SECOND DIVISION

[G.R. No. 239299, July 08, 2020]

INTERCREW SHIPPING AGENCY, INC., STAR EMIRATES MARINE SERVICES AND/OR GREGORIO ORTEGA, PETITIONERS, VS. OFRECINO B. CALANTOC, RESPONDENT.

D E C I S I O N

INTING, J.:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the 1997 Rules of Civil Procedure that seeks to annul and set aside the Decision[2] dated November 27, 2017 and the Resolution[3] dated May 10, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 141153, and to reinstate the Decision[4] dated March 31, 2015 of the National Labor Relations Commission (NLRC) dismissing the complaint for disability compensation for lack of merit.

The Antecedents

On March 14, 2008, Intercrew Philippines Agency, Inc. (Intercrew Shipping) hired Ofrecino B. Calantoc (respondent) for its foreign principal, Star Emirates Marine Services (Star Emirates), as fourth engineer for a period of 12 months with a basic monthly salary of US$700.00. As such, respondent underwent a pre-employment medical examination and was declared "fit for sea duty," despite his high blood pressure.[5]

On March 20, 2008, respondent was deployed to join the vessel MV Oryx. Four months into his contract, respondent already experienced a slurring of speech, weakness on his right side, and was diagnosed with a mild stroke. However, he still continued his work on board the vessel, but he later on requested to be repatriated when his condition worsened.[6]

On July 14, 2008, respondent arrived in the Philippines. He immediately reported to Intercrew Shipping, Star Emirates and Gregorio Ortega, as the President/General Manager of Intercrew Shipping (collectively, petitioners) and requested for medical assistance, but to no avail. Respondent made several requests, but were repeatedly refused. He was then constrained to consult a doctor at his own expense.[7]

On January 9, 2009, respondent then underwent a Magnetic Resonance Imaging (MRI) examination which revealed a large convexity *meningioma*,[8] a tumor in the left frontoparietal region. On the same date, respondent was admitted to the University of

Santo Tomas Hospital due to *dysphasia*. He was also assessed with *meningioma*, left parietal convexity, hypertension stage 2. On respondent's 10th day in the hospital, he underwent a surgery on his skull, *i.e.*, a "*left frontoparietal craniotomy for excision of meningioma and duraplasty*."[9]

Respondent now claimed that because of his illness he was unable to return to his customary work as a seafarer for more than 120 days. Petitioners repeatedly refused to grant him disability benefits. Thus, he filed a complaint claiming disability compensation, payment of medical expenses, damages, and attorney's fees.[10]

Petitioners, on the other hand, asserted that there was no accident or medical incident that happened on board the vessel during the period of respondent's employment; that respondent only requested to be signed off due to a pre-existing high blood pressure; that upon respondent's arrival, he was referred to the company-designated physician, but refused to undergo post-employment medical examination; and that respondent opted to collect his final pay and in fact executed a release in petitioners' favor.[11]

For the petitioners, respondent failed to prove that he suffered a work-related illness during the term of his employment; that respondent's claim had already been rendered stale by his inaction for two years as when he was repatriated on July 15, 2008 and only filed the complaint on December 21, 2010.[12]

Ruling of the Labor Arbiter (LA)

On August 28, 2014, LA Jaime M. Reyno rendered a Decision[13], the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered ordering Intercrew Shipping Agency/Star Emirates marine Services/Gregorio Ortega to pay complainant Ofrecino B. Calantoc the amount of SIXTY THOUSAND US DOLLARS ($60,000.00) representing full disability benefits plus ten percent (10%) thereof as and for attorney's fees.
>
> Respondents are likewise liable to pay complainant the amount of P557,062.50 as medical reimbursement plus the amount of US$2,800.00 as sickness wages.
>
> All other claims are dismissed.
>
> SO ORDERED.[14]

Ruling of the NLRC

On March 31, 2015, the NLRC rendered a Decision,[15] with Commissioner Nieves E. Vivar-De Castro, dissenting. The dispositive portion of the Decision reads in this wise:

> WHEREFORE, premises considered, the appeal is GRANTED; and the assailed Decision of the Labor Arbiter is SET ASIDE. The complaint is hereby

DISMISSED for lack of merit.

