

MARS C. PALISOC, PETITIONER, VS. EASWAYS MARINE, INC., CAPT. MARIO R. BRAZA, AND CAPT. MACARIO TERENCIO, RESPONDENTS.

G.R. NO. 152273. September 11, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 13 July 2001 Decision[2] and 21 February 2002 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 60356.

The Antecedent Facts

The foreign principal East West Marine PTE, Ltd. hired Mars C. Palisoc (petitioner) as 4th Engineer through its agent Easways Marine, Inc., represented by its President Capt. Mario R. Braza (respondents). On 11 August 1996, respondents deployed petitioner on board M/V Dragon (Mekong) Sentosa (the vessel) for a period of 12 months. Petitioner's contract, approved by the Philippine Overseas Employment Agency (POEA), stipulated a basic monthly salary of US\$600 with overtime pay of US\$370 a month and vacation leave pay of US\$60.

On 6 March 1997, while the vessel was in a port in Saigon, Vietnam, petitioner became ill. Petitioner was brought to Cho Raz Hospital in Ho Chi Minh City and was diagnosed to be suffering from left renal colic or gallstone impairment. Petitioner was later treated at Seacare Maritime Medical Centre in Singapore. The Medical Report dated 17 March 1997 showed that petitioner was:

- a) fit to return to ship
 - b) to continue medication/treatment as prescribed
 - c) to rest on ship for seven days
- x x x[4]

On 23 March 1997, respondents signed off and repatriated petitioner to Manila for medical treatment. Respondents referred petitioner to Christian Medical Clinic, Inc., the company-designated clinic under its Medical Director, Dr. Lyn dela Cruz-de Leon (Dr. dela Cruz-de Leon). Dr. Akihito Quiambao (Dr. Quiambao), the company-designated physician, attended to petitioner. On 16 May 1997, Dr. Quiambao subjected petitioner to laparoscopic cholecystectomy at the Delos Santos Medical Center. The procedure was a major surgical intervention which resulted in the removal of petitioner's gallbladder. Respondents paid for all the expenses of petitioner's gallbladder operation and hospitalization. Respondents also paid petitioner his sickness allowance equivalent to his salary for 120 days pursuant to the POEA Standard Employment Contract (POEA-SEC).

Petitioner's follow-up treatment with Dr. Quiambao lasted for more than 120 days. Petitioner requested Dr. Quiambao to assess the status of his illness and its corresponding disability grade. Dr. Quiambao refused to assess petitioner's disability grade. Instead, Dr. dela Cruz-de Leon issued a Medical Report dated 20 August 1997 (fit to work certificate) that petitioner was fit to work.

Petitioner engaged the services of Dr. Teopisto A. Rigonan (Dr. Rigonan). On 23 August 1997, Dr. Rigonan issued a handwritten medical certificate which states in full:

This is to certify that Mr. Mars Palisoc was examined by the undersigned following abdominal surgery done last May 16 and May 19, 1997, with resultant residuals arising from the said surgical procedures.

As a result he has been rated with an Impediment Grade of (6) based on the POEA Impediment Grading Scale.

This certification is being issued per patient's request.[5]

On 1 September 1997, petitioner, through his counsel, sent a demand letter to respondents for the (a) payment of US\$25,000 as disability benefit in accordance with Section 30-A of the POEA-SEC; (b) settlement in full of the sickness allowance due him; and (c) reimbursement for medical expenses. Respondents refused, prompting petitioner to file an action before the Arbitration Branch of the National Labor Relations Commission (NLRC), National Capital Region against respondents and Capt. Macario Terencio.

The Rulings of the Labor Arbiter and the NLRC

In a Decision[6] dated 28 September 1998, Labor Arbiter Ernesto S. Dinopol ruled:

WHEREFORE, finding for the complainant[,] we order respondent Easways Marine, Inc., and its President, Capt. Mario S. Braza to jointly and severally pay complainant Mars C. Palisoc the following amount:

Disability Benefits - US\$25,000.00

Payable in its peso equivalent

At date of payment.

