

THIRD DIVISION

[G.R. No. 238128, February 17, 2021]

**OSM MARITIME SERVICES, INC. AND/OR MAILYN PERENA
BORILLO,* PETITIONERS, VS. NELSON A. GO, RESPONDENT.**

DECISION

DELOS SANTOS, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated January 5, 2018 and the Resolution^[2] dated March 14, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 151145.

The Facts

The antecedent facts, as summarized by the CA, are as follows:

Petitioner Nelson Go has been working as oiler/motorman for respondent OSM Maritime Services, Inc. since 2009. His last employment contract with OSM was signed on March 31, 2015 with a duration of nine (9) months and a basic salary of US\$709.00. Petitioner's employment was also covered by a Collective Bargaining Agreement (CBA).

On December 16, 2015, while on board the vessel M/V Trinity Arrow, petitioner suddenly experienced dizziness accompanied by vomiting, chest pain and shortness of breath. His blood pressure was also elevated to 160/90. He was then brought to a hospital in Singapore where he was diagnosed with sub-acute myocardial infarction with new onset hypertension. On December 22, 2015, petitioner was repatriated. He was immediately seen the following day by the company-designated physician Dr. Nicomedes Cruz.

In a medical certificate dated January 20, 2016, Dr. Cruz considered Meniere's Disease part of his diagnosis of petitioner. Nevertheless, in a separate medical certificate, Dr. Cruz also declared that the illness is not work-related. After several check-ups, Dr. Cruz issued on March 28, 2016, a medical certificate diagnosing petitioner with hypertension, Meniere's Disease and [myofascial] spasm. He was also certified fit to resume sea duties.

Petitioner claims that when he was referred to the Maritime Clinic for International Seafarers (MCIS) on June 8, 2016 for his Pre-Employment Medical Examination (PEME), he was thereafter found unfit for sea duty due to his Meniere's Disease. In an email sent by Dr. Olivia Salve T. Sales of the MCIS to respondent OSM, Dr. Sales explained that petitioner could not be cleared due to his Meniere's Disease which is "a disease of

unknown cause affecting the membranous labyrinth of the ear, causing progressive deafness and attacks of tinnitus and vertigo which is an UNFIT CASE FOR SEAFARERS," making petitioner unfit for sea duty as of June 16, 2016.

On July 26, 2016, petitioner consulted his own doctor, Dr. Radentor Viernes, who issued a medical certificate finding petitioner's Meniere's Disease as work-related and work-aggravated, to wit -

"The work of Mr. Go as an Oiler/Motorman onboard the vessel exposed him to loud and deafening engine noises, engine heat and harmful chemicals inherent in engine oils. Considering the continued exposure of Mr. Go to these health hazards onboard the vessel taking into account his length of service as an Oiler/Motorman, had contributed mainly to a very great possibility, for him to contract these illnesses and/or have aggravated the same while onboard the vessel.

In my opinion, the nature of Mr. Go's employment as Oiler/Motorman onboard the vessel is the cause of his illness and/or aggravated the same. His illnesses are, therefore, work-related and work-aggravated as the same were caused and had developed due to the nature of his job and in the performance of his duties as a seaman. He is no longer fit to go back to work as a seaman in any capacity."

On September 9, 2016, petitioner filed the instant complaint for permanent and total disability benefits in the amount of US\$90,000.00 in accordance with the parties' CBA as well as moral and exemplary damages plus attorney's fees.^[3]

The Labor Arbiter's Ruling

On December 27, 2016, the Labor Arbiter (LA) rendered a Decision^[4] in favor of Nelson A. Go (respondent) in ruling that his illness is workrelated and therefore compensable. However, the LA only granted him US\$3,366.00 plus 10% attorney's fees instead of US\$90,000.00 which he sought for because the LA ruled that respondent was not permanently and totally incapacitated to be entitled to the full amount of the disability compensation. The dispositive portion of which reads:

WHEREFORE, judgment is rendered ordering OSM Maritime Services, Inc. and OSM Crew Management and Individual respondent Mailyn Perena [Borillo] to pay, jointly and severally, complainant Nelson Go the amount of US\$3,702.60.

SO ORDERED.^[5] (Citations omitted)

Hence, respondent made a partial appeal on the LA's Decision with the National Labor Relations Commission (NLRC). Respondent insisted that he is entitled to the full disability compensation of US\$90,000.00 plus attorney's fees and damages in the amount of P500,000.00 because of his permanent disability.^[6]

The NLRC's Ruling

In its February 27, 2017 Decision,^[7] the NLRC denied respondent's appeal for lack of merit declaring that respondent's Meniere's Disease is not work-related. The NLRC opined that while the illness is presumably work-related under Section 20(B) (4) of the 2010 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC), the said provision does not exempt respondent from proving the work relation of the said illness. The NLRC noted that respondent's evidence failed to prove that the said illness was work-related by citing the findings of respondent's own doctor, Dr. Radentor Viernes (Dr. Viernes), who, according to the NLRC, based his medical opinion on general allegations/observations and was not derived from a sustained medical examination and testing unlike the findings of the company-designated physician who oversaw respondent's treatment for a period of more or less three months.

Nevertheless, the NLRC desisted from deleting the award of US\$3,702.60 granted by the LA for failure of OSM Maritime Services, Inc. and Maily Perena Borillo (collectively, petitioners) to appeal the Decision of the LA, thereby rendering the award final and executory.

