Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 19, 2020** *which reads as follows:*

"G.R. No. 221654 – *Magsaysay Maritime Corp., C.S.C.S. International N.V. and Marlon R. Roño v. Adonis L. Sarsale*

For our resolution is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, assailing the Decision[2] dated July 1, 2015 and Resolution[3] dated November 24, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 139863, which affirmed the Decision dated September 30, 2014 and Resolution dated December 12, 2014 of the National Labor Relations Commission (NLRC) in NLRC NCR Case No. (M) 03-02753-14; NLRC LAC No. 09-000731-14.

This case is rooted from a complaint for permanent and total disability benefits filed by Adonis L. Sarsale (respondent) against Magsaysay Maritime Corp., C.S.C.S International NV, and Marlon Roño (petitioners).

On December 10, 2012, petitioners hired respondent as 2nd Cook to work on board vessel Costa Fortuna for a period of eight months. Prior to his engagement, he was subjected to a Pre-Employment Medical Examination where he was declared "Fit for Sea Duty." On December 12, 2012, he boarded the vessel. Sometime in June 2013, while working on board the vessel, he experienced nape pain. He also experienced occasional pain when urinating, accompanied by blood in his urine. He consulted the ship doctor, who

- over – nine (9) pages ...

85 & 110

---

1 *Rollo*, pp. 38-62.

2 Penned by Justice Celia C. Librea-Leagogo, with Justices Amy C. Lazaro-Javier (now a Member of the Court) and Melchor Q.C. Sadang, concurring, id. at 65-83.

3 Id. at 85-86.

diagnosed him to be suffering from hematuria. Medication was given to him but his illness persisted. Consequently, he was advised to be medically repatriated for further medical evaluation and treatment.[4]

On July 7, 2013, he arrived in the Philippines. The next day, he reported to petitioners' branch office in Davao City. He was immediately referred to Dr. Ma. Luisa L. Aportadera (Dr. Aportadera) of the Davao Doctors Hospital for post-employment medical examination. He was diagnosed to be suffering from **hematuria and hypertension**. On July 9, 2013, he was admitted at said hospital, wherein a battery of tests was conducted, which revealed that he was suffering from **"Chronic Glomerulonephritis probably IGA Nephropathy, Secondary to Hypertension."** On July 11, 2013, he underwent renal biopsy, which showed **"Minor Glomerular Abnormalities; Mild Interstitial Fibrosis and Tubular Atrophy with 3% Global Sclerosis (1 to 30 Glomeruli); Moderate Arteriosclerosis and Mild Hyaline Arteriosclerosis."**[5]

In a letter[6] dated July 19, 2013 addressed to petitioners' Benefit and Claims Manager, Ms. Arlene H. Sanchez (Ms. Sanchez), Dr. Aportadera reported her diagnosis on respondent's condition and recommended certain treatments therefor such as weight reduction, dietary modification, BP control target BP 110-120/60-80, and monitoring of his renal function (creatinine, urinalysis). Dr. Aportadera also advised respondent to rest for two months and that thereafter, he may go back to work with medications.

On September 3, 2013, Dr. Aportadera again sent a letter[7] to Ms. Sanchez with an attached Medical Certificate dated August 19, 2013, signed by Dr. Clarissa Equipado-Arsolon (Dr. Arsolon), also from Davao Doctors Hospital, stating that respondent was diagnosed with hypertension to minor glomerular abnormality; non-alcoholic fatty liver S/V kidney biopsy. Also stated therein were the prescribed medications; a fit-to-work declaration; BP controlled assessment; and an advice to check urinalysis after three months. This fit-to-work declaration was, according to petitioners, acknowledged by respondent himself as evidenced by a Certificate of Fitness for Work[8] signed by respondent dated September 2, 2013.

