

SECOND DIVISION

[G.R. No. 245917, February 26, 2020]

**JOSUE A. ANTOLINO, PETITIONER, VS. HANSEATIC SHIPPING
PHILS. INC., LEONHARD & BLUMBERG REEDEREI GMBH & CO.
KG, AND/OR ROSALINDA P. BAUMANN, RESPONDENTS.**

DECISION

A. REYES, JR., J.:

Medical abandonment by a seafarer carries serious consequences. When a sick or injured seafarer abandons his or her treatment, he or she forfeits the right to claim disability benefits. Of course, financial incapacity to travel to and from the place of treatment may serve as an acceptable justification for failure to attend a check-up. That said, an allegation of financial incapacity, like all allegations, must be supported by clear and convincing evidence. This is especially true in situations where the manning agency has consistently provided the seafarer with sickness allowance during the treatment period.

This petition for review on *certiorari*^[1] challenges the October 31, 2018 Decision^[2] and the March 7, 2019 Resolution^[3] rendered by the Court of Appeals (CA) in CA-G.R. SP No. 150538.

Through the challenged decision and resolution, the appellate court upheld the October 21, 2016 Decision^[4] and the February 27, 2017 Resolution^[5] of the National Labor Relations Commission (NLRC), which reversed the August 8, 2016 Decision^[6] of the Labor Arbiter (LA) awarding total and permanent disability benefits to Josue A. Antolino (Antolino).

The Factual Antecedents

Petitioner Antolino was hired by respondent Hanseatic Shipping Phils. Inc. (Hanseatic) on behalf of its foreign principal, respondent Leonhard & Blumberg Reederei^[7] GMBH & Co. KG, to work as a bosun on board the M/V Hansa Fresenburg. Antolino's contract was to last for 10 months, earning him a monthly salary of US\$810.00.^[8]

While performing his duties on board the vessel, Antolino met an accident resulting in the injury complained of. At 8:30 a.m. on June 5, 2015, he was preparing the gangway net at the ship's starboard side together with another seafarer. He then stepped on the container stacking shoes and lost his balance. As he fell down, he used his left hand to cushion his fall, hurting his elbow in the process.^[9]

Upon arriving in Singapore, Antolino sought medical treatment.^[10] He underwent a radiological exam, the results of which revealed the following:

Findings:

The radius and ulna are intact with no radiolucent fracture line seen. Specifically, at the radial head.

The bones at the wrist are normally aligned with no fracture or dislocation.

Ulnar minus variant noted.

There is a tiny calcific fleck distal to the medial epicondyle that may be due to an avulsed fragment or foreign body. There is no dislocation.

Soft tissue swelling at the left elbow is seen.

There is no displacement of the fat pad to suggest an elbow effusion.

Conclusion:

There is a calcified fleck distal to the medial humeral epicondyle that may be due to an avulsed fragment or foreign body.

No dislocation is seen.

The radius and ulna are unremarkable. Specifically, there is no fracture at the radial head.^[11]

Antolino was thereafter medically repatriated. Upon his arrival in the Philippines, he immediately reported to Hanseatic, who then referred him to its designated medical provider. After a series of tests and consultations, he was subjected to physiotherapy at the Medical Center Manila.^[12]

After his treatment session on October 2, 2015, Antolino returned to his home province in Antique to continue his therapy thereat.^[13] In the meantime, he was paid sickness allowance amounting to US\$3,176.42, for the period covering June 14, 2015 to October 11, 2015.^[14]

On October 5, 2015, Antolino was informed that his next medical examination in Manila was scheduled on November 4, 2015.^[15] Being in dire financial straits, he requested Hanseatic to shoulder his airfare and provide him with ample travel allowance. Hanseatic refused, offering instead to reimburse his expenses upon his arrival in Manila.^[16] Antolino therefore failed to attend the scheduled medical examination.

Antolino was eventually able to finance his trip to Manila. He arrived at the clinic of Hanseatic's medical services provider on January 22, 2016. After presenting the report of the physical therapist who treated him in Antique, he was asked by Dr. Fidel C. Chua (Dr. Chua), the company-designated physician, to sign a fit-to-work document. He was told that refusal to do so would render him ineligible for disability benefits on the ground that he had abandoned his medical treatment. Dr. Chua cited Antolino's failure to appear at the November 4, 2015 check-up.^[17]

Still in pain, Antolino refused to sign the document, and instead sought the opinion of another doctor. He consulted Dr. Manuel Fidel M. Magtira (Dr. Magtira) who then declared him unfit for sea duty.^[18]

Antolino informed Hanseatic of Dr. Magtira's findings, simultaneously requesting that his case be referred to a third medical expert for a conclusive opinion. Because his request went unheeded, he filed a complaint for disability benefits before the LA.^[19]

Hanseatic, in its defense, cited Antolino's alleged medical abandonment. Pointing to his failure to attend the scheduled November 4, 2015 medical examination, the manning company argued that the seafarer had forfeited his disability benefits claim. Hanseatic averred that it had adequately informed Antolino of the scheduled check-up, as well as the consequences of his failure to attend the same. To prove the assertion, the company presented a series of letters that were sent through private courier and received by Antolino himself.^[20]

The LA's Ruling

On August 8, 2016, the LA rendered a Decision granting Antolino total and permanent disability benefits in the amount of US\$60,000.00 plus ten percent (10%) of the award as attorney's fees. Brushing aside Hanseatic's assertion of abandonment, the LA ruled that Antolino's failure to appear at the scheduled medical examination was justified by his financial incapacity. Since he had no money for a plane ticket, it was held that he had not intentionally abandoned his treatment.^[21]

That being the case, the LA proceeded to determine whether Antolino was indeed entitled to total and permanent disability benefits. Ruling in the affirmative, the LA opined that failure to refer Antolino's case to a third doctor should be taken against Hanseatic. Since the company did not reply to the seafarer's request for referral, the latter was deemed totally and permanently disabled in the eyes of the law.^[22] The LA therefore ordered the award of disability benefits, viz.:

WHEREFORE, [p]remises [c]onsidered, this office finds the Complainant to be [t]otally and [p]ermanently disabled. Respondents, jointly and severally are held liable to [Antolino] in the amount of US\$60,000.00 or its Philippine Peso [e]quivalent at the time of payment as total and permanent disability benefit as well as to pay Attorney[']s fees equivalent to ten percent (10%) of the total award.

