724 Phil. 374

SECOND DIVISION

[G.R. No. 178564, January 15, 2014]

INC SHIPMANAGEMENT, INC., CAPTAIN SIGFREDO E. MONTERROYO AND/OR INTERORIENT NAVIGATION LIMITED, PETITIONERS, VS. ALEXANDER L. MORADAS, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated October 31, 2006 and Resolution[3] dated June 25, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 84769 which granted respondent Alexander L. Moradas's (respondent) claim to permanent total disability benefits in the amount of US$60,000.00, or its peso equivalent, and attorney's fees.

The Facts

On July 17, 2000, respondent was employed as wiper for the vessel MV Commander (vessel) by petitioner INC Shipmanagement, Inc. for its principal, petitioner Interorient Navigation, Ltd. (petitioners), for a period of I 0 months, with a basic monthly salary of US$360.00, plus benefits.[4]

On October 13, 2000, respondent claimed that while he was disposing of the garbage in the incinerator room of the vessel, certain chemicals splashed all over his body because of an explosion.[5] He was sent to the Burns Unit of the Prince of Wales Hospital on the same day wherein he was found to have suffered deep burns. Eventually, upon his own request, respondent was sent home.[6]

On October 21, 2000, he was admitted to the St. Luke's Medical Center.[7] Subsequently, he was diagnosed to have sustained "thermal burns, upper and lower extremities and abdomen, 2º-3º, 11%" [8] for which he underwent debridement. He was referred to a physical therapist for his subsequent debridement through hydrotherapy. On November 10, 2000, the attending physician, Dr. Natalio G. Alegre II, reported that the respondent's thermal burns were healing well and that they were estimated to fully heal within a period of 3 to 4 months.[9]

Claiming that the burns rendered him permanently incapable of working again as a seaman, respondent demanded[10] for the payment of his full disability benefits under Section 20 (B) in relation to Sections 30 and 30-A of the Philippine Overseas Employment Agency (POEA) Standard Employment Contract (POEA-SEC), in the

amount of US$60,000.00, which petitioners refused to heed. [11] Thus, respondent filed a complaint against petitioners for the same, seeking as well moral and exemplary damages, including attorney's fees. In their position paper, [12] petitioners denied respondent's claims, contending that his injury was self-inflicted and, hence, not compensable under Section 20 (D) of the POEA-SEC. They denied that the vessel's incinerator exploded and claimed that respondent burned himself by pouring paint thinner on his overalls and thereafter set himself on fire. They averred that he was led to commit such act after he was caught last October 10, 2000 [13] stealing the vessel's supplies during a routine security inspection conducted by Captain Bodo Wirth (Captain Wirth) where respondent was informed that he was to be dismissed.[14] They also stated that just before they Based on the aforesaid statement, on October 10, 2000, while the vessel was docked in Hong Kong, Captain Wirth conducted a routine security inspection when he came across a large parcel which belonged to respondent lying on the crew passageway. Upon inspection, the box contained a television set, a day bed cover, several towels and some provisions, all belonging to the vessel. When asked why he was stealing the foregoing articles, respondent claimed that they were given to him as a present by the chief steward. However, when Captain Wirth asked the latter, he denied giving respondent the same. As a result, Captain Wirth informed respondent that his actions warranted his immediate dismissal. discovered respondent to be burning, the vessel's engine room became flooded.[15] They ascribed the flooding incident to respondent, having been seen by fellow crew members standing at the railing around the portside seachest and looking at it[16] and that when the bilge level alarm sounded, he was seen disappearing up to the boiler deck leaving small patches of water on the floor, on the steps, and on the deck where he had been.[17] In support thereof, petitioners submitted the report of the ship captain on the flooding as extracted from the vessel's deck logbook[18] as well as the affidavits and statements executed by the vessel's officers and crew members relative to the flooding and burning incidents. Based on the said affidavits and statements, the vessel's bosun, Antonio Gile (Gile), attested that he saw respondent go to the paint room and there soak his hands in a can full of thinner. Respondent then proceeded to the incinerator door where he was set ablaze. Gile further pointed out that there was no fire in the incinerator at that time.[19] Also, Chief Officer Antonino S. Bejada (Bejada) testified that prior to the burning incident, he had ordered an ordinary seaman who had been burning deck waste in the incinerator to extinguish the fire with water and close up the incinerator door because of bad weather conditions. Bejada then checked the incinerator after the burning incident and found unburnt cardboard cartons inside with no sign of explosion and that the steel plates surrounding it were cool to the touch. He also noticed that the respondent's overalls had patches of green paint on the arms and body and smelled strongly of thinner. An open paint tin can was found near the place of the incident and a cigarette lighter lying beside respondent [20] which oiler Edgardo Israel confirmed was borrowed from him even though he knew that the former did not smoke.[21] Finally, petitioners denied respondent's claim for damages and attorney's fees for lack of factual and legal bases.[22]

In his Reply to the position paper, [23] respondent denied burning himself, contending that such act was contrary to human nature and logic and that there was no

showing that he was mentally unfit. [24] Further, he posited that the affidavits and statements submitted by the vessel's officers and crew members have no probative value for being mere hearsay and self- serving.[25] He equally insisted on his claim for moral and exemplary damages and attorney's fees.[26]

Meanwhile, or on February 29, 2001, petitioner Captain Sigfredo E. Monterroyo filed a complaint[27] for disciplinary action against respondent before the POEA for his various infractions committed on board the vessel, namely: (a) act of dishonesty for stealing the vessel's supplies on October 10, 2000; (b) act of sabotage committed on October 13, 2000; and (c) grave misconduct for inflicting the injury to himself.[28]

The LA Ruling

In a Decision[29] dated April 15, 2003, the Labor Arbiter (LA) ruled in favor of petitioners, dismissing respondent's complaint for lack of merit. The LA held that respondent's injury was self-inflicted and that no incinerator explosion occurred that would have caused the latter 's injuries.[30] The LA gave more credence to the corroborating testimonies of the petitioners' witnesses that respondent's botched attempts to sabotage the vessel and steal its supplies may have motivated him to inflict injuries to himself.[31] Lastly, the LA denied respondent's claim for moral and exemplary damages as well as attorney's fees since he failed to prove any evident bad faith or malice on petitioners' part.[32]

The NLRC Ruling

On appeal, the National Labor Relations Commission (NLRC), in a Decision[33] dated January 30, 2004, sustained the findings of the LA and held, inter alia, that while some of the statements and affidavits of the vessel's officers and crew members were not notarized, the corroborating testimonial evidence must be taken as a whole. In this accord, it gave due credence to the questioned evidence absent any showing that the petitioners were motivated by ill will. [34] Also, it pointed out that respondent's mental or physical fitness was not at issue since he was motivated to inflict injury to himself for reasons related to his impending discharge and not because of his disposition.[35]

Respondent filed a motion for reconsideration but the same was denied in a Resolution [36] dated March 31, 2004. Dissatisfied, he filed a petition for *certiorari* before the CA.

The CA Ruling

On October 31, 2006, the CA rendered the assailed Decision, [37] holding that grave abuse of discretion tainted the NLRC ruling.

It found no logical and causal connection between the act of pilferage as well as the act

of causing the flooding in the engine room and the conclusion that respondent's injury was self-inflicted. It added that it was contrary to human nature and experience for respondent to burn himself.[38] Further, the CA noted that the location of the burns on the different parts of respondent's body was more consistent with respondent's assertion that certain chemicals splashed all over his body rather than petitioners' theory of self-inflicted injury. [39] Moreover, it pointed out that no evidence was presented to show that respondent had no business near the engine room.[40] In the same vein, it observed that the mere finding of a cigarette lighter was inadequate to justify the conclusion that he burned himself.[41] Consequently, for petitioners' failure to discharge the burden of proving that respondent's injury was directly attributable to him as required under Section 20 (D) of the POEA-SEC, the CA found that the NLRC gravely abused its discretion and, thus, held petitioners liable to pay respondent permanent total disability benefits in the amount of US$60,000.00, or its peso equivalent.[42]

On the other hand, respondent's claims for moral and exemplary damages were denied for lack of basis but the CA awarded him attorney's fees in the amount of P50,000.00. [43]

Aggrieved, petitioners moved for reconsideration which was, however, denied in a Resolution[44] dated June 25, 2007. Hence, this petition.