SO ORDERED.[16]

Respondent then filed a Motion for Reconsideration.[17]

On May 15, 2015, the NLRC denied the motion through a Resolution.[18]

In his Petition for *Certiorari*[19] under Rule 65 of the Rules of Court before the CA, respondent raised the following grounds for the latter's consideration, to wit:

I. THE [NLRC] (SIXTH DIVISION) GRAVELY ABUSED [THEIR] DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN SETTING ASIDE THE DECISION OF THE HONORABLE [LA].

II. THE [NLRC] (SIXTH DIVISION) GRAVELY ABUSED [THEIR] DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, DISENTITLING [RESPONDENT] TO PERMANENT TOTAL DISABILITY BENEFITS[,] MEDICAL REIMBURSEMENT AND FULL SICKNESS ALLOWANCE AS STATED IN THE CONTRACT AND THE POEA STANDARD EMPLOYMENT CONTRACT.

III. THE [NLRC] (SIXTH DIVISION) GRAVELY ABUSED [THEIR] DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION DISMISSING THE CASE DISENTITLING [RESPONDENT] TO DAMAGES AND ATTORNEY'S FEES. [20]

Ruling of the CA

On November 27, 2017, the CA rendered the assailed Decision[21] finding merit in the petition. It approved the Dissenting Opinion of Commissioner Nieves E. Vivar-De Castro as to why respondent's illness is compensable. The dispositive portion of the assailed Decision reads as follows:

WHEREFORE, premises considered, the instant Petition is hereby GRANTED. Accordingly, the Decision dated 31 March 2015 and Resolution dated 15 May 2015 rendered by the National Labor Relations Commission is hereby ANNULLED and SET ASIDE and the Decision of the Labor Arbiter dated 28 August 2014 is REINSTATED with MODIFICATION, in that attorney's fees in the amount of one thousand US dollars (US$1,000.00) or its equivalent in Philippine pesos, computed at the exchange rate prevailing at the time or actual payment, should be paid.

The monetary judgment due to the petitioner shall earn legal interest at the rate of six percent (6%) per annum from finality of the Decision until fully satisfied.

SO ORDERED.[22]

Feeling aggrieved, petitioners filed a Motion for Reconsideration.[23]

On May 10, 2018, the CA issued the assailed Resolution[24] denying the motion.

Hence, the instant petition.

Issues

> THAT RESPONDENT-SEAFARER'S SIGN OFF FROM THE VESSEL WAS DUE TO WORK-RELATED MEDICAL GROUNDS CANNOT BE PRESUMED. RECORDS OF THIS CASE REVEAL THAT RESPONDENT SIGNED OFF ON 15 JULY 2008 DUE TO HIS VOLUNTARY REQUEST.
>
> CIRCUMSTANCES SUBSEQUENT TO RESPONDENT'S SIGN OFF BELIE THE CLAIM. RESPONDENT DID NOT DEMAND FOR POST-EMPLOYMENT MEDICAL EXAMINATION WITHIN 3 DAYS FROM ARRIVAL - INSTEAD HE RECEIVED HIS FINAL WAGES ON 23 JULY 2008. IN SUPPORT OF HIS CLAIM, RESPONDENT PRESENTED A MEDICAL ABSTRACT DATED 20 FEBRUARY 2009, 7 MONTHS *AFTER* HIS SIGN OFF. MEANWHILE, THE COMPLAINT FOR DISABILITY COMPENSATION WAS FILED ONLY ON 26 JANUARY 2011, ALMOST 3 YEARS AFTER SIGN OFF.
>
> THERE IS NO PROOF ON RECORD THAT RESPONDENT'S ALLEGED ILLNESS IS WORK-RELATED. UNDER THE POEA CONTRACT, ONLY WORK-RELATED ILLNESSES SUFFERED DURING THE TERM OF EMPLOYMENT ARE COMPENSABLE, WORK-RELATION CANNOT BE PRESUMED. NO LESS THAN THE SUPREME COURT HAS RULED THAT THE BURDEN OF PROOF TO PROVE WORK-RELATION BELONGS TO THE SEAFARER WHO IS CLAIMING COMPENSATION.
>
> THE CLAIM WAS DENIED BY PETITIONERS ON JUST AND VALID GROUNDS. RESPONDENT IS NOT ENTITLED TO ATTORNEY'S FEES.[25] (Italics in the original.)

