

## **SECOND DIVISION**

**[ G.R. No. 237373, July 29, 2020 ]**

**JOSEPH MARTINEZ, PETITIONER, VS. OSG SHIP MANAGEMENT MANILA, INC. (SUBSTITUTED BY PACIFIC OCEAN MANNING, INC.), OSG SHIP MANAGEMENT (GR) LTD., MS. MA. CRISTINA H. GARCIA, RESPONDENTS.**

**G.R. NO. 237378**

**OSG SHIP MANAGEMENT MANILA, INC. (SUBSTITUTED BY PACIFIC OCEAN MANNING, INC.), OSG SHIP MANAGEMENT (GR) LTD., MS. MA. CRISTINA H. GARCIA, PETITIONERS, VS. JOSEPH MARTINEZ, RESPONDENT.**

### **DECISION**

**DELOS SANTOS, J.:**

Before this Court are two consolidated Petitions for Review on *Certiorari* docketed as G.R. Nos. 237373<sup>[1]</sup> and 237378<sup>[2]</sup> which seek modification and reversal, respectively, of the Decision<sup>[3]</sup> dated 17 August 2017, and the Resolution<sup>[4]</sup> dated 6 February 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 145338. In the assailed Decision and Resolution, the CA sustained the ruling of the National Labor Relations Commission (NLRC) that Joseph Martinez (Martinez) is entitled to permanent and total disability benefits in the amount of \$95,949.00 but deleted the award of sick wage allowance, medical and travel expenses, and attorney's fees.

### **Facts**

Joseph Martinez was engaged by OSG Ship Management Manila, Inc., in behalf of its principal OSG Ship Management (GR) Ltd., as Chief Cook on board the vessel MT Overseas Antigmar for eight (8) months. He boarded the vessel on 5 December 2013.

During the first week of June 2014, Martinez complained of severe abdominal pain. He was referred to a doctor in Seoul, Korea and was diagnosed with Obstructed Descending Colon Cancer. He was repatriated on 16 June 2014 and was brought to Cardinal Santos Medical Center and at Marine Medical Services. After undergoing several medical procedures, Martinez was diagnosed to have Intestinal Obstruction Secondary to Well Differentiated Mucinous Adenocarcinoma, Descending Colon with Periocolic Involvement. In a medical report dated 26 June 2014, the company-designated doctors explained that the risk factors of Martinez' condition include age, diet rich in saturated fat, fatty acid and linoleic acid and genetic predisposition. They then opined that Martinez' illness is "likely not work-related". Martinez was then treated as an out-patient and underwent chemotherapy.

Meanwhile, on 16 June 2014, the management of MT Overseas Antigmar was transferred to Pacific Ocean Manning, Inc. (Pacific Ocean Maiming) which executed an Affidavit of Assumption of Responsibility in favor of OSG Ship Management, Inc. [5]

On 17 November 2014, Martinez filed a complaint for total and permanent disability benefits, payment of sick wages for 130 days, reimbursement of medical and transportation expenses, moral and exemplary damages, and attorney's fees against OSG Ship Management Manila, Inc., OSG Ship Management (GR) Ltd., and Ms. Ma. Cristina H. Garcia (collectively, OSG). Martinez claimed that his illness is work-related since his job is strenuous and stressful; the meals being served are lengthily frozen, salty and fatty; and in some cases, the water is substandard.

In its Position Paper, OSG, substituted by Pacific Ocean Manning, alleged that as declared by the company-designated physicians, Martinez' illness is not work-related. As such, the same is not compensable under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC). Furthermore, Pacific Ocean Manning claimed that Martinez is not entitled to damages and attorney's fees, and that he was given medical assistance and was fully paid of his sickness allowance.

On 14 January 2015, Martinez consulted Dr. Efren Vicaldo who declared that Martinez is unfit to resume work as seaman in any capacity and that his illness is work-aggravated or work-related. He submitted the said medical findings to the Labor Arbiter (LA). On the other hand, OSG and Pacific Ocean Manning submitted the Affidavit of Mervin Balane Daet (Daet), a Messman on MT Overseas Antigmar, who attested that the crew on board the said vessel was provided safe and healthful working conditions and adequate and nutritious food.

### **Labor Arbiter Ruling**

On 7 April 2015, the LA rendered a Decision in favor of Martinez, the dispositive portion of which reads:

WHEREFORE, premises considered, complainant's illness is deemed work-related and is considered to be permanent and total.

Pacific Ocean Manning, Inc., OSG Shipmanagement Manila Inc., OSG Shipmanagement Manila, Inc. (sic) are hereby ORDERED to pay complainant a sum of US Dollars \$95,949.00 or its peso equivalent at the time of payment, as permanent total disability benefits, a sum of US Dollars \$5,240.00, or its peso equivalent as of the time of payment, as sick wage allowance, Php49,218.25 as medical and travel expenses reimbursement. The respondents are also ordered to pay the complainant attorney's fees equivalent to ten percent of the judgment award.

SO ORDERED. [6]

Hence, OSG and Pacific Ocean Manning appealed the above Decision to the NLRC.

