRC) declaring itself to be without appellate jurisdiction to review the decision of the Philippine Overseas Employment Administration (POEA) involving petitioners' complaint for disciplinary action against respondents.[1]

Respondents were former crewmembers of MT *Seadance*, a vessel owned by petitioner Eastern Mediterranean Maritime Ltd. and manned and operated by petitioner Agemar Manning Agency, Inc. While respondents were still on board the vessel, they experienced delays in the payment of their wages and in the remittance of allotments, and were not paid for extra work and extra overtime work. They complained about the vessel's inadequate equipment, and about the failure of the petitioners to heed their repeated requests for the improvement of their working conditions. On December 19, 1993, when MT *Seadance* docked at the port of Brofjorden, Sweden to discharge oil, representatives of the International Transport Federation (ITF) boarded the vessel and found the wages of the respondents to be below the prevailing rates. The ensuing negotiations between the ITF and the vessel owner on the increase in respondents' wages resulted in the payment by the vessel owner of wage differentials and the immediate repatriation of respondents to the Philippines.

Subsequently, on December 23, 1993, the petitioners filed against the newly-repatriated respondents a complaint for disciplinary action based on breach of discipline and for the reimbursement of the wage increases in the Workers Assistance and Adjudication Office of the POEA.

During the pendency of the administrative complaint in the POEA, Republic Act No. 8042 (*Migrant Workers and Overseas Filipinos Act of 1995*) took effect on July 15, 1995. Section 10 of Republic Act No. 8042 vested original and exclusive jurisdiction over all money claims arising out

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[1] *Rollo*, pp. 19-26; penned by Associate Justice Mariano C. Del Castillo (now a Member of the Court), and concurred in by Associate Justice Ruben T. Reyes (later Presiding Justice and a Member of the Court, but already retired) and Associate Justice Renato C. Dacudao (retired).

of employer-employee relationships involving overseas Filipino workers in the Labor Arbiters, to wit:

> Section 10. *Money Claims*. – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

The jurisdiction over such claims was previously exercised by the POEA under the POEA *Rules and Regulations of 1991* (1991 POEA Rules).

On May 23, 1996, the POEA dismissed the complaint for disciplinary action. Petitioners received the order of dismissal on July 24, 1996.[2]

Relying on Section 1, Rule V, Book VII of the 1991 POEA Rules, petitioners filed a partial appeal on August 2, 1996 in the NLRC, still maintaining that respondents should be administratively sanctioned for their conduct while they were on board MT *Seadance*.

On March 21, 1997, the NLRC dismissed petitioners' appeal for lack of jurisdiction,[3] thus:

> We dismiss the partial appeal.
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> The Commission has no jurisdiction to review cases decided by the POEA Administrator involving disciplinary actions. Under the Migrant Workers and Overseas Filipinos Act of 1995, the Labor Arbiter shall have jurisdiction over money claims involving employer-employee relationship (sec. 10, R.A. 8042). Said law does not provide that appeals from decisions arising from complaint for disciplinary action rest in the Commission.

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2 Id., at 35.
3 Id., at 31-33.

> PREMISES CONSIDERED, instant appeal from the Order of May 23, 1996 is hereby DISMISSED for lack of jurisdiction.
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> SO ORDERED.

Not satisfied, petitioners moved for reconsideration, but the NLRC denied their motion. They received the denial on July 8, 1997.[4]

Petitioners then commenced in this Court a special civil action for *certiorari* and *mandamus*. Citing *St. Martin Funeral Homes v. National Labor Relations Commission*,[5] however, the Court referred the petition to the CA on November 25, 1998.

Petitioners contended in their petition that:

> THE NLRC GRAVELY ABUSED ITS DISCRETION AND/OR GRAVELY ERRED IN DISMISSING PETITIONERS' APPEAL AND MOTION FOR RECONSIDERATION WHEN IT REFUSED TO TAKE COGNIZANCE OF PETITIONERS' APPEAL DESPITE BEING EMPOWERED TO DO SO UNDER THE LAW.[6]

On December 21, 2001, the CA dismissed the petition for *certiorari* and *mandamus*, holding that the inclusion and deletion of overseas contract workers from the POEA blacklist/watchlist were within the exclusive jurisdiction of the POEA to the exclusion of the NLRC, and that the NLRC had no appellate jurisdiction to review the matter, *viz*:

> Section 10 of RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, provides that:
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> > "Money Claims – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.
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4 Id., at 6.
5 Id., at 58.
6 Id., at 119.