Our Ruling

The petition is without merit.

"Preliminarily the Court stresses the distinct approach in reviewing a CA's ruling in a labor case. In a Rule 45 review, the Court examines the correctness of the CA's Decision in contrast with the review of jurisdictional errors under Rule 65. Furthermore, Rule 45 limits the review to questions of law. In ruling for legal correctness, the Court views the CA Decision in the same context that the petition for *certiorari* was presented to the CA. Hence, the Court has to examine the CA's Decision from the prism of whether the CA correctly determined the presence or absence of grave abuse of discretion in the NLRC decision."[26]

"In labor case, grave abuse of discretion may be ascribed to the NLRC when its findings

and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion. Thus, if the NLRC's 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."[27]

Here, the CA found that the NLRC committed grave abuse of discretion amounting to lack of jurisdiction when it granted petitioner's appeal before it. The Court defines grave abuse of discretion as such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.[28] It must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by raw, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[29]

Given the foregoing, the Court finds that the CA did not err in ascribing grave abuse of discretion on the part of the NLRC as the latter's finding that there is no sufficient evidence in the case to conclude that respondent suffered from a work-related illness and is, therefore, not entitled to permanent and total disability benefits is obviously not in accord with evidence on record and settled legal principles of labor law.

In this case, respondent executed his employment contract with petitioners on March 14, 2008. Thus, the provisions of the 2000 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC)[30] are applicable and should govern the parties' relations.

Section 20(B)(6) of the 2000 POEA-SEC provides:

> SECTION 20. COMPENSATION AND BENEFITS
>
> x x x x
>
> 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
>
> 6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 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.

Given the foregoing provision, there are two elements that must concur before an injury or illness is considered compensable: *first*, that the injury or illness must be work-related; and *second*, that the work-related injury or illness must have existed

during the term of the seafarers' employment contract.[31]

The "*work-related injury*," under the 2000 POEA-SEC, is defined as "*injury(ies)*" resulting in disability or death arising out of and in the course of employment; "*work-related illness*" is defined as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied," to wit:

> 1. The seafarer's work must involve the risks described here in;
>
> 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.[32]

In this case, it is undisputed that in the Pre-Employment Medical Examination (PEME) [33] of respondent, under his medical history, he suffered from or had been told that he has a high blood pressure. It is likewise beyond dispute that respondent's mild cerebro-vascular accident or stroke is a compensable disease under Section 32-A of the 2000 POEA-SEC, as correctly found by the NLRC.[34]

However, the Court adheres to the findings of both the LA and the CA that petitioners, despite knowing that respondent has a high blood pressure, gave the latter a clean bill of health, through the former's accredited clinic, before deployment which leads to a conclusion that whatever illness respondent suffers on board the vessel is work-related. It goes without saying, too, that respondent's work as a seafarer could have attributed to the development of his *meningioma*.[35]

In the words of the LA, "[*w*]*hile on board the vessel,* [*respondent*] *is exposed to extremes in temperature brought about by the harshness of sea travel and the elements of the sea and has no choice of the food that they eat because whatever are their provisions, the same shall be served to them*."[36]

Further, the Court adopts the CA's approval of Commissioner Nieves E. Vivar-de Castro's Dissenting Opinion, which reads:

