

FIRST DIVISION

[G.R. No. 217338, March 18, 2021]

**DINO S. PALO, PETITIONER, VS. SENATOR CREWING (MANILA),
INC., ET AL., RESPONDENTS.**

DECISION

CARANDANG, J.:

Before Us is an appeal by *certiorari*^[1] under Rule 45 of the Rules of Court filed by petitioner Dino Palo (Palo) assailing the Resolution^[2] dated September 3, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 136807.

Facts of the Case

Respondent company Senator Crewing (Manila), Inc. (SCI), acting for and on behalf of its foreign principal Columbia Ship Management Ltd., hired Palo as Oiler for a six-month contract term. On September 24, 2011 and after being declared as fit to work in his Pre-employment Medical Examination (PEME), Palo was deployed onboard the vessel M/S CMA CGM Verlaine.^[3]

Sometime in the first week of December 2011 and while working on board the vessel, Palo carried a container of chemical cleaners weighing 25 kiloliters down the stairs from the engine room's upper floor. Palo suddenly felt a snap on his back and the pain began radiating down to his hips. Palo continued to work as the pain was initially tolerable. Several days later, the pain intensified again.^[4] As a result, the employer referred Palo for medical examination at a hospital in Mexico where he was initially diagnosed with "Left Lumbociatic, Lumbar Spondilo Artrosis."^[5] However, Palo was not recommended for medical repatriation. On March 25, 2012, Palo was repatriated due to the end of his employment contract. Upon arrival in the Philippines, Palo was not provided medical attention by the company-designated physicians.^[6]

On April 25, 2012, Palo signed another six-month contract with SCI as Oiler on board L/T Cortesia. His employment contract is covered by a collective bargaining agreement (CBA). Before deployment, Palo was subjected to another PEME, where he was declared fit for sea duty. Palo claimed that he was no longer subjected to a Magnetic Resonance Imaging (MRI) exam due to lack of time and was allowed to board L/T Cortesia immediately.^[7]

On July 7, 2012, while Palo was lifting a pump motor weighing 30 kilograms, he fell to his knees due to unbearable pain on his back. The medic onboard the ship provided pain relievers for Palo. On September 14, 2012, the employer referred Palo for medical examination at a hospital in Malaysia for his back pain. The physicians in Malaysia recommended the surgical procedures namely: foraminotomy, laminotomy and discectomy to be performed on Palo. Palo preferred that surgery be done in the

Philippines. However, as L/T Cortesia was headed for England, the physicians from Malaysia recommended that Palo be examined again in England. Palo was given light duties during the course of his employment, but as he was still suffering from back pain, his employer brought him to a hospital in England for medical examination. The physicians from England recommended Palo's medical repatriation.^[8]

On October 6, 2012, or upon Palo's arrival in the Philippines, SCI immediately referred him to the company-designated physicians.^[9] The company-designated physician issued their initial impression finding that Palo has "L3-L4, L4-L5, L5-S1 Disc Desiccation; L3-L4 Generalized Disc Bulge; L4-L5, Left-sided Disc Bulge with Foraminal Narrowing."^[10] On December 21, 2012, Palo was admitted for surgery. Six days later or on December 27, 2012, Palo was discharged. On March 19, 2013 or 164 days from Palo's repatriation, the company-designated physician issued a certification^[11] stating that Palo had undergone medical/ surgical evaluation from October 8, 2012 until March 19, 2013 for his back conditions. On March 22, 2013, without any certification of his disability grading or fitness to return to work, Palo sought to consult with his personal physician, who assessed him to be totally and permanently disabled due to a work-related illness.^[12] On the same day, he filed a complaint for payment of disability benefits with the National Labor Relations Commission (NLRC).^[13]

SCI, on the other hand, held that Palo is not entitled to payment of disability benefits because he committed fraudulent misrepresentation by concealing his pre-existing medical conditions to the company. Palo failed to mention in his PEME for the L/T Cortesia employment contract that he had previous or existing conditions with his back. The company only learned of Palo's pre-existing back conditions when the company-designated physicians had examined him after his medical repatriation.^[14] Per the report of the company-designated physicians dated October 23, 2012, Palo had been examined by the physicians from his previous employment "from October 24, 2001 up to 20 February 2002 for "Mild Disc Bulge L1-L2 and L4-L5; small right paracentral and foraminal disc protrusion, L1-L2 level and was declared fit to work on February 20, 2002."^[15] The company also claimed that there were no reports that Palo suffered an accident while onboard the vessel. In fact, during the separated consults abroad, Palo never claimed that he suffered from an accident that caused his back pains.^[16] If Palo were to be paid disability benefits, he is only entitled to receive partial benefits^[17] because the company designated physicians assessed his back condition with a Grade 8 rating described as "moderate rigidity or 2/3 loss of truncal motion."^[18]