Likewise, the Rules and Regulations implementing RA 8042 reiterate the jurisdiction of POEA, thus:

> "Section 28. Jurisdiction of the POEA. – The POEA shall exercise original and exclusive jurisdiction to hear and decide:
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> a) All cases, which are administrative in character, involving or arising out of violations of rules and regulations relating to licensing and registration of recruitment and employment agencies or entities; and
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> b) Disciplinary action cases and other special cases, which are administrative in character, involving employers, principals, contracting partners and Filipino migrant workers."

Further, Sections 6 and 7 Rule VII, Book VII of the POEA Rules & Regulations (1991) provide:

> "Sec. 6. Disqualification of Contract Workers. Contract workers, including seamen, against whom have been imposed or with pending obligations imposed upon them through an order, decision or resolution shall be included in the POEA Blacklist Workers shall be disqualified from overseas employment unless properly cleared by the Administration or until their suspension is served or lifted.
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> Sec. 7. Delisting of the Contract Worker's Name from the POEA Watchlist. The name of an overseas worker may be excluded, deleted and removed from the POEA Watchlist only after disposition of the case by the Administration."

Thus, it can be concluded from the afore-quoted law and rules that, public respondent has no jurisdiction to review disciplinary cases decided by [the] POEA involving contract workers. Clearly, the matter of inclusion and deletion of overseas contract workers in the POEA Blacklist/Watchlist is within the exclusive jurisdiction of the POEA to the exclusion of the public respondent. Nor has the latter appellate jurisdiction to review the findings of the POEA involving such cases.

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In fine, we find and so hold, that, no grave abuse of discretion can be imputed to the public respondent when it issued the assailed Decision and Order, dated March 21, 1997 and June 13, 1997, respectively, dismissing petitioners' appeal from the decision of the POEA.

WHEREFORE, finding the instant petition not impressed with merit, the same is hereby DENIED DUE COURSE. Costs against petitioners.

SO ORDERED.[7]

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[7] Id., at 22-26.

Issue

Petitioners still appeal, submitting to the Court the sole issue of:

> WHETHER OR NOT THE NLRC HAS JURISDICTION TO REVIEW ON APPEAL CASES DECIDED BY THE POEA ON MATTERS PERTAINING TO DISCIPLINARY ACTIONS AGAINST PRIVATE RESPONDENTS.

They contend that both the CA and the NLRC had no basis to rule that the NLRC had no jurisdiction to entertain the appeal only because Republic Act No. 8042 had not provided for its retroactive application.

Respondents counter that the appeal should have been filed with the Secretary of Labor who had exclusive jurisdiction to review cases involving administrative matters decided by the POEA.

Ruling

The petition for review lacks merit.

Petitioners' adamant insistence that the NLRC should have appellate authority over the POEA's decision in the disciplinary action because their complaint against respondents was filed in 1993 was unwarranted. Although Republic Act No. 8042, through its Section 10, transferred the original and exclusive jurisdiction to hear and decide *money claims* involving overseas Filipino workers from the POEA to the Labor Arbiters, the law did not remove from the POEA the original and exclusive jurisdiction to hear and decide all disciplinary action cases and other special cases administrative in character involving such workers. The obvious intent of Republic Act No. 8042 was to have the POEA focus its efforts in resolving all administrative

matters affecting and involving such workers. This intent was even expressly recognized in the *Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1995* promulgated on February 29, 1996, *viz*:

> Section 28. *Jurisdiction of the POEA.* – The POEA shall exercise original and exclusive jurisdiction to hear and decide:
>
> (a) all cases, which are administrative in character, involving or arising out of violations or rules and regulations relating to licensing and registration of recruitment and employment agencies or entities; and
>
> **(b) disciplinary action cases and other special cases, which are administrative in character, involving employers, principals, contracting partners and Filipino migrant workers.**
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> Section 29. *Venue* – The cases mentioned in Section 28(a) of this Rule, may be filed with the POEA Adjudication Office or the DOLE/POEA regional office of the place where the complainant applied or was recruited, at the option of the complainant. The office with which the complaint was first filed shall take cognizance of the case.
>
> Disciplinary action cases and other special cases, as mentioned in the preceding Section, shall be filed with the POEA Adjudication Office.

It is clear to us, therefore, that the NLRC had no appellate jurisdiction to review the decision of the POEA in disciplinary cases involving overseas contract workers.

