FIRST DIVISION

[G.R. No. 244098, March 03, 2021]

JEBSENS MARITIME, INC., SEA CHEFS CRUISES LTD./EFFEL T. SANTILLAN, PETITIONERS, VS. LORDELITO B. GUTIERREZ, RESPONDENT.

D E C I S I O N

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated August 29, 2018 and Resolution[3] dated January 14, 2019 of the Court of Appeals (CA) in CA G.R. SP No. 149168 which reversed and set aside the Decision and Resolution of the National Labor Relations Commission (NLRC).

Facts

Lordelito B. Gutierrez (respondent) was hired on March 27, 2014 as Third Cook for the vessel *MV Mein Schiff I* by Jebsens Maritime, Inc.[4] for its foreign principal, Sea Chefs Cruises Ltd. (collectively, petitioners). On June 19, 2014, while on board, respondent experienced severe pain on the right paralumbar area, accompanied by paresthesia on the lower right extremity, and difficulty in movement. He consulted with the ship doctor and underwent magnetic resonance imaging (MRI) scan of the lumbosacral spine while the ship was docked in Kiel, Germany, on June 27, 2014. Thereafter, respondent was diagnosed with Disc Prolapse L4-L5 and medically repatriated on July 2, 2014.[5]

On July 4, 2014, respondent was examined by the company-designated physician at Shiphealth, Inc. On July 9, 2014, he was diagnosed with L4-L5 Herniated Nucleos Pulposus and was recommended to undergo 18 sessions of physical therapy which he completed on September 9, 2014. On the same day, respondent was given his Final Medical Report[6] which diagnosed that his condition had become asymptomatic and declared that he was "FIT TO WORK FOR THE CONDITION REFERRED, CASE CLOSURE."[7]

After receiving the fit to work diagnosis, respondent applied for re-engagement sometime in October 2014, but his application was denied by petitioners because he failed the pre-employment medical examination (PEME). The examining physician during the PEME declared that there was a '"high probability of recurrence' of [respondent's] previous illness."[8] On November 7, 2014, respondent underwent an x-ray of the lumbar spine which showed a mild dextroscoliosis of the lumbar vertebrae.[9]

Proceedings before the Labor Arbiter (LA) and

NLRC

Thus, respondent filed a complaint before the LA on November 28, 2014 for continuation of medical treatment, underpayment of sick leave pay, payment of sickness allowance, and attorney's fees (First Case).[10] The First Case was raffled to LA Jenneth B. Napiza (LA Napiza). In a Decision dated June 16, 2015, LA Napiza dismissed the First Case due to the absence of contrary medical findings from respondent's personally appointed physician to refute the fit to work diagnosis of the company-designated physician.[11]

On July 3, 2015, respondent filed a second complaint, this time for total permanent disability benefits, medical expenses, moral and exemplary damages, and attorney's fees (Second Case).[12] While the First Case was pending, respondent had continued his medical treatment and sought the opinion of a personally appointed physician, Dr. RenatoP. Runas (Dr. Runas). On January 29, 2015, Dr. Runas issued a Medical Evaluation Report[13] finding that respondent was "permanently unfit for sea duty in whatever capacity with a [recommendation for] permanent disability."[14] The Second Case was raffled to LA Julia Cecily Coching-Sosito (LA Sosito). During the conference on July 23, 2015, the parties agreed to refer respondent's condition to a third doctor.[15]

On August 5, 2015, petitioners filed a Motion to Dismiss on the ground of *res judicata*, arguing that the dismissal of the First Case barred respondent from claiming total and permanent disability benefits in the Second Case. LA Sosito denied the motion, holding that the complaint is not barred by *res judicata* as the issues in the First Case and Second Case are not identical.[16]

On January 4, 2016, LA Sosito directed the parties to submit the findings of a third doctor.[17] Respondent submitted the Medical Evaluation Report[18] dated January 29, 2016 of Dr. Jason Paul P. Santiago (Dr. Santiago) who opined that respondent was "presently impaired and might not be able to perform his duty as a Chief cook which involves carrying heavy food pan, cooking utensils, standing for long hours. Physical [t]herapy might lessen the pain whoever (*sic*) higher chance that it will come back again. Surgery might improved (*sic*) but will not guarantee a full recovery and he might not be able to go back to his present job. Lifestyle and work modification should be highly considered to prevent further aggravation of low back pain at (*sic*) prevent other serious complications."[19]

