

SECOND DIVISION

PHILIMARE, INC./MARLOW G.R. No. 168753
NAVIGATION CO., LTD.,
BONIFACIO GOMEZ and Present:

ALBERTO GOMEZ,
Petitioners,

- versus -

QUISUMBING, *J.*, Chairperson,
CARPIO MORALES,
TINGA,
VELASCO, JR., and
BRION, *JJ.*

BENEDICTO F. SUGANOB,
Respondent.

Promulgated:

July 9, 2008

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DECISION

QUISUMBING, *J.*:

This petition for review assails the Decision^[1] dated April 29, 2005 and the Resolution^[2] dated June 29, 2005 of the Court of Appeals in CA-G.R. SP No. 86350. Also assailed is the appellate courts Resolution^[3] dated September 23, 2004, which had treated respondents petition for review under Rule 43 as a petition for certiorari under Rule 65.

The antecedent facts are as follows:

Respondent Benedicto F. Suganob was employed as Chief Cook for petitioners for almost ten years on board various vessels of petitioners. His last employment contract with petitioners was on board M/V Mekong Star where he was hired for a period of ten months starting September 2, 2001. Six days after he had boarded said ship, he experienced pains on his right shoulder. After undergoing consultation in Vietnam, he was medically repatriated.

Upon his arrival in the Philippines, Suganob was immediately referred by the petitioners to the Peoples Diagnostic Center, Inc. where a series of examinations and diagnosis were performed on him. The medical report showed that he had right shoulder sprain, gouty arthritis, urinary tract infection and hypertension and that he was unfit to work until October 11, 2001. On October 29, 2001, Suganob was declared fit to work by the Peoples Diagnostic Center, Inc. provided he maintains his medications. However, on April 5, 2002, Suganob's physician declared that he cannot be cleared and is not fit to work because of his age and the recurrence of symptoms of illness.

As Suganob was totally incapacitated, he sought his permanent disability compensation and other benefits from petitioners who refused his request. Hence, on April 25, 2002, Suganob filed a Complaint¹⁴ to recover sickness and permanent disability benefits.

On October 30, 2002, the Labor Arbiter rendered a Decision¹⁵ in favor of Suganob, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents [herein petitioners] to pay complainant [Suganob] jointly and severally the following:

1. 120 [days] sickness benefits as provided for under the POEA Standard Employment Contract which is equivalent to US\$3,036.00;
2. Permanent disability benefits equivalent to US\$60,000.00 as provided for under the POEA Standard Employment Contract;
3. 10% of the total award recovered as attorneys fees.

All other claims are dismissed for lack of merit.

So Ordered.¹⁶

Not satisfied with the foregoing decision, petitioners interposed an appeal before the National Labor Relations Commission (NLRC). The NLRC issued a Notice of Conference setting the case for conference in order to give the parties an opportunity to settle the case amicably. However, the parties failed to settle amicably. Thus, on April 22, 2004, the NLRC rendered its Decision¹⁷ remanding the case to the Labor Arbiter. The dispositive portion of said decision states:

WHEREFORE, premises considered, this case is remanded to the Arbitration branch of origin for further proceedings to determine the degree of impediment of complainant [Suganob] with the aid of either a private or public physician to be chosen or agreed upon by the parties.

SO ORDERED.¹⁸¹

From the said decision, Suganob filed with the Court of Appeals a petition for review¹⁹¹ which the appellate court treated as a petition for certiorari. Despite the objection of petitioners that the remedy availed of by Suganob was incorrect, the Court of Appeals also later rendered judgment in favor of Suganob on April 29, 2005. The dispositive portion of said decision reads:

WHEREFORE, the instant Petition is hereby **PARTIALLY GRANTED**. The assailed decision and resolution of public respondent [NLRC] are hereby **NULLIFIED** and **SET ASIDE** and the decision of the Labor Arbiter **REINSTATED** and **AFFIRMED** with modification that the award of attorneys fees is hereby **DELETED**.

SO ORDERED.¹¹⁰¹

Petitioners now come before us raising the following issues:

I.

