SECOND DIVISION

EDGARDO M. PANGANIBAN , **G.R. No. 187032**

Petitioner,

Present:

CARPIO, *J.*, *Chairperson*,

- versus - NACHURA,

LEONARDO-DE CASTRO,*

PERALTA, and

MENDOZA, *JJ.*

TARA TRADING SHIPMANAGEMENT INC.

AND SHINLINE SDN BHD,

Promulgated:

Respondents.

October 18, 2010

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*∗ Designated as an additional member in lieu of Justice Roberto A. Abad, per Special Order No. 905 dated October 5, 2010.

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D E C I S I O N

MENDOZA, J.:

> *While it is true that labor contracts are impressed with public interest and the provisions of the POEA Standard Employment Contract must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, absent substantial evidence from which reasonable basis for the grant of benefits prayed for can be drawn, We are left with no choice but to deny the claims of the employee, lest We cause injustice to the employer. We must always remember that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.*[1] ***[1]***

This is a petition for review under Rule 45 of the Rules of Court challenging the October 29, 2008 Decision[2][2] of the Court of Appeals *(CA),* and its March 4,

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1[1] *Klaveness Maritime Agency, Inc. v. Beneficiaries of the Late Second Officer Anthony S. Allas*, G.R. No. 168560, January 28, 2008, 542 SCRA 593, 603.

2[2] *Rollo*, pp. 22-45. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justice Mario L. Guarina III and Associate Justice Ricardo R. Rosario, concurring.

2009 Resolution,[3][3] in CA-G.R. SP No. 104343, *reversing* the March 25, 2008 Decision[4][4] and April 30, 2008 Resolution[5][5] of the National Labor Relations Commission *(NLRC)* which affirmed the decision of the Labor Arbiter (LA) favoring the petitioner.

THE FACTS:

In November 2005, petitioner was hired by respondent Tara Trading Shipmanagement, Inc. *(Tara),* in behalf of its foreign principal, respondent Shinline SDN BHD *(Shinline)* to work as an Oiler on board MV "Thailine 5"[6][6] with a monthly salary of US$409.00.

Sometime in April 2006, petitioner began exhibiting signs of mental instability. He was repatriated on May 24, 2006 for further medical evaluation and management.[7][7]

3[3] Id. at 46-47.

4[4] CA r*ollo*, pp. 54-62.

5[5] Id. at 51-52.

6[6] *Rollo*, p. 23.

7[7] Id.

Petitioner was referred by respondents to the Metropolitan Medical Center where he was diagnosed to be suffering from "brief psychotic disorder."[8][8]

Despite his supposed total and permanent disability and despite repeated demands for payment of disability compensation, respondents allegedly failed and refused to comply with their contractual obligations.[9][9]

Hence, petitioner filed a Complaint against respondents praying for the payment of US$60,000.00 as total and permanent disability benefits, reimbursement of medical and hospital expenses, moral and exemplary damages, and attorney's fees equivalent to 10% of total claims.[10] [10]

Respondents, on the other hand, maintained that petitioner requested for an early repatriation and arrived at the point of hire on May 24, 2006; that while on board the vessel, he confided to a co-worker, Henry Santos, that his eating and sleeping disorders were due to some family problems; that Capt. Zhao, the master of the vessel, even asked him if he wanted to see a doctor; that he initially declined; that on May 22, 2006, petitioner approached Capt. Zhao and requested for a vacation and early repatriation; that the said request was granted; that upon arrival, petitioner was subjected to a thorough psychiatric evaluation; and that after a series of check-ups, it was concluded that his illness did not appear to be work-related. Respondents argued that petitioner was not entitled to full and permanent disability benefits under the Philippine Overseas

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8[8] Id.

9[9] Id. at 24.

10[10] Id.

Employment Administration Standard Employment Contract *(POEA SEC)* because there was no declaration from the company-designated physician that he was permanently and totally disabled and that the claim for damages was without basis as no bad faith can be attributed to them.[11][11]

On September 17, 2007, the **LA** *ruled in favor of the petitioner*.[12][12] Specifically, the LA held that:

> The claim for total and permanent disability benefits is resolved in favor of complainant. Respondents have stated that the cause of complainant's illness, brief psychotic disorder, is largely unknown. This being the case, it is not therefore right to bluntly claim that the same is not work-related because it is also possible that the illness may be caused by or aggravated by his employment. As alleged by respondents, there are certain factors which may bring about brief psychotic disorder such as "*biological or psychological vulnerability toward the development of psychotic symptoms*." Complainant, and all seamen for that matter, are subjected to stress because of the rigorous and strenuous demands of being at sea for prolonged periods of time, causing sensory deprivation and continuous isolation, to borrow the words of complainant's attending psychiatrist. As correctly argued by complainant, while all seamen may be subjected to the same or greater degree of stress, their respective abilities to cope with these factors are different. There is therefore the risk that seamen, not only complainant, are prone to contract brief psychotic disorder since they are most of the time at sea and away from their loved ones.

