

THIRD DIVISION

[G.R. No. 236804, February 01, 2021]

SEA POWER SHIPPING ENTERPRISES, INC., OCEAN WAVE MARITIME CO. AND ANTONETTE ISABEL A. GUERRERO, PETITIONERS, VS. FERDINAND S. COMENDADOR, RESPONDENT.

D E C I S I O N

DELOS SANTOS, J.:

Without a valid final and definitive assessment from the company-designated physician, respondent's temporary and total disability, by operation of law, became permanent and total.^[1]

This is to resolve the Petition for Review on *Certiorari*^[2] under Rule 45 of the Rules of Court, dated March 14, 2018, of petitioners Sea Power Shipping Enterprises, Inc. (Sea Power), Ocean Wave Maritime Co. (Ocean Wave), and Antonette Isabel A. Guerrero (Guerrero; collectively, petitioners) seeking to reverse and set aside the Decision^[3] dated February 20, 2017 and the Resolution^[4] dated January 10, 2018, both of the Court of Appeals (CA) in CA-G.R. SP No. 143465 and praying for the dismissal of respondent Ferdinand S. Comendador's (Comendador) complaint for lack of merit.

The factual antecedents are as follows:

On December 14, 2012, Comendador was employed as an Ordinary Seaman for the vessel "M.V. Makaria" by Ocean Wave through its resident agent, Sea Power.^[5]

On March 17, 2013, while he was on duty fixing the hatch cover of "M.V. Makaria," Comendador was hit by a metal cable wire when it suddenly snapped and coiled around his body which knocked him unconscious and almost suffocated him to death. Thereafter, he experienced severe pains on his waist. Despite being administered with medication, the lingering pain made it impossible for him to go back to work.^[6]

Comendador requested to be brought to a medical facility. However, he had to wait for a week as "M.V. Makaria" was still in transit in the open sea. Upon reaching the next port of convenience, Comendador was examined although he was not able to complete the laboratory tests since "M.V. Makaria" had to leave the port immediately after discharging all its cargoes. Because he cannot anymore bear the recurring pain, he requested to immediately be repatriated so he could seek medical treatment. However, his request was denied due to the vessel's lack of crew to replace him. As a result, Comendador's prolonged stay in "M.V. Makaria" caused his waist to become swollen due to the abscesses which developed on the injured portion of his waist.^[7]

On September 16, 2013, Comendador was finally repatriated where he reported immediately to Sea Power's office. After which, Sea Power, through its President, Guerrero, referred him to Dr. Jose Emmanuel F. Gonzales (Dr. Gonzales) of the De Los Santos Medical Center.^[8]

On September 18, 2013, Dr. Gonzales found that Comendador had a "huge hematoma formation over his inguinal area" and advised him to undergo hospital confinement for observation and possible drainage (of the hematoma).^[9]

On September 24, 2013, Comendador was confined at the Perpetual Help Hospital where he underwent surgery in order to drain the abscesses that had formed in his waist. Thereafter, he was discharged from the hospital.^[10]

On September 25, 2013, Dr. Gonzales issued a medical progress report to Sea Power stating that an incision and a corresponding drainage had been made on the injured waist. He added that the "whole procedure was uneventful" and Comendador's vital signs were controlled to an acceptable level throughout the operation.^[11]

However, Comendador went to see Dr. Maria Corazon HidalgoCabuquit who, in turn, referred him for therapy because he had difficulty in ambulating due to his painful waist. Consequently, he underwent therapy starting October 2013.^[12]

On November 6, 2013, Dr. Gonzales issued a final medical report of Comendador's condition to Sea Power stating that the "physical examination showed dry and healed wound," including the drain site. He added that Comendador "claims that he is already asymptomatic." In conclusion, Dr. Gonzales declared Comendador "Fit to Resume Sea Duties" as of that date.^[13]

Also on the same date, a document denominated as "Certificate of Fitness for Work" was executed by Comendador (and witnessed by Dr. Gonzales) releasing Ocean Wave and Sea Power from all liabilities "in connection with being released x x x as fit for duty" and declaring that the same document "may be pleaded in bar or any proceedings of the law that may be taken by any government agency."^[14]