THE COURT OF APPEALS COMMITTED SERIOUS ERRORS WHEN IT ENTERTAINED PRIVATE RESPONDENTS ERRONEOUS PETITION UNDER RULE 43 AND TREATED THE SAME AS BEING FILED UNDER RULE 65.

II.

THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT NULLIFIED AND ANNULLED THE DECISION OF THE NLRC DESPITE THE ABSENCE OF ANY FINDING OF GRAVE ABUSE OF DISCRETION ON THE LATTERS PART.

III.

THE COURT OF APPEALS COMMITTED SERIOUS ERRORS WHEN IT REINSTATED AND AFFIRMED THE RULING OF THE LABOR ARBITER AWARDING DISABILITY BENEFITS TO THE RESPONDENT NOTWITHSTANDING THE ESTABLISHED FACTS THAT RESPONDENTS ILLNESS IS NOT WORK-RELATED AND THAT RESPONDENT HAS ALREADY BEEN DECLARED FIT TO WORK.

IV.

THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN AFFIRMING THE LABOR ARBITERS AWARD OF SICKNESS ALLOWANCE/WAGES WITHOUT ANY LEGAL AND/OR FACTUAL BASIS. ^[11]

Simply put, the issues are: (1) Did the Court of Appeals err in treating Suganob's petition as one filed under Rule 65?; (2) Is Suganob entitled to disability benefits?; and (3) Is Suganob entitled to sickness allowance/wages?

On the first issue, petitioners contend that Suganob's petition before the Court of Appeals should have been dismissed outright since he availed of the wrong remedy. They stress that in the case of *St. Martin Funeral Home v. NLRC*, ^[12] the Court held that decisions of the NLRC should be brought to the Court of Appeals by way of a petition for certiorari under Rule 65. ^[13]

For his part, Suganob avers that technical rules of procedure should not be strictly applied in labor cases. He argues that the Court of Appeals acted accordingly when it decided the case based on the issues raised and not through a mere technicality. Further, Suganob asserts that the kind of pleadings filed before the Court is not determined by its title but rather by its content.

Petitioners' contention lacks merit. The policy of our judicial system is to encourage full adjudication of the merits of an appeal. Procedural niceties should be avoided in labor cases as the provisions of the Rules of Court are applied only in a suppletory manner. Indeed, rules of procedure may be relaxed to relieve a party of an injustice not commensurate with the degree of noncompliance with the process required. ^[14] Moreover, averments in the pleadings, not the title, are controlling ^[15] in determining the nature of the proceeding.

Suganob categorized his petition before the Court of Appeals as a petition for review on certiorari (under Rule 43 of the Revised Rules of Civil Procedure). However, the contents of his petition clearly reveal that the petition filed complied with the requirements of a petition for certiorari, albeit wrongly captioned as one for a petition for review under Rule 43. Courts look beyond the form and consider substance as circumstances warrant. Thus, we rule that the Court of Appeals correctly treated Suganob's petition under Rule 43 as one being filed under Rule 65.

As to the second issue, petitioners contend Suganob is not entitled to disability benefits because his illness is not work-related. They stress that the company-designated physician declared him fit to work provided he maintains his medications. Also, even if Suganob's arthritis is work-related, the same is not a total and permanent disability as to entitle him to an award of US\$60,000. Corollary to this, petitioners aver that the NLRC is correct in remanding the case to the labor arbiter for further proceedings to determine the degree of impediment of Suganob.

Suganob, for his part, alleges that he is entitled to disability benefits for total and permanent disability since he can no longer engage himself as a seafarer. If indeed petitioners found him fit for work, he would have been re-employed after he was medically repatriated; however, he was not. Suganob adds that the decision to remand the case to the labor arbiter would merely delay the proceedings of the case.