11[11] Id. at 25.

12[12] CA r*ollo*, pp. 66-75.

As early as 27 June 2006, respondents' designated physicians have declared that complainant's condition does not appear to be work-related. With this declaration, respondents are bound to deny complainant's claim for disability benefits. He cannot therefore be faulted for filing the instant case in October 2006 without waiting for the evaluation of his disability impediment by the company designated doctors. Moreover, the 120 days period lapsed without the latter having declared the degree of complainant's disability, if any.

Complainant is thus considered to be totally and permanently disabled as he is no longer capable of earning wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform. He is now incapacitated to work, hence, his earning capacity is impaired. Jurisprudence has declared that disability should not be understood more on its medical significance but on loss of earning capacity.

With the foregoing, complainant is awarded total and permanent disability benefits in the amount of US$ 60,000.00 or its equivalent in Philippine Currency at the time of payment.

Complainant cannot however be awarded his claim for medical and hospitalization expenses. He did not anymore pursue this charge in his pleadings, hence, the same remained unsubstantiated. The same holds true with his claim for moral and exemplary damages. Complainant failed to prove bad faith or malice on respondents' part in denying his claims.

Complainant is entitled to attorney's fees as he sought the assistance of his counsel in pursuing his claims against respondents for his total and permanent disability benefits. He is thus awarded an equivalent of ten percent (10%) of his total claims as and by way of attorney's fees.

WHEREFORE, in view of the foregoing, respondents Tara Trading Shipmanagement, Inc. and/or Shinline SDN. BHD, are hereby ordered to pay complainant Edgardo M. Panganiban his total and permanent disability benefit in the amount of US$60,000.00 plus US$6,000.00 attorney's fees, in Philippine Currency, at the prevailing rate of exchange at the time of payment.

All other claims are denied.

SO ORDERED.[13][13]

Respondents appealed to the NLRC. On March 25, 2008, the **NLRC affirmed** the decision of the LA.[14][14] The appeal of respondents was dismissed for lack of merit.[15][15] The NLRC reasoned out that "All material averments on appeal are mere rehash or amplification of the substantive allegations propounded in the proceedings below which were already discerned and judiciously passed upon by the Labor Arbiter." [16][16]

Respondents filed a motion for reconsideration but it was denied in a resolution dated April 30, 2008.

Aggrieved, respondents filed a Petition for Certiorari with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order[17][17] with the CA. In their petition, respondents presented the following grounds:

13[13] Id. at 72-75.

14[14] Id. at 54-62.

15[15] *Rollo*, pp. 27-28.

16[16] CA r*ollo*, pp. 59-60.

17[17] Id. at 2-307.

A. Public respondent gravely abused its discretion and committed serious error in ruling that the petitioners are liable to private respondent for the payment of disability compensation in the amount of US$ 60,000.00 considering the facts as borne out by the evidence on record and the applicable laws.

1. Public respondent committed grave abuse of discretion in arriving at the findings of fact which are not substantiated by the evidence on record.

2. Public respondent committed grave abuse of discretion when it failed to consider the evidence which proves the illness is not work related, thereby violating petitioners' right to procedural due process.

3. Public respondent erred in not finding in favor of the expert opinion of the company-designated doctor on the nature of the illness as against that of complainant's doctor in utter disregard of rules on evidence.

Without concrete proof that his assessment is biased and self-serving, the medical opinion of the company-designate physician should be accorded probative value and not discarded merely on the basis of unfounded allegation.

4. Public respondent committed grave abuse of discretion when it affirmed the award of attorney's fees.

B. Public respondent committed grave abuse of discretion when it affirmed the award of attorney's fees.[18][18]

18[18] Id. at 18.