The Issue Before The Court

The essential issue in this case is whether or not the CA erred in finding that the NLRC gravely abused its discretion when it denied respondent's claim for disability benefits.

The Court's Ruling

The petition is meritorious.

A. Preliminary Matters: Framework of Review and Governing Rules

At the outset, the Court deems it proper to elucidate on the framework in which the review of this case had been conducted, in conjunction with the applicable governing rules to analyze its substantive merits.

The Court's jurisdiction in cases brought before it from the CA via Rule 45 of the Rules of Court is generally limited to reviewing errors of law. The Court is not the proper venue to consider a factual issue as it is not a trier of facts. This rule, however, is not ironclad and a departure therefrom may be warranted where the findings of fact of the CA are contrary to the findings and conclusions of the NLRC and LA, as in this case. In this regard, there is therefore a need to review the records to determine which of them should be preferred as more conformable to evidentiary facts.[45]

With respect to the applicable rules, it is doctrinal that the entitlement of seamen on overseas work to disability benefits "is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation [to] Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, and the parties' Collective Bargaining Agreement bind the seaman and his employer to each other."[46]

In the foregoing light, the Court observes that respondent executed his contract of employment on July 17, 2000,[47] incorporating therein the terms and conditions of the 2000 POEA-SEC which took effect on June 25, 2000. However, since the implementation of the provisions of the foregoing 2000 POEA-SEC was temporarily suspended [48] by the Court on September 11, 2000, particularly Section 20, paragraphs (A), (B), and (D) thereof, and was lifted only on June 5, 2002, through POEA Memorandum Circular No. 2, series of 2002, [49] the determination of respondent's entitlement to the disability benefits should be resolved under the provisions of the 1996 POEA-SEC as it was, effectively, the governing circular at the time respondent's employment contract was executed.

The prevailing rule under Section 20 (B) of the 1996 POEA-SEC on compensation and benefits for injury or illness was that an employer shall be liable for the injury or illness suffered by a seafarer during the term of his contract. There was no need to show that such injury was work-related except that it must be proven to have been contracted during the term of the contract. The rule, however, is not absolute and the employer may be exempt from liability if he can successfully prove that the cause of the seaman's injury was directly attributable to his deliberate or willful act as provided under Section 20 (D) thereof, to wit:

> D. No compensation shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act, provided however, that the employer can prove that such injury, incapacity, disability or death is directly attributable to seafarer.

Hence, the *onus probandi* falls on the petitioners herein to establish or substantiate their claim that the respondent's injury was caused by his willful act with the requisite quantum of evidence.

In labor cases, as in other administrative proceedings, **only substantial evidence** or such relevant evidence as **a reasonable mind might accept as sufficient to support a conclusion is required.**[50] To note, considering that **substantial evidence is an evidentiary threshold**, the Court, on exceptional cases, may assess the factual determinations made by the NLRC in a particular case. In *Career Philippines Shipmanagement, Inc. v. Serna*,[51] the Court expressed the

following view:

> Accordingly, we do not re-examine conflicting evidence, re- evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field. Nor do we substitute our "own judgment for that of the tribunal in determining where the weight of evidence lies or what evidence is credible." The factual findings of the NLRC, when affirmed by the CA, are generally conclusive on this Court.
>
> **Nevertheless, there are exceptional cases where we, in the exercise of our discretionary appellate jurisdiction *may* be urged to look into factual issues raised in a Rule 45 petition**. For instance, when the petitioner **persuasively alleges that there is insufficient or insubstantial evidence on record** to support the factual findings of the tribunal or court *a quo*, as Section 5, Rule 133 of the Rules of Court states in express terms that in cases filed before administrative or quasi-judicial bodies, **a fact may be deemed established only if supported by substantial evidence**.[52] (Emphases supplied; citations omitted)

The evident conflict between the NLRC's and CA's factual findings as shown in the records of this case prompts the Court to sift through their respective factual determinations if only to determine if the NLRC committed grave abuse of discretion in reaching its disposition, keeping in mind that the latter's assessment should only meet the threshold of substantial evidence.

B. Application

In view of the above-discussed considerations and after a judicious scrutiny of the facts on record, the Court holds that the CA erred in attributing grave abuse of discretion on the part of the NLRC in affirming the LA's dismissal of respondent's complaint. This is based on the Court's observation that the NLRC had cogent legal bases to conclude that petitioners have successfully discharged the burden of proving by substantial evidence that respondent's injury was directly attributable to himself. The reasons therefor are as follows:

First, records bear out circumstances which all lead to the reasonable conclusion that respondent was responsible for the flooding and burning incidents.

Records show that the LA and NLRC gave credence to the corroborating testimonies of the crewmen pointing to respondent as the person who deliberately caused the flooding incident. In particular, respondent was seen alone in the vicinity of the portside seachest which cover was found to have been intentionally removed and thereby caused the flooding. He was also seen disappearing up to the boiler deck just when the bilge level alarm sounded with patches of water left on the floor plates and on the stairways. Respondent neither denied nor proffered any explanation on the foregoing claims especially when all of his fellow engine room staff, except him, responded to the

alarm and helped pump out the water in the engine room. [53] As to the burning, respondent failed to successfully controvert Gile's claim that he saw the former go to the paint room, soak his hands in a can full of thinner and proceed to the incinerator door where he was set ablaze. In fact, respondent's burnt overalls conform to the aforesaid claim as it had green paint on the arms and body and smelled strongly of thinner, while the open paint tin can that was found in the vicinity contained solvent which had the same green color found on the overalls.

Second, respondent's version that the burning was caused by an accident is hardly supported by the evidence on record.

The purported explosion in the incinerator was belied by Gile who also claimed that there was no fire in the incinerator room at the time respondent got burned. This was corroborated by Bejada who testified having ordered an ordinary seaman that was burning deck waste in the incinerator early that day to extinguish the fire with water and close up the incinerator door because of bad weather conditions. Accordingly, an inspection of the incinerator after the incident showed that there were unburnt cardboard cartons found inside with no sign of explosion and the steel plates surrounding it were cool to the touch. Further, as aptly discerned by the LA, if there was really an incinerator explosion, then respondent's injury would have been more serious.[54]

Respondent debunked Gile's claim by merely asserting in his Answer and Rejoinder before the POEA that the latter could not have been in the room at the time he got burned as he was not the first person to rescue him and concluded that he could not have soaked his hands in a can full of thinner considering the extent of damage caused to his hands. [55] This argument is riddled with serious flaws: Gile could have been the second man in, and still personally know the matters he has alleged. Also, that respondent soaked his hands in thinner is not denied by the fact that the greatest damage was not caused to it since the fire could have started at some part of his body considering that his overalls also had flammable chemicals. Reason also dictates that he could have extinguished the fire on his hands sooner than the other parts of his body. In any event, the medical records of respondent, particularly the report[56]issued by the Prince of Wales Hospital Burns Surgery, show that he suffered from "deep burn area" that was distributed over his left upper limb, right hand, left flank and both thighs.[57] To assert that respondent's hands should have suffered the greatest damage is plainly argumentative and records are bereft of showing as to the exact degree of burn suffered for each part.

To add, Bejada's statement that respondent's burnt overalls had patches of green paint on the arms and body and strongly smelled of thinner conforms with Gile's claim that he soaked his hands in a can of thinner before approaching the incinerator (thinner may be found in a paint room). Such fact further fortifies petitioners' assertion that his injury was self-inflicted as a prudent man would not dispose of garbage in the incinerator under such condition.