We rule against remanding the case to the labor arbiter since it will only cause further delay and may frustrate speedy justice and, in any event, would be a futile exercise, as in all probability the case would eventually end up with this Court.¹¹⁶ Also, this Court has repeatedly ruled that delay in the settlement of labor cases cannot be countenanced. Not only does it involve the survival of an employee and his loved ones who are dependent on him for food, shelter, clothing, medicine and education, it also wears down the meager resources of the workers.¹¹⁷

Apropos the appropriate disability benefits that respondent is entitled to, we find that Suganob is entitled to Grade 1¹¹⁸ disability benefits which corresponds to total and permanent disability. As correctly pointed out by the Court of Appeals, the medical certificate issued by petitioners company physician do not conflict with that issued by the physician chosen by Suganob. The medical certificate issued on October 29, 2001 by petitioners company physician which stated that Suganob was fit to return to work was conditional because Suganob still has to maintain his medications. On the other hand, the medical certificate of the physician chosen by Suganob which was issued on April 5, 2002 indicated that Suganob's illness recurred and continued which rendered him unfit to continue his work. In both medical certificates, it is clear that Suganob was not considered as totally cured and fit to return to work.¹¹⁹ Hence, there is no dispute that Suganob is entitled to disability benefits.

Disability is intimately related to ones earning capacity. It should be understood less on its medical significance but more on the loss of earning capacity.^[20] To be entitled to Grade 1 disability benefits, the employees disability must not only be total but also permanent.

Permanent disability is the inability of a worker to perform his job for more than 120 days, regardless of whether or not he loses the use of any part of his body.^[21] Clearly, Suganobs disability is permanent since he was unable to work from the time he was medically repatriated on September 17, 2001 up to the time the complaint was filed on April 25, 2002, or more than 7 months. Moreover, if in fact Suganob is clear and fit to work on October 29, 2001, he would have been taken back by petitioners to continue his work as a Chief Cook, but he was not. His disability is undoubtedly permanent.

Total disability, on the other hand, does not mean absolute helplessness. In disability compensation, it is not the injury which is compensated, but rather the incapacity to work resulting in the impairment of ones earning capacity.^[22] Total disability does not require that the employee be absolutely disabled, or totally paralyzed. What is necessary is that the injury must be such that the employee cannot pursue his usual work and earn therefrom. Both the company-designated physician and Suganobs physician found that Suganob is unfit to continue his duties as a Chief Cook since his illness prevented him from continuing his duties as such. Due to his illness, he can no longer perform work which is part of his daily routine as Chief Cook like lifting heavy loads of frozen meat, fish, water, etc. when preparing meals for the crew members. Hence, Suganobs disability is also total.

Lastly, petitioners allege that the Court of Appeals erred in affirming the labor arbiters decision awarding 120-day sickness allowance to Suganob. They point out that Suganob has in fact received said illness allowance during the period that he was under treatment by petitioners physicians.

Suganob, however, counters that he is entitled to said sickness allowance because under the Philippine Overseas Employment Administration (POEA) Standard Employment Contract, a seafarer who is medically sick is entitled to sickness allowance for no less than 120 days.

We rule for Suganob. Section 20, par. B, sub-par. 3 of the POEA Standard Employment Contract states,

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.¹²³¹

Here, Suganob was unable to work for a period of more than 120 days. It is therefore correct that he be awarded his 120-day sickness wages as required by the POEA Standard Employment Contract.

No doubt Suganob became sick in the course of his employment with petitioners because he was declared to be healthy prior to his departure. This is corroborated by the fact that he was subjected to thorough examination before boarding M/V Mekong Star. Had he not been found fit to work prior to his departure, he would not have been allowed to board said ship. Without a doubt, Suganob acquired his illness in the course of his employment with petitioners.

WHEREFORE, the petition is **DENIED**. The Decision dated April 29, 2005 and Resolution dated June 29, 2005 of the Court of Appeals in CA-G.R. SP No. 86350 are **AFFIRMED**. Costs against petitioners.

SO ORDERED.

LEONARDO A. QUISUMBING
Associate Justice

WE CONCUR:

CONCHITA CARPIO MORALES
Associate Justice

DANTE O. TINGA
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

ARTURO D. BRION
Associate Justice

A T T E S T A T I O N

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 Courts Division.

LEONARDO A. QUISUMBING
Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairpersons Attestation, I certify 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 Courts Division.

