

SECOND DIVISION

[G.R. No. 231111, October 17, 2018]

CHRISTIAN ALBERT A. CARIÑO, PETITIONER, V. MAINE MARINE PHILS., INC., MISUGA KAIUN CO. LTD., AND CORAZON GUESE-SONGCUYA, RESPONDENTS.

DECISION

CAGUIOA, J:

Petitioner Christian Albert A. Cariño (Cariño) filed a petition for review on *certiorari*^[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision^[2] dated December 16, 2016 and Resolution^[3] March 30, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 141797. The CA dismissed the petition for *certiorari* and affirmed the National Labor Relations Commission (NLRC)'s Resolution^[4] dated April 17, 2015 which ruled that Cariño was not entitled to disability benefits and other money claims. The NLRC reversed and set aside the Labor Arbiter's (LA) Decision^[5] dated January 13, 2015 which awarded permanent and total disability benefits, sickness allowances, moral and exemplary damages, and attorney's fees.

Facts

The CA summarized the antecedents as follows:

A complaint for permanent and total disability benefits, payment of sickness allowance, reimbursement of medical and related expenses, damages and attorney's fees was filed by Christian Albert Cariño, (Cariño, for short), as complainant, against Maine Marine Philippines, Inc., Misuga Kaiun Co., Ltd. and Corazon Guese-Songcuya, as respondents, before the labor arbiter, docketed as NLRC Case No. RAB-1 (OFW-S) 03-1039-14 (LU-2).

In his Position Paper, Complainant Cariño alleged that he was hired by respondents as deck boy aboard "M/V Raga" with a basic monthly salary of US\$235.00 and for a duration of nine (9) months; he underwent a pre-employment medical examination and was declared as fit to work; his primary task was to clean the deck area and deck fittings; on August 9, 2013, while performing his duties, he accidentally slipped into a manhole; due to said accident, he experienced severe pain [in] his right ankle and was immediately brought to the ship hospital; he was given a cold pack to reduce the swelling of his ankle and feet and thereafter, his ankle was bandaged; pain relievers [were] likewise given to him to alleviate the pain; thereafter, on August 14, 2013, he was brought to Vishwa Sanjivani Health Center in Mormogao, India for medical treatment; his x-ray examination showed that he sustained multiple fractures on his right fibula and malleolar fracture of right ankle, thus, he underwent an emergency operation wherein a steel plate and screws

were embedded in the affected areas of his right foot and a cast was placed to immobilize the affected area; he was discharged [on] August 15, 2013 and was advised to rest at the ship's cabin; he was repatriated for medical reasons on August 17, 2013; after his arrival, he was referred to Dr. Tacata of Manila Doctors Hospital who merely removed the suture from [the] operation and advised him of the next schedule for a follow-up; on September 10, 2013, he reported to the NGC Medical Clinic and his feet [were] cleaned and [the] dressing changed; during said visit, he was informed by NGC Medical Clinic that Respondent Maine Marine withheld approval of further treatment and was advised to await approval; despite his persistent demands and repeated follow-ups, the schedule of his next treatment never came; he sent a Letter dated October 28, 2013 to Respondent [Maine Marine] requesting for approval of further treatment and release of his sickness allowance; as result of respondents' continuing refusal to provide him medical attention, he was constrained to consult an independent doctor, Dr. Nicanor F. Escutin, a Specialist on Orthopedic Surgery, to assess his condition; Dr. Nicanor F. Escutin issued an Orthopedic Evaluation dated March 5, 2014 stating that due to a problem [with] his right ankle, he cannot perform strenuous and vigorous activities of a seaman therefore, he is unfit to be a seaman in whatever capacity; as his injury is work-related and given the failure of the company-designated physician to make an assessment of his condition after the lapse of 120 days, he is entitled to permanent and total disability benefits, sickness allowance, damages and attorney's fees.

On the other hand, respondents, in their Position Paper, argued that they provided the necessary medical attention to complainant as evidenced by the 1st Medical Report and 2nd Medical Report; his next appointment was on September 17, 2013 but complainant no longer reported back for further treatment as evidenced by the Medical Report dated September 30, 2013 issued by the company-designated physician; on December 27, 2013, instead of getting himself treated, complainant filed a complaint for disability benefits but was later withdrawn; thereafter, on March 13, 2014, complainant filed this complaint; complainant is not entitled to permanent and total disability benefits because he abandoned his medical treatment with the company-designated physician; the Medical Advice dated September 2, 2013 showed that complainant's condition is good and that he will be declared fit to work after treatment; complainant's claim for damages is unjustified and without basis as they have complied in good faith with their contractual obligations.

In his Reply, complainant denied abandoning his medical treatment and presented the series of conversations (SMS and facebook chat conversations) between him and a certain Yhang Talavera, a personnel of Respondent Maine Marine, from September 12, 2013 to October 17, 2013. He further alleged that since the approval of medical treatment and replacement of the cast never came, he wrote a formal letter requesting for treatment as his condition has worsened but respondents never replied; he also had the right to seek the care of a physician of his choice in view of respondents' abdication of their duty to provide him medical treatment.