And if only to placate other doubts, the CA's finding that "some chemicals splashed [on

respondent's] body"[58] should not automatically mean that the "splashing" was caused by pure accident. It is equally reasonable to conclude that the "splashing" – as may be inferred from both the LA's and NLRC"s findings – was a by-product of respondent's botched sabotage attempt.

While respondent contended that the affidavits and statements of the vessel's officers and his fellow crew members should not be given probative value as they were biased, self-serving, and mere hearsay, he nonetheless failed to present any evidence to substantiate his own theory. Besides, as correctly pointed out by the NLRC, the corroborating affidavits and statements of the vessel's officers and crew members must be taken as a whole and cannot just be perfunctorily dismissed as self-serving absent any showing that they were lying when they made the statements therein.[59]

Third, petitioners' theory that respondent's burns were self-inflicted gains credence through the existence of motive.

At this juncture, the Court finds it important to examine the existence of motive in this case since no one actually saw what transpired in the incinerator room. To this end, the confluence of the circumstances antecedent to the burning should be examined in conjunction with the existing accounts of the crew members. That said, both the LA and the NLRC made a factual finding that prior to the burning incident, respondent was caught pilfering the vessel's supplies for which he was told that he was to be relieved from his duties. This adequately supports the reasonable conclusion that respondent may have harbored a grudge against the captain and the chief steward who denied giving him the questioned items. At the very least, it was natural for him to brood over feelings of resentment considering his impending dismissal. These incidents shore up the theory that he was motivated to commit an act of sabotage which, however, backfired into his own burning.

In this relation, the Court observes that a definitive pronouncement on respondent's mental unfitness need not be reached since the totality of the above-stated circumstances already figures into the rational inference that respondent's burning was not a product of an impaired mental disposition but rather an incident which sprung from his own volition. Mental impairment connotes the lack of control over one's action. If the actor is conscious of what he is doing, as respondent was in this case by sabotaging the ship, then a finding of mental unfitness is not needed. Differing from the CA's take on the matter, it is not contrary to human experience or logic for a spumed man to resort to tactics of desperation, however ludicrous or extreme those tactics may be, or however untoward or unfortunate its consequences may tum out, as in this case.

All told, petitioners having established through substantial evidence that respondent's injury was self-inflicted and, hence, not compensable pursuant to Section 20 (D) of the 1996 POEA-SEC, no grave abuse of discretion can be imputed against the NLRC in upholding the dismissal by the LA of his complaint for disability benefits. It is well-settled that an act of a court or tribunal can only be considered to be tainted with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. [60] For the reasons herein detailed,

the Court finds these qualities of capriciousness or whimsicality wanting in the case at bar and thus, holds that the CA erred in ruling that grave abuse of discretion exists.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 31, 2006 and Resolution dated June 25, 2007 of the Court of Appeals in CA-GR. SP No. 84769 are **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated January 30, 2004 of the National Labor Relation Commission dismissing respondent Alexander L. Moradas's complaint for permanent total disability benefits and other money claims is hereby **REINSTATED.**

SO ORDERED.

Carpio, J., (Chairperson), Del Castillo, and *Perez, JJ.* concur.
Brion, J. see concurring/dissenting opinion

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[1] *Rollo*, pp. 44-86.

[2] Id. at 94-118. Penned by then Presiding Justice Ruben T. Reyes (now retired Associate Justice of the Supreme Court), with Associate Justices Juan Q. Enriquez, Jr. and Vicente S. E. Veloso, concurring.

[3] Id. at 155-157.

[4] Id. at 95. See also Contract of Employment dated July 17, 2000; id. at 165.

[5] Id.

[6] Id. at 96.

[7] Id.

[8] Id. at 249.

[9] Id. at 250.

[10] Id. at 181-182.

[11] Id. at 96.

[12] Id. at 232-245.

[13] Id. at 234. Erroneously stated as "October 10, 2001" in the records.

[14] Id. at 238. See also the statement dated December 7, 2000 signed by Captain

Wirth; id. at 264-269.

[15] Id. at 234.

[16] Id. at 322-323. See Affidavit of Janito Subebe dated August 24, 2001. See also id. at 234.

[17] Id. at 318-319. See Affidavit of Edgardo Israel dated August 27, 2001. See also id. at 234.

[18] Id. at 258-260.

[19] Id. at 320-321. See *Sinumpaang Salaysay* of Gile dated January 22, 2001.

[20] Id. at 270-272. See Statement of Chief Officer Bejada dated December 7, 2000.

[21] Id. at 318-319. See Affidavit of Edgardo Israel dated August 27, 2001.

[22] Id. at 243-245.

[23] Id. at 288-301.

[24] Id. at 291.

[25] Id. at 293-294.

[26] Id. at 298-301.

[27] Id. at 158-159.

[28] Id. at 160-163. See Affidavit-Complaint dated February 21, 2001.

[29] Id. at 400-408. Docketed as NLRC NCR OFW Case No. (M) 01-07-1316-00. Penned by LA Fe Superiaso-Cellan.

[30] Id. at 407.

[31] Id. at 405-406.

[32] Id. at 408.

[33] Id. at 485-492. Docketed as NLRC NCR CA No. 035689-03. Penned by Presiding Commissioner Lourdes C. Javier, with Commissioners Ernesto C. Verceles and Tito F. Genilo, concurring.

[34] Id. at 491.

[35] Id.

[36] Id. at 510-511.

[37] Id. at 94-118.

[38] Id. at 105.

[39] Id. at 107-108.

[40] Id. at 108.

[41] Id. at 107.

[42] Id. at 110-115 and 117.

[43] Id. at 115-117.

[44] Id. at 155-157.

[45] *Dimagan v. Dacworks United, Incorporated*, G.R. No. 191053, November 28, 2011, 661 SCRA 438, 445-446.

[46] *Magsaysay Maritime Corp. v. NLRC (Second Division)*, G.R. No. 186180, March 22, 2010, 616 SCRA 362, 372-373.

[47] *Rollo*, p. 165.

[48] On September 12, 2000, POEA Administrator Reynaldo A. Regalado issued Memorandum Circular No. 11, series of 2000, declaring, *inter alia*, that Section 20 (A), (B), and (D) of the 1996 POEA-SEC (on Compensation and benefits for Death and for Injury or Illness) shall continue to be applied in view of the Temporary Restraining Order dated September 11, 2000 issued by the Court in G.R. No. 143476 entitled, "*Pedro Linsangan v. Laguesma*" and G.R. No. 144479 entitled, "*MARINO, Inc. v. Laguesma,*" enjoining certain amendments introduced by the 2000 POEA-SEC. (See POEA Memorandum Circular No. 11, series of 2000 and POEA Memorandum Circular No. 2, series of 2002. See also *Coastal Safeway Marine Services, Inc. v. Delgado*, G.R. No. 168210, June 17, 2008, 554

[49] Through POEA Memorandum Circular No. 2, series of 2002 which states: SCRA 590).

In view of which POEA Memorandum Circular No. 11, series of 2000, issued on 12 September 2000 enforcing the Temporary restraining Order issued by the Supreme Court in a Resolution dated 11 September 2000, on the implementation of the abovementioned provision is hereby Rescinded.

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[50] *Cootauco v. MMS Phil. Maritime Services, Inc.*, G.R. No. 184722, March 15, 2010, 615 SCRA 529, 544.

[51] G.R. No. 172086, December 3, 2012, 686 SCRA 676.

[52] Id. at 684-685.

[53] *Rollo*, p. 275. Statement of 2nd Engineer Alexander Pynikov dated December 7, 2000.

[54] *Rollo*, p. 407.

[55] Id. at 324-332.

[56] Id. at 740.

[57] Id. at 95-96.

[58] See CA Decision, *rollo*, p. 109.

