

## THIRD DIVISION

[ G.R. No. 189863, September 17, 2014 ]

**PEDRO LIBANG, JR., PETITIONER, VS. INDOCHINA SHIP  
MANAGEMENT INC., MR. MIGUEL SANTOS AND MAJESTIC  
CARRIERS, INC., RESPONDENTS.**

### D E C I S I O N

**REYES, J.:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> filed by petitioner Pedro Libang, Jr. (Libang) to assail the Decision<sup>[2]</sup> dated October 22, 2008 and Resolution<sup>[3]</sup> dated September 25, 2009 issued by the Court of Appeals (CA) in CA-G.R. SP No. 102311, which dismissed his complaint for disability benefit against herein respondents Indochina Ship Management, Inc. (ISMI), its former President Miguel Santos (Santos), and Majestic Carriers, Inc. (Majestic).

#### The Antecedents

On June 27, 2002, Libang entered into a nine-month employment contract<sup>[4]</sup> with ISMI, a domestic manning agency that acted for and in behalf of its foreign shipping company, Majestic. Libang was engaged as a Cook 1 for the vessel M/V Baltimar Orion,<sup>[5]</sup> with an agreed basic monthly salary of US\$670.00. On August 4, 2002, he left the Philippines and boarded the vessel.<sup>[6]</sup> He had finished three employment contracts with ISMI prior to this deployment.<sup>[7]</sup>

On March 5, 2003, while Libang was on board M/V Baltimar Orion, he experienced numbness on the left side of his face, difficulty in hearing from his left ear, blurred vision of his left eye and speech problem.<sup>[8]</sup> He reported this to the vessel's chief mate, who relayed the complaint to the ship captain. Thus, on March 31, 2003, Libang obtained medical attention in Trinidad and Tobago. He was later admitted for three days in a hospital in Dominican Republic, where he was found to be suffering from high blood pressure at 180/110 mmHg. He also had high blood sugar, with normal hepatic and cardiac enzymes. Libang was unable to again join M/V Baltimar Orion even after he was discharged from the hospital.<sup>[9]</sup>

Given his health condition, Libang was eventually repatriated. He arrived in the Philippines on April 8, 2003. Two days later, he reported to ISMI and was endorsed for medical attention to the company-designated physician, Dr. Robert Lim (Dr. Lim) of the Marine Medical Services in Metropolitan Hospital. He was treated beginning April 10, 2003 and was under the care of a cardiologist, neurologist and an internist/endocrinologist.<sup>[10]</sup> On August 2, 2003, Dr. Lim issued to Libang a medical certificate<sup>[11]</sup> with pertinent portions that read:

This is to certify that MR. PEDRO LIBANG[,] JR. has undergone medical/surgical evaluation treatment at Robert D. Lim, MD Marine Medical Services Metropolitan Hospital from April 10, 2003 to PRESENT due to HYPERTENSION; DIABETES MELLITUS TYPE 2 AND SMALL PONTINE INFARCT.<sup>[12]</sup>

On August 13, 2003, Dr. Lim issued another medical certificate that provided as follows:

THIS IS WITH [REGARD] TO YOUR QUERY REGARDING THE CASE OF CHIEF COOK PEDRO L. LIBANG, JR. WHO WAS INITIALLY SEEN HERE AT METROPOLITAN HOSPITAL ON APRIL 10, 2003 AND WAS DIAGNOSED TO HAVE HYPERTENSION, DIABETES MELLITUS, TYPE 2 AND SMALL PONTINE INFARCT.

HE HAS BEEN UNDER THE CARE OF OUR CARDIOLOGIST, NEUROLOGIST AND ENDOCRINOLOGIST.

BASED ON HIS PRE-EMPLOYMENT MEDICAL EXAMINATION, PATIENT DENIED HAVING HIGH BLOOD PRESSURE AND HIS BLOOD PRESSURE DURING THAT TIME IS AT A BORDERLINE LEVEL OF 130/70 mmHg.

