

THIRD DIVISION

[**G.R. No. 189863, September 17, 2014**]

**PEDRO LIBANG, JR., PETITIONER, VS. INDOCHINA SHIP
MANAGEMENT INC., MR. MIGUEL SANTOS AND MAJESTIC
CARRIERS, INC., RESPONDENTS.**

DECISION

REYES, J.:

Before the Court is a petition for review on *certiorari*^[1] filed by petitioner Pedro Libang, Jr. (Libang) to assail the Decision^[2] dated October 22, 2008 and Resolution^[3] dated September 25, 2009 issued by the Court of Appeals (CA) in CA-G.R. SP No. 102311, which dismissed his complaint for disability benefit against herein respondents Indochina Ship Management, Inc. (ISMI), its former President Miguel Santos (Santos), and Majestic Carriers, Inc. (Majestic).

The Antecedents

On June 27, 2002, Libang entered into a nine-month employment contract^[4] with ISMI, a domestic manning agency that acted for and in behalf of its foreign shipping company, Majestic. Libang was engaged as a Cook 1 for the vessel M/V Baltimar Orion,^[5] with an agreed basic monthly salary of US\$670.00. On August 4, 2002, he left the Philippines and boarded the vessel.^[6] He had finished three employment contracts with ISMI prior to this deployment.^[7]

On March 5, 2003, while Libang was on board M/V Baltimar Orion, he experienced numbness on the left side of his face, difficulty in hearing from his left ear, blurred vision of his left eye and speech problem.^[8] He reported this to the vessel's chief mate, who relayed the complaint to the ship captain. Thus, on March 31, 2003, Libang obtained medical attention in Trinidad and Tobago. He was later admitted for three days in a hospital in Dominican Republic, where he was found to be suffering from high blood pressure at 180/110 mmHg. He also had high blood sugar, with normal hepatic and cardiac enzymes. Libang was unable to again join M/V Baltimar Orion even after he was discharged from the hospital.^[9]

Given his health condition, Libang was eventually repatriated. He arrived in the Philippines on April 8, 2003. Two days later, he reported to ISMI and was endorsed for medical attention to the company-designated physician, Dr. Robert Lim (Dr. Lim) of the Marine Medical Services in Metropolitan Hospital. He was treated beginning April 10, 2003 and was under the care of a cardiologist, neurologist and an

internist/endocrinologist.^[10] On August 2, 2003, Dr. Lim issued to Libang a medical certificate^[11] with pertinent portions that read:

This is to certify that MR. PEDRO LIBANG[,] JR. has undergone medical/surgical evaluation treatment at Robert D. Lim, MD Marine Medical Services Metropolitan Hospital from April 10, 2003 to PRESENT due to HYPERTENSION; DIABETES MELLITUS TYPE 2 AND SMALL PONTINE INFARCT.^[12]

On August 13, 2003, Dr. Lim issued another medical certificate that provided as follows:

THIS IS WITH [REGARD] TO YOUR QUERY REGARDING THE CASE OF CHIEF COOK PEDRO L. LIBANG, JR. WHO WAS INITIALLY SEEN HERE AT METROPOLITAN HOSPITAL ON APRIL 10, 2003 AND WAS DIAGNOSED TO HAVE HYPERTENSION, DIABETES MELLITUS, TYPE 2 AND SMALL PONTINE INFARCT.

HE HAS BEEN UNDER THE CARE OF OUR CARDIOLOGIST, NEUROLOGIST AND ENDOCRINOLOGIST.

BASED ON HIS PRE-EMPLOYMENT MEDICAL EXAMINATION, PATIENT DENIED HAVING HIGH BLOOD PRESSURE AND HIS BLOOD PRESSURE DURING THAT TIME IS AT A BORDERLINE LEVEL OF 130/70 mmHg.