Ruling of the Labor Arbiter

In a Decision^[19] dated November 21, 2013, the Labor Arbiter (LA) granted Palo's claim for payment of permanent and total disability benefits.^[20] As Palo had been examined during the term of his contract and was recommended for medical repatriation, the LA held that his injury was work-related. Further, the nature of his work as Oiler includes regularly carrying heavy objects. The LA did not give credence to SCI's claim of misrepresentation in the PEME. The LA found it illogical for the Masters of the vessel to repeatedly send Palo ashore for examination and treatment without knowledge of his injury in the course of employment. Moreover, the fact that Palo finished his contract onboard MIS CMA CGM Verlaine and was not

recommended for medical repatriation did not "defract" from the fact that he suffered an injury onboard the vessel. The LA held that there were medical certificates of consultation during his term of contract onboard M/S CMA CGM Verlainne, which proves that during the term of employment, he sustained an injury causing his back pain. Further, the medical reports on physical examination and surgical intervention also validated that Palo sustained injury while onboard L/T Cortesia. The law allows a seafarer to claim disability benefits for an injury even if not resulting from an accident. Thus, Palo is entitled to payment of disability benefits. Finally, Palo's injury is considered permanent and total because the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) requires the company-designated physician to issue an assessment stating the degree of disability not exceeding 120 days. As the Grade 8 assessment had been issued to Palo beyond 120 days, his disability is deemed permanent and total. The LA ordered payment of US\$60,000.00 as permanent and total disability benefits, a total of P200,000.00 as moral and exemplary damages and 10% attorney's fees.^[21]

Ruling of the National Labor Relations Commission

SCI filed an appeal^[22] with the NLRC. In a Decision^[23] dated April 30, 2014, the NLRC reversed and set aside the decision of the LA.^[24] Following Section 20(E) of the POEA-SEC, a seafarer who knowingly conceals a pre-existing illness or condition in the PEME shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. Palo failed to indicate in his PEME for the L/T Cortesia contract that he had suffered from or has been diagnosed with back conditions. He only declared his previous operation for hemorrhoids. SCI was able to establish that Palo had a history of back problems as early as 2001. In fact, during Palo's medical consultations with the company-designated physicians, he confirmed that he had been suffering from back pain for more than a year. The NLRC was unconvinced of Palo's defense that the company knew of his back injury while onboard M/V CMA CGM. VERLAINE, prior to the contract for L/T Cortesia. The NLRC emphasized that Palo's non-disclosure referred to the 2001 diagnosis of the physicians from his previous employment and not the incident on M/V CMA CGM VERLAINE. Finding that Palo concealed his pre-existing back conditions, the NLRC held that he is disqualified from receiving total and permanent disability benefits, damages, and attorney's fees.^[25]

Ruling of the Court of Appeals

Palo then filed a Petition for *Certiorari*^[26] under Rule 65 of the Rules of Court with the Court CA. In a Resolution^[27] dated September 3, 2014, the CA denied the petition outright for Palo's failure to state the material dates regarding the timeliness of filing the petition and the addresses of respondents.^[28] Palo moved to reconsider^[29] the foregoing resolution and included in his motion the missing particulars, which was still denied by the CA.^[30]

Petitioner's Arguments

Palo filed the instant Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, arguing that the CA erred in dismissing his case outright. He claims that the failure to indicate respondents' addresses and material dates on timeliness in filing the petition for *certiorari* was due to his counsel's heavy workload, particularly,

preparation of multiple pleadings and several court appearances. The lacking material dates and addresses of respondents were rectified in his motion for reconsideration timely filed with the CA. The CA gravely erred in applying the rules stringently, especially when the procedural lapses have been corrected.^[31]

Respondent's Arguments

In its Comment,^[32] SCI argued that heavy workload is not a reasonable excuse to be exempted from the application of the rules. There must be a persuasive explanation of the failure to properly observe the rules. Further, the 60 days provided under Rule 65 of the Rules of Court is more than sufficient time to file the petition for *certiorari* with the Court of Appeal.^[33]

Ruling of the Court

The CA dismissed outright Palo's petition for *certiorari* for failure to indicate the addresses of respondents and the material dates that show the timeliness of the petition.^[34] Failure to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.^[35] Indeed, rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. However, when the strict and rigid application of the rules would frustrate rather than promote justice, liberally applying procedural rules may be allowed.^[36]

