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SECOND DIVISION

[G.R. No. 203472, July 09, 2014]

MAGSAYSAY MARITIME CORPORATION, EDUARDO U. MANESE AND NORWEGIAN CRUISE LINE, PETITIONERS, VS. HENRY M. SIMBAJON, RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve in this petition for review on *certiorari*[1] the challenge to the June 8, 2012 decision[2] and the September 11, 2012 resolution[3] (*assailed CA rulings*) of the Court of Appeals (*CA*) in CA-G.R. SP No. 118610. These assailed CA rulings annulled and set aside the August 31, 2010 decision[4] and the December 30, 2010 resolution[5] (*NLRC rulings*) of the National Labor Relations Commission (NLRC) in NLRC NCR LAC No. 10-000244-07 (NLRC NCR Case (M) 05-08-01988-00). The NLRC rulings in turn reversed and set aside the July 9, 2007 decision[6] of the labor arbiter (*LA*).

Factual Antecedents

On July 21, 2004, petitioner Norwegian Cruise Line (*NCL*) hired respondent Henry M. Simbajon as a cook on board its vessel, the Norwegian Star (Hotel), under a Philippine Overseas Employment Administration Standard Employment Contract (*POEA-SEC*). Simbajon's employment contract was coursed through petitioner Magsaysay Maritime Corporation (*Magsaysay*), the authorized manning agent of NCL in the Philippines.[7] This was already the fourth time that NCL hired Simbajon through Magsaysay.[8]

Before hiring, Simbajon was required to undergo and pass the mandatory Pre-Employment Medical Examination (PEME).[9] Simbajon was asked in this examination to disclose all his existing and prior medical conditions. The query focused on 23 medical conditions, including diabetes. Simbajon confirmed that he had never been afflicted with this disease and that he had no family history of it.[10] His medical tests confirmed this claim and he was given a clean bill of health and declared "fit for employment" or "fit for sea service."[11]

On July 24, 2004, Simbajon boarded the Norwegian Star (Hotel) and joined its crew. Only **six days after embarkation**, he complained of increased urination and having a constant feeling of thirst. He consulted the doctor on board and was initially diagnosed with possible *Diabetes mellitus* Type II (*DM Type II*). Subsequently, the doctor referred him to an on-shore physician while the vessel was docked at Alaska. The on-shore physician confirmed that Simbajon was indeed suffering from DM Type II. On August 15, 2004, he was repatriated for further

medical treatment.[12]

On August 18, 2004, Simbajon consulted an endocrinologist designated by Magsaysay from the Alegre Medical Clinic. The series of medical tests performed on him confirmed that Simbajon had DM Type II. After a prescription for insulin treatments and oral medication, he was advised to return for a follow-up check-up.[13]

On October 4, 2004, Simbajon again consulted the company-designated doctor and his illness was found to be **asymptomatic**. Nonetheless, the attending physician advised him to continue with his medication.

A month after, or on November 4, 2004, Simbajon reported again to the Alegre Medical Clinic. His laboratory results this time disclosed that his glucohemoglobin, serum glutamic pyruvic transaminase and serum glutamic-oxaloacetic transaminase levels were normal. Despite these findings, the doctors still advised him to continue with his daily insulin regimen.[14]

On two more dates, November 26, 2004 and January 3, 2005, Simbajon was again evaluated to be asymptomatic for DM Type II; thus the doctors reiterated their recommendation that he continue his oral medications. Simbajon had another medical check-up on January 11, 2005 and on this date, his fasting blood sugar and hemoglobin levels were already found to be normal. Subsequently, on February 2, 2005, he underwent another medical evaluation and his tests revealed normal results. Because of these positive developments, the company-designated physician opined on the same date that Simbajon's **DM Type II was already under control**. The physician also declared him "**fit to work**".[15]

Simbajon was paid his illness allowance from the time of his disembarkation on August 15, 2004 until February 2, 2005, the date when he was declared "fit to work" by the company-designated physician.[16]

Despite the "fit to work" declaration of Magsaysay's designated physician, Simbajon was not rehired by petitioners.[17] Dissatisfied with the company-designated physician's medical opinion, Simbajon sought a second opinion from Dr. Efren R. Vicaldo, an internal medicine doctor from the Philippine Heart Center. After conducting a series of tests, Dr. Vicaldo gave the following diagnosis on May 6, 2005:

> Diabetes mellitus II
> Diabetic retinopathy, mild
> Impediment Grade VI (50.00%)[18]

Aside from giving a Grade VI (50%) rating to Simbajon's resulting disability, Dr. Vicaldo opined that Simbajon's DM Type II was "*work-aggravated/related*" and that "*he is now **unfit to resume work as a seaman in any capacity***".[19] Based on this medical assessment, on August 16, 2005, Simbajon filed with the LA a complaint for disability benefits, illness allowance, reimbursement of medical expenses, damages and attorney's fees, against the petitioners.[20]

The Labor Arbitration Rulings

Before the LA, the petitioners argued that there was no basis for Simbajon's claim for disability benefits under the POEA-SEC because his illness was not work-related and did not arise during the term of his contract with NCL.[21] Simbajon was merely on his sixth day on board when he felt the symptoms for DM Type II. To the petitioners, this circumstance only means that Simbajon did not acquire his illness during the term of his contract; he already had a pre-existing disorder at the time of his embarkation.[22]

Moreover, the petitioners asserted that *Diabetes mellitus* in general had been established under jurisprudence to be a disease that is not occupationally acquired.[23] Citing the cases of *De Jesus v. ECC*[24] and *Millora v. ECC*,[25] the petitioners claimed that Diabetes mellitus is a hereditary or developmental disorder that is not obtainable through exposure to harmful working conditions.[26]

On the other hand, Simbajon contended that his disease was work-related. Although he exhibited the symptoms for DM Type II merely six days after boarding, he had been under the employ of NCL during his previous three completed contracts. Hence, his disease actually developed during the period of these contracts.[27]

Simbajon also claimed entitlement to a Grade I (120%) impediment rating[28] notwithstanding the Grade VI (50%) rating given to his disability by Dr. Vicaldo. Citing *Crystal Shipping, Inc. v. Natividad,*[29] he argued that his inability to work as a result of his illness lasted for more than 120 days.