- over -

85 & 110

---

4 Id. at 66.
5 Id.
6 Id. at 89.
7 Id. at 93-99.
8 Id. at 95.

After such fit-to-work declaration or on September 11, 2013, petitioners referred respondent to their company-designated doctor in Manila, Dr. Robert Lim of the Marine Medical Services of Metropolitan Medical Center. Thereat, respondent was referred to Dr. Marianne Sy (Dr. Sy), a cardiologist, and Dr. Josephine Go-Yap, a nephrologist. He was initially advised to continue with medications. They found him to be suffering from **"Cardiomyopathy with Apical Thrombus, Etiology to be determined; Hypertensive Cardiovascular Disease Mild Glomerular Disease."** He was seen by said doctors until January 7, 2014 when treatment was suddenly discontinued as Dr. Sy referred respondent back to the Davao cardiologist for follow-up care.[9]

As his illness persisted, respondent also consulted another cardiologist, Dr. Paul C. Lucas (Dr. Lucas) for second opinion on January 23, 2014. Dr. Lucas opined that respondent was symptomatic for heart failure and physically unfit to continue with his job as a seaman in whatever capacity. From the tests he conducted on respondent, he found that despite months of aggressive treatment by petitioners' medical team, respondent has not actually recovered from his illness.[10]

For their part, petitioners averred that upon respondent's return to the Philippines, he did not report to the company-designated doctors in Manila but instead opted to go to private doctors in Davao, Dr. Aportadera and Dr. Arsolon. At any rate, petitioners argue that said doctors had already declared respondent fit to work after two months of treatment and observation. Further, petitioners averred that to ensure his fitness, petitioners referred him to the company-designated doctors at the Metropolitan Medical Center in Manila. Respondent was accorded extensive medical attention and was allegedly declared fit to work thereafter. Hence, petitioners argued that the fit-to-work declaration of the Davao doctors should be upheld. As such, respondent has no grounds to claim for permanent and total disability benefits.[11]

On July 28, 2014, the Labor Arbiter disposed the case in favor of petitioners as follows:

- over -

---

9 *Rollo*, pp. 141 and 206.
10 Id. at 67.
11 Id. at 67-68.

> **WHEREFORE**, judgment is rendered DISMISSING the complaint.
>
> **SO ORDERED**.[12]

On appeal, the NLRC reversed and set aside the Labor Arbiter's Decision, thus:

> WHEREFORE, premised on the foregoing considerations, the Decision appealed from is hereby **REVERSED** and **SET ASIDE** and a new one is entered ordering [petitioners] (sic) Magsaysay Maritime Corporation to pay [respondent] Adonis Lerin Sarsale permanent and total disability benefits in the amount of Sixty Thousand (60,000) U.S. Dollars in its peso equivalent at the time of payment.
>
> [Petitioner] Magsaysay Maritime Corporation is likewise directed to pay attorney's fees equivalent to ten percent (10%) of [respondent's] monetary award.
>
> SO ORDERED.[13]

Petitioners filed a motion for reconsideration, which was denied by the NLRC in its Resolution dated December 12, 2014.[14]

The CA affirmed the NLRC Decision in its entirety. It found that the Davao doctors are company-designated doctors, contrary to petitioners' claim. The CA found nothing in the records showing that said doctors transmitted respondent's medical reports directly to the latter. In fact, like Dr. Lim and his team, Dr. Aportadera sent her reports directly to petitioners' Benefit and Claims Manager.[15]

The CA also found that despite the declaration of respondent's fitness to work, petitioners very well knew that he was not so as they still referred him to their company-designated doctor in Manila for further evaluation, wherein he was diagnosed to be still suffering from illness and, thus, was still subjected to a series of medical treatment and advised to continue with his medications.[16] Hence, the CA ruled that the Davao doctors' declaration that respondent was already fit to work cannot be considered due to the fact that after their issuance,

- over -

---

12 Id. at 68.
13 Id. at 68-69.
14 Id.
15 Id. at 75.
16 Id. at 75-76.

respondent was still found unfit to work. Also, the CA observed that said Certificate of Fitness for Work was not issued by Dr. Aportadera as she merely signed as one of the witnesses. It was respondent who signed the same as a quitclaim from all actions, claims, and demands in favor of petitioners, for the latter to be free from all liabilities.[17]

It was also found that, contrary to petitioners' assertion, the records of the case failed to reveal any evidence that respondent was eventually declared fit to work by Dr. Lim and his team, who petitioners claim to be the company-designated physicians. The CA quoted the NLRC in finding that from the initial complaint of respondent on board the vessel, through his repatriation, and after the series of medical treatments given by both the Davao and Manila doctors, the records are bereft of any evidence which would show that respondent has fully recovered from his illness and is already fit to work. There was likewise no disability assessment issued by Dr. Lim and his team, which respondent may rely upon with regard to his disability claim.[18]

