

ST. VINCENT SHIPPING, INC., CROWN ENTERPRISES CORP., AND PANDIMAN PHILIPPINES, INC., PETITIONERS, VS. JOSE C. BARROS, RESPONDENT.

Ponente: CRUZ, J.

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CRUZ, J.:

On July 3, 1999, St. Vincent Shipping, Inc. (or “St. Vincent”), a local manning company, hired Jose C. Barros (or “respondent”) for its foreign principal, Crown Enterprises Corporation (or “Crown”), as radio operator for a period of twelve months on board its vessel MV Sea Light (or “vessel”).

Sometime in January 2000, respondent complained of recurrent chest pains and requested medical treatment from the master of the vessel. Respondent consulted a doctor at Longchou, China but, because of the short stay of the vessel in that place, was advised to see another doctor at their next port of call for further medical check-up. On January 22, 2000, he was repatriated to the Philippines for further treatment.

On January 25, 2000, respondent was diagnosed at the Metropolitan Hospital to be suffering from pulmonary tuberculosis, hypertension and dyslipidemia. X-ray examination conducted on January 26, 2000 yielded the impression: “minimal both upper lobe, PTB”. Succeeding x-ray examinations showed common findings: “cardiomegaly, probably left ventricular, P.T.B minimal.”

Respondent made demands on St. Vincent and Crown for payment of disability benefits pursuant to the POEA Standard Employment Contract (or “POEA contract”) and the Labor Code. As his demands were not heeded, respondent filed a complaint against St. Vincent, Crown and Pandiman Philippines, Inc. (or “Pandiman”) with the National Labor Relations Commission (or “NLRC”) Arbitration Branch.

In his position paper, respondent alleged that he was declared fit to work before boarding the vessel; that his illness was incurred while working on the vessel; that his illness became manifest during the effectivity of his employment contract; and that his working condition, characterized by overwork and fatigue, contributed to the deterioration of his health. Respondent demanded payment of disability benefits in the amount of US\$50,000.00, moral damages and attorney’s fees.

For their part, St. Vincent, Crown and Pandiman (or “petitioners”, when collectively) claimed that respondent’s illness was pre-existing and could not have developed during his short employment; that respondent admitted in his Pre-Employment Medical Examination (or “PEME”) that he acquired his pulmonary tuberculosis (or “PTB”) before 1990; and that they were released from any and all liabilities because of respondent’s misrepresentation in his PEME that he never had tuberculosis.

On August 13, 2001, the labor arbiter rendered a decision, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered ordering respondents jointly and severally to pay complainant disability benefits in the amount of US\$50,000.00 or its peso equivalent at the time of payment plus ten (10%) percent of the award as attorney’s fees.

The other claim is dismissed for lack of merit.

SO ORDERED.”

Aggrieved, petitioners appealed to the NLRC which, in a resolution dated February 26, 2003, affirmed the labor arbiter’s decision. Petitioners moved for reconsideration of the NLRC’s resolution but the motion was denied per resolution dated June 19, 2003.

Hence, this petition for certiorari ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC in issuing the resolutions dated February 26, 2003 and June 19, 2003. Petitioners ascribe palpable errors to the NLRC –

- “(I)n failing to rule on, and effectively affirming the inclusion of Pandiman in the joint and several award, which is not proper and must be set aside”;
- “(I)n striking aside the company designated physicians’ assessments for being tentative, and in refusing to give credence to Dr. Lim’s assessment that complainant is fit to work on the basis of its being allegedly hearsay”; and
- “(I)n affirming an award of disability compensation which is which is (sic) baseless in law and in fact, and which is speculative at best.”

We now resolve.

Petitioners maintain that respondent was treated until he was cured and found fit to resume his work; that his fitness to resume sea duties was assessed by their accredited physicians who oversaw his treatment; that the company-designated physician’s assessment is the only basis for a proper claim for disability benefits; and that respondent failed to refute the assessment made by their designated physicians.

In giving no weight to the assessment made by petitioners’ designated physicians on respondent’s fitness to resume his sea duties, the NLRC ratiocinated, thus:

“The basic issue here is whether or not complainant was rendered disabled by his illness. A thorough perusal of the final medical report (Annexes ‘8’ & ‘9’, respondents’ position paper), submitted by complainant’s attending physicians (Dr. J. Cayetano – Cardiologist; and Dr. Tommy L. Co – Pulmonologist) does not categorically state with certainty the fitness of complainant to go back to work as seafarer.