> Moreover, the Complainant's hypertension, while preexisting is merely one of the factors that caused his stroke. Conversely, the nature and conditions of the Complainant's employment also took part in the resulting illness which he had suffered. These include, as aptly stated by the Labor Arbiter *a quo*, the Complainant's exposure to extreme temperatures brought about by the harshness of sea travel and the elements of the sea, the quality and condition of the food he ate, as well as, the strain and stress that he had to suffer brought about by his duties and tasks on board the vessel. Otherwise stated, such nature and conditions of work at the very least increased the

> risk of contracting the illness, or aggravated his pre-existing hypertension that led to his stroke, and for which he should be compensated therefor. As earlier mentioned, that the work contributed even to a small degree to the development or aggravation of the disease is enough to warrant compensation. x x x
>
> It may not be amiss to note at this juncture that due to the lack of proper medical treatment after his repatriation, the Complainant's medical condition worsened which ultimately led to a finding of *Meningioma*, a kind of brain tumor which is often described as slow-growing x x x. To my mind, despite having been discovered or diagnosed six (6) months after the Complainant's repatriation, the said illness nevertheless manifested at the first instance when he suffered a stroke while on board the vessel. x x x[37]

Thus, the Court adheres to Commissioner Nieves E. Vivar-De Castro in saying that petitioners having engaged the respondent as hypersensitive as he is, they should now accept the liability for his ensuing ailment in the course of his employment.[38]

It is not required that an employee must be in perfect health when he contracted the illness to be able to recover disability compensation.[39] It is equally true, that while the employer is not the insurer of the health of the employees, once he takes the employees as he finds them, then he already assumes the risk of liability.[40]

In sum, despite respondent's pre-existing high blood pressure or hypertension, he was still initially declared fit for sea duty during his PEME. Therefore, his *meningioma* is presumed to have been brought about by the nature of his employment and occurred during and in the course of his employment. This goes without saying that respondent is entitled to total and permanent disability benefits because, as aptly found by both the labor arbiter and the CA, he would not be able to resume to his position as a fourth engineer or, at least, be hired by other maritime employers.[41]

Section 20(B)(6) of the POEA-SEC mandates the employer to pay the seafarer disability benefits for his permanent total or partial disability caused by the work-related illness or injury once there is already a finding of permanent either total or partial disability within the 120-day period or the 240-day period.[42] A permanent disability essentially means a permanent reduction of the earning power of a seafarer to perform future sea or on board duties and permanent disability benefits serve as a means to alleviate the seafarer's financial condition on account of the level of injury or illness he incurred or contracted.[43]

A reading of the three kinds of liabilities under Section 20(B) of the POEA-SEC means that the POEA-SEC intended to make the employer liable for (1) the seafarer's sickness allowance equivalent to his basic wage in addition to the medical treatment that they must provide the seafarer with at their cost; ***and*** (2) seafarer's permanent total or partial disability as finally determined by the company-designated physician.[44]

The Court ratiocinated that while Section 20 of the POE SEC did not state on clear

terms that the employer's liabilities are cumulative in nature, which means to say that the employer is liable for the sickness allowance, medical expenses *and* disability benefits, it does not, however, state that the compensation and benefits are alternative or that the grant of one negates the grant of the others.[45] This interpretation, in fact, is in accord with the constitutional policy that guarantees full protection to labor, both local and overseas.[46]

Time and again, the Court is clear that the POEA-SEC is imbued with public interest. Accordingly, its provisions must be construed fairly, reasonably, and liberally in favor of the seafarer in the pursuit of his employment on board ocean-going vessels.[47]

All told, the Court finds it proper the award to respondent of the following amounts to wit: (1) US$60,000.00 as permanent total disability benefit;[48] (2) US$2,800.00 as sickness allowance;[49] (3) P557,062.50 as medical expenses;[50] and (4) US$1,000.00 as attorney's fees.[51]

In accordance with *Nacar v. Gallery Frames*,[52] the monetary awards shall earn a legal interest of 6% *per annum* computed from finality of the Decision in this case until full satisfaction thereof.