Respondent filed a Motion for Reconsideration, but the same was denied in the NLRC's Resolution^[8] dated March 31, 2017. Thereafter, respondent filed a Petition for *Certiorari* in the CA.

The CA's Ruling

On January 5, 2018, the CA rendered the assailed Decision^[9] reversing the Decision and the Resolution of the NLRC. It declared that respondent's disease is work-related. The dispositive portion of the Decision reads:

WHEREFORE, finding merit in the petition, the same is hereby GRANTED. The assailed decision and resolution of the NLRC are hereby SET ASIDE, and a new judgment is hereby entered GRANTING permanent disability benefits to petitioner in the amount of Ninety Thousand US Dollars (US\$90,000.00) or its equivalent in Philippine currency at the time of payment plus 10% thereof as attorney's fees. Private respondent OSM Maritime Services, Inc. is hereby ORDERED to pay the said amount to petitioner.

SO ORDERED.^[10]

Dissatisfied by the CA Decision, petitioners filed a Motion for Reconsideration, but was denied in a Resolution^[11] dated March 14, 2018.

Thereafter, petitioners filed before the Court a Petition for Review on *Certiorari*.^[12]

In their Petition, petitioners posed the following issues, to wit:

I.

[WHETHER OR NOT] THE [CA] COMMITTED GRAVE ABUSE OF DISCRETION IN RULING THAT THE NLRC THIRD DIVISION OVERSTEPPED

WHEN IT RULED THAT RESPONDENT'S ILLNESS IS NOT WORK-RELATED.

II.

[WHETHER OR NOT] THE [CA] COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING RESPONDENT TOTAL AND PERMANENT DISABILITY BENEFITS [EVEN THOUGH RESPONDENT'S] CONDITION DOES NOT MERIT A GRADE 1 DISABILITY AND THERE IS NO SHOWING THAT HE IS PERMANENTLY UNFIT FOR SEA DUTIES.

III.

[WHETHER OR NOT] THE [CA] COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING THE AWARD OF ATTORNEY'S FEES.^[13]

In support of their Petition, petitioners argue, in summary, that respondent's Meniere's Disease is not work-related and therefore not compensable. Petitioners point out that the issue of respondent's entitlement to the full amount of disability benefits necessarily includes the question of work-relation of respondent's illness which is also directly related to the main issue on appeal. Consequently, it cannot attain finality as long as it is being raised as an issue on appeal.^[14]

Furthermore, petitioners reiterate that it is erroneous to award respondent with permanent and total disability benefits when his condition does not merit a Grade 1 disability and there is no showing that he is permanently unfit for sea duties. Petitioners contend that respondent has not shown any evidence that his Meniere's Disease was work-related or at least work-aggravated to be entitled to total and permanent disability benefits and merely relies on the presumption that his illness is work-related. Aside from that, respondent's failure to refer the conflicting medical opinions to a third doctor rendered the assessment of the company-designated physician binding.^[15]

On the other hand, respondent, in his Comment,^[16] answered that he is entitled to total and permanent disability benefits considering the report of the company-designated physician that respondent's illness, Meniere's Disease, is an "unfit case for seafarers," which signifies that he is already permanently unfit for further services at sea which was confirmed by respondent's own physician. Additionally, respondent insists that the issue of whether or not respondent's illness is work-related was already settled when petitioners did not appeal from the Decision of the LA and accordingly, the only remaining issue to be settled is whether respondent is entitled to total permanent disability benefits or not.

Subsequently, a Reply^[17] dated October 4, 2019 was filed by petitioners.

The essential issue for the Court's resolution is whether or not the CA erred in granting respondent's Petition for *Certiorari*, thereby setting aside the NLRC's Decision and Resolution holding that respondent is not entitled to full disability compensation.

The Court's Ruling

The petition is not meritorious.

To rationalize the grant of the extraordinary remedy of *certiorari*, petitioners must show that the court or the quasi-judicial authority gravely abused the discretion bestowed upon them. Grave abuse of discretion is defined, thus:

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.

Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and jurisprudence. It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.^[18]

In labor disputes, 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.^[19]

In view of the foregoing considerations, the Court finds that the CA correctly granted respondent's Petition for *Certiorari* since the NLRC gravely abused its discretion when it held that respondent was not entitled to full disability compensation of US\$90,000.00 and also ruled on the issue of work relation of the illness which was already deemed resolved for failure of petitioners to appeal the Decision of the LA.

As correctly ruled by the CA, the findings of the LA regarding work relation of respondent's Meniere's Disease is already final and therefore, the NLRC should have limited its Decision to the issues raised by respondent. This is clearly indicated under Section 4(d),^[20] Rule VI of the 2011 NLRC Rules of Procedure, thus:

In the case at bar, only petitioner appealed the decision of the Labor Arbiter to the NLRC. Petitioner did not raise the issue of whether his illness is work-related for the obvious reason that the Labor Arbiter ruled the issue in his favor. The only issues that were submitted to the NLRC for resolution were (1) whether petitioner was totally and permanently unfit for sea duties to entitle him to permanent disability benefits of US\$90,000.00 and (2) whether private respondents should pay damages in the amount of Php500,000.00. The NLRC should have limited its decision to these two issues only. Nonetheless, while the NLRC overstepped in ruling that petitioner's illness is not work-related when the same was not raised as an issue by petitioner, We note that the NLRC retained the disability benefit determined by the Labor Arbiter. The NLRC itself admitted that the issue on work relation has already become final and executory due to private respondents' failure to appeal the same, to wit -