[59] See *Progress Homes v. NLRC*, 336 Phil. 265, 270 (1997).

[60] *Yu v. Hon. Reyes-Carpio*, GR. No. I89207, June I5, 20 II, 652 SCRA 34I, 348. (Citations omitted)

CONCURRING AND DISSENTING OPINION

BRION, *J.*:

I concur with the *ponencia 's* conclusion that Alexander L. Moradas' complaint for total and permanent disability benefits must be dismissed and consequently, the Court of Appeals (CA) ruling must be reversed and set aside. However, I strongly disagree with the legal framework of review it adopted in arriving at this conclusion. Due to its adoption of an erroneous framework of review, its basis for reversing the assailed CA ruling is necessarily tainted with serious legal error.

In this Opinion, I submit that the proper and legal framework of review of a CA decision in a labor case is that laid down by the *Court in Montoya v. Transmed Manila Corporation*.[1] I also submit that while Moradas is not entitled to total and permanent disability benefits, he is entitled to an income benefit.

I. The proper and legal framework of review of a Rule 65 CA decision in a labor case

a. The transfer of a labor case from the quasi-judicial sphere to the judicial sphere entails a specific mode of limited review

When a labor case decided by quasi-judicial tribunals - the Labor Arbiter (*LA*) and the National Labor Relations Commission (*NLRC*) - finds its way into the judicial sphere, the court must proceed and act on the petition on the basic premise that the assailed ruling is a ***final and executory ruling***. This premise, in turn, is based on two facts: *first,* labor cases that reach the CA (and eventually the Supreme Court) are already rulings on the merits that finally dispose of the case; and, *second*, after the labor tribunals have rendered judgment, substantive law no longer provides any remedy of appeal to the losing party.

Notwithstanding the absence of appeal, the aggrieved party is not without any legal remedy. As the legal battle is transferred from the quasi judicial sphere to the strictly judicial sphere, the aggrieved party must contend with the fact that the new avenue for legal advocacy becomes narrower. The review allowed is limited to ***jurisdictional grounds under Rule 65 of the Rules of*** *Court (Rule 65)*.[2] As early as 1975, the Court had the occasion to state:

> **While an appeal does not lie**, it is available **whenever a jurisdictional issue is raised or one of grave abuse of discretion amounting to a lack of excess thereof.** x x x This excerpt, from the opinion of Justice Aquino in *San Miguel Corporation v. Secretary of Labor*, is in point: "Yanglay raised a jurisdictional question which as not brought up by respondent public officials. He contends that this Court has no jurisdiction to review the decisions of the NLRC and the Secretary of Labor 'under the principle of separation of powers' and that judicial review is not provided for in Presidential Decree No. 21. That contention is a flagrant error. 'It is generally understood that as to administrative agencies exercising quasi-judicial or legislative power **there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute**' x x x. Judicial review is proper in case of **lack of jurisdiction, grave abuse of discretion, error of law, fraud or collusion**."[3] (emphases ours, citations omitted)

A *certiorari* proceeding is limited in scope and narrow in character. The special civil action for *certiorari* lies only to correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion. *Certiorari* will issue only to correct errors of jurisdiction and not mere errors of judgment, particularly in the findings or conclusions of the quasi-judicial tribunals or lower courts. For errors of judgment, appeal, if provided for by law, is the proper remedy and not *certiorari*. [4] Accordingly, when a petition for *certiorari* is filed, the judicial inquiry should be limited to the issue of whether the NLRC acted with grave abuse of discretion amounting to lack or in excess of jurisdiction.[5]

The supervisory jurisdiction of a court over the issuance of a writ of *certiorari* c**annot be exercised for the purpose of reviewing the intrinsic correctness** of a judgment. Even if the findings of the lower court or tribunal are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of *certiorari*.[6] *Certiorari* jurisdiction is not to be equated with appellate jurisdiction. [7] To depart from this well-established scope and breadth of *certiorari* by reviewing, and worse overturning, the assailed ruling (in the guise of correcting errors of jurisdiction even if they are plainly errors of judgment) plainly amounts to **unwarranted judicial legislation, by indirectly creating a non-existing right of appeal.**

Nevertheless, while a *certiorari* proceeding does not strictly include an inquiry as to the correctness of the evaluation of evidence (that was the basis of the labor tribunals in determining their conclusion),[8] **the incorrectness of its evidentiary evaluation should not result in negating the requirement of substantial evidence**.[9] Indeed, when there is a showing that the findings or conclusions, drawn from the same pieces of evidence, were arrived at arbitrarily or in disregard of the evidence on record, they may be reviewed by the courts. In particular, the CA can grant the petition for *certiorari* if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence.[10] A decision that is not supported by substantial evidence is definitely a decision tainted with grave abuse of discretion.

b. The court's limited certiorari jurisdiction as applied in jurisprudence

Unfortunately, the clear limits of a *certiorari* jurisdiction are somewhat a murky area in our jurisprudence. More often than not, the Court actively engages in reviewing the NLRC ruling without fully considering the absence of a statutory right to appeal. In fact, a survey of the Court's rulings will not be beneficial in determining the scope and breadth of the Court's ***supervisory power*** under a Rule 65 petition as distinguished from the Court's discretionary ***review power*** under a Rule 45 petition in labor cases. In effect, the supposedly final and executory character of the NLRC ruling was, more often than not, sidestepped as a non-essential legal consideration. The result was a deluge of labor cases before the Highest Court.

To put an end to this, the Court, in *St. Martin Funeral Homes v. NLRC (St. Martin)*,[11] opted to change the ***procedure of review*** of labor cases, taking into account the judicial hierarchy of courts. Thus, the Court decreed that the proper recourse from the NLRC's final and executory ruling is to assail the ruling before ***the CA under Rule 65***. *Without altering* the unappealable character of the NLRC ruling that substantive law provides,[12] the Court thereby sought to improve the process by which labor cases - most of which are highly factual in character - can reach the Highest Court of the land, whose time is better devoted to matters within its exclusive jurisdiction and to issues that significantly impact on the nation as a whole.

Under *St. Martin*, a party who loses in the CA or is dissatisfied with the CA ruling, is given the further option to file ***an appeal with the Supreme Court*** through a petition for review on *certiorari* under Rule 45 of the Rules of Court (*Rule 45*). Expressly stated under Rule 45 is that the review it provides is not a matter of right but of sound judicial discretion. Too, this mode of appeal limits the review to questions of law.

Obviously, the Court did not intend this discretion to be an unbridled discretion one.[13] The approximate metes and bounds of the express limitations under Rule 45 - that ***only questions of law*** may be raised and that the Court may entertain the petition and exceptionally undertake a review of factual questions ***based on "sound judicial discretion"***- are, however, not clearly defined in *St. Martin*. In fact, cases decided ***before or after*** *St. Martin* almost uniformly hold that:

> **The rule is that factual findings of quasi-judicial agencies such as the NLRC are generally accorded not only respect, but at times, even finality** because of the special knowledge and expertise gained by these agencies from handling matters falling under their specialized jurisdiction. It is also settled that this Court is not a trier of facts and does not normally embark in the evaluation of evidence adduced during trial. **This rule, however, allows for exceptions. One of these exceptions covers instances when the findings of fact of the trial court, or of the quasi-judicial agencies concerned, are conflicting or contradictory with those of the CA. When there is a variance in the factual findings it is incumbent upon the Court to re-examine the facts once again.**[14] (emphases and underscores ours, citations omitted)

In other words, the existence of conflict in the factual findings and/or conclusions at any stage of the case, from the LA to the CA, makes it incumbent upon the Court to conduct a review of the records to determine which of them should be preferred as more conformable to evidentiary facts. **This is what the *ponencia* expressly relied upon in undertaking an independent review**. With this approach, the Court obviously considered the Rule 65 petition route to the CA only in light of the doctrine of hierarchy of courts and disregarded the final and unappealable character of the NLRC

decision. If the CA's *certiorari* jurisdiction has a limited scope and breadth, the Court, under a Rule 45 petition to review the CA decision, could not have a more expanded jurisdiction than what Rule 45 expressly provides, *i.e.*, that the issue is limited to pure question of law.

