

## THIRD DIVISION

[ G.R. No. 222311, February 10, 2021 ]

**V PEOPLE MANPOWER PHILS., INC., AND/OR CAPE PNL LTD.,  
PETITIONERS, VS. DOMINADOR C. BUQUID, RESPONDENT.**

### DECISION

**HERNANDO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> assails the August 28, 2015 Decision<sup>[2]</sup> and January 13, 2016 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 136119. The appellate court found respondent Dominador C. Buquid (Dominador) not a land-based employee but a seafarer and thus entitled to permanent and total disability benefits.

#### **Factual Antecedents:**

In 2012, petitioner V People Manpower Phils., Inc. (V Manpower) hired Dominador, for and in behalf of its principal, Cape Papua New Guinea Ltd. (hereafter, Cape PNG)<sup>[4]</sup> as a Deck Crew/Rigger<sup>[5]</sup> for an estimated period of six (6) months, from January 17, 2012 to July 17, 2012, or up to the completion of a phase of a project or upon completion of the KUMUL Marine Terminal Rejuvenation Works (KUMUL Project), the site of which is located in Papua, New Guinea.<sup>[6]</sup>

Before his deployment, Dominador underwent and passed the routine Pre-employment Medical Examination (PEME).<sup>[7]</sup> He commenced his work at the KUMUL Project site after he was declared as "fit to work" by the company-designated physician.<sup>[8]</sup>

On March 26, 2012, Dominador felt persistent stomach pains.<sup>[9]</sup> The next day, March 27, 2012, he was brought to a hospital where he underwent an appendectomy.<sup>[10]</sup> During the surgery, the surgical team also found a mass in his colon and hence, a colostomy was also performed.<sup>[11]</sup> Dominador was discharged and repatriated to the Philippines on April 8, 2012.<sup>[12]</sup>

On April 9, 2012, he was brought to the Asian Hospital for check-up and was immediately admitted per the attending physician's recommendation.<sup>[13]</sup> He was discharged on April 12, 2012, but was advised to return for a followup check-up.<sup>[14]</sup>

After several check-ups and a series of laboratory procedures,<sup>[15]</sup> Dominador was diagnosed on May 9, 2012 with Adenocarcinoma Sigmoid (Stage 3) or in layman's terms, Stage 3 Colon Cancer.<sup>[16]</sup>

Despite undergoing surgery and treatment, Dominador's condition did not improve,



prompting him to consult Dr. Jhade Lotus P. Peneyra (Dr. Peneyra), an oncologist, for a second opinion.<sup>[17]</sup> Dr. Peneyra issued several medical abstracts<sup>[18]</sup> which stated that Dominador's illness was occupation related/aggravated and that he was permanently unfit for sea duties as a seaman in any capacity.<sup>[19]</sup> It was noted that Dominador had worked as a seaman for 22 years in a container vessel where he was exposed to charcoal and oil, butane, propane, condensate and crude oil.<sup>[20]</sup> All of these may have contributed to the development of colonic cancer since the substances from crude oil are highly carcinogenic.<sup>[21]</sup> Dr. Peneyra also noted that the dietary provisions on board merely consisted of meat and pork.<sup>[22]</sup>

Considering these medical findings, Dominador initiated a claim for disability benefits with petitioners, pursuant to the Philippine Overseas Employment Administration (POEA) Standard Employment Contract (POEASEC). However, his claim was denied.<sup>[23]</sup>

Thus, Dominador filed a complaint with the National Labor Relations Commission (NLRC) for permanent and total disability benefits.<sup>[24]</sup>

In support of his claim, Dominador alleged that as a deck crew/rigger aboard the "M/V KMT Platform," he performed the following tasks: (1) cleaning the platform; (2) installing the fender when a supply boat or tug boat approaches the vessel; (3) giving signal to the crane operator when objects are being lifted; (4) keeping watch of the platform for any leakages in the pipeline; (5) painting and chipping off rust on deck and superstructure of the ship, (6) assisting in the making of scaffolds, and (7) maintenance and repairs of rigging gears of the ship.<sup>[25]</sup>

Dominador claimed that during his employment, he was constantly exposed to fumes, fuel oils, gas, dust and other harmful chemicals.<sup>[26]</sup> He also performed strenuous tasks such as lifting, carrying, pulling, pushing or moving objects on board. His work stretched up to a minimum of twelve (12) hours a day or night.<sup>[27]</sup> Being on board, he was likewise exposed to the harsh elements of the sea, severe weather conditions and the extreme hot temperatures of the engine room and control room as well.<sup>[28]</sup> Such work environment caused physical and mental stress. Besides, their diet onboard was high on carbohydrates and fat.<sup>[29]</sup> Given these circumstances and the medical abstracts of Dr. Peneyra, Dominador asserted that he is a seafarer entitled to permanent and total disability benefits under the POEA-SEC.