On October 29, 2008, the **CA** *reversed* the decision of the NLRC.[19][19] Pertinently, the CA held that:

> We find that the NLRC (Sixth Division) committed grave abuse of discretion in affirming the Decision of Labor Arbiter Cellan which awarded US$60,000.00 total and permanent disability benefits and US$6,000.00 attorney's fees in favor of private respondent, as the findings of both the Labor Arbiter and the NLRC (Sixth Division) are not anchored on substantial evidence.
>
> It is basic that a contract is the law between the parties. Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith. Unless the stipulations in a contract are contrary to law, morals, good customs, public order or public policy, the same are binding as between the parties.
>
> A seafarer is a contractual, not a regular employee, and his employment is contractually fixed for a certain period of time. His employment, including claims for death or illness compensations, is governed by the contract he signs every time he is hired, and is not rooted from the provisions of the Labor Code.
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> The Contract of Employment entered into by petitioners and private respondent, and approved by the POEA on 25 October 2005, provides:
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> > "The herein terms and conditions in accordance with Department Order No. 4 and Memorandum Circular No. 09, both Series of 2000, shall be strictly and faithfully observed. x x x Upon approval, the same shall be deemed an integral part of the: **Standard Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean-Going Vessels**."

19[19] *Rollo*, pp. 22-45.

Section 20-B of the POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels ("POEA-SEC" for brevity) provides that "COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS. The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract: x x x"

Under the Definition of Terms found in the Standard Contract, a work related illness is defined as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied." In the instant case, the illness "brief psychotic disorder" is not listed as an occupational disease.

In the instant case, it is an undisputed fact that private respondent's illness occurred during the term of his contract. The remaining issue to be determined is whether or not private respondent's illness of "brief psychotic disorder" is work-related.

We find that private respondent's brief psychotic disorder was not contracted as a result of or caused by the seafarer's work as an Oiler on board the vessel M.V. Thailine 5.

A review of the evidence shows that the company-designated physician Dr. Mylene Cruz-Balbon ("Dr. Balbon," for brevity) issued a certification dated 26 June 2006 certifying that private respondent has undergone medical evaluation treatment at Robert D. Lim, M.D. Marine Medical Services, Metropolitan Medical Center from 26 May 2006 up to the date of the certification, due to "Brief Psychotic Disorder." x x x.

x x x x x x x x x

On the psychological test done on 30 May 2006 on private respondent, Dr. Raymond L. Rosales ("Dr. Rosales," for brevity) Diplomate in Neurology and Psychiatry and Associate Professor of the University of Santo Tomas Hospital,

who is the specialist to whom private respondent was referred by the company-designated physician, commented that private respondent suffered from hallucinations, persecutory delusions and paranoia; at present, he does not exhibit these symptoms; no definite mood disturbance; no suicidal intent; fair judgment and insight; the working diagnosis is brief psychotic disorder; at this point, his condition does not appear to be work-related since he claims to have no significant stressor at work and his symptoms were most likely triggered by personal family problems; and he needs to be followed up for atleast 3 months with regular intake of medications.

As to the question of which findings should prevail, that of the company-designated physician or the private respondent's personal physician, Section 20-B of the POEA-SEC provides:

> '*2. x x x x x x*
>
> *However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the* ***company-designated physician****.*
>
> *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.*
>
> ***For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician*** *within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.*
>
> ***If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.***' (Emphasis supplied)

In order to claim disability benefits under the Standard Employment Contract, it is the "company-designated" physician who must proclaim that the seaman suffered a permanent disability, whether total or partial, due to either injury or illness, during the term of the latter's employment. It is a cardinal rule in the interpretation of contracts that if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control. There is no ambiguity in the wording of the Standard Employment Contract – the only qualification prescribed for the physician entrusted with the task of assessing the seaman's disability is that he be "company-designated."

x x x x x x x x x

[E]ven private respondent's co-employee Oiler Henry Santos stated in his letter to the Master of the vessel that private respondent could not eat and sleep because of a family problem. X x x.

x x x x x x x x x

From the foregoing disquisitions, private respondent is neither entitled to a total and permanent disability of US$60,000.00 nor to attorney's fees of US$6,000.00. Petitioners did not act with gross or evident bad faith in denying the claim of private respondent. Thus, We find that the NLRC (Sixth Division) acted with grave abuse of discretion in dismissing petitioner's appeal, affirming the Decision of Labor Arbiter Cellan, and denying petitioners' Motion for Reconsideration.

While it is true that labor contracts are impressed with public interest and the provisions of the POEA Standard Employment Contract must be construed fairly, reasonably and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, we should always be mindful that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence. x x x.

x x x x x x x x x

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated 25 March 2008 and Resolution dated 30 April 2008 of the National Labor Relations Commission (Sixth Division) in *NLRC LAC NO. 11-000311-07; NLRC NCR OFW (M) CASE NO. 06-10-03278-00* are **REVERSED** and **SET ASIDE** and private respondent's complaint is hereby **DISMISSED**.

However, solely for humanitarian considerations, petitioners are hereby **ORDERED** to grant private respondent the amount of Php50,000.00 by way of financial assistance, and to continue, at their expense, the medical treatment of private respondent until the final evaluation or assessment could be made, with regard to private respondent's medical condition.