Medical Reimbursement - P1,659.80

plus 10% of the total award and by way of attorney's fees.

Respondent Capt. Macario Terencio is absolved from any liability since there is nothing in the pleadings that can make him liable for anything.

All the other claims are dismissed for lack of merit.

SO ORDERED.[7]

The Labor Arbiter ruled that Dr. Quiambao did not issue a fit to work certification within 120 days from petitioner's repatriation. The Labor Arbiter interpreted Dr. Quiambao's action as an unexpressed opinion that petitioner was not yet fit to resume his duties. The Labor Arbiter did not give credit to the fit to work certificate issued by Dr. dela Cruz-de Leon because it was issued in her capacity as Medical Director of Christian Medical Clinic, Inc. and it was not co-signed by Dr. Quiambao.

On appeal by respondents, the NLRC modified the Labor Arbiter's Decision. In its 29 December 1999 Decision,[8] the NLRC ruled, as follows:

WHEREFORE, premises considered, the appealed decision is hereby MODIFIED. Respondent Easways is hereby ordered to reimburse to the complainant the amount of P1,659.80 representing expenses incurred for the purchase of medicines.

All other claims and charges are hereby DISMISSED for lack of merit.

SO ORDERED.[9]

The NLRC ruled that petitioner's terms of employment are governed by the POEA-SEC. The NLRC held that there was nothing in the POEA-SEC that obliges the employer to assess the physical disability or health status of the medically repatriated seaman within 120 days from discharge for further medical treatment. According to the NLRC, the 120 days is a limitation on the obligation of the employer to pay sickness wages. The NLRC ruled that respondents already paid petitioner his full sickness wages. Respondents only failed to pay the expenses for medicine purchases prescribed during petitioner's periodic check-up.

After ruling on the limited liability of respondents based on the POEA-SEC, the NLRC did not find any reason to lengthily dwell on the issue of two medical certificates issued by two different physicians. Nevertheless, the NLRC noted that Dr. Rigonan is not a company-designated physician. The NLRC ruled that petitioner failed to refute respondents' allegation that the fit to work certificate issued by Dr. dela Cruz-de Leon was with the knowledge, approval, and upon the advice of Dr. Quiambao. The NLRC further ruled that as Medical Director of Christian Medical Clinic, Inc., Dr. dela Cruz-de Leon had complete authority to issue medical reports and certifications since she had access to all the hospital records.

Petitioner filed a motion for reconsideration. In its Resolution[10] promulgated on 22 May 2000, the NLRC denied the motion for lack of merit.

Petitioner filed a petition for certiorari before the Court of Appeals.

The Ruling of the Court of Appeals

In its 13 July 2001 Decision, the Court of Appeals dismissed the petition.

The Court of Appeals sustained the NLRC that the POEA-SEC governs the rights and obligations of the parties. The Court of Appeals rejected petitioner's argument that Articles 191 and 192 of the Labor Code should apply to his case. The Court of Appeals ruled that Articles 191 and 192 of the Labor Code refer to Temporary and Permanent Total Disability Benefits that an employee may avail of pursuant to the Employees Compensation and State Insurance Fund, and petitioner is not covered under either.

The Court of Appeals ruled that a seafarer shall be granted the corresponding permanent partial or total disability benefits under Section 30-A of the POEA-SEC or its Appendix 1 on the basis of the assessment by a company-designated physician. The Court of Appeals ruled that in this case, no such assessment was made by the company-designated physician. Further, under Appendix 1 of the POEA-SEC, petitioner's operation involving the removal of his gallbladder is not a compensable injury, disease, or illness.

Petitioner filed a motion for reconsideration. In its 21 February 2002 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition for review before this Court.

The Issues

The issues in this case are the following:

- Whether the Labor Code's definition of permanent total disability applies to seafarers;
- Whether the Court of Appeals erred in not giving credence to the medical certificate issued by a doctor who is not designated by the company; and
- Whether petitioner is entitled to disability benefits.

he Ruling of this Court

The petition has merit.