HOWEVER, ON HISTORY TAKING DURING HIS INITIAL EXAMINATION HERE AT METROPOLITAN HOSPITAL, PATIENT CLAIMED THAT HE HAD BEEN HYPERTENSIVE FOR ABOUT 3 YEARS ALREADY WITH IRREGULAR INTAKE OF UNRECALLED MEDICATIONS SO HIS HYPERTENSION COULD BE PRE-EXISTING.

WITH [REGARD] TO HIS DIABETES MELLITUS AND SMALL PONTINE INFARCT[,] NO FASTING BLOOD SUGAR RESULT IS NOTED (TO DETERMINE PRESENCE OF ANY BRAIN ABNORMALITY) SO IT IS DIFFICULT TO SAY WHETHER BOTH ARE PRE-EXISTING OR NOT.^[13]

Considering Dr. Lim's failure to assess Libang's disability despite his health status, the latter sought medical attention and assessment from another doctor, Dr. Efren R. Vicaldo (Dr. Vicaldo) of the Philippine Heart Center.^[14] A medical certificate^[15] issued by Dr. Vicaldo on October 9, 2003 indicated the following:

This is to certify that, Pedro L. Libang, Jr.[,] 52 years of age, of Marulas, Valenzuela City was examined and treated as out patient/confined in this

hospital on/from October 9, 2003 to _____ with the following findings and/or diagnosis/diagnoses:

Hypertensive Cardiovascular Disease
Diabetes Mellitus
S/P Cerebrovascular accident, left hemiparesis, secondary
Impediment Grade VI (50%)^[16]

The document with the heading "Justification of Impediment Grade VI (50%) for Seaman Pedro L. Libang, Jr." that was attached to Dr. Vicaldo's medical certificate provided the following details:

x x x x

- When examined, [Libang's] blood pressure was elevated at 140/90 mmHg. He had left-sided motor deficit on the upper and lower extremities.
- He is now unfit to resume work as seaman in any capacity.
- His illness is considered work aggravated.
- He requires lifetime maintenance medication both for hypertension and diabetes. This will prevent recurrence of stroke and the occurrence of other cardiovascular complications such as coronary artery disease and congestive heart failure.
- He is not expected to land a gainful employment given his medical background.
- He needs regular monitoring of his fasting blood sugar and renal function to preempt possible renal complication.^[17]

Per an affidavit executed by Dr. Lim on July 16, 2004, Libang still regularly received medical treatment and supervision from Dr. Lim's clinic until January 5, 2004.^[18] On January 16, 2004, Libang filed with the National Labor Relations Commission (NLRC) – National Capital Region Arbitration Branch a Complaint^[19] for disability benefit, damages and attorney's fees against ISMI and Santos.

The respondents in the labor complaint disputed any liability by arguing that the disability benefit being claimed pertained to a pre-existing illness that was concealed by Libang during a pre-employment medical examination for his deployment in 2002.^[20]

The Ruling of the Labor Arbiter

On September 24, 2004, Labor Arbiter (LA) Cresencio G. Ramos, Jr. rendered his Decision^[21] granting Libang's claim for disability benefit. The LA justified the award by explaining that:

“Without doubt, [Libang] had gone through a thorough and rigid screening process of [ISMI and Santos] (medical examinations included) before an agreement or the contract of employment between the parties was reached and actualized. This is precisely the reason why [ISMI and Santos], should not be allowed to make use of the argument that “[Libang] is not entitled to any disability benefits as he was **already suffering from a pre-existing illness** when he entered into a contract of employment with [ISMI and Santos].” This[,] not to mention the fact that there simply is no showing by sufficient evidence on the part of [ISMI and Santos] that the subject illness was pre-existing. Be it mentioned that hypertension is a health condition that could easily be detected by ordinary modes of physical examination.”^[22]

The dispositive portion of the LA’s decision then reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring complainant’s entitlement to the disability benefit (impediment Grade VI) claimed. Accordingly, respondents are hereby directed to pay complainant herein the sum of US\$25,000.00 by way of disability benefit, plus ten (10%) percent thereof, or US\$2,500.00, as and by way of attorney’s fees.

