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SECOND DIVISION

[G.R. No. 208215, April 19, 2017]

C.F. SHARP CREW MANAGEMENT, INC., NORWEGIAN CRUISE LINE, LTD. AND/OR MR. JUAN JOSE ROCHA, PETITIONERS, VS. RHUDEL A. CASTILLO, RESPONDENT.

DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court which seeks to annul and set aside the Decision[2] dated February 12, 2013 and the Resolution[3] dated July 10, 2013 of the Court of Appeals (*CA*) in CA G.R. SP No. 120043 reversing the Decision[4] dated January 25, 2011 of the National Labor Relations Commission (*NLRC*), First Division, in NLRC LAC Case No. OFW(L)-10-000850-10 affirming the Decision[5] of the Labor Arbiter dated September 6, 2010 which dismissed the respondent's complaint to recover permanent disability benefits.

The factual antecedents are as follows:

On June 6, 2008, respondent was hired by petitioner C.F. Sharp Crew Management on behalf of its foreign principal, petitioner Norwegian Cruise Line, Ltd., to serve as Security Guard on board the vessel MV Norwegian Sun under the Contract of Employment[6] of even date. The POEA-approved contract was for a period of ten (10) months, with a basic monthly salary of US$559.00

On June 16, 2008, respondent boarded the ship MV Norwegian Sun.[7] Prior to his deployment, respondent underwent a Pre-employment Medical Examination (*PEME*) and was pronounced fit to work.[8] While on board the vessel, respondent suffered from difficulty of breathing and had a brief seizure attack causing him to fall from his bed. He was immediately treated by the ship doctor.[9]

When the ship docked at the port of Mazatlan, Sinaloa, Mexico, respondent was brought to a hospital where he was immediately admitted. He was confined at the hospital from September 24, 2008 to October 5, 2008 as evidenced by the medical reports[10] issued by Dr. Jesus Aguilar of Hospital Clinica Siglo XXI in Mazatlan, Mexico. It was found that respondent was suffering from "right parietal hemorrhage" of the brain and was given medications to prevent seizures.

Respondent was repatriated on October 7, 2008. He was referred to the company-designated physicians, Dr. Susannah Ong-Salvador (*Dr. OngSalvador*) and Dr. Antonio A. Pobre (*Dr. Pobre*), at Comprehensive Marine Medical Services for further treatment, evaluation and management. He underwent a magnetic resonance

imaging (*MRI*) on October 20, 2008[11] with the following findings: "T1 and T2 weighted hyperdensity over cortico-white matter junction of the right parietal lobe."

After a series of examinations, respondent was initially diagnosed as suffering from "arterio-venous malformation, right parietal" and was found to have "intracerebral hemorrhage over the superior parietal at right due to small arterio-venous malformation or angioma."[12]

On December 16, 2008, respondent was admitted at the Ramon Magsaysay Memorial Medical Center where he underwent a "4-Vesssel Carotid Angiogram" at petitioners' expense. The result revealed that there was a "small local venous channel or venous pooling in the right anterior parietal lobe[13] of respondent's brain. He was then referred to a neurosurgeon, Dr. Alfred Tan, for further medical treatment and management.

Subsequently, two (2) follow-up reports were issued by Dr. Pobre on January 9, 2009[14] and February 9, 2009[15] wherein it was stated that Dr. Alfred Tan explained to him that surgery is suggested to be performed on the respondent to prevent recurrent "intracerebral hemorrhage." Respondent made follow-up visits on March 9, 2009[16] and March 17, 2009[17] as shown in the follow-up reports of Dr. Pobre of even dates.

On April 16, 2009, a Medical Progress Report[18] was issued by Dr. Ong-Salvador stating that respondent is suffering from "right parietal cavernoma" and the condition is deemed to be idiopathic, thus, it is not work-related. A recommendation was, likewise, made for respondent to undergo a Steriotactic Radiosurgery or an Open Surgery to prevent further seizure attacks.

On April 30, 2009, Dr. Pobre issued a Certification[19] indicating that respondent is suffering from *Cavernoma* and the illness is a congenital disorder and not work-related.

Petitioners shouldered all the expenses in connection with respondent's medical treatment. Respondent was, likewise, paid his sickness wages as evidenced by the receipts duly signed by respondent for the period from September 25, 2008 to April 30, 2009.[20]

On December 16, 2009, respondent filed a Complaint[21] for permanent and total disability benefits, damages and attorney's fees. Respondent alleged that he is entitled to a maximum disability compensation of US$120,000.00 under the Norwegian Collective Bargaining Agreement (*CBA*). Respondent further alleged that even after all the examinations, he is still suffering from the illnesses and is disabled up to the present.[22]

On September 6, 2010, Labor Arbiter (*LA*) Elias H. Salinas dismissed the complaint. The LA opined that while the illness of respondent is disputably presumed to be work-related, petitioners have substantially disputed the presumption of work-connection with the submission of a certification from the company physicians categorically stating that respondent's illness is idiopathic and congenital in etiology, and as such, could not have been caused by working conditions aboard the vessel.

Also, the LA noted that no copy of the alleged Norwegian CBA was shown by respondent.

Moreover, as opposed to the unequivocal declaration of the company-designated physicians, the LA stated that respondent did not submit any evidence or certification that his illness is work-related or work-aggravated. The LA ratiocinated that the fact that the illness may have manifested during the period of respondent's contract is inadequate to justify the grant of disability compensation. The POEA[23] - SEC mandates that the causal connection between the illness and nature of work performed should also be proven. The dispositive portion of the Decision states:

> WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for lack of merit.
>
> SO ORDERED.[24]

Thereafter, respondent elevated the case before the NLRC. On January 25, 2011, the NLRC affirmed the Decision of the LA.