Without a definite guideline on the scope of this "question of law" before the Court, **more often than not, the rule (that factual findings of labor tribunals are binding on the Court) became the exception (with the Court effectively becoming a trier of facts) and the exception became the rule**. Notably, when one traces in jurisprudence the justification for the invoked exception, it will invariably point to cases where the Supreme Court departed from the rule - that the jurisdiction of the Court in cases brought to it from the CA is limited to the review of errors of law, as its findings of fact are deemed conclusive - when, among others, the findings of facts ***by* the trial court and the appellate court** are conflicting.[15]

The ***indiscriminate*** adoption of this remedial law principle into labor cases stands on shaky legal grounds. To begin with, ***certiorari* is different from appeal**. In an appellate proceeding, the original suit is continued on appeal in a *certiorari* proceeding, the *certiorari* petition is an original and independent action that was not part of the trial that had resulted in the rendition of the judgment or order complained of. The higher court uses its original jurisdiction in accordance with its power of control and supervision over the proceedings of lower courts.[16]

Put more bluntly, when the Court undertakes a review of the factual findings made by the lower courts, it does so on the premise that the *recourse* to the CA is part of the *appellate process authorized by law*. Hence, when the trier of facts at the trial and appellate level reach divergent factual findings, even if the same pieces of evidence are before them, the Court is constrained to set aside the rule that only questions of law may be raised under a Rule 45 petition in order to arrive at a correct and just decision. The same situation does not apply in labor cases because statutory law does not provide for an appellate process, and thus, the mere existence of a conflict in the factual findings at any stage of the proceedings does not ***by itself*** warrant the Court to undertake an independent review.

c. The case of Montoya v. Transmed Manila Corporation

In *Montoya v. Transmed Manila Corporation*,[17] the Court had the occasion to lay down the proper interpretation of the "question of law" that the Court must resolve in a Rule 45 petition assailing a CA decision on a Rule 65 petition:

> In a Rule 45 review, we consider the **correctness of the assailed CA decision**, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of **questions of law** raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly**

> **determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. **In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?** [18] (emphases and italics supplied; citations omitted)

In concrete terms, the Court's review of a CA ruling is limited to: **(i) ascertaining the correctness of the CA's decision in finding the presence or absence of grave abuse of discretion; and (ii) deciding any other jurisdictional error** that attended the CA's interpretation or application of the law.[19] In determining the presence or absence of grave abuse of discretion, the Court may examine, on the basis of the parties' presentations, whether the CA correctly determined that at the NLRC level, all the adduced pieces of evidence were considered; no evidence which should not have been considered was considered; and the evidence presented supports the NLRC findings.

> In this kind of limited review) the Court avoids reviewing a labor case by re-weighing the evidence or re-evaluating its sufficiency; the task of weighing or evaluation, as a rule, lies within the NLRC's jurisdiction as an administrative appellate body.
>
> If the NLRC ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare and, accordingly, ***dismiss*** the petition. If grave abuse of discretion exists, then the CA must grant the petition and nullify the NLRC ruling, entering at the same time the ruling that is justified under the evidence and the governing law, rules and jurisprudence. In our Rule 45 review, this Court must ***deny*** the petition if it finds that the CA correctly acted.[20]

The point I am driving at is this: Given the absence of the right to appeal from the decision of the NLRC, the Court should observe the rule on the limitation of its own scope of review under the Rules and recognize the exception - *i.e.*, the Court can undertake an independent factual review- only if there is a jurisdictional error. Unfortunately, this petition is demonstrably not the case to bend the rule and act based on the exception.

In this case, the NLRC sustained the factual findings of the LA. Thus, these findings are generally binding on the CA, *unless* there was a showing that these findings were arrived at arbitrarily or in disregard of the evidence on record. On Moradas' *certiorari* petition, what the CA primarily re examined is the *conclusion* reached by

the labor tribunals from its factual findings (*i.e.*, that Moradas committed the acts of pilferage, sabotage and self-burning). The CA reversed the labor tribunals' conclusion on the ground that there was "no logical and causal connection between the act of pilferage and the act of causing the flood in the engine room sufficient to make a conclusion that [Moradas] willfully burned himself."[21]

In this case, the *ponencia* saw the need "**to review the records to determine which of [these factual findings and conclusions] should be preferred** as more conformable to evidentiary facts"[22] just because there is a conflict between the findings of the LA and of the NLRC. As previously discussed, this approach does not have strong legal mooring.

While the Court really has to undertake a review of the records before it, for emphasis, its *evaluation* of the evidence on record is limited to ascertaining the correctness of the CA's decision in *finding the presence or absence of grave abuse of discretion.* **In the present case, in determining the presence or absence of grave abuse of discretion, the Court may examine, on the basis of the parties' presentations, whether the CA correctly determined that, at the NLRC level, the petitioners, Inc Shipmanagement, Inc., Captain Sigfredo Monterroto and/or Interorient Navigation Limited failed to present substantial evidence to prove their claim of a self-inflicted injury**. Just because the LA and the NLRC, on one hand, and the CA, on the other hand, arrived at conflicting conclusions from the same pieces of evidence does not warrant the Court to unilaterally substitute its judgment based on its ***unbridled preference of the parties' evidence.***

II Reviewing the present CA decision under Rule 45

a. The parties' respective burdens

In ruling that the CA legally erred in finding that the NLRC gravely abused its discretion, the *ponencia* correctly stated that the petitioners must prove by substantial evidence that Moradas' injury was self-inflicted. According to the *ponencia*, the NLRC had cogent legal bases to conclude that the petitioners have proven by substantial evidence that Moradas' injuries were self-inflicted, on the following grounds:

1. Moradas was responsible for the flooding and burning incidents;

2. Moradas' claim that the burning was caused by the explosion in the incinerator is not supported by the evidence on record; and

3. The petitioners' theory that Moradas' bums were self inflicted is bolstered by the existence of motive; thereby, a finding on his mental fitness may be dispensed with.

I strongly disagree.

While technical rules of procedure and evidence are not strictly observed before the NLRC,[23] this does not mean that the rules on proving allegations are entirely dispensed with. The basic rule in evidence that each party must prove his affirmative allegation still applies. Insofar as Moradas is concerned, he must establish the following:

1. That the illness/injury was suffered during the term of employment;

2. That the seafarer report to the company-designated physician for a post-employment medical examination and evaluation within three (3) working days from the time of his return;

3. That any disability should be assessed by the company designated physician on the basis of the Schedule of Disability Grades as provided under the POEA-SEC.[24]

Except as to the third requisite (which shall be subject of a later discussion), the existence of the first two requisites is not seriously disputed: Moradas suffered his injuries during the term of his contract and he underwent a medical evaluation from the company-designated physician. At this juncture, I emphasize that *Moradas is not required to prove that his injury was not due to his own wilful act*. That burden falls on the petitioners as part of their defense,[25] after invoking Section 20(D) of the POEA Standard Terms and Conditions Governing the Employment of Seafarers On-Board Ocean Going Vessels.

> No compensation shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his wilful or criminal act, provided however that the employer can prove that such injury, incapacity, disability or death is directly attributable to seafarer.

This provision expressly requires the employer to prove that the injury is directly attributable to the seafarer. As in other administrative proceedings, substantial evidence will suffice for the petitioners to avoid liability under this provision.

Substantial evidence is defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, ***even if other minds equally reasonable might conceivably opine otherwise***.[26] If the employer is able to establish by substantial evidence its defense, then that is the only time that the burden of evidence shifts to the seafarer to overcome the employer's case.

