

# FIRST DIVISION

[ G.R. No. 225756, November 28, 2019 ]

**VICTORINO G. RANOA, PETITIONER, VS. ANGLO-EASTERN CREW MANAGEMENT PHILS., INC., ANGLO-EASTERN CREW MGT. (ASIA) LTD., AND/OR CAPT. GREGORIO B. SIALSA, AND COURT OF APPEALS (TENTH DIVISION), RESPONDENTS.**

## DECISION

**LAZARO-JAVIER, J.:**

### The Case

This petition for review on *certiorari*<sup>[1]</sup> seeks to reverse the Decision<sup>[2]</sup> dated February 29, 2016 of the Court of Appeals in CA-G.R. SP No. 140690 holding that petitioner Victorino G. Ranoa<sup>[3]</sup> was not entitled to permanent disability benefits.

### Antecedents

On March 19, 2013, private respondent Anglo-Eastern Crew Management Phils., Inc., for and on behalf of its principal, private respondent Anglo-Eastern Crew Management (Asia) Ltd., hired petitioner as Master of its vessel "Genco Bay" for six (6) months with a monthly salary of USD1,943.00.<sup>[4]</sup>

Petitioner's responsibilities included commanding the ship in the transport of passengers and cargo, setting the course of the ship, inspecting the ship for safe and efficient operation, coordinating the activities of other crew members concerned for signaling devices, and calculating landfall sighting.<sup>[5]</sup>

Prior to his deployment, petitioner underwent routinary Pre-Employment Medical Examination (PEME). In the process, petitioner was asked whether he was aware of, diagnosed with, or treated for hypertension and heart disease, among others. Petitioner answered in the negative. Based on the results of his examination, petitioner was declared fit for sea duty and got deployed on March 26, 2013.<sup>[6]</sup>

On May 21, 2013, barely two (2) months on board, petitioner suffered dizziness, vomiting, chest pain, shortness of breath, and cold sweat. He was brought to a doctor in London who noted his elevated blood pressure at 170/100mmHg. Consequently, he got repatriated on May 26, 2013. As soon as he arrived back in the country, he was referred to company-designated doctors Karen Frances Hao-Quan and Marianne C. Sy.<sup>[7]</sup>

The doctors' initial finding was "*(t)o Consider Cardiac (Dysrhythmia); To Consider Coronary Artery Disease; Hypertensive Cardiovascular Disease.*" On October 24, 2013, the doctors issued a Grade 12 disability rating.<sup>[8]</sup>

Dissatisfied, he sought the opinion of a private doctor, Dr. Antonio C. Pascual of the Philippine Heart Center on April 1, 2014. Dr. Pascual found him to be suffering from Stage 2 hypertension and coronary artery disease and advised him to continue with his medication and treatment. Dr. Pascual, thus, opined that petitioner was unfit for sea duties.<sup>[9]</sup>

Petitioner averred that despite this finding, private respondents refused to award him total and permanent disability benefits. Hence, he got constrained to file the complaint below for permanent total disability benefits.<sup>[10]</sup>

Private respondents, on the other hand, argued that petitioner willfully concealed the fact that he was previously diagnosed with coronary artery disease and had undergone coronary angiogram. Assuming that petitioner was entitled to disability benefits, he was only entitled to Grade 12 disability benefits, as opined by the company-designated doctors.<sup>[11]</sup>

### **The Labor Arbiter's Ruling**

By Decision dated October 1, 2014,<sup>[12]</sup> Labor Arbiter Eric V. Chuanico granted petitioner's claim for total and permanent disability benefits, *viz.*:

**WHEREFORE**, (p)remises (c)onsidered, this Office finds the Complainant to be (t)otally and (p)ermanently (d)isabled. Respondents, jointly and severally are held liable to the Complainant the amount of US\$155,257.00 or its Philippine Peso (e)quivalent at the time of payment as total and permanent disability benefit plus (d)amages of Php100,000.00 as well as to pay (attorney's fees equivalent to ten percent (10%) of the total award.

Complainant's other claims are denied for lack of merit.