Labor Code Provision on Permanent Total Disability
Applies to Seafarers

The issue of whether the Labor Code's provision on permanent total disability, particularly Article 192(c)(1), applies to seafarers is already a settled matter. Article 192(c)(1) of the Labor Code provides:

ART. 192. Permanent Total Disability. x x x

(c) The following disabilities shall be deemed total and permanent:

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

x x x x

In *Remigio v. National Labor Relations Commission*,^[11] petitioner, a seafarer, applied for permanent total disability under Article 192(c)(1) of the Labor Code. The Labor Arbiter ruled that Section 30 of the 1996 POEA-SEC did not provide for the payment of compensation benefits for cardiac catheterization or heart bypass. The NLRC affirmed the Labor Arbiter. The Court of Appeals also ruled that heart ailment was not included among the compensable sickness and injuries under the 1996 POEA-SEC.

When the case was brought to this Court, private respondents argued that petitioner erred in applying the provision of permanent total disability under the Labor Code and the cases under the Employees' Compensation Commission because the case involves a contractual claim under the 1996 POEA-SEC. The Court ruled in favor of petitioner. The Court affirmed the application of the Labor Code concept of permanent disability to the case of seafarers. The Court held that "[t]he standard employment contract for seafarers was formulated by the POEA pursuant to its mandate under E.O. No. 247 'to secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith' and 'to promote and protect the well-being of Filipino workers overseas.'"^[12] The Court ruled that a contract of labor is impressed with public interest; hence, the New Civil Code expressly subjects it to "the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects."^[13] The Court declared:

Thus, the Court has applied the Labor Code concept of permanent total disability to the case of seafarers. In *Philippine Transmarine Carriers v. NLRC*, seaman Carlos Nietes was found to be suffering from congestive heart failure and cardiomyopathy and was declared as unfit to work by the company-accredited physician. The Court affirmed the award of disability benefits to the seaman, citing *ECC v. Sanico*, *GSIS v. CA*, and *Bejerano v. ECC* that "disability 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. It likewise cited *Bejerano v. ECC*, that in a disability compensation, 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 same principles were cited in the more recent case of *Crystal Shipping, Inc. v. Natividad*. In addition, the Court cited *GSIS v. Cadiz* and *Ijares v. CA* that "permanent disability is the inability of a worker to perform his job for more than 120 days, regardless of whether or not he loses the use of any part of his body."^[14]

Hence, the Court of Appeals erred in failing to apply the definition of permanent total disability under Article

192(c)(1) of the Labor Code in the present case on the ground that petitioner is not an employee covered by the Employees Compensation and State Insurance Fund.

Assessment of Disability by a Company-Designated Physician

The Court of Appeals held that the seafarer shall be granted the corresponding permanent partial or total disability benefits on the basis of an assessment of disability by a company-designated physician. We agree with the Court of Appeals.

Petitioner alleges in his Memorandum:

Verily, Dr. Rigonan's Certification of Petitioner's employment disability on August 23, 1997 undisputedly shows that he was examined personally by said physician on two dates of May 16 and 19, 1997 and found with resultant residuals arising from surgical procedures following his abdominal surgery that as a result he has been rated by this doctor with an impediment grade of (6) based on the POEA Impediment Grading Scale.[15]

The Court finds it improbable that Dr. Rigonan examined petitioner on 16 and 19 May 1997. Petitioner was operated on only on 16 May 1997. Per his Medical Certificate, petitioner was confined at Delos Santos Medical Center from 15 to 31 May 1997 under the service of Dr. Quiambao.[16] Aside from the fact that Dr. Rigonan issued the medical certificate dated 23 August 1997, there was no showing that Dr. Rigonan had a hand in the treatment of petitioner after the surgical operation.