Hence, the rule that factual findings of the LA and of the NLRC are binding on the courts applies only if these are supported by substantial evidence. If substantial evidence supports the factual findings, and the legal conclusions are in accord with prevailing law and jurisprudence, the courts would have no option but to dismiss the petition.

b. The present case and the CA's finding that the NLRC gravely abused its discretion ultimately for lack of substantial evidence

For emphasis, the *ponencia* could not have reached its conclusion that the NLRC did not commit grave abuse of discretion if the correct standard of review was used at the outset. **At this point**, my disagreement is mainly with the ***unreasonableness - resulting from the unbridled power of review under the legal framework it adopted*** - of the *ponencia 's* holding that the CA legally erred in finding that the NLRC gravely abused its discretion.

To recall, the CA found that the NLRC gravely abused its discretion in dismissing Moradas' complaint on the basis of the following:

> We tried to link these two incidents alluded to by the NLRC over its findings and that of the labor arbiter that [Moradas] wilfully burned himself. But **we found no logical and causal connection between the act of pilferage and the act of causing the flood in the engine room sufficient to make a conclusion that [Moradasl wilfully burned himself.**
>
> **Human nature and common experience dictate that no person in his right mind would wilfully burn himself.** Only a person of unsound mind would resort to this horrible act. The moral and legal and presumption is that every person is presumed to be of sound mind.
>
> xxxx
>
> x x x While it may be true that [Moradas] did not smoke, it is not a gauge and a determining factor to adequately sustain a conclusion that he used the cigarette lighter in burning himself. He must be out of his mind in doing so. Even the presence of the lighter near the place where [Moradas] was burned was not enough to justify the conclusion that he intentionally burned himself. It is not incredible to find the lighter within the vicinity of the incident because it is probable that it fell during petitioner's struggle when he was caught by fire.
>
> **It is significant to note that the location of the burns on the different parts of his body is inconsistent with the allegation of self inflicted injury**. On the contrary, the location of the burns conforms with [Moradas'] assertion that certain chemicals splashed all over his body while he was disposing garbage in the incinerator room. **The deep burn area was distributed over his left upper limb, right hand, left flank and both thighs** as found by the Burns Unit of the Prince of Wales Hospital
>
> x x x x

> Chief Officer Bejada claimed that when he checked the incinerator room, no sign of any explosion having occurred xxx. He also noticed that [Moradas] had patches of green paint on his arms and body and there was a green paint tin nearby.
>
> Between the claim of [Moradas] and the self-serving testimony of Chief Officer Bejada, we find [Moradas] to be more credible and convincing. The green paint on his arms and body is consistent with [Moradas] assertion that some chemicals splashed all over his body. Whereas, other than the Chief Officer Bejada's denial, no other evidence was presented to prove that there was no such explosion.[27]

After finding the lack of causal connection between the alleged acts of pilfering and sabotaging the ship, on one hand, and a self-inflicted injury, on the other hand, theCA then raised doubts as to Moradas' complicity in the flooding of the engine room.

> Too, the presence of [Moradas] in the vicinity of the engine room is not sufficient to warrant a conclusion that he was the one who caused the flood in that room. It should be noted that the flood occurred because the valve of the port sea chest was open. The possibility that someone negligently left it open or intentionally opened it is not remote.
>
> Likewise, no evidence was presented to show that [Moradas] had no business to be within the premises or near the engine room or inside the engine room itself. His presence in the area is not sufficient to impute suspicion that the entire engine room was flooded with water because of him. On the contrary, [Moradas] had every right to be at the engine room[.][28]

The question that invites scrutiny is whether the LA and the NLRC's conclusion (that Moradas' acts of allegedly pilfering and causing the flood in the engine room prompted him to commit an act of sabotage which backfired into his own burning) is by itself an adequate conclusion of a reasonable mind. According to the *ponencia*, it is not contrary to human experience or logic for a spumed man to resort to tactics of desperation, however ludicrous or extreme those tactics may be, as in this case.

I am completely at a loss on how the *ponencia* could have disagreed with the CA. **In the natural order of things, man follows the instinct of self-preservation**. The Court may take judicial notice of the fact that our seafarers endure the hardships of sea work not only for their own survival, but of the family or families they left behind. Hence, the conclusion that one not only injured himself but actually willfully set himself ablaze must stand out from the evidence presented.

As the CA did, **I do not see any logical or causal connection between the *charges* of stealing and the acts of sabotage, on one hand, and the self-**

inflicted burning that Moradas allegedly committed, on the other hand. It is simply contrary to human nature and experience for Moradas to set himself ablaze because he was caught stealing the ship's supplies.[29]

bl. The lack of causal connection, aggravated by flimsy reliance on the alleged prior acts of pilfering and sabotaging the ship

Unsurprisingly, the *ponencia* had to pin down Moradas first for his alleged acts of pilfering and causing the flooding in the engine room in order to create a makeshift anchorage for a finding of self-inflicted injury. Unfortunately, even its findings on these points are riddled with inconsistencies that the supposed causal connection the *ponencia* relied upon similarly suffers.

We must not lose sight of the fact that the core issue before the labor tribunals is whether Moradas' injury is self-inflicted. The issues as to whether Moradas stole the ship's properties and committed an act of sabotaging the ship are issues that are appropriately before the POEA Adjudication Office. The records show that sometime in February 2001 (or several weeks after Moradas, through counsel, sent a demand letter to the petitioners), the petitioners filed an administrative complaint against Moradas for dishonesty and grave misconduct. **A finding by that body that indeed Moradas committed the acts imputed to him would have provided sufficient starting basis for the logic of the *ponencia's* view that a causal connection existed.** Unfortunately, the petitioners, who have the burden of proving that the injury was self-inflicted, submitted nothing on this point.

While a reference to these incidents may be justified as circumstantial evidence to prove that Moradas' injury was self-inflicted, I find it highly disturbing that the ***ponencia made a conclusive factual finding*** that "Moradas was caught pilfering the ship's supplies"[30] and effectively implied that he committed the act of sabotaging the ship, ***notwithstanding*** **Moradas' categorical denial of these accusations, with an explanation of his own account of the facts - denials which the petitioners themselves never bothered to address in any of their pleadings.**

On the other hand, I cannot also understand why Moradas' categorical denials were disregarded but the similar negative statements of Bosun Antonio Gile and Chief Officer Antonio Bejada (that there was no fire in the incinerator) were believed to defeat Moradas' claim that the burning was caused by the explosion. If the Court would be allowed to make such a first hand preference of evidence, by what standard of "sound judicial discretion" is it based?

Also, according to the *ponencia*, **Moradas failed to rebut** Bosun Gile's claim that he saw Moradas go to the paint room, soak his hands in a can full of thinner and proceed to the incinerator door where he was set ablaze. Contrary to the *ponencia's* holding, **Moradas even made a *specific* denial of Bosun Gile's claim in his Position Paper before the LA.**[31]

The logical inconsistency created by the *ponencia 's* observation is even more alarming. As observed by Moradas himself, if he indeed soaked his hands in a can full of thinner, then his hands must have sustained the injuries, if not the most severe damage. I also find it amusing that Bosun Gile never asked or approached Moradas after seeing him soak his hands in a can full of thinner considering that, as the *ponencia* observed, that act is certainly ludicrous in itself.

