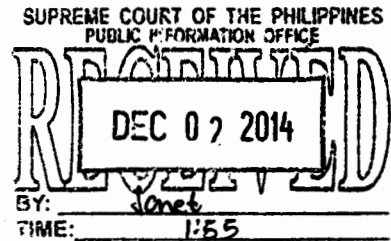




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **12 November 2014** which reads as follows:

G.R. No. 213982 (Rogelio E. Taer v. Lydia Mar [Manila], Inc., Lydia Mar Shipping Co., S. A., and/or Brenda V. Baldon).

The Case/Facts

This is a Rule 45 appeal¹ from the March 28, 2014 decision² and August 22, 2014 resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 130680.

In behalf of its principal Lydia Mar Shipping Co., S.A., Lydia Mar (Manila), Inc. (*respondents*), employed petitioner Rogelio Taer (*Taer*) — in accordance with the Philippine Overseas Employment Administration-Standard Employment Contract (*POEA-SEC*) — as Chief Officer for nine (9) months on board the vessel *M/V Ermoupolis*. Allegedly, his employment was also governed by the IBF-TCC Agreement between his employer and an affiliate of the International Transport Workers' Federation. Taer boarded the vessel on September 6, 2011 after his pre-employment medical examination (*PEME*) which declared him fit to work.

Sometime in December 2011, Taer experienced pain in his legs and was examined by a doctor in a hospital in Japan, who diagnosed him to be suffering from *renal failure* and *gouty arthritis*. He was declared unfit for sea duty. Taer was repatriated on December 17, 2011 and reported to the company-designated doctors led by Dr. Nicomedes Cruz, who, after several tests, confirmed that he was suffering from *renal failure, gouty arthritis and hypertension*.

Thereafter, Taer filed a complaint for permanent total disability benefits against the respondents and the agency's president, Brenda Baldon. Meantime, he consulted a doctor of his choice, Dr. May Donato-Tan whose diagnosis likewise revealed that he was suffering from *gouty arthritis* and *kidney disease* secondary to *acute renal injury*. Dr. Tan concluded that Taer was permanently unfit to perform his job effectively.

Taer alleged that he is entitled to disability benefits due to his illness which was brought about by his work and working conditions — lack of potable water on board, long work hours, stressful demands of his duties and the strain of being away from home and family. He thus claimed that his

¹ Under the Rules of Court; *rollo*, pp. 17-34.
² *Id.* at 234-241.
³ *Id.* at 243.

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illnesses are work-related and incurred while in the performance of his duties.

In defense, the respondents argued that Taer's working conditions could not have caused his *gouty arthritis* because none of the risk factors is present on board the vessel. Considering that his illnesses are not work-related, the respondents maintained, they are not compensable.

In his November 29, 2012 decision, Labor Arbiter Fedriel S. Panganiban dismissed the complaint for lack of merit, a ruling affirmed by the National Labor Relations Commission (*NLRC*) on appeal. While the *NLRC* acknowledged Taer's submission of medical findings that aggravated hypertension can lead to kidney disease, it opined that such a conclusion does not apply to his case as the records show that his hypertension was **pre-existing**. He admitted in his *PEME* that he has hypertension and taking medication — *losartan 50 mg*.

The *NLRC* likewise rejected Taer's argument that his laborious work and stressful working conditions, and ingestion of fatty foods and sea water aggravated his hypertension. It noted that Taer was the vessel's Chief Officer, a position one rank lower than the Vessel Master and, as such, he could not have gone through the difficult working conditions he alleged. Moreover, he was only on his third month of employment with the respondents when he first suffered the pain in his leg.

Taer moved for reconsideration, but the *NLRC* denied the motion. He then sought relief from the CA through a petition for *certiorari*. The CA 8th Division⁴ dismissed the petition and denied Taer's subsequent motion for reconsideration.

The Petition

Taer now asks the Court to nullify the CA rulings on the grounds that the appellate court gravely misappreciated the facts and committed a serious error of law when it violated the pronouncement that if the certification of the company-designated physician clashes with the findings of the seafarer's doctor, the findings favorable to the seafarer must be adopted.⁵

Our Ruling

The CA committed no reversible error in holding that the *NLRC* committed no grave abuse of discretion when it dismissed Taer's claim for disability benefits, as it was supported by the facts and the law of the case. We quote with approval the following excerpt in the CA decision:

⁴ Associate Justice Mario V. Lopez, *ponente*, with Associate Justices Jose C. Reyes, Jr. and Socorro B. Inting, concurring.


⁵ *HFS Philippines, Inc. v. Pilar*, 603 Phil. 309, 320 (2009).

Indeed, We cannot sanction an award of disability benefits anchored on flimsy evidence. Awards of compensation cannot rest on speculations and presumptions as the claimant must prove a positive proposition that there is probably a relation between the illness and the work and that the conditions under the law are satisfied. Absent substantial evidence from which reasonable basis for the grant of benefits prayed for can be drawn, We are left with no alternative but to deny the claim.⁶

WHEREFORE, we resolve to **DENY** the petition.

SO ORDERED.

Very truly yours,


MA. LOURDES C. PERFECTO
 Division Clerk of Court *by 11/17*

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 GR213982. 11/12/14 (44[b])SR

⁶

Citations omitted.