On the other hand, V Manpower maintained that it is registered with the POEA as a land-based agency authorized to recruit, process, and deploy land-based workers and not seafarers.<sup>[30]</sup> It claimed that upon the instructions of its principal, it processed Dominador's engagement as a land-based worker for an estimated period of six (6) months from January 17, 2012 to July 2012 or up to the completion of the project, whichever comes first.<sup>[31]</sup> Thus, it came as a surprise that Dominador was claiming disability benefits as a seafarer and not as a land-based worker.<sup>[32]</sup>

V Manpower also argued that there was no evidence that Dominador's work exposed him to harmful substances.<sup>[33]</sup> Thus, petitioners were allegedly shocked with Dominador's claim that his colon cancer was work-related or a compensable disease



under the rules.<sup>[34]</sup>

Moreover, V Manpower alleged that its principal, Cape PNG, engaged Dominador as a project employee for the KUMUL Project with its client, Clough AMEC SEA.<sup>[35]</sup> Dominador was assigned to work as a deck crew/rigger in the Kumul Platform located 40 kilometers off the southern coast of Papua New Guinea, and thus, contrary to his claims, he was never assigned to work in any ship in any capacity.<sup>[36]</sup>

### **Ruling of the Labor Arbiter (Arbiter):**

The Arbiter held that Dominador was employed as a seafarer whose illness is compensable under the POEA-SEC.<sup>[37]</sup> Dominador was declared entitled to permanent and total disability benefits based on the POEA-SEC, to wit:

Complainant is a seaman by profession and has been working as such for the past 22 years before respondents hired him for their Kumul Marine Terminal Rejuvenation Works. Complainant is a Deck Crew/Rigger on board MV/KMT PLATFORM, an offshore vessel. The nature of his employment on board as well as the actual conditions of his work qualifies him as a seafarer. Cape PNG confirmed that he works as a Deck Crew/Rigger in the Kumul Platform, which is located 40 km. off the southern Coast of Papua New Guinea.

x x x x

WHEREFORE, in view of the foregoing, respondents V Manpower Phils., Inc. and Cape Papua New Guinea Ltd. are hereby ordered, jointly and solidarily, to pay complainant Dominador C. Buquid, permanent and total disability benefits in the amount of US DOLLARS: SIXTY THOUSAND (US\$60,000.00) and attorney's fees in the amount of US DOLLARS: SIX THOUSAND (US\$6,000.00) in their equivalent in Philippine Currency at the time of payment.

All other claims are denied.

The complaint against individual respondent Amador P. Servillon is dismissed for lack of merit.

SO ORDERED.<sup>[38]</sup>

Aggrieved, petitioners filed an appeal<sup>[39]</sup> with the NLRC proper.

### **Ruling of the NLRC:**

In a Decision<sup>[40]</sup> dated March 31, 2014, the NLRC reversed the judgment of the LA and ruled that Dominador was a land-based employee and not a seafarer as he was employed as deck crew/rigger on an offshore oil rig, which is not a ship. The fact that Dominador was a seafarer by profession does not necessarily mean that he was contracted as a seafarer during his last engagement with V Manpower.



The dispositive portion of the NLRC Decision reads as follows:

WHEREFORE, premises considered, the Decision dated August 29, 2013 is hereby VACATED AND SET ASIDE and another one is hereby entered ORDERING respondents V People Manpower Phils., Inc. and Cape Papua New Guinea Limited, to solidarily pay complainant Dominador C. Buquid the amount of US\$598.08 as his final pay.

All other money claims are denied.

SO ORDERED.<sup>[41]</sup>

Dominador moved for reconsideration but it was denied by the NLRC for lack of merit in a Resolution<sup>[42]</sup> dated April 29, 2014.

### **Ruling of the Court of Appeals:**

Dissatisfied, Dominador filed a Petition for *Certiorari*<sup>[43]</sup> under Rule 65 of the Rules of Court with the CA. On August 28, 2015, the CA promulgated the assailed Decision<sup>[44]</sup> granting the petition and reinstating the August 29, 2013 Decision of the LA, to wit:

WHEREFORE, the petition is GRANTED. The March 31, 2014 Decision of the National Labor Relations Commission, Sixth Division in NLRC LAC No. (OFW-M) 10-001022-13 is VACATED and SET ASIDE and the August 29, 2013 Decision of Labor Arbiter Fe S. Cellan is REINSTATED.

SO ORDERED.<sup>[45]</sup>

Petitioners sought reconsideration with the CA but it was denied in a Resolution<sup>[46]</sup> dated January 13, 2016.

Hence, the instant Petition filed by V Manpower and Cape PNG, which essentially raises the following -

### **Assignment of Errors**

1. Whether or not the CA committed clear errors of law and in its appreciation of the facts and evidence when it reversed the NLRC decision despite the following:

a. Dominador was never employed as a seafarer by petitioners and thus, the award of US\$60,000.00, which was based on the POEA-SEC, was unjustified.

b. It is clear that Dominador's colon cancer is not work-related and hence, the claim is not compensable assuming that Dominador may be considered a seafarer; and

2. Whether or not the CA committed serious error of law in reinstating the award of Attorney's fees despite absence of any finding or discussion showing bad faith or malice on the part of petitioners.<sup>[47]</sup>

### **Our Ruling**



We grant.

**Since some of the factual findings by the LA, NLRC, and the CA are contradictory, the same may be subject of review by this Court.**

This case falls under the exception to the general rule that this Court may only review questions of law, particularly due to the contradictory findings of the CA and the labor tribunals. In *Siasat v. Court of Appeals*,<sup>[48]</sup> we reiterated the principle that the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the recognized exceptions to the rule, to wit:

The issue raised is factual. In an appeal *via* certiorari, we may not review the factual findings of the Court of Appeals. When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the recognized exceptions to the rule.

There are instances when the findings of fact of the trial court or Court of Appeals may be reviewed by the Supreme Court, such as (1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.<sup>[49]</sup> (Underscoring supplied; citations omitted)

It is undisputed that the factual findings of the LA, NLRC, and the CA not only differ from one another, but some are actually contradictory, such as the findings on Dominador's status as a seafarer or a land-based worker, and the findings regarding his medical condition in relation to whether or not the same is compensable under the law.

Given these contradictions on pivotal questions of fact that are crucial in