The claim for illness allowance, however, is DISMISSED as there is evidence of due payment thereof by respondents.

SO ORDERED.^[23]

Feeling aggrieved, ISMI and Santos, together with Majestic, appealed the LA’s decision to the NLRC.

The Ruling of the NLRC

On September 11, 2007, the NLRC issued a resolution^[24] dismissing the appeal. In sustaining the LA’s finding that Libang was entitled to disability benefit, the NLRC considered the reasonable connection between the nature of Libang’s work as a cook and the development of his illness. It held:

x x x [A]s shown by Libang, the nature of his work as a cook, exposed him to certain hazards. We quote:

"His daily tasks involved preparations of food items and the strenuous lifting of food provisions and supplies sometime[s] too heavy to be carried by one person, prepared and cooked dishes, cakes, pies, desserts; operated oven in cooking by boiling, grilling and roasting. Performed cleaning and washing of equipment, kitchen tools and maintained the cleanliness of the work areas;

and other tasks being ordered by superiors from time to time. As such, he was constantly exposed to installation of various kinds of harmful fumes and emissions and chemicals being used for cleaning, etc. He was also exposed to varying changes of temperatures of extreme hot and cold, such as in the cold storage and in kitchen areas.” (Records, pp. 22-23).

What the law requires is a reasonable work-connection and not a direct [causal connection]. It is sufficient that the hypothesis on which the seaman’s claim is based is probable. Probability, not [certainty] is the touchstone. (*Azucena Salalima vs. ECC and SSS*, G.R. No. 146360, May 20, 2004). It is not also far[-]fetched that [Libang] may have been required to work for long hours as cook of an ocean-going vessel and thus, his exposure to harmful chemicals increased. Therefore, there is reasonable basis to conclude that the nature of [Libang’s] work as cook contributed, even to small degree, to the development of his illness. (*Heirs of the Late R/O Reynaldo Aniban vs. NLRC*, 282 SCRA 377).

As regards [Libang’s] hypertension, Section 32-A of the POEA Standard Contract states:

“Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs [resulting] in permanent disability; Provided, that the following documents substantiate it: (a) chest x-ray report; (b) ECG report; (c) blood chemistry report; (d) [funduscopy] report, and, (e) CT Scan.”

Of course, it cannot be denied that he had been examined and treated by different specialists, such as neurologist, cardiologist and internal medicine-endocrinologist[;] hence, it must be true that he had been suffering from impairment of his organ.^[25]

The NLRC rejected the claim that Libang’s illness was pre-existing, citing the fact that the claimant was required to undergo a pre-employment medical examination and was then certified by company-designated physicians to be physically fit to work.^[26]

A motion for reconsideration of the NLRC decision was denied in a Resolution^[27] dated December 17, 2007, prompting the filing by ISMI, Santos and Majestic of a petition for *certiorari* with the CA.

In the meantime, the parties executed on March 25, 2008 and filed with the NLRC a document denominated as Satisfaction of Judgment Pursuant to Writ of Execution with Urgent Motion to Cancel Appeal Bond,^[28] which provided that Libang had received from ISMI, Santos and Majestic the sum of One Million One Hundred Twenty Four Thousand Two Hundred Pesos (P1,124,200.00), in full and complete satisfaction of the judgment award in the NLRC Resolution dated December 17, 2007 and subject of the NLRC’s writ

of execution dated January 11, 2008. The parties, nonetheless, agreed:

5. That **this Satisfaction of Judgment is without prejudice to herein respondents' [ISMI, Santos and Majestic] Petition for Certiorari with the Court of Appeals docketed as CA GR SP No. 102311 entitled "Indochina Management, Inc. and Majestic Carriers, Inc. vs. National Labor Relations Commission (Second Division) and Pedro L. Libang, Jr." and this Satisfaction of Judgment is being made only pursuant to the writ of execution dated 11 January 2008.**^[29]