Petitioners opposed the admission of the third doctor's opinion for being irrelevant and inaccurate as it was issued one year and four months from the time that respondent was declared fit for work, and petitioners did not participate in choosing him as the third doctor. LA Sosito denied petitioners' opposition and admitted the report of Dr. Santiago.[20]

Thereafter, both parties filed their respective position papers and replies. Notably, petitioners admitted in their Position Paper[21] that respondent's injury or illness was work-related. They maintained, however, that respondent's claim was barred by *res judicata* and that respondent was already declared fit to work by the company-designated physician. They also reiterated their opposition to the admission of the third doctor's opinion.[22]

On April 29, 2016, LA Sosito issued a Decision[23] in favor of respondent, finding that he had suffered a work-related illness which rendered him totally and permanently disabled and unfit for sea duty. Petitioners were held solidarily liable to pay respondent total permanent disability benefits of US$60,000.00 and attorney's fees of US$6,000.00.[24]

Petitioners appealed LA Sosito's Decision in the Second Case to the NLRC which reversed the Decision and dismissed the complaint on the ground of *res judicata*. The NLRC held that the First Case and Second Case, although praying for different reliefs, involved the same issue as to the validity of the fit to work certification of the company-designated physician. The NLRC held that LA Napiza had already sustained the company-designated physician's findings in the First Case as respondent failed to present the contrary opinion of a personally appointed physician before filing the complaint in the First Case. In initiating the Second Case, respondent sought to re-litigate the same issue.[25] The NLRC denied respondent's Motion for Reconsideration (MR) in its Resolution[26] dated November 15, 2016.

The CA Decision

Respondent elevated the case via Petition for *Certiorari* under Rule 65 before theCA, which ruled in his favor. In its Decision dated August 29, 2018, the CA overturned the findings of the NLRC, holding that the Second Case was not barred by the First Case as they had different causes of action, issues, and reliefs sought. The First Case was an action for payment of sickness allowance and continuation of medical treatment while the Second Case was an action for total and permanent disability benefits. The CA further ruled that the cause of action in the Second Case was not yet in existence at the time of filing of the complaint in the First Case. The CA reinstated LA Sosito's award of total and permanent disability benefits and attorney's fees.[27] Petitioners filed an MR which was denied by the CA in its Resolution dated January 14, 2019.[28]

The Petition

Aggrieved, petitioners filed the instant Petition before the Court assailing the CA Decision and Resolution. Petitioners argue that all the elements of *res judicata* are present in the case. There is identity of parties, subject matter, issues, and causes of action. Respondent's claim for sickness allowance in the First Case and total permanent disability benefits in the Second Case arose from the same illness.[29]

Even assuming that *res judicata* does not apply, petitioners argue that respondent is not entitled to total and permanent disability benefits because the illness for which he was repatriated was already resolved and the company-designated physician had already declared him fit to work.[30]

Petitioners also assail the findings of the third doctor. They maintain that while the parties had agreed to the appointment of a third doctor, it was respondent alone who secured the medical assessment of Dr. Santiago and petitioners had not agreed thereto. Thus, the findings of Dr. Santiago cannot be considered as a valid and binding third doctor opinion.[31]

Respondent filed his Comment[32] asserting that the elements of *res judicata* are not existent in the instant case as the First Case and Second Case involved different

causes of action. Respondent also maintains that he is entitled to total and permanent disability benefits as his personally appointed physician and the third doctor had declared him unfit to work as a seafarer. Respondent also avers that the award of attorney's fees was correct.[33]

Issue

Whether the CA committed reversible error in reversing the NLRC Decision and Resolution.

The Court's Ruling

The Petition lacks merit.