[Antolino's] other claims are denied for lack of merit.

SO ORDERED.^[23] (Emphasis in the original)

The NLRC's Ruling

On appeal, the NLRC reversed the LA's ruling, finding that Antolino had in fact abandoned his medical treatment. According to the NLRC, Antolino very-well knew that his check-up was scheduled on November 4, 2015. However, he failed to attend the same despite several correspondences from Hanseatic warning him of the consequences of his absence. Antolino's allegation of financial incapacity was given

no credence for not being supported by evidence. Since he appeared before the company-designated physician three months after the scheduled medical examination, he was declared guilty of abandonment.^[24]

Further, the NLRC found that Antolino was not suffering from any total and permanent disability. Since the report of Dr. Magtira, Antolino's chosen physician, was rendered after only one consultation, the veracity of its contents was held to be questionable. Instead, the NLRC relied on the assessment made by Antolino's physical therapist in Antique, which stated that his elbow's range of motion had returned to normal and that its swelling had subsided.^[25] The dispositive portion of the NLRC's decision reads:

WHEREFORE, premises considered, the appeal filed by respondents is GRANTED.

The Decision of Labor Arbiter Eric V. Chuanico dated August 8, 2016 is hereby REVERSED AND SET ASIDE. A new one is entered DISMISSING the complaint for lack of merit.

SO ORDERED.^[26]

After Antolino's motion for reconsideration was denied, he filed a petition for *certiorari* with the CA.

The CA's Ruling

On October 31, 2018, the CA rendered the herein assailed Decision affirming the NLRC. Although the appellate court disagreed that Antolino was guilty of medical abandonment, it still found no merit in his claim for disability compensation. To the CA, Antolino's financial incapacity justified his failure to appear at his scheduled medical examination.^[27] However, it was found that his condition was not of such nature that would warrant an award of total and permanent disability benefits. The CA held that the severity of Antolino's injury did not meet the threshold for such benefits, which, under the law, is "total paralysis of both upper extremities."^[28] The *fallo* of the assailed decision reads:

WHEREFORE, premises considered, the instant petition is **DENIED**. There being no grave abuse of discretion on the part of the public respondent, the assailed Decision dated October 21, 2016 and the Resolution [dated] February 27, 2017 are hereby **AFFIRMED**.

SO ORDERED.^[29] (Emphasis in the original)

Antolino's motion for reconsideration having been denied, he comes before the Court praying for the reversal of the CA's decision and the reinstatement of the LA's award of total and permanent disability benefits.

The Issue

WHETHER OR NOT ANTOLINO IS ENTITLED TO TOTAL AND PERMANENT DISABILITY BENEFITS

The Court's Ruling

The petition must be denied for lack of merit.

Antolino's main argument is anchored on Hanseatic's failure to furnish him with the findings of Dr. Chua, the company-designated physician. Citing the Court's ruling in *Gere v. Anglo-Eastern Crew Management Philippines, Inc.*,^[30] he stresses that it is the duty of the company-designated physician to give the seafarer a copy of his or her findings contained in a final and definite medical assessment. He asserts that failure to do so entitles the seafarer to total and permanent disability benefits on the ground that the employer had failed to observe the rudimentary requirements of due process.^[31]

Further, Antolino contends that the absence of a third doctor's opinion rendered the findings of his own physician, Dr. Magtira, conclusive on Hanseatic. He alleges that he had communicated to Hanseatic his intention to refer his case to a third medical expert. However, his request fell on deaf ears. Since the burden to procure the opinion of a third doctor fell on Hanseatic, the fact that it paid no attention to his request entails that the findings of the company-designated physician should not be afforded any weight.^[32]

Antolino's arguments fail to persuade.

Essentially, the parties fault each other for breaching the provisions of the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC). Antolino blames Hanseatic for failing to comply with its duty to disclose the findings of its physician, as well as its duty to set in motion the third doctor procedure. For its part, Hanseatic accuses Antolino of abandoning his medical treatment.

The outcome of this case will therefore depend on who was guilty of transgressing their obligations under the POEA-SEC.

The Court finds that Antolino had unjustifiably abandoned his medical treatment, resulting in the forfeiture of his disability benefits.

It has been said time and again that seafarers are our modern-day heroes,^[33] contributing, as they do, to the Philippine economy in no small degree. It is therefore in keeping with the public interest that all efforts are undertaken to keep each and every Filipino seafarer in good health. For this reason, manning agencies are legally-bound to provide their sick and injured employees with proper and timely medical attention. Correspondingly, seafarers assume the duty to regularly report to the company-designated physician for treatment. The POEA-SEC, in unmistakable terms, makes this requirement mandatory. This is because a seafarer's wellness is a concern not only of the employer, but more so of the seafarer himself. Surely, it is in all of his best interests that he be kept physically fit for sea duty, primarily so that he is not stripped of a means of sustenance for himself and his family and, secondly, so that he may continue in his pursuit of providing for the nation as a whole. Therefore, when a seafarer abandons his medical treatment, the law steps in to declare the forfeiture of any disability benefits that may have theretofore been claimed.