Meanwhile, during the period of January 7, 2014 to February 2, 2014, Comendador was still undergoing therapy.^[15]

On February 14, 2014, Comendador was subjected to a Magnetic Resonance Imaging (MRI) scan where it was found by Dr. Raymond Piedad of the Radiological Sciences Division of the Philippine Heart Center that he had "subcutaneous and intramuscular abscess formations with fistulous tracts," as well as an "intraosseous and paravertebral abscess formations x x x with involvement of the left iliopsoas muscle" in his waist.^[16]

On February 24, 2014, Comendador filed a Complaint before the Labor Arbiter (LA) claiming for disability and medical benefits against petitioners. Thereafter, the proceedings ensued.^[17]

On March 10, 2014, Dr. Misael Jonathan A. Tieman (Dr. Tieman) issued a "Disability Report" stating that after evaluating the MRI results, as well as all the previous medical documents relative to the injured waist, Comendador suffers from permanent disability and that "he is unfit to work as a seaman in any capacity."^[18]

Comendador then filed a complaint against petitioners for permanent disability and other benefits, with the National Labor Relations Commission (NLRC) docketed as NLRC Case No. (M) NCR-02-02096-14, before LA Jaime M. Reyno (LA Reyno).^[19]

Labor Arbiter's Ruling

On June 10, 2015, LA Reyno rendered a Decision dismissing the complaint for lack of merit. However, the complainant is entitled to be paid the amount of US\$366.66 or its equivalent as actual payment for sickness allowance.^[20] The dispositive portion of the Decision reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the above captioned complaint for lack of merit. However, complainant is entitled to be paid the amount of US\$366.66 or its equivalent at actual payment as sickness allowance.

All other claims are dismissed.

SO ORDERED.^[21]

The LA ratiocinated that Dr. Gonzales' findings should be upheld over those of Dr. Tieman's because he was the doctor who supervised and monitored Comendador's injury.^[22]

Aggrieved by the LA's Decision, Comendador elevated the case to the NLRC for review. It was also during this time that he submitted an x-ray result as an update of his condition where it was shown that he had a decrease in vertebral body height due to sclerosis (specifically lumbar lordosis).^[23]

NLRC's Ruling

On August 26, 2015, the NLRC promulgated a Decision reversing and setting aside the LA's Decision and entering a new decision, granting Comendador disability benefits, sick wage allowance, and attorney's fees. The dispositive portion reads as follows:

WHEREFORE, complainant's appeal is GRANTED. Consequently, the assailed Decision of the Labor Arbiter is REVERSED and SET ASIDE. Complainant is declared totally and permanently disabled and accordingly is entitled to his monetary claim of US\$60,000.00 and sickwage (*sic*) allowance of US\$1,466.64, or its equivalent in Philippine Currency at the prevailing rate of exchange at the time of payment. Complainant is also entitled to 10% of the total monetary awards as attorney's fees.

SO ORDERED.^[24]

The NLRC found that the examinations by Dr. Gonzales were not as thorough as those of Dr. Tieman's.^[25]

On September 10, 2015, petitioners moved for reconsideration.^[26]

On September 30, 2015, the NLRC denied the motion for reconsideration.^[27]

On December 20, 2015, petitioners filed with the CA their "Petition for *Certiorari* with Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order" against the NLRC's August 26, 2015 Decision, challenging the NLRC's act of giving weight and consideration to Dr. Tieman's March 10, 2014 Disability Report which was used to support Comendador's cause of action, despite the fact that his complaint was filed days earlier, on February 24, 2014. Moreover, they also pointed out that Comendador had not yet resorted to the opinion of a third doctor to challenge the November 6, 2013 Certificate of Fitness for Work.^[28]

On March 7, 2016, Comendador filed his "Comment with Opposition to the Application for Temporary Restraining Order" basically asserting that resort to a third doctor in challenging the company-designated physician's diagnosis is merely directory and not mandatory.^[29]