REYNATO S. PUNO

Chief Justice

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- [1] *Rollo*, pp. 59-74. Penned by Associate Justice Mariano C. del Castillo, with Associate Justices Regalado E. Maambong and Jose C. Mendoza concurring.
- [2] *Id.* at 75. Penned by Associate Justice Mariano C. del Castillo, with Associate Justices Rosmari D. Carandang and Jose C. Mendoza concurring.
- [3] *Id.* at 76. Penned by Associate Justice Mariano C. del Castillo, with Associate Justices Romeo A. Brawner and Magdangal M. de Leon concurring.
- [4] Records, p. 2.
- [5] *Rollo*, pp. 85-99.
- [6] *Id.* at 98-99.
- [7] *Id.* at 101-113.
- [8] *Id.* at 112.
- [9] *Id.* at 118-136.
- [10] *Id.* at 73-74.
- [11] *Id.* at 17.
- [12] G.R. No. 130866, September 16, 1998, 295 SCRA 494.
- [13] *Id.* at 509.
- [14] *Novelty Philippines, Inc. v. Court of Appeals*, G.R. No. 146125, September 17, 2003, 411 SCRA 211, 217.
- [15] *Cruz v. Cristobal*, G.R. No. 140422, August 7, 2006, 498 SCRA 37, 49.
- [16] *Reyes v. Court of Appeals*, G.R. No. 154448, August 15, 2003, 409 SCRA 267, 278, citing *Fernandez v. National Labor Relations Commission*, G.R. No. 105892, January 28, 1998, 285 SCRA 149, 170.
- [17] *Santos v. Velarde*, G.R. No. 140753, April 30, 2003, 402 SCRA 321, 329.
- [18] Department Order No. 4, Series of 2000, AMENDED STANDARD TERMS AND CONDITIONS GOVERNING THE EMPLOYMENT OF FILIPINO SEAFARERS ON-BOARD OCEAN-GOING VESSELS, adopted on May 31, 2000.

SECTION 32. Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted

HEAD

x x x x

3. Severe paralysis of both upper or lower extremities or one upper and one lower extremity.....Gr. 1

x x x x

6. Severe mental disorder or Severe Complex Cerebral function disturbance or post-traumatic psychoneurosis which require regular aid and attendance as to render worker permanently unable to perform any workGr. 1

x x x x

9. Incurable imbecility.Gr. 1

FACE

x x x x

4. Complete loss of the power of mastication and speech function..Gr.1

x x x x

EYES

1. Blindness or total and permanent loss of vision of both eyes...Gr.1

x x x x

CHEST-TRUNK-SPINE

x x x x

8. Injury to the spinal cord as to make walking impossible even with the aid of a pair of crutches.Gr.1

9. Injury to the spinal cord resulting to incontinence of urine and feces..Gr.1

ABDOMEN

x x x x

3. Severe residuals of impairment of intra-abdominal organs which

requires regular aid and attendance that will unable worker to seek
any gainful employmentGr.1
x x x x

PELVIS

1. Fracture of the pelvic rings as to totally incapacitate worker to work..Gr.1
x x x x

HANDS

1. Total loss of use of both hands or amputation of both hands at wrist joints or above..Gr.1
x x x x

SHOULDER AND ARM

x x x x
14. Total paralysis of both upper extremitiesGr. 1
x x x x

LOWER EXTREMITIES

x x x x
10. Loss of both feet at ankle joint or above..Gr. 1
x x x x
33. Failure of fracture of both hips to unite...Gr. 1
x x x x
35. Paralysis of both lower extremities..Gr. 1
x x x x

^[19] *Rollo*, p. 69.

^[20] *Austria v. Court of Appeals*, G.R. No. 146636, August 12, 2002, 387 SCRA 216, 221.

^[21] *Government Service Insurance System v. Cadiz*, G.R. No. 154093, July 8, 2003, 405 SCRA 450, 454.

^[22] *Philippine Transmarine Carriers, Inc. v. NLRC*, G.R. No. 123891, February 28, 2001, 353 SCRA 47, 53.

^[23] *Rollo*, p. 256.