SO ORDERED.[20][20]

Petitioner's Motion for Reconsideration was denied by the CA in its Resolution dated March 4, 2009.[21][21]

Hence, this Petition anchored on the following grounds---

20[20] Id. at 33-43; See also CA r*ollo*, pp. 131-132, 286.

21[21] Id. at 46-47.

I

THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN IGNORING THE OVERWHELMING EVIDENCE THAT SUPPORTS PETITIONER'S ENTITLEMENT TO MAXIMUM DISABILITY BENEFITS IN THE AMOUNT OF USD60,000.00

II

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING THE COMPLAINANT'S DISABILITY BENEFITS SOLELY BECAUSE THE COMPANY-DESIGNATED PHYSICIAN HAS DECLARED PETITIONER'S ILLNESS AS NOT WORK-RELATED

III

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN NOT CONSIDERING THAT COMPLAINANT COULD NO LONGER RETURN TO ACTIVE SEA DUTIES, A JOB HE WAS TRAINED AND ACCUSTOMED TO PERFORM WITHOUT ENDANGERING HIS HEALTH AND LIFE

IV

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING PETITONER'S SEPARATE CLAIMS FOR DAMAGES AND ATTORNEY'S FEES.[22][22]

The Court denies the petition.

22[22] Id. at 4-5.

Preliminarily, considering the grounds raised by petitioner, it appears that he denominated this petition as one under Rule 45, but he filed it as *both* a petition for review under Rule 45 *and* a petition for certiorari under Rule 65 of the Rules of Court. The applicable rule is Rule 45, which clearly provides that decisions, final orders or resolutions of the CA in any case, regardless of the nature of the action or proceeding involved, may be appealed to this Court through a petition for review. This remedy is a continuation of the appellate process over the original case. Recourse under Rule 65 cannot be allowed either as an add-on or as a substitute for appeal.[23][23]

The procedural infirmity notwithstanding, the Court shall treat this petition as one filed under Rule 45 *only* and shall consider the alleged grave abuse of discretion on the part of the CA as an allegation of reversible error.

The pivotal issue to be resolved is whether or not the CA is correct in denying petitioner's entitlement to full and total disability benefits amounting to US$60,000.00 and attorney's fees in the amount of US$6,000.00.

The Court resolves the issue in the affirmative.

23[23] *Pagoda Philippines, Inc. v. Universal Canning, Inc.*, G.R. No. 160966, October 11, 2005, 472 SCRA 355, 359.

It need not be overemphasized that in the absence of substantial evidence, working conditions cannot be accepted to have caused or at least increased the risk of contracting the disease, in this case, brief psychotic disorder. Substantial evidence is more than a mere scintilla. The evidence must be real and substantial, and not merely apparent; for the duty to prove work-causation or work-aggravation imposed by law is real and not merely apparent.[24][24]

Even in case of death of a seafarer, the grant of benefits in favor of the heirs of the deceased is **not** automatic. As in the case of *Rivera* v. *Wallem Maritime Services, Inc*.,[25][25] without a post-medical examination or its equivalent to show that the disease for which the seaman 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.

In fact, in *Mabuhay Shipping Services, Inc. v. NLRC*,[26][26] the Court held that the death of a seaman even during the term of employment does not automatically give rise to compensation. Several factors must be taken into account such as the circumstances which led to the death, the provisions of the contract, and the right and obligation of the employer

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24[24] *Aya-ay v. Arpaphil Shipping Corp*., G.R. No. 155359, January 31, 2006, 481 SCRA 282, 294-295.

25[25] G.R. No. 160315, November 11, 2005, 474 SRA 714, 723.

26[26] G.R. No. 94167, January 21, 1991, 193 SCRA 141, 145.

and the seaman with due regard to the provisions of the Constitution on the due process and equal protection clauses.

Petitioner points out that his illness is work-related simply because had it been a land-based employment, petitioner would have easily gone home and attended to the needs of his family.[27][27]

The Court cannot submit to this argument. This is not the "work-related" instance contemplated by the provisions of the employment contract in order to be entitled to the benefits. Otherwise, every seaman would automatically be entitled to compensation because the nature of his work is not land-based and the submission of the seaman to the company-designated physician as to the nature of the illness suffered by him would just be an exercise of futility.

The fact is that the petitioner failed to establish, by substantial evidence, that his brief psychotic disorder was caused by the nature of his work as oiler of the company-owned vessel. In fact, he failed to elaborate on the nature of his job or to specify his functions as oiler of respondent company. The Court, therefore, has difficulty in finding any link between his position as oiler and his illness.