The CA concluded, therefore, that without a declaration that respondent is already fit to work or an assessment of the degree of respondent's disability by the company designated doctor/s, respondent's disability is considered permanent and total.[19]

Finally, the CA sustained the award of attorney's fees as the employee herein was forced to litigate and incur expenses to protect his right and interest.[20]

The CA disposed, thus:

> **WHEREFORE**, premises considered, the Petition is **DENIED**. Costs against petitioners.
>
> **SO ORDERED.**[21]

Petitioners' motion for reconsideration was likewise denied in the CA's Resolution dated November 24, 2015:

---

17 Id. at 79.
18 Id. at 80.
19 Id.
20 Id.
21 Id. at 81.

> **WHEREFORE**, premises considered, the Motion for Reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED**.[22]

Hence, this Petition.

Petitioners posit that the illness complained of by respondent is a subsequent condition, not suffered during the term of the contract. Heavily relying on the Davao doctors' declaration, petitioners argue that respondent was already declared fit to work by his private doctors after treatment of the illness that he was repatriated for. Hence, petitioners maintain that respondent's disability is not compensable.

The petition lacks merit.

At the outset, it must be stated that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, the Court's jurisdiction is limited to reviewing errors of law in the absence of any showing that the factual findings complained of are devoid of support in the records or are glaringly erroneous. We have held, time and again, that this Court is not a trier of facts, and this applies with greater force in labor cases.[23] Also the Court sees it fit to emphasize our oft-repeated ruling that factual findings of quasi-judicial bodies like the NLRC, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect, but finality when affirmed by the CA. Such findings deserve full respect and, without justifiable reason, ought not to be altered, modified, or reverse.[24]

In *Century Iron Works, Inc. v. Bañas,*[25] the Court explained the difference between a question of law and a question of fact as follows:

> A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the question must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.

- over -

---

22 Id. at 86.

23 *Marlow Navigation Philippines, Inc. v. Heirs of Ricardo S. Ganal*, 810 Phil. 956, 961 (2017).

24 *Diversified Security, Inc. v. Bautista*, 632 Phil. 301, 306 (2010) citing *Reyes v. National Labor Relations Commission*, 556 Phil. 317, 330- 331 (2007).

25 711 Phil. 576 (2013).

> Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.
>
> Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.[26]

In this case, the issues raised by the petitioners are essentially factual matters.

For one, the determination of whether or not the Davao doctors are company-designated or are respondent's independent doctors as claimed by petitioners, rests upon the evaluation of the evidence on record. We find no cogent reason to disturb the conclusion of the NRLC and the CA that the Davao doctors are company-designated. Indeed, there is nothing in the records that would show that said doctors dealt directly with respondent to be considered the latter's personal doctors. On the contrary, what is glaringly apparent on records is the fact that said doctors consistently reported to petitioners' Benefit and Claims manager their assessment on respondent's condition.

Likewise, the determination of whether or not respondent's illness was contracted during the term of his employment and compensable is a factual issue.[27] Petitioners insist that the respondent's condition as diagnosed by Dr. Lim and his team is a subsequent illness, which is not related to the illness for which he was repatriated. It is petitioners' position that respondent was repatriated, treated, and declared fit to work thereafter by the Davao doctors for **"Minor Glomerular Abnormalities; Mild Interstitial Fibrosis and Tubular Atrophy with 3% Global Sclerosis (1 to 30 Glomeruli); Moderate Arteriosclerosis and Mild Hyaline Arteriosclerosis."** Positing that respondent was already treated for said illness and relying heavily on the fit-to-work declaration of the Davao doctors, petitioners argue that the findings of Dr. Lim and his team that respondent is suffering from **"Cardiomyopathy with Apical Thrombus, Etiology to be determined; Hypertensive Cardiovascular Disease Mild Glomerular Disease"** is a subsequent illness, not suffered on board, hence, not compensable.

This argument deserves scant consideration.

