

## SECOND DIVISION

[ G.R. No. 233071, September 02, 2020 ]

**MAGSAYSAY MARITIME CORP. AND KEYMAX MARITIME CO.,  
LTD., PETITIONERS, VS. JOSE ELIZALDE B. ZANORIA,  
RESPONDENT.**

### D E C I S I O N

**INTING, J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court which seeks to reverse and set aside the Decision<sup>[2]</sup> dated March 7, 2017 and the Resolution<sup>[3]</sup> dated July 25, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 146585 which affirmed with modification the Decision dated February 19, 2016 of the National Conciliation and Mediation Board (NCMB) Panel of Voluntary Arbitrators in MVA-091-RCMB-NCR-071-02-07-2015.

#### *The Antecedents*

On March 21, 2013, Keymax Maritime Co., Ltd, (petitioner Keymax), through its local agency, Magsaysay Maritime Corp. (petitioner Magsaysay) (collectively, petitioners), hired Jose Elizalde B. Zanoria (respondent) as Chief Mate or Chief Officer on board the vessel Brilliant Sky<sup>[4]</sup> with a basic monthly salary of US\$1,427.00/month.<sup>[5]</sup>

As Chief Mate or Chief Officer, respondent was responsible for overseeing the safety and security of the ship, crew, passengers, and cargo. He was responsible for the loading and unloading of the cargo, as well as, its safe stowage. He acted as a "watchstander," who took responsibility of what was called the "4-8 watch"—watching from a suitable vantage point for four hours at a time from 4 a.m. to 8 a.m. and then 12 hours again later to ensure that the ship is compliant with the regulations and conventions governing safety, and with the regulations governing pollution. In other words, respondent was not only responsible for keeping the ship safe from attack or damage, but also to ensure that it would not fall below the standards set by the regulatory bodies.<sup>[6]</sup>

Respondent faithfully and religiously performed his job. However, while working on board the vessel, he had a blurring vision of the right eye.<sup>[7]</sup>

On March 27, 2014, in Georgia, Atlanta, USA, where the vessel was at port, Dr. Markesh Manocha checked on respondent and found the latter to be suffering from *macular hole OD, traumatic cataract OD, and chorioretinal scars OD*.

On April 2, 2014, respondent was medically repatriated to the Philippines.

Petitioners directed him to the Association of Marine Officers and Seaman's Union of the Philippines (AMOSUP) Hospital for his post-medical examination. Dr. George C. Pile (Dr. Pile), the company-designated physician, examined him and gave his initial diagnosis of *macular hole, right eye, senile, mature cataract, right, error of refraction*. Likewise, Dr. Pile diagnosed him as unfit to work and that respondent's condition was work-oriented. Hence, Dr. Pile recommended that respondent undergo "flourescein angiography, optical coherence tomography (OCT) right eye, and cardio-pulmonary clearance."<sup>[8]</sup>

On April 11, 2014, respondent went back to Dr. Pile and was diagnosed with *lamellar macular hole, right eye, epiretinal membrane with macular edema, right eye, senile, mature, cataract, error of refraction*. Dr. Pile noted again that it was work-oriented; that flourescein angiography and optical coherence tomography of his right eye was done; that respondent was still for cardiopulmonary clearance prior to cataract surgery of his right eye; and that respondent started Nevenac eye drop to his right eye three times daily. Dr. Pile recommended respondent for phacoemulsification with PCIOL implantation of his right eye.<sup>[9]</sup>

On May 23, 2014, respondent underwent phacoemulsification with PCIOL implantation of his right eye.

On May 24, 2014, respondent was discharged and was instructed to take eye drop medications. He went back to Dr. Pile for follow-up consultations.<sup>[10]</sup>

Then, on August 6, 2014, or after 122 days, Dr. Pile issued a medical certificate stating that respondent needed to come back on August 13, 2014 for final disposition.<sup>[11]</sup>

On August 13, 2014, Dr. Pile told respondent that he was already unfit to work as a seafarer and that he would be given a grading for his disability. When respondent asked petitioner Magsaysay for a copy of the medical certificate, he was never given a copy despite demands.<sup>[12]</sup>

On November 25, 2014, respondent, relying on Dr. Pile's assessment that he could no longer return to work as a seafarer, filed a grievance proceeding with the AMOSUP.<sup>[13]</sup>

On January 23, 2015, a deadlock was declared after several offers and counter-offers between the parties.<sup>[14]</sup>

On February 6, 2015, respondent filed a Notice to Arbitrate with the NCMB. However, no amicable settlement was likewise reached at the NCMB proceedings.<sup>[15]</sup>

Respondent needed to support the findings of Dr. Pile that he was no longer fit to work as a seafarer because of his condition. Thus, he sought a medical opinion from an independent government ophthalmologist, Dr. Emmanuel M. Eusebio (Dr. Eusebio), who found that his illness was "permanent in nature" and "his overall capacity to work as a seaman might be compromised." Dr. Eusebio, therefore, concluded that respondent was "no longer fit to resume his previous work as a

seaman." Dr. Eusebio's Medical Evaluation Report<sup>[16]</sup> reads:

This is the case of Jose Elizalde Bueno Zanoria, 53 years old, male, single, Filipino, and presently residing at Kawit, Medellin, Cebu.

He sought consult because of progressive blurring of vision of the right eye of 1 year duration.

