

FIRST DIVISION

[G.R. No. 220635, August 14, 2019]

**PHILIPPINE TRANSMARINE CARRIERS, INC., AND/OR FURTRANS
DENIZCILIK TICARET VE SANAYI AS, PETITIONERS, VS. RAYMOND
F. BERNARDO, RESPONDENT.**

DECISION

CARANDANG, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated May 26, 2015 and Resolution^[3] dated September 16, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 133415 filed by Philippine Transmarine Carriers, Inc. and Furtrans Denizcilik Ticaret Ve Sanayi As (collectively, petitioners).

Facts of the Case

On January 4, 2012, Raymond F. Bernardo (respondent), then 37 years old, was hired as a messboy by petitioners covered by an Employment Contract duly approved by the Philippine Overseas Employment Administration (POEA) for a period of nine months.^[4] Respondent was a seaman since 2010 and it was his first contract with petitioners.^[5]

On February 25, 2012, respondent commenced serving his contract and while working onboard the vessel, he experienced ankle joint pain.^[6] Since his condition did not improve after self-medication, respondent was brought to a portside medical facility in Morocco and was diagnosed with "Arthritis eotosa".^[7]

On May 22, 2012, respondent was medically repatriated and was referred to the company-designated physician in Metropolitan Medical Center. His initial diagnosis was for gouty arthritis. On June 29, 2012, Dr. Mylene Cruz-Balbon (Dr. Cruz-Balbon), a company-designated physician, issued a document explaining the diagnosis as a metabolic disorder secondary to defect in purine metabolism and/or high purine diet that is not work-related.^[8] Later, Dr. Cruz-Balbon certified that the respondent's illness is "Post Infectious Arthritis: Gouty Arthritis."^[9]

From May 25, 2012 to December 17, 2012, respondent was under the medical care and supervision of and rehabilitation therapy by the company-designated physician.^[10] Respondent claimed that petitioners stopped the treatment despite the fact that his gouty arthritis has not been fully treated.^[11]

Because of this, respondent consulted Dr. Ramon Antonio Sarmiento and Dr. Renato P. Runas (Dr. Runas), an orthopedic specialist. Dr. Runas opined that respondent is "permanently unfit to return to duty as a seafarer in whatever capacity with a permanent disability."^[12]

On February 5, 2013, respondent filed a case against petitioners. He alleged that he is entitled to permanent total disability benefits under the POEA Standard Employment Contract (POEA-SEC).

Petitioners, on the other hand, claimed that gouty arthritis is not a work-related condition. Hence, respondent is not entitled to the disability benefits under the POEA-SEC.^[13] In addition to the certification made by the company-designated physician, petitioners also presented an affidavit^[14] from a medical specialist, Dr. Vedasto Lim (Dr. Lim), who opined that, "[b]ased on medical references, [respondent's] condition is caused by too much uric acid in the blood which crystallizes in a person's joints thereby causing inflammation. The known causes of gouty arthritis are one's diet, genetic disposition, or under excretion of urate, the salts of uric acid."^[15] He also opined that gouty arthritis is not related to respondent's seafaring duties.^[16]

On June 13, 2013, the Labor Arbiter (LA) rendered a decision^[17] in favor of respondent holding that respondent's meals while onboard the ship was the source or at least contributed to the occurrence of gouty arthritis, hence, it is a work-related illness.^[18]

The LA then awarded respondent US\$60,000.00 pursuant to Section 32 of the POEA-SEC, considering that he is unfit to work as a seafarer and 10% of the award as attorney's fees.^[19]

Aggrieved, petitioners elevated the case to the National Labor Relations Commission (NLRC).

The NLRC reversed^[20] the decision of the LA and ruled that petitioners were able to dispute the presumption of compensability with the express declaration of Dr. Lim who certified under oath that respondent's gouty arthritis is not work-related.^[21]

It was also found by the NLRC that while respondent submitted a generalized averment that his diet onboard the vessel contributed to his illness, the petitioners' submission of a list of ship provisions at the time the respondent was aboard the vessel readily belie his claim of dietary factors affecting his illness. It was shown that the list of provisions consists of a balance between fresh and frozen foods and other ingredients and condiments used in the preparation of the meals.^[22]

Also, it was held that the procedure under the POEA-SEC for the joint appointment by the parties of a third doctor in case the seafarer's personal doctor disagrees with the company-designated physician's assessment was not followed.^[23]

Aggrieved, respondent filed a Petition for *Certiorari*^[24] with the CA.

On May 26, 2015, the CA rendered its Decision^[25] reversing the decision of the NLRC and granting respondent's claim for permanent and total disability benefits.^[26]

It was held by the CA that the second medical findings of the company-designated physician found that respondent is suffering from post-infectious arthritis: gouty arthritis. It is highly probable that such infection was acquired while onboard the ship as he was given a clean bill of health prior to boarding.^[27]

Further, such gouty arthritis was caused by high purine diet and it was shown that the foods onboard the ship is rich in purine. Hence, it is plausible that his gouty arthritis became worse because of such diet onboard the ship.^[28]

Because of the granting of respondent's claim, petitioners filed this Petition for Review on *Certiorari*, assailing the CA's decision and resolution granting respondent's claim.

The Issue

The sole issue in this case is whether gouty arthritis is a work-related condition and is therefore compensable.