CA's Ruling

In a Decision^[30] dated February 20, 2017, the CA ruled that the NLRC did not commit any grave abuse of discretion in reversing the LA's Decision. The NLRC merely acted in consonance with its statutory power to review the LA's factual findings. Besides, the CA is precluded from reviewing the NLRC's factual assessments in a special civil action for *certiorari*. Thus, the CA upheld the NLRC's findings and dispositions which are as follows:

FIRST, Comendador already had a cause of action at the time he filed his Complaint because he already got hold of an objective prognosis in the form of an MRI scan result[;] x x x

SECOND, Dr. Tieman's findings of existent internal conditions weigh more [than] that of Dr. Gonzales' findings of apparent external healing[;]

x x x x

THIRD, the records do not contain any agreement or contract showing that parties had indeed agreed to refer to a third doctor in case disagreements in disability assessments[; and]

x x x x

LAST, the circumstances surrounding Comendador's case justify the application of social justice principles favoring the rights of laborers.^[31]

The CA ruled that these aforementioned circumstances adequately justify the NLRC's award of disability claims and all other monetary claims in favor of Comendador.

On March 16, 2017, petitioners filed a Motion for Reconsideration.^[32]

On January 10, 2018, the CA denied, in a Resolution,^[33] the Motion for lack of merit. Hence, this Petition raising the following errors:

I.

THE HONORABLE [CA] GRAVELY ERRED IN HOLDING PETITIONERS LIABLE FOR PERMANENT TOTAL DISABILITY BENEFITS OF US\$ 60,000.00 AND OTHER BENEFITS FOR LACK OF FACTUAL AND LEGAL BASIS:

- A. CONTRARY TO THE HONORABLE COURT'S RULING, [COMENDADOR] HAD NO CAUSE OF ACTION AT THE TIME HE FILED THE INSTANT COMPLAINT.
- B. THE COMPANY-DESIGNATED PHYSICIAN CLEARED [COMENDADOR] FROM HIS CONDITION AND DECLARED HIM FIT TO RESUME SEA DUTIES WITHIN THE REQUIRED PERIOD. SUCH DECLARATION OF FITNESS WAS EVEN ACKNOWLEDGED BY [COMENDADOR] WHEN HE FREELY AND VOLUNTARILY EXECUTED THE CERTIFICATE OF FITNESS FOR WORK.
- C. THE MEDICAL REPORTS OF [COMENDADOR]'S APPOINTED PHYSICIANS CANNOT BE GIVEN GREATER CREDENCE AS THEY WERE BASED ON A SINGLE FLEETING CONSULTATION AND AS SUCH, DID NOT REPRESENT A COMPREHENSIVE EXAMINATION OF [COMENDADOR]'S CONDITION.
- D. [COMENDADOR] FAILED TO COMPLY WITH THE MANDATED CONFLICT-RESOLUTION PROCEDURE OF REFERRAL TO A NEUTRAL THIRD DOCTOR. SUCH COURSE OF ACTION IS MANDATORY IN NATURE AND HENCE, [COMENDADOR]'S FAILURE TO COMPLY WITH THE SAME RESULTS TO THE COMPANY DESIGNATED PHYSICIAN'S FINDINGS AS FINAL AND CONTROLLING.

II.

THE HONORABLE [CA] GRAVELY ERRED IN AFFIRMING THE GRANT OF SICKNESS ALLOWANCE AND ATTORNEY'S FEES IN FAVOR OF [COMENDADOR].^[34]

Petitioners argue in their Petition^[35] that contrary to the CA's ruling, Comendador had no cause of action because at the time he filed his complaint, he had no ground for a disability claim since he did not have any sufficient evidence to support his allegation. Moreover, petitioners contend that while the company-designated physician cleared Comendador from his condition and declared him fit to resume sea duties within the required period, such declaration of fitness was even acknowledged by Comendador when he freely and voluntarily executed the Certificate of Fitness for Work. Thus, they contend that Comendador should not be allowed to assail such medical report assessment because he concurred to it, which shows that the filing of this claim for total and permanent disability benefits is just a mere afterthought. Furthermore, the medical report of Comendador's appointed physician cannot be