Philippine Transmarine Carriers, Inc. v. NLRC,[17] cited by petitioner, is not applicable to this case. In that case, the Court allowed the payment of disability benefits representing reimbursement for medical expenses even if respondent's treatment was done by a physician not designated or accredited by petitioner. In that case, however, respondent initially sought the treatment of a company-accredited physician but he was refused admission at the hospital. Respondent had to seek medical assistance elsewhere because his life was at stake. In this case, petitioner was under the care of a company-designated physician. Petitioner only sought the intervention of another physician when Dr. Quiambao refused to assess his disability grade and after Dr. dela Cruz-de Leon issued the medical certification that he was fit to work. In *Sarocam v. Interiorient Maritime Ent., Inc.*, [18] the Court, citing *German Marine Agencies v. NLRC*, [19] ruled that it is the company-designated physician who should determine the degree of disability of a seaman or his fitness to work. The Court ruled that the only requirement stated in the POEA-SEC is that the doctor be company-designated, and no other.

Petitioner alleges that Dr. dela Cruz-de Leon issued the fit to work certification in her capacity as Medical Director and not as attending physician. However, petitioner failed to refute the factual finding of the NLRC, as cited by the Court of Appeals, that Dr. dela Cruz-de Leon issued the fit to work certification "with the knowledge, approval and upon the advi[c]e of Dr. Quiambao." [20]

Petitioner is Entitled to Permanent Disability Benefits

Nevertheless, while the Court rejects the medical certificate issued by Dr. Rigonan, we note that the fit to work certification was issued by Dr. dela Cruz-de Leon only on 20 August 1997. Petitioner was repatriated on 23 March 1997. Petitioner was unable to perform his job for more than 120 days from the time of his repatriation, which entitles him to permanent disability benefits. Even in the absence of an official finding by a company-designated physician that petitioner is unfit for sea duty, he is deemed to have suffered permanent disability [21] because of his inability to work for more than 120 days. The Court of Appeals erred in ruling that petitioner's operation involving the removal of his gallbladder is not a compensable injury, disease, or illness

under Appendix 1 of the POEA-SEC. Permanent disability refers to the inability of a worker to perform his job for more than 120 days, regardless of whether he loses the use of any part of his body.[22] What determines petitioner's entitlement to permanent disability benefits is his inability to work for more than 120 days.

However, it is not possible for us to compute petitioner's disability benefits. The Labor Arbiter, in computing petitioner's disability benefits, relied on the medical certificate issued by Dr. Rigonan who rated petitioner with Impediment Scale of 6. As stated earlier, we cannot accept the medical certificate issued by Dr. Rigonan. Hence, the case should be remanded to the Labor Arbiter to determine petitioner's disability grade for the purpose of computing his disability benefits.

WHEREFORE, we GRANT the petition. We SET ASIDE the 13 July 2001 Decision and 21 February 2002 Resolution of the Court of Appeals in CA-G.R. SP No. 60356. We REMAND the case to the Labor Arbiter for the determination of petitioner Mars C. Palisoc's disability grade under the POEA Impediment Grading Scale.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 35-48. Penned by Associate Justice Romeo J. Callejo, Sr. with Associate Justices Renato C. Dacudao and Perlita J. Tria Tirona, concurring.

[3] Id. at 78.

[4] Id. at 36. Decision of the Court of Appeals.

[5] Id. at 67.

[6] Id. at 161-166.

[7] Id. at 166.

[8] Id. at 203-211. Penned by Commissioner Alberto R. Quimpo with Presiding Commissioner Rogelio I. Rayala and Commissioner Vicente S.E. Veloso, concurring.

[9] Id. at 211. Emphasis in the original.

[10] Id. at 225-226.

[11] G.R. No. 159887, 12 April 2006, 487 SCRA 190.

[12] Id. at 207.

[13] Id.

[14] Id. at 207-208. Citations omitted.

[15] Rollo, p. 336. Underscoring in the original.

[16] Id. at 117.

[17] 405 Phil. 487 (2001).

[18] G.R. No. 167813, 27 June 2006, 493 SCRA 502.

[19] 403 Phil. 572 (2001).

[20] Rollo, p. 42.

[21] United Philippine Lines, Inc. v. Beseril, G.R. No. 165934, 12 April 2006, 487 SCRA 248.

[22] Crystal Shipping, Inc. v. Natividad, G.R. 154798, 20 October 2005, 473 SCRA 559.

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