The LA ruled that Simbajon's disease is work-related and, therefore, compensable. It agreed with Simbajon that his work as a cook on board NCL's vessel was strenuous and stressful enough to trigger his affliction with DM Type II.[30] Since the disease took more than 120 days to be treated, it could already be characterized as a permanent and total disability, entitling him to a Grade I (120%) impediment rating.[31]

The petitioners appealed the LA's decision to the NLRC. The NLRC granted the appeal and found Simbajon's disease not to be work-related. It considered the period of six days from Simbajon's embarkation as an insufficient period of exposure to contract a disease. The NLRC also gave credence to the petitioners' assertion that *Diabetes mellitus* is essentially a hereditary, and not an occupational disease.[32]

Simbajon unsuccessfully moved for the reconsideration[33] of the NLRC's decision, prompting him to seek recourse with the CA via a petition for *certiorari* under Rule 65.[34]

The CA's Ruling

The CA reversed the NLRC's ruling and granted Simbajon's petition for *certiorari.*[35] For an illness or injury to be compensable, it is enough that reasonable proof of

work-connection and not direct causal relation be proven by the claimant.[36] This was what Simbajon did.

Notwithstanding the findings of the company-designated physician that Simbajon was already "fit to work," the CA ruled that Simbajon must still be declared to have permanent and total disability. He was not able to perform his customary work for more than 120 days.

The CA subsequently denied the petitioners' motion for reconsideration, prompting them to come to this Court on a petition for review under Rule 45.

The Petition

The petitioners submit that the CA did not rule in accordance with the applicable law and jurisprudence when it found that: a) *Diabetes mellitus* is not always a familial or hereditary disease; and b) Simbajon is entitled (i) to permanent and total disability benefits since he was not able to work for more than 120 days, and (ii) to an award of attorney's fees.[37]

The petitioners question the CA's ruling that Simbajon's DM Type II was a work-related condition, aggravated by the supposedly stressful working conditions on board.[38] Simbajon's evidence is insufficient to establish the hostile working environment and emotional turmoil he underwent.[39] Six days are not enough for Simbajon to be exposed to the necessary factors for him to contract his disease.[40]

The petitioners further argue that under the POEA-SEC, a seafarer, who is unable to work for more than 120 days, is not automatically entitled to permanent and total disability compensation unless there is first a determination that an illness or injury is work-related.[41]

Lastly, the petitioners maintain that the award of attorney's fees should be deleted as there was no showing that Simbajon was compelled to litigate his claim because of bad faith on the petitioners' part.[42]

The Case for Simbajon

In his comment,[43] Simbajon prayed for the dismissal of the petition on the following grounds: a) the CA correctly held that his illness is work-related and/or aggravated, hence, compensable under the POEA-SEC; b) the CA correctly held that his disability is total and permanent; and c) he is entitled to an award of attorney's fees.[44]

Simbajon submits that he had no family history of *Diabetes mellitus* and that he only acquired this illness during the period that he worked for NCL as a cook.[45] He also maintains that his diabetes is not entirely a hereditary disease as several studies have already shown that it can be caused or aggravated by stress.[46] According to him, his work entails the performance of strenuous physical activities, emotional stress of being away from his family, and exposure to varying temperatures and weather conditions.[47]

Simbajon also reiterates that an employee who is not able to work for more than 120 days because of his work-related illness should be considered suffering from a total and permanent disability, hence entitled to a Grade I (120%) rating under the POEA-SEC.[48]

Finally, Simbajon defends the award of attorney's fees as he was forced to litigate when petitioners refused to honor his disability claims.[49]

The Court's Ruling

We resolve to **GRANT** the petition.

Preliminary Procedural Consideration

As a rule, **only questions of law** may be raised in a Rule 45 petition.[50] A Rule 65 petition for *certiorari,* on the other hand, focuses on the **jurisdictional errors** the lower court or tribunal may have committed.[51]

The present petition is a Rule 45 petition reviewing a Rule 65 ruling of the CA. Our jurisdiction is thus limited to errors of law which the CA might have committed in its Rule 65 ruling. A question of law arises when there is doubt as to what the law is on a certain state of facts; we cannot rule on questions of fact, *i.e.,* on the truth or falsity of the facts alleged by the parties.[52]

"In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case, was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review under Rule 45, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: **did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case**?"[53]

We therefore contend with the following principal question: ***did the CA correctly rule that the NLRC committed grave abuse of discretion when it held that Simbajon is not entitled to disability benefits***?

Compensability of Simbajon's disease

"The employment of seafarers and its incidents, including claims for death benefits, are governed by the contracts they sign every time they are hired or rehired. Such contracts have the force of law between the parties as long as its stipulations are not contrary to law, morals, public order or public policy."[54] By way of background, every seaman and the vessel owner (directly or represented by a local manning agency) are required to execute the POEA-SEC as a condition *sine qua non* to the seafarer's deployment for overseas work.[55]