The Ruling of the CA

On October 22, 2008, the CA rendered its decision granting the petition for *certiorari*. For the CA, the lone assessment made by Dr. Vicaldo could not have justified the LA's and NLRC's finding of a Grade VI disability. The Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) requires the company-designated physician to be the one to make a disability assessment of a seafarer. Furthermore, for hypertension to be compensable, it must be shown to cause impairment of function of body organs, as substantiated by documents such as chest x-ray report, ECG report, blood chemistry report, funduscopy report and CT scan, pursuant to Section 32-A (20)^[30] of the POEA-SEC.^[31]

Thus, the dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the instant petition for certiorari is **GRANTED**. The Resolutions of NLRC Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan dated September 11, 2007 and December 17, 2007 in NLRC CA NO. 042080-04 (NLRC NCR Case No. 04-01-0135-00) are hereby **ANNULLED** and **SET ASIDE**. The Decision of Labor Arbiter Cresencio G. Ramos, Jr. dated September 24, 2004 is **ANNULLED** and the complaint of Pedro Libang, Jr. is **DISMISSED**. Pedro Libang, Jr., with the assistance of his counsel Atty. Romulo P. Valmores, is ORDERED to IMMEDIATELY RETURN to the petitioners One Million One Hundred Twenty-Four Thousand Two Hundred Pesos (P1,124,200.00) with legal interest from March 25, 2008 until date of payment.

SO ORDERED.^[32]

Libang's motion for reconsideration was denied in a Resolution dated September 25, 2009. Hence, this petition for review on certiorari.

The Present Petition

The core issue for the Court's resolution is whether or not the CA erred in finding that the NLRC gravely abused its discretion when it declared Libang entitled to disability

benefit.

In his petition, Libang imputes error upon the CA for disturbing the factual findings of both the LA and NLRC, and for holding that he was not entitled to the disability benefit awarded by the labor tribunals. Even granting that he was not entitled to the award, its restitution should not include the payment of interest, as ordered by the CA.

After the parties had filed their respective memoranda, Libang filed an Urgent Manifestation with Motion to Dismiss, invoking the Court's ruling in *Career Philippines Ship Management, Inc. v. Madjus*^[33] wherein we affirmed on the ground of mootness the CA's dismissal of an appeal after the parties to the labor dispute had agreed on a satisfaction of judgment. Libang attached to his pleading a copy of the satisfaction of judgment which he executed with ISMI, Santos and Majestic on March 25, 2008. The Court, however, resolves to deny Libang's motion considering that the facts and circumstances in this case are different from those in *Career Philippines*. Specifically, the terms of the parties' satisfaction of judgment and waiver of rights in this case were different, the CA had already resolved the petition for *certiorari* on the merits, and Libang himself had invoked this Court's jurisdiction for the review of the case.

The Ruling of the Court

The petition is meritorious. The CA erred in finding that the NLRC acted with grave abuse of discretion when it declared Libang entitled to the disability benefit.

The respondents appealed the NLRC's decision to the CA via a petition for *certiorari*, which may be granted only upon a finding of grave abuse of discretion. In *Xavier Ramos v. BPI Family Savings Bank, and/or Alfonso L. Salcedo, Jr.*,^[34] the Court explained that grave abuse of discretion connotes judgment that is tantamount to lack of jurisdiction. To be considered "grave," the discretionary authority must be exercised in a despotic manner by reason of passion or hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. In labor disputes, the NLRC's findings are said to be tainted with grave abuse of discretion when its conclusions are not supported by substantial evidence.^[35] Substantial evidence pertains to such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.^[36]