27[27] *Rollo*, p. 123.

The Court cannot give less importance either to the fact that petitioner was a seaman for 10 years serving 10 to 18-month contracts and never did he have any problems with his earlier contracts.[28][28] The Court can only surmise that the brief psychotic disorder suffered by him was brought about by a family problem. His daughter was sick and, as a seafarer, he could not just decide to go home and be with his family.[29][29] Even the psychiatric report[30][30] prepared by the evaluating private psychiatrist of petitioner shows that the hospitalization of petitioner's youngest daughter caused him poor sleep and appetite. Later, he started hearing voices and developed fearfulness.

Although strict rules of evidence are not applicable in claims for compensation and disability benefits, the Court cannot just disregard the provisions of the POEA SEC. Significantly, a seaman is a contractual and not a regular employee. His employment is contractually fixed for a certain period of time. Petitioner and respondents entered into a contract of employment. It was approved by the POEA on October 25, 2005 and, thus, served as the law between the parties. Undisputedly, Section 20-B of the POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels (POEA-SEC) provides for compensation and benefits for injury or illness suffered by a seafarer. It says that, in order to claim disability benefits under the Standard Employment Contract, it is the 'company-designated' physician who must proclaim that the seaman suffered a permanent disability, whether total or

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28[28] CA r*ollo*, p. 133.

29[29] *Rollo*, p. 123; See also CA r*ollo*, p. 108.

30[30] CA r*ollo*, pp. 133-134.

partial, due to either injury or illness, during the term of the latter's employment. In *German Marine Agencies, Inc. v. NLRC*,[31][31] the Court's discussion on the seafarer's claim for disability benefits is enlightening. Thus:

> [In] order to claim disability benefits under the Standard Employment Contract, it is the "company-designated" physician who must proclaim that the seaman suffered a permanent disability, whether total or partial, due to either injury or illness, during the term of the latter's employment. There is no provision requiring accreditation by the POEA of such physician. In fact, aside from their own gratuitous allegations, petitioners are unable to cite a single provision in the said contract in support of their assertions or to offer any credible evidence to substantiate their claim. If accreditation of the company-designated physician was contemplated by the POEA, it would have expressly provided for such a qualification, by specifically using the term "accreditation" in the Standard Employment Contract, to denote its intention. For instance, under the Labor Code, it is expressly provided that physicians and hospitals providing medical care to an injured or sick employee covered by the Social Security System or the Government Service Insurance System must be accredited by the Employees Compensation Commission. It is a cardinal rule in the interpretation of contracts that if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control. **There is no ambiguity in the wording of the Standard Employment Contract – the only qualification prescribed for the physician entrusted with the task of assessing the seaman's disability is that he be 'company-designated.' When the language of the contract is explicit, as in the case at bar, leaving no doubt as to the intention of the drafters thereof, the courts may not read into it any other intention that would contradict its plain import**. [Emphasis supplied]

In this case, the findings of respondents' designated physician that petitioner has been suffering from brief psychotic disorder and that it is not work-related must be respected.

The Court commiserates with the petitioner, but absent substantial evidence from which reasonable basis for the grant of benefits prayed for can be drawn, the

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31[31] G.R. No. 142049, 403 Phil. 572, 588-589 (2001).

Court is left with no choice but to deny his petition, lest an injustice be caused to the employer. Otherwise stated, while it is true that labor contracts are impressed with public interest and the provisions of the POEA SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.[32][32]

Lastly, it appears premature at this time to consider petitioner's disability as permanent and total because the severity of his ailment has not been established with finality to render him already incapable of performing the work of a seafarer. In fact, the medical expert termed his condition as ***brief*** *psychotic disorder*. The Court also takes note, as the CA correctly did, that petitioner did not finish his treatment with the company-designated physician, hence, there is no final evaluation *yet* on petitioner.

All told, no reversible error was committed by the CA in rendering the assailed Decision and issuing the questioned Resolution.

WHEREFORE, the October 29, 2008 Decision of the Court of Appeals and its March 4, 2009 Resolution in CA-G.R. SP No. 104343, are **AFFIRMED**.

32[32] Supra note 1.

SO ORDERED.

JOSE CATRAL MENDOZA

Associate Justice

WE CONCUR:

ANTONIO T. CARPIO

Associate Justice

Chairperson

ANTONIO EDUARDO B. NACHURA **TERESITA J. LEONARDO-DE CASTRO**

Associate Justice Associate Justice

DIOSDADO M. PERALTA

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 Court's Division.

ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

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 Chairperson's 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 Court's Division.

RENATO C. CORONA

Chief Justice