A motion for reconsideration was filed by respondent, but the same was denied by the NLRC on April 19, 2011.[25]

Aggrieved, respondent filed a petition for *certiorari* before the CA. In a Decision dated February 12, 2013, the CA reversed the Decision of the NLRC. The CA held that petitioners have not overcome the disputable presumption of work-relatedness of the disease due to the conflicting statements of the petitioners' physicians as to the cause of respondent's illness. The *fallo* of the Decision states:

> **WHEREFORE**, the petition is **GRANTED**. The assailed *25 January 2011 Decision and 19 April 2011 Resolution* of the National Labor Relations Commission are **REVERSED** and **SET ASIDE**. The private respondents are held jointly and severally liable to pay the petitioner permanent and total disability benefits of US$60,000.00 and attorney's fees of ten percent (10%) of the total monetary award, both at its peso equivalent at the time of actual payment.
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> **SO ORDERED.**[26]

A motion for reconsideration was filed by the petitioners which was denied by the CA in its Resolution dated July 10, 2013.

Hence, this petition raising the following errors:

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> THE HONORABLE COURT OF APPEALS PALPABLY ERRED IN GRANTING THE PETITION FOR CERTIORARI, IN THAT:
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> A. THE FINDINGS, DECISIONS AND RESOLUTIONS OF THE NLRC, AN ADMINISTRATIVE AGENCY DIVESTED WITH QUASI-JUDICIAL POWERS ARE GIVEN GREAT RESPECT BY THE HIGHER COURTS.

B. THE PRIVATE RESPONDENT'S *CAVERNOMA* IS NOT **WORK-RELATED**. THE SAID ILLNESS IS NOT INCLUDED IN THE LIST OF OCCUPATIONAL ILLNESSES IN THE POEA-SEC.

C. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT IGNORED THE SUPREME COURT'S PRONOUNCEMENT IN THE CASE OF **MAGSAYSAY V. CEDOL**[27] WHERE IT WAS CATEGORICALLY HELD THAT **THE BURDEN TO PROVE THAT AN ILLNESS IS WORK-RELATED BELONGS TO THE SEAFARER**.

D. THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DID NOT CONSIDER THE COMPANY-DESIGNATED PHYSICIANS' CERTIFICATION STATING THAT THE SEAFARER'S *CAVERNOMA* IS NOT WORK-RELATED.

E. THE HONORABLE COURT OF APPEALS' AWARD OF PERMANENT/TOTAL DISABILITY BENEFITS SOLELY ON THE BASIS OF THE PETITIONER'S ALLEGATION THAT INCAPACITY FOR MORE THAN 120 DAYS HAS AUTOMATICALLY RENDERED HIM PERMANENTLY UNFIT FOR SEA DUTIES, IS **TOTALLY ERRONEOUS**.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN AWARDING THE PETITIONER ATTORNEY'S FEES.[28]

Petitioners argued in their petition[29] that in order to overturn the opinion and findings of the company-designated physician, the opinion of respondent's physician must be supported by a third doctor's opinion without which, the company-designated physician's opinion shall prevail. They also argued that the burden to prove that an illness is work-related belongs to respondent. And considering that the illness is not work-related, the same is not compensable whether or not respondent is not able to work for more than 120 days.

Petitioners declared that respondent failed to establish by substantial evidence that his illness was caused by any risks to which he was exposed to while working as Security Guard on board the vessel. The only evidence that was presented to justify the work-relatedness of the illness is the mere statement by the personal doctor of respondent that the illness is work aggravated/related without any further explanation. Petitioners averred that that the disability of respondent was neither assessed by the company-designated physicians nor by his own doctor as having a disability grading of 1 for his illness, such that, respondent cannot be entitled to permanent total disability benefits.

In the Comment[30] of respondent, he stated that he was presumed fit at the time he entered into a contract with the petitioners as revealed by the results of the PEME. He argued that he is entitled to total permanent disability benefits because he was found and declared as unfit to work by his private physician and that there is a disputable presumption that his illness is work-related. He also argued that he is

considered total and permanently disabled as he was unable to work for more than 120 days.

The main issue for this Court's resolution is whether or not respondent is entitled to total and permanent disability benefits.

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, and the parties' CBA bind the seaman and his employer to each other.[31]

Considering that respondent was hired in 2008, the 2000 POEA-SEC applies. The 2000 POEA-SEC defines work-related illness as:

> Definition of Terms:
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> 12. Work-Related Illness - any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied.

The illness of respondent, cavernoma, is not included in the list of occupational diseases under Section 32-A of the POEA-SEC. However, Section 20(B)(4)[32] of the contract provides that those illnesses not listed in Section 32 are disputably presumed as work-related.

In interpreting the aforesaid definition, this Court has held that for disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.[33]

In determining the work-causation of a seafarer's illness, the diagnosis of the company-designated physician bears vital significance. After all, it is before him that the seafarer must initially report to upon medical repatriation.[34]

In the case at bar, petitioners' physician, Dr. Pobre, declared that the illness of respondent which is cavemova is not work-related as the same is congenital in nature, while petitioners' other physician Dr. Salvador-Ong declared the same as idiopathic in its causation and, thus, not work-related. The certification of Dr. Ong-Salvador dated April 16, 2009 states:

> REPLY TO MEDICAL QUERY
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> This is in reference to your query regarding the case of Mr. Rhudel Castillo, 30 y/o, security with the working impression of Right parietal cavernoma.
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> Your query concerns whether his condition is deemed to be work-related or not.