We noted that Dr. Cayetano’s report states: ‘x x x Cardiovascular-wise, he may be fit but with medications. However, he has shortness of breath/easy fatigability due to his lung problem. x x x.’; while Dr. Tommy Co’s report states: ‘x x x.. Subsequent CXR taken on May, June and July showed stable lesion, he was advised to continue medicine until September 2000. As to prognosis, I think, he can be clear for work on September OPD visit, x x x.’

x x x

We further noted that the medical report submitted by Dr. Roberto D. Lim, dated October 03, 2000 (Annex ‘10’, respondent’s Position Paper), which states: ‘x x x. . . He was pronounced fit to resume sea duties as of October 3, 2000’ x x x.. This pronouncement of complainant’s fitness was based on the medical report of the above-mentioned physicians attending to complainant-appellees (sic). This is therefore a hearsay a evidence which could not be given due credence and be made as the basis for denying complainant’s claim. Moreover, as correctly cited by complainant-appellee, the findings of the company doctor’s finding of complainant’s fitness to work deserves scant consideration as it is obviously one sided. X x x”

Well-settled is the rule that findings of fact of quasi-judicial agencies, like the NLRC, are generally accorded not only respect but, at times, finality if such are supported by substantial evidence (Benguet Corporation vs. NLRC,

318 SCRA 106). We find no cogent reason to reverse the factual findings of the NLRC, the same being supported by substantial evidence.

The medical certificates issued by petitioners' designated physicians, Drs. Cayetano and Co, do not contain a categorical or clear affirmation that respondent was already fully fit to resume his sea duties. Dr. Cayetano even found respondent to be still experiencing "shortness of breath/easy fatigability due to his lung problem". And while Dr. Co "think(s) that (respondent) can be clear for work on September OPD visit", the record is bereft of such clearance.

Petitioners claim that respondent was already cured of PTB, rendering him fit to resume working as of October 3, 2000. This is belied by the medical certificate issued by Dr. Jose Nepomuceno (or "Dr. Nepomuceno") of the Quezon Institute showing that as of that date, respondent was still suffering from "PTB minimal x x x; COPD", requiring medication until April 10, 2001. Indeed, medical certification of doctors that claimant's disease is compatible with pulmonary tuberculosis has been held to be reliable (*Guevarra vs. Workmen's Compensation Commission*, 146 SCRA 64).

Petitioners further contend that the award of disability compensation to respondent is baseless and speculative; and that the extent of his disability has not been established.

The NLRC granted respondent's claim for disability benefits because it "is not convinced that (he) is still capable of resuming his employment with (petitioners)." Clearly, respondent has proven that he was not able to resume his work since January 22, 2000, when he was repatriated. While petitioners make much of the contention that their designated physicians declared respondent fit to resume his work, the same was refuted by Dr. Nepomuceno's findings that respondent was still suffering from PTB minimal, preventing him from performing his job and earning a living for himself and his family. Thus, in *Philippine Transmarine Carriers, Inc. vs. NLRC* (353 SCRA 47), it was held:

"(D)isability should not be understood more on its medical significance but on the loss of earning capacity. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do. It does not mean absolute helplessness. In disability compensation, x x x it is not the injury which is compensated, but rather it is the incapacity to work resulting in the impairment of one's earning capacity."

The POEA contract is designed primarily for the protection and benefit of the Filipino seamen in the pursuit of their employment on board ocean-going vessels. Its provisions must, therefore, be construed and applied fairly, reasonably and liberally in favor or for the benefit of the seamen and their dependents. Only then can its beneficent provisions be fully carried into effect (*Wallem Maritime Services, Inc. vs. NLRC*, 318 SCRA 623).

Petitioners further contend that Pandiman should not have been impleaded in the case as it was not privy to the contract between St. Vincent and Crown on one hand and respondent on the other. The contention is untenable.

Admittedly, Pandiman is the local correspondent of the Protection and Indemnity Club (or "P & I Club"), of which the owners of the vessel are members. P & I Club is "an association composed of shipowners in general who band together for the specific purpose of providing insurance cover on a mutual basis against liabilities incidental to shipowning that the members incur in favor of third parties (*Hyopsung Maritime Co., Ltd. vs. Court of Appeals*, 165 SCRA 258).

As insurer against claims of third parties, P & I Club can be directly sued by respondent although its liability is only "up to the extent of what was provided for by the contract of insurance" (*Government Service Insurance*

System vs. Court of Appeals, 308 SCRA 559). Being a local correspondent of P & I Club, however, does not make Pandiman personally liable for the obligation of the former. A representative of a foreign insurance company is not tasked to answer personally for any insurance claim. In other words, Pandiman is not the real party-in-interest in this case (Smith, Bell & Co., Inc. vs. Court of Appeals, 267 SCRA 530).

Finally, We observed that the NLRC, whose judgment is being assailed in the petition, was not impleaded as public respondent (Sec. 5, Rule 65, 1997 Rules of Civil Procedure). Nevertheless, We opted to disregard this procedural lapse in order that the demands of substantial justice could be served.

WHEREFORE, the appealed resolution is AFFIRMED with the MODIFICATION that the case against Pandiman Philippines, Inc. is DISMISSED.

SO ORDERED.

Reyes, Jr., J. and Lanzanas, JJ., concur.

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