**SO ORDERED.**<sup>[13]</sup>

Labor Arbiter Chuanico found private respondents' charge of concealment of material fact to be unsubstantiated. He held that the company-designated doctors should have required petitioner to present his previous diagnoses to ascertain all available information surrounding his illness. Private respondents' failure to require petitioner to present his previous medical records led to no other conclusion but that the statements made in the company-designated doctors' sworn affidavit were "*nothing more than self-serving allegations bereft of any credence.*" As such, he cannot consider this allegation relevant, nay, applicable to the charge of material concealment against petitioner. Too, sustaining the allegation would violate the principle of privileged communication, hence, inadmissible in evidence.

Records showed that petitioner was asymptomatic when he boarded the vessel. He was also deemed fit for sea duties. If petitioner already had a heart condition prior to boarding, then the same would have been reflected in his PEME, but it was not. Petitioner, therefore, was deemed fit prior to assuming his duties. His work on board caused or at least contributed to the development of his illness; thus, the same is

compensable.

### **The National Labor Relations Commission's (NLRC) Ruling**

On private respondents' appeal, the NLRC affirmed with modification through its Decision dated January 30, 2015,<sup>[14]</sup> to wit:

WHEREFORE, the appeal is PARTLY MERITORIOUS and GRANTED. The Labor Arbiter's award of damages amounting to P100,000.00 is hereby DELETED.

All other dispositions in the judgment aquo (sic) is hereby AFFIRMED.

SO ORDERED.<sup>[15]</sup>

The NLRC held that petitioner was not guilty of concealment or misrepresentation when he did not disclose that he had previously undergone an angiogram. It said - that an angiogram was neither an illness nor an operation, it was simply a "*procedure preparatory to an operation.*" Since nothing serious came out of it, petitioner did not conceal anything when he did not indicate it in his PEME. In any case, he was found fit for sea duties. More, cardiovascular disease was one of the occupational diseases listed under Section 32-A of the Philippine Overseas Employment Administration - Standard Employment Contract (POEA-SEC).

Private respondents, too, may not insist that petitioner was only entitled to Grade 12 disability benefits in accordance with the company-designated doctors' findings. Petitioner's personal physician found him unfit for sea duties. In any event, it was not the injury which was being compensated, but the incapacity to work resulting in the impairment of one's earning capacity. Petitioner had been out of work for more than two hundred and forty (240) days. By operation of law, he was already deemed totally and permanently disabled to resume work as a seafarer.

Considering, however, that private respondents promptly attended to petitioner's medical need upon his repatriation, the award of damages was unnecessary.

Private respondents' motion for reconsideration was denied under Resolution dated March 31, 2015.<sup>[16]</sup>

### **The Court of Appeals' Ruling**

On private respondents' petition for *certiorari*, the Court of Appeals, in its Decision dated February 29, 2016,<sup>[17]</sup> reversed the NLRC Decision.

The Court of Appeals held that while petitioner was indeed diagnosed with hypertensive cardiovascular disease and minor coronary artery disease, he failed to prove the existence of the circumstances to make the disease compensable under the POEA-SEC. Petitioner did not show that he was indeed exposed to a certain degree of strain in work that would contribute to the deterioration of his health. His employment contract even showed that he was required to work for only six (6) hours a day.

Private respondents' doctors, on the other hand, were consistent in finding that even

prior to boarding, petitioner already had cardiovascular disease. These two (2) company-designated physicians from different hospitals swore that petitioner told them he had previously been diagnosed with hypertension and took medicines therefor for a year. Petitioner did not refute this. Notably too, there was no iota of evidence showing that petitioner was complying with his prescribed medications for such illness. Petitioner was even advised during treatment to quit smoking.

Petitioner cannot deny his existing illness, albeit he was found fit to work after his PEME. Jurisprudence had consistently held that a PEME is generally not exploratory in nature, nor a thorough examination of an applicant's medical condition. Neither can petitioner argue that the revelation by the company-designated doctors that he had been previously diagnosed with a heart ailment was a fruit of the poisonous tree. This principle applies only to unreasonable searches and seizures.