Respondents, in their Reply, countered that complainant is not entitled to disability compensation as he failed to present the purported CBA. Moreover, the findings of complainant's own physician is (sic) unreliable. In fact, his own physician failed to assign a disability grade. They reiterated that complainant abandoned his treatment, thus, he had forfeited his right to claim disability benefits.^[6]

LA's Decision

In his Decision, the LA ruled in Cariño's favor, and found that: (a) his employment contract, which was approved by the Philippine Overseas Employment Administration (POEA), specifically stated that it is covered by the IBF JSU/AMOSUP-IMMAJ^[7] Collective Bargaining Agreement (CBA);^[8] (b) Cariño did not abandon his medical treatment but rather the respondent Maine Marine Phils., Inc. (Maine Marine) ignored his plea for medical examination as seen through the exchange of messages between Cariño and Yhang Talavera (Talavera), where it was revealed that Cariño had been consistently inquiring as to when would his continued medical examination be approved, considering that he also had to rely on Maine Marine for travel expenses from La Union to Manila for treatment, but Maine Marine ignored his requests, thus negating Maine Marine's allegation that Cariño had abandoned his medical treatment;^[9] (c) from his medical repatriation on August 16, 2013^[10] until the last hearing with the LA on November 18, 2014, he needed a pair of crutches to move from one place to another, which meant that he was obviously unfit for sea duty;^[11] and (d) respondents were liable for moral and exemplary damages and attorney's fees for giving Cariño a run around for which he was compelled to engage the services of a counsel.^[12]

The dispositive portion of the LA's Decision reads:

IN VIEW THEREOF, judgment is hereby rendered directing MAINE MARINE PHILIPPINES, INC. and CORAZON GUESE SONGCUYA, to jointly and severally pay the claims of complainant as follows:

1. Permanent and Total Disability Benefits – US\$100,000.00
2. Sickness Allowance for 120 days – US\$939.60
3. Moral damages – P50,000.00
4. Exemplary damages – P50,000.00

plus 10% of the monetary award as attorney's fees.

SO ORDERED.^[13]

NLRC's Resolution

On appeal by Maine Marine, the NLRC reversed the LA's Decision, thus:

WHEREFORE, the Motion to Suspend the Proceedings and to Order Complainant-Appellee to report to the Company-Designated Doctor filed by respondents Maine Marine Philippines, Inc., Misuga Kaiun Co. Ltd., and Corazon Guese-Songcuya, is **DENIED** for lack of merit. On the other hand, the appeal filed by respondents is **GRANTED**. The *Decision* dated 13 January 2015 is **REVERSED** and **SET ASIDE** and a new one is hereby

entered **DISMISSING** the complaint for total and permanent disability compensation and all other money claims.

SO ORDERED.^[14]

The NLRC held that: (a) Cariño failed to observe the mandatory procedures under the 2010 POEA-Standard Employment Contract^[15] (POEA-SEC) when the company-designated physicians were deprived of the opportunity to determine his fitness to work when he failed to appear during his scheduled treatment;^[16] (b) Cariño had prematurely filed the complaint with the NLRC, having been filed only 198 days from reporting to the company-designated physician on August 27, 2013;^[17] and (c) the medical certificate of Cariño's doctor, Dr. Nicanor Escutin^[18] (Dr. Escutin), was based only on his medical history, and not on a thorough examination conducted by Dr. Escutin himself, and that it failed to provide Cariño's disability grade. ^[19]

CA's Decision

On *certiorari* by Cariño, the CA affirmed the NLRC's Resolution, thus:

WHEREFORE, premises considered, the petition is **DISMISSED**. The assailed (i) Resolution dated April 17, 2015 and the subsequent (ii) Resolution dated June 16, 2015 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 02-000174-15/NLRC RAB I (OFW-S) 03-1039-14 (LU-2) are **AFFIRMED**.

SO ORDERED.^[20]

The CA ruled that Cariño himself deprived the company-designated physician the opportunity to assess whether he was fit to work or his disability rating when he failed to report to the doctor on the scheduled check-up date on September 17, 2013.^[21] For the CA, even though Cariño presented the messages between him and Talavera, there was nothing in the conversation that signified that he was no longer subject to evaluation or treatment by the company-designated physician.^[22] Therefore, the failure to arrive at an assessment was not the fault of the company-designated physician but because of Cariño's refusal to cooperate and undergo further treatment.^[23]

Hence, this Petition.

Issue

Whether the CA erred in ruling that Cariño had abandoned his treatment with the company-designated physician so as to deny him permanent and total disability benefits.

The Court's Ruling

The Petition is granted.

As a rule, "[i]n appeals by *certiorari* under Rule 45 of the Rules of Court, the task of the Court is generally to review only errors of law since it is not a trier of facts, a rule which definitely applies to labor cases."^[24] As the Court ruled in *Scanmar Maritime Services, Inc. v. Conag*^[25]: "But while the NLRC and the LA are imbued

with expertise and authority to resolve factual issues, the Court has in exceptional cases delved into them where there is insufficient evidence to support their findings, or too much is deduced from the bare facts submitted by the parties, or the LA and the NLRC came up with conflicting findings x x x."^[26]

Here, the factual findings of the LA vis-a-vis the NLRC as confirmed by the CA are conflicting. Further, there was insufficient evidence to support the factual findings of the NLRC and CA. The foregoing warrants a review of the factual findings of the NLRC and CA.

***Petitioner did not
abandon his medical
treatment.***

Both the NLRC and CA ruled that Cariño violated Section 20(A) of the POEA-SEC when he failed to appear during his September 17, 2013 schedule with the company-designated physician. On the other hand, the LA found that Cariño had fervently and consistently requested for approval of his request for approval of his medical procedures, but his requests were ignored. The Court agrees with the LA.

Indeed, Cariño failed to appear during his September 17, 2013 appointment with the company-designated physician. But, as shown below, he cannot be faulted for this because it was his employer that failed to pay his sickness allowance and to confirm the approval of his medical treatment, causing him to fail to appear during the September 17, 2013 appointment.

The employer has the duty to provide all the medical treatment to a medically repatriated seafarer. It also has to pay the sickness allowance based on his daily wage until the seafarer is declared fit. This is clear from Section 20(A)(2) and (3) of the POEA-SEC. Section 20(A) of the POEA-SEC states:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the ship;
2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. **However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.**
3. **In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount**