

## TWELFTH DIVISION

[ CA-G.R. SP. No. 124187, April 23, 2014 ]

**CF SHARP CREW MANAGEMENT, INC., NORWEGIAN CRUISE LINE, AND/OR MR. JUAN JOSE P. ROCHA, PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION), AND FERDINAND B. SANLITAN, RESPONDENTS.**

### DECISION

**ELBINIAS, J.:**

For disposition is a Petition for Certiorari<sup>[1]</sup> filed under Rule 65 of the Rules of Court. The Petition assails the Resolution<sup>[2]</sup> dated December 14, 2011 of the National Labor Relations Commission ("public respondent NLRC" or "NLRC" for brevity), which affirmed the Decision<sup>[3]</sup> dated July 14, 2011 of the Labor Arbiter in NLRC-NCR CASE No. (M) 12-17160-10. The Petition also questions public respondent NLRC's Resolution dated February 7, 2012<sup>[4]</sup>, which denied petitioners' eventual Motion for Reconsideration<sup>[5]</sup>.

Among the pertinent and salient facts are those as stated in public respondent NLRC's Resolution<sup>[6]</sup> dated December 14, 2011, which are as follows:

**"Complainant Ferdinand B. Sanlitan (private respondent here) was continuously employed by respondents (petitioners here) onboard its various vessels as a 'Laundry Person' since March 8, 1995 as shown by Respondents' Certification xxx. His last POEA approved employment contract was onboard the vessel 'M/S Norwegian Star,' which he joined on December 17, 2007. xxx**

xxx

**On September 13, 2008, he arrived back in the Philippines for medical reasons, according to Respondents (petitioners) xxx, but for completion of contract according to Complainant (private respondent) xxx.**

**Complainant Sanlitan (private respondent) alleged that while still on board his vessel, he underwent a routine pre[-]medical examination sometime on September 12, 2008 and was diagnosed with Hypertension, Diabetes Type II and incidental finding of Nephrolitiasis; that this prompted the ship doctor to prescribe him medication such as Lipitor Metformin, Eralapil 5mg and Hydrochlorothiazide 25 mg, as shown by the prescriptions/notes xxx.**

**He further alleged that he was advised to have further medical work-up and was repatriated on September 13, 2008 xxx after**

finishing his contract xxx.

**In the Philippines, Complainant (private respondent) was referred to the company designated physician of the Sachly International Health Partners Diagnostic and Medical Clinic. These physicians affirmed the diagnosis made on him on board the vessel. He was prescribed hypertensive and hypoglycemic medicines, advised to practice a healthy lifestyle and required to undergo a series of blood fasting sugar tests xxx. He was examined and treated by the company-designated physician on October 11, 2008, November 13, 2008, December 9, 2008, February 10, 2009, February 24, 2009 xxx**

Complainant (private respondent) alleged that after five months of medical management, the company-designated physician reported in her Final Medical Report dated April 21, 2009 xxx that he was 'now fit to resume sea duties' with the final diagnosis of 'Hypertension stage 1, Diabetes Mellitus type 2, controlled'. He was also advised in it 'to continue intake of his hypoglycemic agents to keep his blood sugar levels controlled and to increase his oral fluid intake to prevent formation of renal stone'.

On November 17, 2009, complainant (private respondent) consulted a physician of his choice and underwent an Electrocardiographic test at the Vizcarra Diagnostic Center which resulted in the finding that he had 'Left Ventricular Hypertrophy' xxx. He was prescribed the following medications: Losartan 50 mg[,], Ambroazine 5 mg[,], and Metformin 500 mg xxx

On December 4, 2010, complainant (private respondent) consulted cardiologist Dr. Efren Vicaldo who issued a Medical Certificate' with the following findings and/or diagnosis' and justification for impediment grade 7:

'Essential Hypertension II  
Diabetes mellitus II  
Impediment Grade VII (41.80%)

xxx

They (petitioners) alleged that there were notable improvements in complainant's (private respondent's) medical condition during the course of his treatment leading to a declaration of **fitness to resume sea duties in the February 10, 2009, per Medical Report issued by their company-designated physician** xxx. They take issue on complainant's (private respondent's) failure to return for further medical examination from March 10, 2009 which date was set for him to return 'due to noted elevation of his blood sugar beyond normal level' xxx.

Respondents (petitioners) countered that complainant's (private respondent's) claim should be barred; that his hypertension and **Type 2 Diabetes Mellitus arose due to the 'genetic make-up, of a person' and no proof was presented by Complainant (private respondent) to show that his illness(es) have any reasonable connection with**

**his job as a laundry man; that their company-designated physician's assessment should be given greater weight** than that of complainant's (private respondent's) physician considering that the former attended to his medical needs for about five months."<sup>[7]</sup> (*Emphasis supplied*)

Private respondent Ferdinand B. Sanlitan ("private respondent" for brevity) filed before the Labor Arbiter, a Complaint "for disability benefits, illness allowance, damages and attorney's fees"<sup>[8]</sup> against petitioners "C.F. Sharp Crew Management, Inc./Mr. Juan Jose P. Rocha and/or Norwegian Cruise Line ("petitioners" for brevity)"<sup>[9]</sup>.