---

26 Id. at 585-586.
27 *De Leon v. Maunlad Trans, Inc.*, Phil. 531, 539 (2017).

Contrary to what petitioners attempt to impress this Court, the diagnoses of the Davao doctors and Dr. Lim and his team on respondent's condition are not completely different and unrelated. Both teams of doctors found respondent to be suffering from a renal and cardio-vascular illness. The NLRC and the CA correctly found that despite respondent's purported fitness to work, petitioners very well knew that he was not so, as they subsequently referred him to the company-designated doctors in Manila, wherein he was also found to be suffering from a renal and cardio-vascular illness, and advised to continue with his medications and further treatments.

Indeed, the evidence on record belies the fit-to-work declaration invoked by petitioners. From the time respondent arrived in the Philippines on July 7, 2013 up to the time when he was purportedly declared fit to work by the Davao doctors on August 19, 2013, and even thereafter, he was on continuous medications, medical examinations, and treatments. A few days after respondent was made to sign a Certificate of Fitness for Work, he was still referred by the petitioners to the company-designated doctors in Manila, where he was found to still be suffering from renal and cardio-vascular illness. The company-designated doctors continued to give him medications and treatments until he was referred back to a cardiologist in Davao for further medical care on January 7, 2014. Thereafter, records reveal no evidence that respondent was eventually declared fit to work or, at least, given an assessment on the degree of his disability by the company-designated doctors.

We are, therefore, one with the NLRC and the CA in concluding that with the company-designated doctors' failure to issue a final and definitive fit-to-work certification or disability rating, respondent's disability was rightfully deemed to be permanent and total.[28]

In all, this Court affirms the compensability of respondent's permanent and total disability as found by the NLRC and the CA. The grant of attorney's fees is likewise affirmed for being justified in accordance with Article 2208(2)[29] of the Civil Code, since respondent was compelled to litigate to satisfy his claim of disability benefits.

- over -

---

[28] *See Sharpe Sea Personnel, Inc. v. Mabunay, Jr.*, G.R. No. 206113, November 6, 2017, 844 SCRA 18, 40.

[29] Art. 2208. In the absence of stipulation. Attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

We, however, find it proper to impose the legal interest of 6% upon the disability benefits and attorney's fees awarded reckoned from the finality of this Resolution until full satisfaction thereof in accordance with the prevailing jurisprudence on the matter.[30]

WHEREFORE, premises considered, the Petition is **DENIED**. Accordingly, the Decision dated July 1, 2015 and the Resolution dated November 24, 2015 of the Court of Appeals in CA-G.R. SP No. 139863, which affirmed the Decision dated September 30, 2014 and the Resolution dated December 12, 2014 of the National Labor Relations Commission (NLRC) in NLRC NCR Case No. (M) 03-02753-14; NLRC LAC No. 09-000731-14 are hereby **AFFIRMED with MODIFICATION** that the monetary awards made therein shall earn legal interest of 6% per annum from finality of this Resolution until full payment.

The notice of change of address of Atty. Aldy V. Chavente of V.N.M. Taggueg and Associates Law Office, counsel for respondent is ***NOTED***; and the request that all copies of all notices, orders, resolutions, pleadings, motions and other papers be furnished at Unit 4-B, Second Floor, Kaminari Building, 247 Banawe Street, 1100 Quezon City, is ***GRANTED.***

SO ORDERED." ***Gesmundo, J.,*** *Additional Member per Raffle dated February 10, 2020 in lieu of* ***Lazaro-Javier, J.,*** *who concurred in the CA Decision.*

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court
2/19/20
85 & 110

DEL ROSARIO & DEL ROSARIO
Counsel for Petitioners
14th Floor, DelRosarioLaw Centre
21st cor. 20th Drive, Bonifacio Global City
1630 Taguig City

NATIONAL LABOR RELATIONS COMMISSION
PPSTA Building, Banawe Street
1100 Quezon City
(NLRC LAC No. 09-000731-14)
(NLRC NCR Case No. [M] 03-02753-14)

Court of Appeals (x)
Manila
(CA-G.R. SP No. 139863)

V.N.M. TAGGUEG & ASSOCIATES LAW OFFICE
Counsel for Respondent
Unit 4-B, 2nd Floor, Kaminari Building
247 Banawe Street, 1100 Quezon City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No. 12-7-1-SC)

Judgment Division (x)
Supreme Court

UR

---

30 *See Lara's Gift and Decors, Inc. v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, August 28, 2019.

NAF