HOWEVER, ON HISTORY TAKING DURING HIS INITIAL EXAMINATION HERE AT METROPOLITAN HOSPITAL, PATIENT CLAIMED THAT HE HAD BEEN HYPERTENSIVE FOR ABOUT 3 YEARS ALREADY WITH IRREGULAR INTAKE OF UNRECALLED MEDICATIONS SO HIS HYPERTENSION COULD BE PRE-EXISTING.

WITH [REGARD] TO HIS DIABETES MELLITUS AND SMALL PONTINE INFARCT[,] NO FASTING BLOOD SUGAR RESULT IS NOTED (TO DETERMINE PRESENCE OF ANY BRAIN ABNORMALITY) SO IT IS DIFFICULT TO SAY WHETHER BOTH ARE PRE-EXISTING OR NOT.<sup>[13]</sup>

Considering Dr. Lim's failure to assess Libang's disability despite his health status, the latter sought medical attention and assessment from another doctor, Dr. Efren R. Vicaldo (Dr. Vicaldo) of the Philippine Heart Center.<sup>[14]</sup> A medical certificate<sup>[15]</sup> issued by Dr. Vicaldo on October 9, 2003 indicated the following:

This is to certify that, Pedro L. Libang, Jr., 52 years of age, of Marulas, Valenzuela City was examined and treated as out patient/confined in this hospital on/from October 9, 2003 to \_\_\_\_\_ with the following findings and/or diagnosis/diagnoses:

Hypertensive Cardiovascular Disease

Diabetes Mellitus

S/P Cerebrovascular accident, left hemiparesis, secondary

Impediment Grade VI (50%)<sup>[16]</sup>

The document with the heading "Justification of Impediment Grade VI (50%) for Seaman Pedro L. Libang, Jr." that was attached to Dr. Vicaldo's medical certificate provided the following details:

x x x x

- When examined, [Libang's] blood pressure was elevated at 140/90 mmHg. He had left-sided motor deficit on the upper and lower extremities.
- He is now unfit to resume work as seaman in any capacity.
- His illness is considered work aggravated.
- He requires lifetime maintenance medication both for hypertension and diabetes. This will prevent recurrence of stroke and the occurrence of other cardiovascular complications such as coronary artery disease and congestive heart failure.
- He is not expected to land a gainful employment given his medical background.
- He needs regular monitoring of his fasting blood sugar and renal function to preempt possible renal complication.<sup>[17]</sup>

Per an affidavit executed by Dr. Lim on July 16, 2004, Libang still regularly received medical treatment and supervision from Dr. Lim's clinic until January 5, 2004.<sup>[18]</sup> On January 16, 2004, Libang filed with the National Labor Relations Commission (NLRC) – National Capital Region Arbitration Branch a Complaint<sup>[19]</sup> for disability benefit, damages and attorney's fees against ISMI and Santos.

The respondents in the labor complaint disputed any liability by arguing that the disability benefit being claimed pertained to a pre-existing illness that was concealed by Libang during a pre-employment medical examination for his deployment in 2002.<sup>[20]</sup>

### **The Ruling of the Labor Arbiter**

On September 24, 2004, Labor Arbiter (LA) Cresencio G. Ramos, Jr. rendered his Decision<sup>[21]</sup> granting Libang's claim for disability benefit. The LA justified the award by explaining that:

"Without doubt, [Libang] had gone through a thorough and rigid screening process of [ISMI and Santos] (medical examinations included) before an agreement or the contract of employment between the parties was reached and actualized. This is precisely the reason why [ISMI and Santos], should not be allowed to make use of the argument that "[Libang] is not entitled to any disability benefits as he was **already suffering from a pre-existing illness** when he entered into a contract of employment with [ISMI and Santos]." This[,] not to mention the fact that there simply is no showing by sufficient evidence on the part of [ISMI and Santos] that the subject illness was pre-existing. Be it

mentioned that hypertension is a health condition that could easily be detected by ordinary modes of physical examination.”<sup>[22]</sup>

The dispositive portion of the LA’s decision then reads:

**WHEREFORE**, premises considered, judgment is hereby rendered declaring complainant’s entitlement to the disability benefit (impediment Grade VI) claimed. Accordingly, respondents are hereby directed to pay complainant herein the sum of US\$25,000.00 by way of disability benefit, plus ten (10%) percent thereof, or US\$2,500.00, as and by way of attorney’s fees.