Res judicata is not applicable

The literal interpretation of *res judicata* is "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment."[34] It is anchored on the principle that parties should not be allowed to re-litigate the same issue in multiple suits. Once a right or fact has been tried and established or an opportunity for trial has been provided to the parties, the final judgment of the court shall be conclusive as between the parties and their privies.[35]

There are two concepts of *res judicata,* (1) bar by prior judgment, and (2) conclusiveness of judgment.[36] *Res judicata* as a bar by prior judgment applies when the following requisites are present:

1. The prior decision must be a final judgment or order;
2. The court rendering the same must have jurisdiction over the subject matter and over parties;
3. There must be identity of parties, subject matter, and causes of action between the two cases; and
4. It must be a judgment or order on the merits.[37]

The CA correctly ruled that the Second Case is not barred by *res judicata* as the third element is lacking; the two cases are based on different causes of action. The present case is a claim for total and permanent disability benefits while the First Case was a claim for continuation of medical treatment, payment of sickness allowance, and underpayment of sick leave pay.

A cause of action is defined as an act or omission by which one party violates the right of another.[38] The elements that constitute a cause of action are: (1) the legal right of the plaintiff; (2) correlative obligation of the defendant to respect that legal right; and (3) an act or omission of the defendant that violates such right.[39]

The employer has an obligation to provide medical treatment and sickness allowance under Section 20(A)(2) and (3)[40] of the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC). After the medical treatment, if the seafarer is found to be suffering from permanent total or partial disability due to the work-related injury or illness, the employer has an obligation to pay the seafarer disability benefits under Section 20(A)(6)[41] of the POEA-SEC in accordance with the schedule of disability ratings under Section 32.[42] In some cases, these benefits may be claimed together since they usually arise from the

same injury or illness. In the instant case, respondent had a right to claim the two causes of action separately, even if they arose from the same illness.

It is important to note the particular sequence of events which led respondent to file two subsequent complaints before the LA. Respondent was medically repatriated on July 2, 2014 and immediately underwent medical treatment. The company-designated physician declared respondent fit to work on September 9, 2014. However, when respondent applied for re-engagement sometime in October 2014, his application was denied because he failed the PEME. At this point, respondent had received conflicting medical evaluations within the span of about one month; he was declared fit to work by the company-designated physician on September 9, 2014, but failed the PEME for re-deployment in October 2014. Thus, respondent requested for the continuation of his medical treatment. When petitioners denied his request, respondent was constrained to file the First Case for the continuation of his medical treatment, sickness allowance, and underpayment of sick leave pay. LA Napiza dismissed the First Case due to the absence of contrary medical findings from a personally appointed physician. No further appeal was taken therefrom and the dismissal of the First Case has since become final.

Pending resolution of the First Case, respondent had continued with his medical treatment at his own expense and was eventually diagnosed to be permanently unfit for sea duty by his personally appointed physician on January 29, 2015—this gave rise to a separate cause of action for total and permanent disability benefits.

A fundamental test to determine whether two suits relate to the same cause of action is whether the cause of action in the second case was already existing at the time of filing of the prior complaint.[43] At the time respondent filed the First Case, the cause of action for permanent and total disability benefits did not yet exist as the true nature and extent of respondent's condition and whether this was work-related was not yet known. This is precisely why respondent initially requested for the continuation of his medical treatment instead of immediately claiming disability compensation. Thus, *res judicata* as a bar by prior judgment does not apply as the two cases are premised on different causes of action.

Res judicata under the second concept of conclusiveness of judgment likewise does not apply. The principle of conclusiveness of judgment dictates that when a competent court has issued a final decision on a particular fact or question which has been squarely put in issue, deliberated, and passed upon, the parties cannot raise the same issues or points in a later case even if based on a different cause of action.[44] Stated conversely, if the prior and the latter cases have the same parties but different causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely related thereto.[45]

Conclusiveness of judgment does not bar the Second Case because the issue of whether respondent is entitled to total and permanent disability benefits was not raised and passed upon in the First Case. LA Napiza's Decision in the First Case is conclusive only as to the issue of respondent's non-entitlement to the continuation of medical treatment, sickness allowance, and underpayment of sick leave pay. Moreover, LA Napiza did not categorically rule on respondent's health condition but dismissed the complaint on the ground that respondent did not present contrary medical findings from a personally appointed physician.