WHEREFORE, the petition is **DENIED**. The Decision dated November 27, 2017 and the Resolution dated May 10, 2018 of the Court of Appeals in CA-G.R. SP No. 141153 are **AFFIRMED**.

SO ORDERED.

Perlas-Bernabe, Senior Associate Justice, (Chairperson), Hernando, Delos Santos, and *Gaerlan*,* *JJ.*, concur.

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* Designated additional member per Special Order No. 2780 dated May 11, 2020.

[1] *Rollo*, pp. 32-47.

[2] *Id.* at 13-27; penned by Associate Justice Rodil V. Zalameda (now a member of the Court) with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring.

[3] *Id.* at 29-30.

[4] CA *rollo*, pp. 25-38; penned by Commissioner Isabel G. Panganiban-Ortiguerra with the concurrence of Presiding Commissioner Joseph Gerard E. Mabilog and the dissent of Commissioner Nieves E. Vivar-De Castro.

[5] *Rollo*, p. 14.

[6] *Id.*

[7] *Id.* at 14-15.

[8] *Id.* at 15. *Meningioma* is a tumor that forms on membranes that cover the brain and spinal cord just inside the skull. x x x. The causes of meningioma are not well understood. However, there are two known risk factors: Exposure to radiation, Neurofibromatosis type 2, a genetic disorder. WebMD, "Meningioma," (last accessed 18 Sept. 2017).

[9] *Id.*

[10] *Id.*

[11] *Id.* at 15-16.

[12] *Id.* at 16.

[13] CA *rollo*, pp. 124-133.

[14] *Id.* at 133.

[15] *Id.* at 25-38.

[16] *Id.* at 31-32.

[17] *Id.* at 248-258.

[18] *Id.* at 39-41.

[19] *Id.* at 1-22.

[20] *Id.* at 10.

[21] *Rollo*, pp. 13-27.

[22] *Id.* at 26.

[23] *Id.* at 73-80.

[24] *Id.* at 29-30.

[25] *Id.* at 38.

[26] *Pelagio v. Philippine Transmarine Carriers, Inc.*, G.R. No. 231773, March 11, 2019, citing *UST v. Samahang Manggagawa ng UST, et al.*, 809 Phil. 212, 219-220 (2017), further citing *Quebral v. Angbus Construction, Inc.*, 798 Phil. 179, 187 (2016).

[27] *Id.*

[28] *Ramiro Lim & Sons Agricultural Co., Inc. v. Guilaran*, G.R. No. 221967, February 6, 2019 citing *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591-592 (2007).

[29] *Id.*

[30] Philippine Overseas Employment Administration Memorandum Circular No. 09, Series of 2000.

[31] *Bautista v. Elburg Shipmanagement Philippines, Inc. et al.*, 767 Phil. 488, 497 (2015), citing *Magsaysay Maritime Services, et al. v. Laurel*, 707 Phil. 210, 221 (2013); *Nisda v. Sea Serve Maritime Agency*, 611 Phil. 291, 317 (2009).

[32] *Id.* at 497-498.

[33] CA *rollo*, p. 201.

[34] *Id.* at 31.

[35] *Id.* at 129-130; *rollo*, p. 23.

[36] CA *rollo*, p. 130.

[37] *Id.* at 33-35.

[38] *Id.* at 33.

[39] *Id.*, citing *Seagull Shipmanagement and Tran., Inc. vs. NLRC*, 388 Phil. 906, 914 (2000).

[40] *Id.*

[41] *Id.* at 128.

[42] *The Late Alberto B. Javie, et al. v. Philippine Transmarine Carriers, Inc. et al.*, 738 Phil. 374, 387 (2014).

[43] *Id.* at 388. Citation omitted.

[44] *Id.*

[45] *Id.*

[46] *Id.* at 389.

[47] *Id.* at 388-389.

[48] *Rollo*, p. 24.

[49] *Id.* at 25.

[50] *Id.*

[51] *Id.*

[52] 716 Phil. 267 (2013).