The *ponencia* turned a blind eye on these logical inconsistencies and simply held that Bosun Giles' claim conforms with that of Chief Officer Bejada. According to Chief Officer Bejada, he noticed that Moradas had patches of green paint on the arms and body of his overalls. He also stated that there was an open paint tin nearby that had the same green color as the marks. on Moradas' overalls; that he ordered an ordinary seaman to extinguish the fire and close the incinerator doors just before Moradas got burned; and that he personally "checked the incinerator and found that it contained cardboard cartons which were intact and unburnt [and that] [t]here was no sign of any explosion having occurred and the steel plates which made up the incinerator box were cool to the touch."[32]

The *ponencia* also explained that the corroborating affidavits of the other crew members and officers cannot be dismissed as self-serving in the absence of any showing that they were lying when they made their statements. The problem with this explanation is that **the *other* crew members who executed their own affidavits have no personal knowledge about the burning itself.**

With Bosun Gile's statement bearing logical inconsistency with Moradas' own injury, Chief Officer Bejada's statement would assume crucial importance in establishing the petitioners' case of a self-inflicted injury. Chief Officer Bejada's un-notarized written statement establishes the following facts: (i) that he saw Moradas while burning; and (ii) that there was no fire in the incinerator whose steel plates were cool to the touch. His bare statements, however, do not in any way prove that Moradas' injury was self inflicted. The *ponencia* merely *deduced* that Moradas either burned himself or wanted to sabotage the ship. Whichever of these "deductions, however, have been earlier shown to be logically inconsistent and contrary to human nature.

We must not fail to consider that substantiality of evidence depends not only on its *quantitative*, but also on its qualitative, aspects.[33] (We have earlier discussed that the "corroborating affidavits" are immaterial insofar as Moradas' burning itself and that Bosun Giles' testimony is too incredible to be believed.) However, the substantiality of the petitioners' evidence - supposedly through the "circumstantial evidence," *i.e.*, the smell of Moradas' overalls, the location of the thinner can and the lighter in relation to the place where Moradas was found burning," and the borrowing of Chief Officer Bejada's lighter- supporting Chief Officer Bejada's statements is itself negated by the clear evidence on record. As the CA correctly observed, "the green paint on [Moradas'] arms and body is consistent with [his] assertion that some chemicals splashed over all his body."[34] Even the location of the thinner hardly adds up to the substantiality required to support Chief Officer Bejada's statement since the incinerator room is not shown to be far

from the paint room, where paint chemicals would obviously be located.

While Moradas' act of borrowing a lighter from someone, even though he does not smoke, may have led the petitioners to conclude that he must have intended to commit a wrong, this line of thinking does not substantially establish a defense of self-inflicted injury. Note that while Chief Officer Bejada stated that he ordered an ordinary seaman to extinguish the fire in the incinerator, **the petitioners did not even bother to present the crucial testimony of this supposed seaman to substantially corroborate Chief Officer Bejada's claim.**

In these lights, I cannot also agree with the *ponencia* that a finding on Moradas' mental disposition is dispensable. The *ponencia 's* reasoning that a sane person who "harbors a grudge" and "is brooding over feelings of resentment" because he was caught stealing can be driven to set himself ablaze is ***tenuously speculative*** to say the least. **Moradas' mental disposition would have also established the substantial evidence requirement lacking in this case** which the *ponencia* obviously, but unsuccessfully, tries to fill up.

In short, there are a lot of crucial lapses and inconsistencies, logical and factual, in the petitioners' case that even brushing aside, for the sake of argument, the lack of causal connection (between the acts imputed against Moradas, on one hand, and his alleged self-inflicted injury, on the other hand), the substantial evidence can hardly be said to have been met.

III. Moradas is entitled only to income benefit

This is not say, however, that the CA's conclusion on Moradas' entitlement to ***permanent and total disability*** is also legally correct. Moradas' inability to return to the same line of work does not by itself ***legally*** entitle him to permanent and total disability benefits.

Entitlement to disability benefits by seamen on overseas work is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193, Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, (presently) Department Order No. 4, series of 2000 of the Department of Labor and Employment (the POEA Standard Employment Contract) and the parties' CBA bind the seaman and his employer to each other.[36] As to how these provisions operate, *Vergara v. Hammonia Maritime Services, Inc. (Vergara)*[37] discussed:

> As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. **For the duration of the treatment but in no case to exceed 120 days, the seaman is on *temporary total disability*** as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or

> his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. **If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days**, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.

In the present case, Moradas was repatriated on October 20, 2000. The following day, he was admitted at the St. Luke's Medical Center under the care of the company-designated physician, Dr. Natalia G. Alegre. On November 22, 2000, Dr. Alegre found that Moradas' burns were already healing and *recommended his out-patient treatment*. However, on August 1, 2001, Dr. Alegre reported that Moradas discontinued receiving medical treatment from him after April 7, 2001, the last time that Moradas went to him for medical treatment. On July 2001, Moradas filed his complaint with the LA.

Clearly, from the time Moradas was repatriated until the last time he underwent treatment, only 169 days had elapsed. While the 120-day period under Section 20(B) of the POEA-Standard Employment Contract and Article 192 of the Labor Code has already been exceeded, per Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code, since no fit-to-work declaration or declaration of disability is made because Dr. Alegre required Moradas to undergo further medical treatment, Moradas' *temporary total* disability period may be extended up to a maximum of 240 days or until June 17, 2001. Until this date, the company designated physician can make a finding on a seafarer's fitness for further sea duties or degree of disability. However, for reasons known only to him, Moradas did not anymore submit himself for medical treatment after April 7, 2001. **His failure to do so is fatal to his cause of action for total and permanent disability benefits**. Moradas' case is very much similar to the seafarer in *Magsaysay Maritime Corporation, et al. v. National Labor Relations Commission, etc., et al. (Magsaysay)*. [38]

In *Magsaysay*, the seafarer discontinued his therapy sessions even if it appears "to be yielding positive results" and demanded the payment of total and permanent disability benefits soon after the expiration of the 120-day period. In denying his claim, the Court capitalized on the absence of an assessment from the company-designated physician, thus:

> First. There was no assessment of the extent of Capoy's disability by the company-designated physician, as required by Section 20(8)(3) of the POEA-SEC, which provides:
>
> x x x x

> **Considering that Caoov was still undergoing medical treatment, particularly through therapy sessions under the care of the company-designated specialists, Dr. Salvador (the lead company doctor) cannot be faulted for not issuing an assessment of Capoy's disability or fitness for work at that time.** In fact, as Dr. Salvador's progress report of March 17, 2006 showed that Capoy was expected to return on April 6, 2006 for re-evaluation by the orthopedic surgeon. This aspect of the POEA-SEC and Capoy's compliance totally escaped the labor tribunals and the CA. [emphasis and underscore ours]

Applying *Vergara, Magsaysay* also squarely rejected the argument that a seafarer's disability for more than 120 days automatically entitles him to total and permanent disability, *viz*.:

> As matters stood on March 17, 2006, when Dr. Salvador issued her last progress report, 197 days from Capoy's repatriation on August 31, 2005, Capoy was legally under temporary total disability since the 240-day period under Section 2, Rule X of the Rules and Regulations implementing Book IV of the Labor Code had not yet lapsed. The LA, the NLRC and the CA, therefore, grossly misappreciated the facts and the applicable law when they ruled that because Capoy was unable to perform his work as a fitter for more than 120 days, he became entitled to permanent total disability benefits. **The CA cited in support of its challenged ruling Dr. Salvador's failure to make a disability assessment or a fit-to-work declaration for Capoy after 197 days from his repatriation. This is a misappreciation of the underlying reason for the absence of Dr. Salvador's assessment. There was no assessment yet because Capoy was still undergoing treatment and evaluation by the company doctors, especially the orthopedic surgeon, within the 240-day maximum period provided under the above-cited rule**. To reiterate, Capoy was supposed to see the orthopedic surgeon for re-evaluation, but he did not honor the appointment.
>
> x x x x
>
> Capoy, needless to say, prevented Dr. Salvador from determining his fitness or unfitness for sea duty when he did not return on April 6,2006 for re-evaluation. [emphasis and underscore ours]

As we did in *Magsaysay*, the Court must necessarily reject Moradas' claim for permanent total disability benefits. However, since it is undisputed that Moradas still needed medical treatment beyond the initial 120 days from his repatriation, he is entitled, under the rules,[39] to the income benefit for temporary total disability during the extended period from the time he was repatriated on October 20, 2000 up to the time he last underwent medical treatment on April 7, 2001 or for 169 days. This is the

monetary benefit that must be paid to him.