The Ruling of the Court

Section 20(A)(4) of the POEA-SEC provides that even those illnesses not listed in Section 32 are still disputably presumed as work-related. Not having been listed in Section 32, post infectious arthritis: gouty arthritis, which respondent was diagnosed to be suffering from, is presumed to be work-related.

While the law disputably presumes an illness to be work-related, nevertheless, there is no similar presumption of compensability accorded to a seafarer. Section 32-A of the POEA-SEC enumerates the conditions for an occupational disease (and non-listed illness) to be compensable, namely: (1) the seafarer's work must involve the risks described herein; (2) the disease was contracted as a result of the seafarer's exposure to the described risks; (3) the disease was contracted within a period of exposure and under such other factors necessary to contract it; and (4) there was no notorious negligence on the part of the seafarer.

The disputable presumption that a seafarer's sickness is work-related does not mean that he would only sit idly while waiting for the employer to dispute the presumption. For compensability, the seafarer is still burdened to present substantial evidence that his work conditions caused or at least increased the risk of contracting the disease and only a reasonable proof of work connection, not direct causal relation is required.^[29]

In this case, respondent relied on the certifications issued by Dr. Lim, a medical specialist, and Dr. Cruz-Balbon, company-designated physician, that the cause of gouty arthritis could be one's high purine diet, genetic predisposition and under excretion of urate. It must be emphasized here that such certifications came from the doctors employed by petitioners.

To establish a causal connection between gouty arthritis and respondent's work, it was claimed that the meals onboard the ship might have caused, or at least aggravated respondent's illness. However, petitioners countered that the provisions of food for the vessel at the time respondent was onboard thereto actually consisted of a combination of fresh and frozen foods, including vegetables and fruits.

In addition thereto, the company-designated physician categorically stated that respondent's condition is not work-related. It should be noted that the findings of company-designated physicians are accorded great weight and credence.^[30]

Moreover, it was an established fact that respondent was only 37 years old when he was diagnosed with gouty arthritis. It was only his second year of being a seafarer and his first contract with petitioners when such diagnosis was given.

According to statistics, gout is more prevalent in older men.^[31] Considering respondent's age at the time of diagnosis and the fact that he was only in his second year of being a seafarer, it is less probable that his condition was work-related.

In labor cases, a party in whose favor the legal presumption exists may rely on and invoke such legal presumption to establish a fact in issue. However, when substantial evidence of greater weight is presented to overcome the *prima facie* case, it will be decided in favor of the one who has presented the evidence against the presumption.

The following circumstances namely: (1) relatively young age of respondent; (2) the fact that it was only his second year as a seafarer; (3) that it was only his first employment contract with petitioners; (4) the certifications by Dr. Lim and Dr. Cruz-Balbon that respondent's illness is not work-related; and (5) the list of food provisions for the vessel consisting of fresh and frozen foods, when taken together, sufficiently overcome the disputable presumption that gouty arthritis is work-related.

Hence, respondent's illness is not compensable under the POEA-SEC.

WHEREFORE, the instant petition is **GRANTED**. The Decision dated May 26, 2015 and Resolution dated September 16, 2015 of the Court of Appeals in CA-G.R. SP No. 133415 are hereby **REVERSED** and **SET ASIDE**. The Decision dated August 30, 2013 of the National Labor Relations Commission in NLRC NCR Case No. (M) 02-01860-13 and NLRC LAC No. (OFW-M) 07-000681-13 is **REINSTATED**.

SO ORDERED.

Bersamin, C. J., (Chairperson), Perlas-Bernabe, Jardeleza, and Gesmundo, JJ., concur.

^[1] *Rollo*, pp. 75-96.

^[2] Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Remedios A. Salazar-Fernando and Ramon A. Cruz, concurring; *id.* at 105-116.

[3] Id. at 117-125.

[4] CA *rollo*, pp. 20, 159. See also Contract of Employment; id. at 47.

[5] Id. at 159.

[6] Id. at 20, 179.

[7] Id. at 157, 159. "Artritis Gotosa" or "Arthritis Gotosa" in some parts of the records.

[8] Id. at 20.

[9] Id. at 103.

[10] Id. at 20.

[11] Id. at 41.

[12] Id. at 144-145.

[13] Id. at 148.

[14] Id. at 162.

[15] Id.

[16] Id.

[17] Penned by Labor Arbiter Marcial Galahad T. Makasiar; id. at 179-185.

[18] Id. at 183.

[19] Id. at 185.

[20] See NLRC Decision dated August 30, 2013. Penned by Commissioner Dolores M. Peralta-Beley, with Commissioner Mercedes R. Posada-Lacap, concurring; id. at 19-33.

[21] Id. at 28.

[22] Id. at 31.

[23] Id. at 31-32.

[24] Id. at 3-15.

[25] *Rollo*, pp. 105-116.

[26] Id. at 115.

[27] Id. at 111.

[28] Id. at 112-113.

[29] *Licayan v. Seacrest Maritime Management, Inc.*, 775 Phil. 648 (2015), as cited in *Atienza v. Orophil Shipping*, G.R. No. 191049, August 7, 2017.

[30] *Montierro v. Rickmers*, 750 Phil. 937, 947 (2015).

[31] C. Eustice, Arthritis Prevalence and Statistics, *Verywellhealth*, 2018, <<https://www.verywellhealth.com/arthritis-prevalence-and-statistics-189356>> (last visited on August 5, 2019).



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