## NLRC Ruling

In its 14 December 2015 Decision, the NLRC affirmed the LA's Decision. OSG and Pacific Ocean Manning filed a motion for reconsideration but the same was denied in the NLRC 29 February 2016 Resolution. Thereafter, they went to the CA on a Petition for *Certiorari* under Rule 65 of the Rules of Court.<sup>[7]</sup>

On 4 August 2016, by virtue of a conditional satisfaction of judgment agreed by the parties, OSG paid the total amount of P5,181,389.00 to Martinez.

## Court of Appeals Ruling

On 17 August 2017, the CA rendered the now assailed Decision which sustained the ruling of the NLRC that Martinez' illness is work-related and that he is entitled to permanent and total disability benefits. The CA ruled that the NLRC did not commit grave abuse of discretion since its factual finding that Martinez' illness is work-related is supported by substantial evidence. The CA, however, modified the Decision of the NLRC by deleting the award of sick wage allowance, medical and travel expenses, and attorney's fees. The CA decreed as follows:

**FOR THESE REASONS**, the petition is **PARTLY GRANTED**. The December 14, 2015 Decision and February 29, 2016 Resolution of the National Labor Relations Commission is **MODIFIED** in that the award of sick wage allowance, medical and travel expenses, and attorney's fees are deleted.

**SO ORDERED.**<sup>[8]</sup>

Dissatisfied with the CA Decision, OSG and Pacific Ocean Manning filed a motion for reconsideration. Martinez also filed a motion for partial reconsideration in so far as the CA deleted the award of attorney's fees. He also maintained that the *certiorari* petition was mooted by virtue of a conditional settlement which would prevent OSG and Pacific Ocean Manning from taking back the judgment award previously granted by the labor tribunals, which was already paid and received by Martinez in full amount. The two motions for reconsideration were denied by the CA in a Resolution dated 6 February 2018.<sup>[9]</sup>

Thereafter, Martinez filed before the Court a Motion for an Extension of Time to File Petition Under Rule 45<sup>[10]</sup> which was docketed as G.R. No. 237373. On the other hand, OSG and Pacific Ocean Manning filed a Petition for Review on *Certiorari*<sup>[11]</sup> which was docketed as G.R. No. 237378. Both cases were accordingly consolidated.

In the Court's 18 June 2018 Resolution,<sup>[12]</sup> G.R. No. 237373 was declared closed and terminated after Martinez failed to file the intended petition. Hence, what remains now for resolution of the Court is the petition of OSG and Pacific Ocean Manning.

In their petition, OSG and Pacific Ocean Manning posed the sole issue, to wit:

WHETHER OR NOT THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW IN AWARDING FULL AND PERMANENT

DISABILITY BENEFITS, DISREGARDING THE MEDICAL FINDINGS OF THE COMPANY-DESIGNATED PHYSICIAN AND AWARDING FULL DISABILITY COMPENSATION UNDER THE POEA CONTRACT AND THE COLLECTIVE BARGAINING AGREEMENT (CBA).

In support of their petition, OSG and Pacific Ocean Manning argue, in summary, that Martinez failed to present substantial evidence that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions. On the contrary, OSG and Pacific Ocean Manning posit that the CA should have given evidentiary weight to the Affidavit of Messman Daet regarding the safe and healthful working condition of Martinez while on board the vessel and of the fact that the company-designated physicians found Martinez' illness as not work-related. It is also their position that Martinez has no cause of action against them at the time of the filing of his complaint. OSG and Pacific Ocean Manning seek the attention of the Court to the fact that Martinez immediately filed his labor complaint on 17 November 2014 without consulting first his private doctor and securing a medical certificate that he is totally and permanently disabled.

### **The Court's Ruling**

The petition is not meritorious.

Pursuant to Section 20 (A) of the 2010 POEA-SEC,<sup>[13]</sup> the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract.

In this case, OSG and Pacific Ocean Manning argued that Martinez' illness, which is not listed as a disability under Section 32 of the POEA-SEC nor listed as an occupational disease under Section 32-A of the same rule, is not work-related since there is no causal connection between the nature of his employment and his illness. This, however, is a factual issue that is generally not reviewable in a petition under Rule 45 of the Rules of Court.<sup>[14]</sup>

A petition for review is limited to questions of law. The Court does not re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field. Factual findings of the NLRC, when affirmed by the CA, are generally conclusive on the Court.<sup>[15]</sup> Nonetheless, OSG and Pacific Ocean Manning present no compelling reason for the Court to deviate from this general rule.

It is, however, settled in this jurisdiction that this Court may examine the CA's Decision from the prism of whether the latter had correctly determined the presence or absence of grave abuse of discretion in the NLRC's Decision.<sup>[16]</sup> In this case, the Court finds no reversible error on the part of the CA when it declared that the NLRC did not commit grave abuse of discretion in affirming the ruling of the LA that Martinez' illness is work-related and compensable.

The CA correctly ruled that the findings of the LA, as affirmed by NLRC, that Martinez' colon cancer is work-related or work-aggravated is supported by