

# SIXTEENTH DIVISION

[ CA-G.R. SP No. 129139, May 15, 2014 ]

**FILOMENO T. DORONILA, PETITIONER, VS. THE NATIONAL  
LABOR RELATIONS COMMISSION SIXTH (6TH) DIVISION,  
MAGSAYSAY MARITIME CORPORATION, [\*] CSCS  
INTERNATIONAL NV AND BABY ARACELLI H. HADLOC,  
RESPONDENTS.**

## D E C I S I O N

**MACALINO, J:**

### *The Case*

In this Petition for Certiorari<sup>[1]</sup> under Rule 65 of the Rules of Court, Petitioner Filomeno T. Doronila ("Petitioner") seeks the nullification of the October 30, 2012 Decision<sup>[2]</sup> ("Assailed Decision") and the December 28, 2012 Resolution<sup>[3]</sup> ("Assailed Resolution") of the National Labor Relations Commission ("NLRC") Sixth (6<sup>th</sup>) Division in NLRC LAC (OFW-M) No. 05-000463-12. The dispositive portions of the assailed issuances read:

### Assailed Decision

"**WHEREFORE**, premises considered, the Appeal is DENIED and the April 20, 2012 Decision is hereby AFFIRMED with Modification in that respondents are ordered to pay complainant his one month salary as termination pay.

**SO ORDERED.**"<sup>[4]</sup>

### Assailed Resolution

"**WHEREFORE**, premises considered, the motion for reconsideration is DENIED for lack of merit.

**SO ORDERED.**"<sup>[5]</sup>

### *The Facts*

Private Respondent Magsaysay Maritime Corporation ("Magsaysay") is a domestic corporation duly licensed by the Philippine Overseas Employment Administration ("POEA") to engage in the recruitment and placement of sea-based workers.<sup>[6]</sup>

On November 29, 2004, Magsaysay first employed Petitioner as a 2<sup>nd</sup> grill and roast cook in a cruise vessel.<sup>[7]</sup>

On August 17, 2009, Magsaysay rehired Petitioner on behalf of its foreign principal, Private Respondent CSCS International NV ("CSCS"). As evidenced by a POEA-

approved Contract of Employment<sup>[8]</sup>, Petitioner was engaged as a 2<sup>nd</sup> grill and roast cook of the cruise ship, Costa Europa Hotel ("Costa Europa"), with a basic monthly salary of €441.00 for a period of eight (8) months.

Prior to his deployment, Petitioner submitted himself to a Pre-Employment Medical Examination ("PEME") and was declared fit for sea service by Magsaysay's accredited physician. On September 4, 2009, Petitioner departed from the country to join his vessel.<sup>[9]</sup>

On February 26, 2010, the Costa Europa crashed into the pier of Sharm el-Sheikh, Egypt and sank.<sup>[10]</sup> Thus, Petitioner was signed off on March 2, 2010 and was repatriated to the Philippines.<sup>[11]</sup>

Sometime thereafter, Petitioner sought to be redeployed for sea duty. After undergoing a PEME<sup>[12]</sup> on May 21, 2010, however, Petitioner was declared unfit for sea duty on June 9, 2010 due to "inferior wall ischemia, slight cardiomegaly and hypertension with medications."

On October 11, 2011, Petitioner filed before the NLRC NCR Arbitration Branch a Complaint<sup>[13]</sup> for disability benefits and sickness pay with claims for attorney's fees and moral and exemplary damages. The Complaint, docketed as NLRC NCR (OFW-M) Case No. 10-15490-11, impleaded Private Respondents Magsaysay, CSCS and Magsaysay's owner/manager/president, Baby Araceli C. Hadloc (collectively, "Private Respondents").