In light of the foregoing, I vote to partially **GRANT** the petition. The October 31, 2006 decision and the June 25, 2007 resolution of the Court of Appeals in CA-G.R. SP No. 84769 should be **MODIFIED** to reflect that respondent Alexander L. Moradas is entitled to the income benefit for temporary total disability during the extended period or for 169 days.

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[1] G.R. No. 183329, August 27,2009, 597 SCRA 334, reiterated by the Court *en banc* in *Holy Child Catholic School v. Hon. Patricia Sto. Tomas, etc., et al.,* G.R. No. 179146, July 23, 2013.

[2] See *San Miguel Corp. v. Sec. of Labor*, 159-A Phil. 346, 350-351 (1975). Since the Labor Code took effect in November 1974, this has been the mode of review observed in labor cases.

[3] *Scott v. Hon. Inciong*, 160-A Phil. 1107, 1112-1113 (1975).

[4] *Winston F. Garcia, etc. v. Court of Appeals, et al*., G.R. No. 169005, January 28, 2013; *VMC Rural Electric Service Cooperative, Inc. v. Court of Appeals*, G.R. No. 153144, October 16, 2006, 504 SCRA 336, 351; *Beluso v. Commission on Elections*, G.R. No. 180711, June 22, 2010, 621 SCRA 450, 457; *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, August 11, 2004,436 SCRA 123, 134, citing *Pure Foods Corporation v. NLRC,* G.R. No. 78591, March 21, 1989, 171 SCRA 415; and *Leynes v. Former Tenth Division of the Court of Appeals*, G.R. No. 154462, January 19, 2011, 640 SCRA 25, 38-40.

[5] *Empire Insurance Company v. NLRC,* G.R. No. 121879, August 14, 1998, 294 SCRA 263, 269- 270.

[6] *Tagle v. Equitable PCI Bank*, G.R. No. 172299, April 22, 2008, 552 SCRA 424, 440-441, citing *Madrigal Transport, Inc. v. Lapanday Holdings Corporation, supra* note 4.

[7] *Palomado v. National Labor Relations Commission*, G.R. No. 96520, June 28, 1996, 257 SCRA 680, 689-690.

[8] *Secon Philippines, Ltd. v. NLRC*, G.R. No. 97399, December 3, 1999, 319 SCRA 685, 688; and *Leonis Navigation Co., Inc. v. Villamater*, G.R. No. 179169, March 3, 2010,614 SCRA 182, 192.

[9] *Career Philippines Shipmanagement, Inc. v. Serna*, G.R. No. 172086, December 3, 2012, 686 SCRA 676, 684-685; and *St. Mary's College (Tagum, Davao) v. NLRC,* G.R. No. 76752, January 12, 1990, 181 SCRA 62, 66.

[10] *Norkis Trading Corporation v. Buenavista*, G.R. No. 182018, October 10, 2012, 683

SCRA 406, 423; *Emcor Incorporatedv. Siene*s, G.R. No. 152101, September 8, 2009, 598 SCRA 617, 631-632; and *Leonis Navigation Co., Inc. v. Villamater, supra* note 8, at 192.

[11] 356 Phil. 811, 814-815 (1998). The Court said:

> Before proceeding further into the merits of the case at bar, the Court feels that it is now exigent and opportune to reexamine the functional validity and systemic practicability of the mode of judicial review it has long adopted and still follows with respect to decisions of the NLRC. The increasing number of labor disputes that find their way to this Court and the legislative changes introduced over the years into the provisions of Presidential Decree (*P.D*.) No. 442 (The Labor Code of the Philippines and Batas Pambansa Blg. (*B.P. No*.) 129 (The Judiciary Reorganization Act of 1980) now stridently call for and warrant a reassessment of that procedural aspect. [underscore ours, italics supplied]

[12] See Section 223 of the Labor Code.

[13] The reasons why the Supreme Court does not routinely undertake the re-examination of the evidence presented by the contending parties during the trial of the case are: *one*, it is not really a trier of facts; *two*, since the Court is not a trier of facts, factual findings of the labor tribunals are generally accorded not only respect, but even finality, and are binding upon the Court when supported by substantial evidence; and *three*, the ruling that is brought in for judicial review is already a fmal and executory ruling rendered by labor tribunals which are deemed to have acquired expertise in matters within their respective jurisdiction.

[14] *General Milling Corporation v. Viajar*, G.R. No. 181738, January 30, 2013, 689 SCRA 598, 606-607.

[15] *Reyes v. Court of Appeals (Ninth Division)*, G.R. No. 110207, July 11, 1996, 258 SCRA 651, 659.

[16] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation, supra* note 4, at 134-135.

[17] *Supra* note 1.

[18] Id. at 342-343.

[19] See Dissenting Opinion of Justice Arturo Brion in *Abbott Laboratories, Philippines, et al. v. Pearlie Ann F. Alcaraz*, G.R. No. 192571, July 23,2013.

[20] Ibid.

[21] *Rollo*, p. 105.

[22] Decision, p. 6.

[23] LABOR CODE, Article 221; 2011 NLRC RULES OF PROCEDURE, Rule VII, Section 10.

[24] See Section 20(B) I996 of the POEA Standard Employment Contract.

[25] Section I, Rule l3I of the Rules of Court reads:

Section I. *Burden of proof* — Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

[26] This qualification on the definition of substantial evidence was first made in I97l in *In the Matter of the Petition for Habeas Corpus ofLansang, et al.*, 149 Phil. 547, 593 (1971), holding as follows:

> Under the principle of separation of powers and the system of checks and balances, the judicial authority to review decisions of administrative bodies or agencies is much more limited, as regards findings of fact made in said decisions. Under the English law, the reviewing court determines only whether there is *some evidentiary* basis for the contested administrative finding; *no qua ntitative* examination of the supporting evidence is undertaken. The administrative finding can be interfered with *only* if there is no evidence whatsoever in support thereof, and said finding is, accordingly, arbitrary, capricious and obviously unauthorized. This view has been adopted by some American courts. It has, likewise, been adhered to in a number of Philippine cases. Other cases, in *both* jurisdictions, have applied the "substantial evidence" rule, which has been construed to mean "more than a mere scintilla" or "relevant evidence as a reasonable mind might accept as adequate to support a conclusion," even if other minds equally reasonable might conceivably opine otherwise. [italics supplied]

[27] CA Decision, pp. 12-16.

[28] Id. at 15-16.

[29] There is no standard by which the weight of conflicting evidence can be ascertained. We have no test of the truth of human testimony except its conformity to our knowledge, observation, and experience *(Frondarina v. Malazarte*, G.R. No. 148423, December 6, 2006, 510 SCRA 223, 225, citing III V. Francisco, Criminal Evidence 146 [1947], in turn citing I Moore on Facts 35).

[30] Decision, p. 9.

[31] *Rollo*, pp. 196, 212 214.

[32] Id. at 270-272.

[33] *Insular Life Assurance Co., Ltd. Employees Association-Natu v. Insular Life Assurance Co., Ltd.*, No. L-25291, March 10, 1977, 76 SCRA 50, 53.

[34] CA Decision, p. 16.

[35] SECTION 20. COMPENSATION AND BENEFITS

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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:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;

2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to [be] repatriated.

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.

4. Upon sign-off of the seafarer from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event that the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former

vessel or another vessel of the employer despite earnest efforts.

5. In case of permanent total or partial disability of the seafarer during the term of employment caused by either injury or illness, the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 30 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

[36] *Vergara v. Hammonia Maritime Services*, G.R. No. 172933, October 6, 2008.

[37] G.R. No. 172933, October 6, 2008,567 SCRA 610, 628; emphases, underscore and italics ours.

[38] G.R. No. 191903, June 19,2013.

[39] Rules and Regulations implementing Book IV of the Labor Code, Section 2, Rule X.