It bears emphasis that the CA did not nullify the ruling of the NLRC upon a finding that Libang's illnesses were pre-existing or not work-related. The appellate court's annulment of the NLRC decision was based on an entirely different basis that pertained to proof of disability. Given these circumstances, the Court will no longer disturb these factual findings that Libang's illnesses were work-related and acquired only during the course of his employment in M/V Baltimar Orion. Settled is the rule that only questions of law are allowed in a petition for review on *certiorari*, and the question of whether or not a particular illness is pre-existing and work-related raises essentially factual issues. The Court is not a trier of facts. If factual findings of the LA and the NLRC have been affirmed by the CA, the Court accords them the respect and finality they deserve.^[37]

The CA rejected the NLRC's decision upon finding that Libang's disability was based solely on a medical certificate issued by Dr. Vicaldo. There was, however, no dispute that Libang suffered from hypertension, diabetes mellitus type 2 and small pontine infarct, as this was indicated in the medical certificates that were issued by the company-designated physician, Dr. Lim, on August 2, 2003^[38] and August 13, 2003.^[39] In his affidavit dated July 16, 2004, Dr. Lim again confirmed that Libang was diagnosed to have hypertension, right middle cerebral artery infarct vs. brainstem infarct and diabetes mellitus 2. Libang was even said to be under his medical care and treatment from April 10, 2003 to January 5, 2004.^[40] In none of these issuances, however, did Dr. Lim indicate a complete evaluation of Libang's illnesses and an assessment of his disability or fitness to work.

Rather than making a full assessment of Libang's health condition, disability or fitness, Dr. Lim only reasoned in his medical certificate dated August 13, 2003 that "[Libang's] hypertension **could be** pre-existing" and that "it [was] difficult to say whether [his diabetes mellitus and small pontine infarct] are pre-existing or not."^[41] His assessment was evidently uncertain and the extent of his examination for a proper medical diagnosis was incomplete. The alleged concealment by Libang of his hypertension during his pre-employment medical examination was also unsubstantiated, but was a mere hearsay purportedly relayed to Dr. Lim by one Dr. Aileen Corbilla, his co-attending physician.^[42] A categorical statement from Dr. Lim that Libang's illnesses were pre-existing and non-work-related was made only in his affidavit dated July 16, 2004, or after the subject labor complaint had been filed. Still, Dr. Lim gave no explanation for his statement that Libang's illnesses were not work-related.

Section 20(B) of the POEA-SEC provides:

B. 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 are as follows:

x x x x

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.

x x x x (Emphasis ours)

Clearly, there was a breach by Dr. Lim of his obligation as the company-designated physician. Although Libang repeatedly argued that Dr. Lim failed to give an assessment of his illness, herein respondents and Dr. Lim failed to explain and justify such failure. In *Kestrel Shipping Co., Inc. v. Munar*,^[43] the Court emphasized that the company-designated physician is expected to arrive at a definite assessment of the seafarer's fitness or permanent disability within the 120 or 240 days, as the case may be; otherwise, he shall be deemed totally and permanently disabled.^[44] The Court shall, nonetheless, not make such a declaration in this case because by Libang's plea for a reinstatement of the labor tribunals' rulings, he was of the position that his disability was not total and permanent.

Given the failure of Dr. Lim to fully evaluate Libang's illness, disability or fitness to work, the seafarer was justified in seeking the medical expertise of his physician of choice. The NLRC did not commit grave abuse of discretion in considering Dr. Vicaldo's assessment. As against an incomplete evaluation by Dr. Lim, the medical certificate issued by Dr. Vicaldo included a determination of the disability grade that applied to Libang's condition. Libang was diagnosed to have both Hypertensive Cardiovascular Disease and Diabetes Mellitus with an Impediment Grade VI.^[45] He was declared to be unfit to resume to work as a seafarer in any capacity. The alleged severity of Libang's illnesses could be linked with Dr. Lim's statement that Libang's hypertension was "severe"^[46] and that he "ha[d] been under the care of [a] cardiologist, neurologist and endocrinologist."^[47] Dr. Lim had not declared Libang to be fit to work or covered by any disability grade. It is then clear that the finding of Dr. Vicaldo did not contradict any opposing view from Dr. Lim on disability grade or fitness.