The claim for illness allowance, however, is DISMISSED as there is evidence of due payment thereof by respondents.

SO ORDERED.<sup>[23]</sup>

Feeling aggrieved, ISMI and Santos, together with Majestic, appealed the LA’s decision to the NLRC.

### **The Ruling of the NLRC**

On September 11, 2007, the NLRC issued a resolution<sup>[24]</sup> dismissing the appeal. In sustaining the LA’s finding that Libang was entitled to disability benefit, the NLRC considered the reasonable connection between the nature of Libang’s work as a cook and the development of his illness. It held:

x x x [A]s shown by Libang, the nature of his work as a cook, exposed him to certain hazards. We quote:

*"His daily tasks involved preparations of food items and the strenuous lifting of food provisions and supplies sometime[s] too heavy to be carried by one person, prepared and cooked dishes, cakes, pies, desserts; operated oven in cooking by boiling, grilling and roasting. Performed cleaning and washing of equipment, kitchen tools and maintained the cleanliness of the work areas; and other tasks being ordered by superiors from time to time. As such, he was constantly exposed to installation of various kinds of harmful fumes and emissions and chemicals being used for cleaning, etc. He was also exposed to varying changes of temperatures of extreme hot and cold, such as in the cold storage and in kitchen areas."*  
(Records, pp. 22-23).

What the law requires is a reasonable work-connection and not a direct [causal connection]. It is sufficient that the hypothesis on which the seaman’s claim is based is probable. Probability, not [certainty] is the touchstone. (Azucena Salalima vs. ECC and SSS, G.R. No. 146360, May 20, 2004). It is not also far[-]fetched that [Libang] may have been

required to work for long hours as cook of an ocean-going vessel and thus, his exposure to harmful chemicals increased. Therefore, there is reasonable basis to conclude that the nature of [Libang's] work as cook contributed, even to small degree, to the development of his illness. (Heirs of the Late R/O Reynaldo Aniban vs. NLRC, 282 SCRA 377).

As regards [Libang's] hypertension, Section 32-A of the POEA Standard Contract states:

*"Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs [resulting] in permanent disability; Provided, that the following documents substantiate it: (a) chest x-ray report; (b) ECG report; (c) blood chemistry report; (d) [funduscopy] report, and, (e) CT Scan."*

Of course, it cannot be denied that he had been examined and treated by different specialists, such as neurologist, cardiologist and internal medicine-endocrinologist[;] hence, it must be true that he had been suffering from impairment of his organ.<sup>[25]</sup>

The NLRC rejected the claim that Libang's illness was pre-existing, citing the fact that the claimant was required to undergo a pre-employment medical examination and was then certified by company-designated physicians to be physically fit to work.<sup>[26]</sup>

A motion for reconsideration of the NLRC decision was denied in a Resolution<sup>[27]</sup> dated December 17, 2007, prompting the filing by ISMI, Santos and Majestic of a petition for *certiorari* with the CA.

In the meantime, the parties executed on March 25, 2008 and filed with the NLRC a document denominated as Satisfaction of Judgment Pursuant to Writ of Execution with Urgent Motion to Cancel Appeal Bond,<sup>[28]</sup> which provided that Libang had received from ISMI, Santos and Majestic the sum of One Million One Hundred Twenty Four Thousand Two Hundred Pesos (P1,124,200.00), in full and complete satisfaction of the judgment award in the NLRC Resolution dated December 17, 2007 and subject of the NLRC's writ of execution dated January 11, 2008. The parties, nonetheless, agreed:

5. That **this Satisfaction of Judgment is without prejudice to herein respondents' [ISMI, Santos and Majestic] Petition for Certiorari with the Court of Appeals docketed as CA GR SP No. 102311 entitled "Indochina Management, Inc. and Majestic Carriers, Inc. vs. National Labor Relations Commission (Second Division) and Pedro L. Libang, Jr." and this Satisfaction of Judgment is being made only pursuant to the writ of execution dated 11 January 2008.**<sup>[29]</sup>