Petitioners' position that Republic Act No. 8042 should not be applied retroactively to the review of the POEA's decision dismissing their complaint against respondents has no support in jurisprudence. Although, as a rule, all laws are prospective in application unless the contrary is expressly provided,[8] or unless the law is procedural or curative in nature,[9] there is no serious question about the retroactive applicability of Republic Act No. 8042 to the appeal of the POEA's decision on petitioners' disciplinary action against respondents. In a way, Republic Act No. 8042 was a procedural law

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[8] The *Civil Code* provides:
Article 4. Laws shall have no retroactive effect, unless the contrary is provided.

[9] Agpalo, *Statutory Construction* (2003), p. 370.

due to its providing or omitting guidelines on appeal. A law is procedural, according to *De Los Santos v. Vda. De Mangubat*,[10] when it –

> [R]efers to the adjective law which prescribes rules and forms of procedure in order that courts may be able to administer justice. Procedural laws do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statues — they may be given retroactive effect on actions pending and undetermined at the time of their passage and this will not violate any right of a person who may feel that he is adversely affected, insomuch as there are no vested rights in rules of procedure.

Republic Act No. 8042 applies to petitioners' complaint by virtue of the case being then still pending or undetermined at the time of the law's passage, there being no vested rights in rules of procedure.[11] They could not validly insist that the reckoning period to ascertain which law or rule should apply was the time when the disciplinary complaint was originally filed in the POEA in 1993. Moreover, Republic Act No. 8042 and its implementing rules and regulations were already in effect when petitioners took their appeal. A statute that eliminates the right to appeal and considers the judgment rendered final and unappealable only destroys the right to appeal, but not the right to prosecute an appeal that has been perfected prior to its passage, for, at that stage, the right to appeal has already vested and cannot be impaired.[12] Conversely and by analogy, an appeal that is perfected when a new statute affecting appellate jurisdiction comes into effect should comply with the provisions of the new law, unless otherwise provided by the new law. Relevantly, petitioners need to be reminded that the right to appeal from a decision is a privilege established by positive laws, which, upon authorizing the taking of the appeal, point out the cases in which it is proper to present the appeal, the procedure to be observed, and the courts by which the appeal is to be proceeded with and resolved.[13] This is why we

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[10] G.R. No. 149508, October 10, 2007, 535 SCRA 411, 422.

[11] *Fil-Estate Properties, Inc. v. Homena-Valencia*, G.R. No. 173942, June 25, 2008, 555 SCRA 345, 349; *Pfizer, Inc. v. Galan,* G.R. No. 143389, May 25, 2001, 358 SCRA 240, 246.

[12] Agpalo, *supra* at note 10, p. 386, citing *Pavon v. Phil. Island Telephone & Telegraph Co.*, 9 Phil. 247 (1907), *Priolo v. Priolo,* 9 Phil. 566, 567 (1908) and *Un Pak Lieng v. Nigorra*, 9 Phil. 486, 489 (1908).

[13] *Aragon v. Araullo*, 11 Phil. 7, 9 (1908).

consistently hold that the right to appeal is statutory in character, and is available only if granted by law or statute.[14]

When Republic Act No. 8042 withheld the appellate jurisdiction of the NLRC in respect of cases decided by the POEA, the appellate jurisdiction was vested in the Secretary of Labor in accordance with his power of supervision and control under Section 38(1), Chapter 7, Title II, Book III of the *Revised Administrative Code of 1987*, to wit:

> Section 38. *Definition of Administrative Relationship.* – Unless otherwise expressly stated in the Code or in other laws defining the special relationships of particular agencies, administrative relationships shall be categorized and defined as follows:
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> *Supervision and Control*. – Supervision and control shall include authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; **review, approve, reverse or modify acts and decisions of subordinate officials or units**; determine priorities in the execution of plans and programs. Unless a different meaning is explicitly provided in the specific law governing the relationship of particular agencies, the word "control" shall encompass supervision and control as defined in this paragraph. xxx.

Thus, Section 1, Part VII, Rule V of the 2003 POEA Rules and Regulations specifically provides, as follows:

> Section 1. *Jurisdiction*. – The Secretary shall have the exclusive and original jurisdiction to act on appeals or petition for review of disciplinary action cases decided by the Administration.

In conclusion, we hold that petitioners should have appealed the adverse decision of the POEA to the Secretary of Labor instead of to the NLRC. Consequently, the CA, being correct on its conclusions, committed no error in upholding the NLRC.

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[14] Aris (Phil.) Inc. v. NLRC, G.R. No. 90501, August 5, 1991, 200 SCRA 246, 253.

WHEREFORE, we **AFFIRM** the decision promulgated on December 21, 2001 by the Court of Appeals; and **ORDER** the petitioners to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)