On record, Palo provided the foregoing particulars in his motion for reconsideration filed with the CA.^[37] In view of Palo's compliance with the missing particulars, We deem it prudent that the case be ruled on the merits to advance substantial justice. As Palo's petition was dismissed outright by the CA,^[38] the ordinary course would be to remand the case to the CA for further proceedings. However, the Court may dispense with said procedure to prevent further delays in the disposition of the case.^[39] Furthermore, the complete records of this case have already been elevated allowing this Court to resolve the dispute in a single proceeding instead of remanding to the CA.^[40] The instant petition assails a Resolution of the CA which dates back from 2014. Thus, to remand the case would be contrary to the speedy administration of justice. Instead of remanding the case to the CA, We will resolve the same to serve the ends of justice.

Issue

The sole issue to be resolved is whether Palo is entitled to disability benefits.

SCI claimed that Palo should not be paid disability benefits due to his failure in disclosing a previous diagnosis from 2001 relating to his back condition.^[41] Under Section 20(E)^[42] of the POEA-SEC, a seafarer who knowingly conceals his pre-existing illness or condition in the PEME is liable for misrepresentation and is disqualified from receiving compensation and benefits under the POEA-SEC. The rule seeks to penalize a seafarer who conceals information to pass the pre-employment medical examination.^[43] To negate compensability, it requires fraudulent misrepresentation, where falsity is coupled with intent to deceive and to profit from that deception.^[44]

We hold that Palo is not liable for fraudulent misrepresentation. Here, it is undisputed that Palo experienced back pain onboard M/S CMA CGM Verlaine under

the employment of SCI. During the term of this contract, the employer brought Palo to a hospital in Mexico to be medically examined, where Palo was diagnosed with "Left Lumbociatic, Lumbar Spondilo Artrosis."^[45] After completing the foregoing contract, SCI immediately hired Palo again as Oiler to board L/T Cortesia, where he was declared fit to work in his PEME.^[46] From the foregoing, SCI knows Palo's pre-existing back condition from his employment onboard M/S CMA CGM Verlaine. This circumstance should have prompted SCI to examine further Palo's conditions to determine if he is indeed fit to work onboard L/T Cortesia. An employer is expected to know the physical demands of a seafarer's engagement; it is then equally expected of the employer to peruse the results of the PEME to ensure that, health-wise, its recruits are up to par.^[47] Despite knowledge of the seafarer's pre-existing condition, SCI admitted Palo's fit-to-work PEME assessment issued by the company-designated physician for the L/T Cortesia contract. By accepting the physician's fit-to-work assessment, SCI is bound to that conclusion and its necessary consequences, including, compensating the seafarer for the aggravation of negligently or deliberately overlooked conditions.^[48] Clearly, Palo's non-disclosure of the 2001 diagnosis in the PEME for L/T Cortesia could not have been coupled with intent to deceive as SCI knew of his pre-existing back conditions. In hiring Palo for the L/T Cortesia contract, SCI takes the seafarer as it finds him and assumes the risk of liability.

On that note, We now determine whether or not Palo is entitled to payment of full disability benefits. As a rule, award of disability benefits shall be based from the company-designated physician's final assessment. Section 20(B)^[49] of the POEA-SEC provides that, to constitute a final assessment, a company designated physician's assessment should declare a seafarer fit to work or the degree of his disability. Further defined, a final, conclusive and definite assessment must clearly state whether the seafarer is fit to work or the exact disability rating, or whether such illness is work-related, and without any further condition or treatment.^[50] It should no longer require any further action on the part of the company-designated physician and it is issued by the company-designated physician after he or she has exhausted all possible treatment options within the periods mandated by law.^[51] Relatedly, this final assessment shall be issued within 120 days from the date of the seafarer's medical repatriation or within 240 days, if supported with justification for extension of medical treatment.^[52] Failure to issue a final assessment within the foregoing periods renders a seafarer's illness or injury permanent and total regardless of justification.^[53]

Moreover, this Court cannot emphasize enough that the company-designated physician is mandated to issue a medical certificate, **which should be personally received by the seafarer, or, if not practicable, sent to him/her by any other means** sanctioned by present rules.^[54] The seafarer must be fully and properly informed of his medical condition.^[55] The results of his/her medical examinations, the treatments extended to him/her, the diagnosis and prognosis, if needed, and, of course, his/her disability grading must be fully explained to him/her by no less than the company-designated physician.^[56] The seafarer must be accorded proper notice and due process especially where his/her well-being is at stake.^[57] The effect of failure of the company to furnish the seafarer a copy of his medical certificate militates gravely against the company's cause.^[58]