In his Position Paper<sup>[14]</sup>, Petitioner asseverated that he performed a stressful job on board the Costa Europa, rendering long hours of work with only a few hours of sleep. In addition to the demands of his job, Petitioner averred that he had to deal with sudden changes of temperature from the cold storage to the hot grilling machine of the Costa Europa. According to Petitioner, he suffered dizziness, headache, shortness of breath and chest pains in addition to trauma after his repatriation, which prompted him to consult Dr. Rogelio M. Ramirez ("Dr. Ramirez") in his Sta. Mesa, Manila clinic. In a medical certificate<sup>[15]</sup> dated March 5, 2010, Dr. Ramirez recommended that Petitioner undergo a series of laboratory examinations, to wit: chest x-ray, ECG, fasting blood sugar, urinalysis, cholesterol and uric acid. Then, Petitioner avowedly reported to Magsaysay to request for financial assistance but was instead advised by the latter to re-apply for employment.

Petitioner claimed that his illnesses are work-related because in a medical certification<sup>[16]</sup> dated August 23, 2011 prepared by Dr. Ramon A. Reyes ("Dr. Reyes") of the Seamen's Hospital, his illnesses, namely, coronary artery disease and essential hypertension, were pronounced as work-oriented. As he was not financially supported by Magsaysay, he prayed for the award of total disability benefits, sick wages, moral and exemplary damages and attorney's fees in his favor.

On the other hand, Private Respondents in their Position Paper<sup>[17]</sup> disavowed any liability to Petitioner by invoking Section 20 (B) of the POEA Standard Employment Contract ("POEA-SEC"), which requires that the work-related injury or illness be suffered by the seafarer during the term of his contract. Private Respondents asserted that Petitioner was repatriated not for a medical condition but due to a vessel lay-up, which terminated Petitioner's employment in accordance with Sec. 18<sup>[18]</sup> of the POEA-SEC. They pointed out that Petitioner's illnesses were diagnosed

two (2) months after his contract of employment had ended and are thus non-compensable.

In his Reply<sup>[19]</sup>, Petitioner posited that the fact that he suffered the symptoms of his illnesses three (3) days after his repatriation is a clear indication that he acquired such illnesses during the term of his contract. Furthermore, he insisted that had the vessel been not laid up, he would surely have suffered the same symptoms and illnesses on board the Costa Europa. Lastly, Petitioner excused himself from not undergoing a post-employment medical examination by the company-designated physician within three (3) days from his return because he was not medically repatriated.

After Private Respondents' submission of their Reply<sup>[20]</sup> reiterating their firm stance that Petitioner's illnesses are not compensable, the Labor Arbiter rendered a Decision<sup>[21]</sup> dated April 20, 2012, decreeing as follows:

"WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint and other claims for lack of merit.

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

The Labor Arbiter observed that there is no evidence or report of Petitioner's illness or medical referral while he was on board the vessel, and validated Private Respondent's position that Petitioner's contract ended on March 2, 2010 when he was repatriated due to ship lay-up. The Labor Arbiter further held that if Petitioner suffered illnesses after his repatriation according to his own medical certificate, the same are no longer compensable for the said illnesses were acquired outside the term of his employment.

On appeal<sup>[23]</sup> by Petitioner to the NLRC, the April 20, 2012 Decision of the Labor Arbiter was affirmed with modification, ordering Private Respondents to pay Petitioner his one (1) month salary as termination pay pursuant to Sec. 23<sup>[24]</sup> of the POEA-SEC. In addition to the reasons advanced by the Labor Arbiter, the NLRC explained that Petitioner's failure to report for a post-employment medical examination by the company-designated physician within three (3) days from his repatriation barred his claim for disability benefits.

Upon the NLRC's denial of his Motion for Partial Reconsideration<sup>25</sup> in the Assailed Resolution dated December 28, 2012, Petitioner lodged the instant Petition before this Court.

### **The Issues**

Petitioner anchors his Petition on the following grounds:

**"1. With all due respect, the NLRC Commission Sixth Division, committed grave abuse of discretion in promulgating the Decision dated October 30, 2012 affirming the Decision dated April 20, 2012 of the Labor Arbiter dismissing the case and the Resolution dated December 20, 2012 denying Petitioner's Motion for Reconsideration.**

**2. That the assailed Decision dated October 30, 2012 and Resolution dated December 20, 2012 were rendered in total**