On July 14, 2011, the Labor Arbiter rendered a Decision<sup>[10]</sup> granting private respondent's claim for Permanent Disability Benefits, Sickness Allowance, and Attorney's Fees; but denied his claim for Moral and Exemplary Damages for lack of merit. The dispositive portion of the Decision stated:

"**WHEREFORE**, premises considered, judgment is hereby rendered finding respondents, C.F. Sharp Crew Management, Inc./Mr. Juan Jose P. Rocha and/or Norwegian Cruise Line, jointly and solidarily liable to pay complainant Ferdinand B. Sanlitan, the amount of **SIXTY-SEVEN THOUSAND NINE HUNDRED EIGHTY U.S. DOLLARS (US\$67,980.00)** or its peso equivalent converted at the time of payment as disability benefits, illness allowance and attorney's fees.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED."<sup>[11]</sup> (*Emphasis was made in the original*)

Upon petitioners' appeal, public respondent NLRC issued its first assailed Resolution<sup>[12]</sup> of December 14, 2011, which affirmed the Labor Arbiter's Decision and dismissed the appeal for lack of merit<sup>[13]</sup>.

After petitioners' Motion for Reconsideration<sup>[14]</sup> was denied by public respondent NLRC in its other assailed Resolution<sup>[15]</sup> of February 7, 2012, petitioners filed the Petition<sup>[16]</sup> at bench, praying as follows:

"WHEREFORE, premises considered, petitioners respectfully pray for the following reliefs:

1. Upon the filing of the instant Petition and pending notice and hearing on the application for preliminary injunction in accordance with Sec. 5, Rule 58 of the 1997 Rules of Civil Procedure:

- 1.1. The Honorable Court immediately issue an ex-parte Temporary Restraining Order, enjoining the NLRC, including any and all persons acting under his authority, from the execution of the judgment in NLRC LAC Case No. 09-000859-11/ NLRC-NCR Case No. (M)-12-17160-10 entitled 'FERDINAND B. SANLITAN VS. C.F. SHARP CREW MANAGEMENT, INC./ MR. JUAN JOSE P. ROCHA AND/OR NCL NORWEGIAN CRUISE LINE';

2. Upon due notice and hearing of the Petition on its merits but before judgment.

2.1. The Honorable Court issue a writ of preliminary injunction enjoining public respondent from enforcing the decision in NLRC LAC Case No. 09-000859- 11 / NLRC-NCR Case No. (M)-12-17160-10 entitled 'FERDINAND B. SANLITAN VS. C.F. SHARP CREW MANAGEMENT, INC./ MR. JUAN JOSE P. ROCHA AND/OR NCL NORWEGIAN CRUISE LINE';

2.2. The Honorable Court issue an Order directing public respondent to elevate the entire records of the present case to this Honorable Court, considering petitioners' allegation that public respondent's findings are directly negated by the records of the case;

3. Upon due notice and hearing, for the Honorable Court to render judgment:

3.1. Ordering that the Decision of the NLRC dated 14 December 2011 and its Resolution [dated] 7 February 2012 be reconsidered, annulled, and set aside; and

3.2. Ordering that private respondent's Complaint against Petitioners be dismissed for utter lack of merit.

Petitioners further pray for such other relief as this Honorable Court may deem just and equitable under the premises."<sup>[17]</sup>

Petitioners raised the following grounds:

"[A.]

xxx

**The NLRC committed grave abuse of discretion when it ruled that Hypertension and Diabetes Mellitus 2 are work-related illnesses, and thus, compensable.**

xxx

[B.]

xxx

**The NLRC committed grave abuse of discretion when it awarded permanent disability benefits despite a credible and competent finding of the companydesignated physician that the respondent is already fit to resume sea duties.**

xxx

[C.]

xxx

**The NLRC gravely erred in applying the 120-day doctrine.**<sup>[18]</sup>  
(*Emphasis and underlining were made in the original*)

Contrary to petitioners' arguments in their *assigned ground A*, private respondent's illnesses were work-related.

Petitioners had argued as follows:

"Under Section 20(B) of the POEA Standard Employment Contract, the employer is liable to the seafarer if the latter suffers work-related injury or illness during the term of his contract.

**It bears stressing that the key phrase in the above provision of the POEA Contract is 'WORKRELATED INJURY OR ILLNESS.'** For an illness and any resultant disability to be compensable under the POEA Contract, the same must be suffered by reason of or occasioned by a seafarer's work on board the vessel.

XXX

Based on the evidence presented by both parties, **it is clear that respondent did not meet all the requirements embodied in the POEA Contract to make his hypertension compensable.** The Medical Reports of both petitioners and respondent will also reveal that the latter's hypertension did not impair any of his body organs. **Therefore, respondent's hypertension is not the type being referred to by Section 32-A of the POEA Contract.**

Second, it has been held in the case of *Fernando vs. Sea Workforce Manila Corp., et al.* that the disease Type II Diabetes Mellitus is not work-related. **Diabetes, as a disease or illness is familial or genetic which may arise despite employment.** Since the disease is familial, seafarer may have been afflicted from childhood days or adulthood years or there exists a high degree of probability that some family members are likewise affected with the same disease. It takes some considerations like familial pre-disposition, genetics setup, lifestyle, diet and others, not work-connected, for diabetes to develop.

XXX

**Notably, the illness and any resultant disability must be work-related. Failure to establish work-relation negates any basis for an award under the governing POEA Contract.** xxx

XXX

Applying the foregoing pronouncements to the case at bench, it is clear that **evidence showing that illness manifested or was contracted during the employment contract is not enough. Complainant is bound to adduce evidence to prove that he is suffering from permanent total or partial disability due to a work-related illness during the term of her (sic) employment for which she (sic) was contracted for. This he failed to do so.**<sup>[19]</sup> (*Emphasis supplied*)

Defeating petitioners' arguments however is that as the records showed, private respondent acquired his illnesses which in particular were Hypertension, Diabetes Type II and Nephrolithiasis<sup>[20]</sup>, in connection with his work as a laundry man<sup>[21]</sup> during the effectivity of his contract with petitioners. Private respondent, as a laundry man on board petitioners' vessel, suffered from chronic physical and mental stress from monotonous sea life with varying geographical temperatures and harsh