On physical examination, visual acuity with glasses were as follows:

OD: 20/200                      OS: 20/20 with correction

He was diagnosed to have senile, mature, cataract, right, for which he underwent phacoemulsification with PCIOL implantation of the right eye. There was also associated lamellar macular hole on the right eye, with error of refraction.

The above findings are permanent in nature; as such, his overall capacity to work as a seaman might be compromised. He is therefore no longer fit to resume his previous work as a seaman.<sup>[17]</sup>

After five months from the time respondent filed his complaint with the AMOSUP, petitioners manifested that they would be filing the same complaint before the National Labor Relations Commission (NLRC) to challenge the jurisdiction of the NCMB.

On April 20, 2015, respondent was then constrained to file a Motion to Appoint a Panel of Voluntary Arbitrators with the NCMB which was opposed by petitioners. Consequently, petitioners withdrew their complaint with the NLRC and agreed to select a Panel of Voluntary Arbitrators.

On September 4, 2015, when petitioners filed their Position Paper<sup>[18]</sup> with the NCMB, they already released Dr. Pile's Medical Certification<sup>[19]</sup> dated September 22, 2014 stating that from April 7, 2014 up until the time the certification was issued, respondent was found to be unfit. The Medical Certification reads:

This is to certify that Mr. Jose Elizalde B. Zanoria has been to me for Consultation from 07 April 2014 to 22 September 2014 and is found to be [ ] FIT [ / ] UNFIT.

Chief Complaint:

Blurring of vision of the right eye

History of Present Illness:

Progressive blurring of vision of the right eye.

Visual acuity with glasses OD: 20/200, OS: 20/20

Diagnosis:

Senile, mature, cataract, right  
S/P Phacoemulcification with PCIOL  
implantation right eye.  
Lamellar Macular hole, right eye  
Error of refraction

☒ Work Oriented                      ☐ NOT Work Oriented  
Sunlight and UV exposure

Treatment Medication:

S/P Phacoemulcification with PCIOL  
implantation right eye, 23 May 2014

Approximate Period of Treatment/Prognosis and or Disability:  
Disability Grade 10 for (50%) loss of vision of one eye.

Hospitalization: ☐ Needed    ☒ Not Needed

Recommendation/Remarks:

Presently Visual Acuity on the right eye has improved up to 20/40 only. Left eye is still 20/20. Although vision on the right eye has remarkably improved, it is still inadequate for his position.<sup>[20]</sup>

*Ruling of the Panel of Voluntary Arbitrators*

On February 19, 2016, the Panel of Voluntary Arbitrators rendered a Decision ruling that respondent was permanently disabled. It ruled that the Collective Bargaining Agreement (CBA) provision containing permanent disability benefits greater than the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) should be applied.<sup>[21]</sup> The dispositive portion of the Decision reads:

"WHEREFORE, judgment is hereby rendered ordering respondents Magsaysay Maritime Corporation and/or Keymax Maritime Co., Ltd. to jointly and severally pay complainant Jose Elizalde Zanolria the following:

- 1) US\$ 159,914 or the peso equivalent at the time of payment – by way of full permanent disability benefits;
- 2) US\$9,960 (2,2490 (sic) x 4 months) – by way of sickness allowance;
- 3) 10% of the award by way of attorney's fees.

All other claims are dismissed for lack of merit. Manila, February 19, 2016.

SO ORDERED."<sup>[22]</sup>

Petitioners moved for the reconsideration of the Decision, but the Panel of Voluntary Arbitrators denied it in a Resolution dated May 20, 2016.

Petitioners filed a Petition for Review (under Rule 43 of the Revised Rules of Court) with Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order<sup>[23]</sup> with the CA.

### *Ruling of the CA*

In the petition for review under Rule 43 of the Rules of Court with the CA, petitioners raised the following grounds for the latter's consideration, to wit:

#### I.

WHETHER THE [PANEL OF VOLUNTARY ARBITRATORS] ERRED IN AWARDING DISABILITY BENEFITS TO RESPONDENT IN THE AMOUNT OF US\$159,914.00; *and*

#### II.

WHETHER THE [PANEL OF VOLUNTARY ARBITRATORS] ERRED IN AWARDING SICKNESS ALLOWANCES, AND 10% OF THE TOTAL JUDGMENT AWARD AS AND FOR ATTORNEY'S FEES.<sup>[24]</sup>

On March 7, 2017, the CA rendered the assailed Decision<sup>[25]</sup> affirming the findings of the Panel of Voluntary Arbitrators that respondent should be considered as permanently and totally disabled. The dispositive portion of the Decision reads:

WHEREFORE, premises considered and subject to the above disquisitions, the *petition* is hereby PARTLY GRANTED. The *Decision* dated February 19, 2016 and *Resolution* dated May 20, 2016 of the National Conciliation and Mediation Board Panel of Voluntary Arbitrators in MVA-091-RCMB-NCR-071-02-07-2015 are accordingly AFFIRMED with MODIFICATION such that petitioners are now ordered to pay respondent Jose Elizalde B. Zanoria the amount of US\$ 60,000.00 (US\$ 50,000 x 120%) payable in its peso equivalent at the time of payment as permanent disability benefits instead of US\$159,914.00. The rest of the February 19, 2016 Decision stands.

SO ORDERED.<sup>[26]</sup>

Feeling aggrieved, both parties filed their respective partial motions for reconsideration.<sup>[27]</sup>

On July 25, 2017, the CA issued the assailed Resolution<sup>[28]</sup> denying the motions.