Lastly, petitioner did not even ask to be referred to a third doctor after his chosen physician came out with a finding contrary to those of the company-designated doctors. The POEA-SEC commands such referral and so does jurisprudence. This is specially applicable here considering that merely seven (7) days after consulting with his private doctor, petitioner already sought legal recourse.

### **The Present Petition**

Petitioner now seeks affirmative relief from the Court and prays that the dispositions of the Court of Appeals be reversed and set aside.

#### *Petitioner's Position*<sup>[18]</sup>

Petitioner argues that he is not guilty of material concealment. Aside from the company-designated doctors' self-serving allegations that he supposedly mentioned to them that he was previously diagnosed with hypertension and underwent coronary angiogram in 2010, there is nothing on record to support the same. Dr. Sy even mentioned that he purportedly showed him and the other doctor a copy of the result of his angiogram. If this were true, Dr. Sy should have then obtained a copy of the same when his treatment was ongoing.

In any event, disclosing to others what he supposedly told the company-designated doctors is a blatant violation of the privileged communication between doctor and patient. Thus, it is inadmissible in evidence. Too, sans any proof that the angiogram showed abnormal findings and continuing illness, it cannot be said that he was guilty of concealment. At any rate, he was deemed fit for duty as a result of his PEME.

His illness is total and permanent. Although the company-designated physicians rated him with Grade 12 disability, the same is not binding. He had the option of consulting a second physician of his choice. His chosen physician found him to be unfit for sea duties. In fact, as of October 24, 2013, he was still suffering from episodes of palpitation and skip beats. Also, his constant exposure to stress is a known risk factor of his illness. As he was cautioned not to expose himself to strenuous activities, hence, he could no longer resume his sea duties. From the time he was medically repatriated, he had not engaged in any occupation.

More, contrary to the Court of Appeals' ruling, referral to a third doctor is not mandatory. In any case, the process of choosing and appointing a third doctor rests

on private respondents, not on him.

### *Private Respondents' Position*<sup>[19]</sup>

Private respondents assert that petitioner's arguments are a mere rehash of the matters already resolved by the Court of Appeals. Petitioner willfully concealed the fact of his previous illness. When he was asked during his PEME whether he got hospitalized due to or whether he was aware of any medical problems like hypertension and heart disease, petitioner answered in the negative despite knowing full well that he had been diagnosed with this illness and had in fact undergone coronary angiogram. For this, he was even prescribed with certain medications which he took for one (1) year. It was only when he got medically repatriated on May 26, 2013 that he essentially admitted to the company-designated doctors his past diagnoses. Being a pre-existing condition, therefore, petitioner's illness is non-compensable.

Petitioner cannot also fault them for not securing copies of his past medical records. During the proceedings before the labor arbiter and the NLRC, they had repeatedly requested the labor tribunals to require petitioner's doctors to submit the latter's medical records. But the labor tribunals simply brushed aside their requests. In any case, the company-designated doctors had stated under oath what petitioner had told them regarding his past illness. Dr. Sy attested that petitioner showed her the result of his angiogram but did not give her a copy thereof. Jurisprudence teaches that notarized documents are accorded full faith and credence.

Petitioner cannot invoke the doctor-patient privileged communication rule. This rule applies only to civil cases and not to labor cases. Also, the privileged communication only pertains to those that would "*blacken the reputation of the patient*" which is not the case here.

Further, petitioner should have demanded referral to a third doctor instead of immediately filing the complaint below. As the Court of Appeals correctly held, referral to a third doctor is mandatory.

More important, petitioner was not totally and permanently disabled. As proved by two (2) Overseas Filipino Worker (OFW) Information from the POEA, petitioner was subsequently engaged by TDG Crew Management Inc. in December 2016 and by Seacrest Maritime Management Inc. in December 2017.<sup>[20]</sup>

### **Issues**

1. Is petitioner guilty of material concealment of a previous medical condition?
2. Is referral to a third doctor mandatory?
3. Is petitioner entitled to total and permanent disability benefits?

### **Ruling**

To begin with, being not a trier of facts, it is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that the factual findings of the Court of Appeals are conclusive and binding on this Court. The Court,