In denying Libang's claim, the CA relied solely on Section 32-A (20) of the POEA-SEC which requires that a finding of essential hypertension be substantiated by diagnostic and laboratory reports. Section 32-A (20) was, however, never invoked by the respondents during the proceedings before the LA, NLRC and the CA. Moreover, it is settled that strict rules of evidence are not applicable in claims for compensation and disability benefits.^[48] The respondents could not be allowed to benefit from their physician's inaction or refusal to disclose the results of the diagnostic tests performed upon Libang, the extent of the patient's illnesses, and the effect of the severity of these illnesses on his fitness or disability. The respondents even failed to sufficiently dispute the finding of the LA and NLRC that Libang's illnesses had resulted in a Grade VI disability.

All told, the labor tribunals acted reasonably when they relied upon the findings of Dr. Vicaldo. The CA then erred in holding that the NLRC acted with grave abuse of

discretion in issuing its resolutions that favored Libang.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 22, 2008 and Resolution dated September 25, 2009 of the Court of Appeals in CA-G.R. SP. No. 102311 are **ANNULLED** and **SET ASIDE**. The Resolutions dated September 11, 2007 and December 17, 2007 of the National Labor Relations Commission, affirming the Decision dated September 24, 2004 of Labor Arbiter Cresencio G. Ramos, Jr., are **REINSTATED**.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Villarama, Jr., and Jardeleza, JJ., concur.

October 7, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 17, 2014 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 7, 2014 at 1:50 p.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

[1] Rollo, pp. 8-40.

[2] Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Isaias P. Dicdican and Myrna Dimaranan Vidal, concurring; id. at 262-276.

[3] Id. at 314-317.

[4] Id. at 42.

[5] Referred to as "M/V Baltimore Orion" in some pleadings and court issuances.

[6] *Rollo*, pp. 262-263.

[7] *Id.* at 109.

[8] *Id.* at 159, 263.

[9] *Id.* at 43-44, 263.

[10] *Id.* at 263, 271.

[11] *Id.* at 48.

[12] *Id.*

[13] *Id.* at 270.

[14] *Id.* at 110-111.

[15] *Id.* at 49.

[16] *Id.*

[17] *Id.* at 50.

[18] *Id.* at 271.

[19] *Id.* at 51-52.

[20] *Id.* at 112.

[21] *Id.* at 108-117.

[22] *Id.* at 116-117.

[23] *Id.* at 117.

[24] *Id.* at 158-165.

[25] *Id.* at 162-163.

[26] *Id.* at 163-164.

[27] *Id.* at 181-183.

[28] Id. at 428-431.

[29] Id. at 429-430.

[30] 20. Essential Hypertension. Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs like kidneys, heart, eyes and brain, resulting in permanent disability; Provided, that, the following documents substantiate it: (a) chest x-ray report, (b) ECG report (c) blood chemistry report, (d) funduscopy report, and (e) C-T scan.

[31] *Rollo*, pp. 272-274.

[32] Id. at 275-276.

[33] G.R. No. 186158, November 22, 2010, 635 SCRA 619.

[34] G.R. No. 203186, December 4, 2013.

[35] Id.

[36] RULES OF COURT, Rule 133, Section 5.

[37] *Sarona v. National Labor Relations Commission*, G.R. No. 185280, January 18, 2012, 663 SCRA 394, 414.

[38] *Rollo*, p. 48.

[39] Id. at 270.

[40] Id. at 271.

[41] Id. at 270. (Emphasis ours)

[42] Id. at 271.

[43] G.R. No. 198501, January 30, 2013, 689 SCRA 795.

[44] Id. at 810.

[45] *Rollo*, pp. 49-50.

[46] Id. at 271.

[47] Id. at 270.

[48] *NFD International Manning Agents, Inc. v. NLRC*, 336 Phil. 466, 474 (1997).



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