

MAUNLAD TRANSPORT, INC., and/or NIPPON MERCHANT MARINE COMPANY, LTD., INC., Petitioners, V.S. FLAVIANO MANIGO, JR., Respondent.

G.R. No. 161416. June 13, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

By Petition for Review on Certiorari under Rule 45 of the Rules of Court, Maunlad Transport, Inc. and/or Nippon Merchant Marine Company, Ltd., Inc. (petitioners) assail before the Court the September 30, 2003 Decision[1] of the Court of Appeals (CA) which affirmed the June 28, 2002 and November 22, 2002 Resolutions of the National Labor Relations Commission (NLRC) and September 29, 2000 Order of the Labor Arbiter (LA), allowing Flaviano Manigo, Jr. (respondent) to be examined by a physician designated by the Employees' Compensation Commission (ECC); and the December 22, 2003 CA Resolution[2] which denied petitioners' motion for reconsideration.

The relevant facts are culled from the records:

On October 27, 1998, respondent was hired by petitioner Nippon Merchant Marine Company, Ltd., Inc., through petitioner Maunlad Transport Inc., as Third Mate on board MV Saltlake for a period of 10 months and at a basic monthly salary of US\$650.00.[3] Four months into his contract, respondent suffered from chest pains and was diagnosed with acute myocardial infarction. After undergoing operation on February 16, 1999, he was repatriated to the Philippines on February 24, 1999.[4]

From February 25, 1999 to June 21, 1999, respondent was examined and treated by company-designated physician Dr. Nicomedes Cruz. [5] On June 21, 1999, Dr. Cruz issued the following medical report:

The patient is asymptomatic. The operative wound is healed. The blood uric acid, cholesterol and triglycerides level were all normal. The rest of the findings are essentially normal.

DIAGNOSIS:

Acute Myocardial Infarction

Coronary Artery Disease

S/P Percutaneous transfemoral coronary angioplasty

He is fit to work effective June 21, 1999.[6](Emphasis supplied.)

Seven months later or on February 11, 2000, respondent filed with the LA a complaint for disability benefits, illness allowance, reimbursement of medical expenses, damages and attorney's fees.[7] To establish his disability, respondent consulted a physician of his choice, Dr. Efren Vicaldo, who issued the following medical report dated February 17, 2000:

This is to certify that Flaviano Manigo, Jr., 46 years of age, of West Crame, San Juan, M. Manila, was examined and treated as out patient xxx [on] 17 Feb. xxx with the following findings and/or

diagnosis/diagnoses:

Coronary Artery Disease
2-Vessel Involvement
S/P Angioplasty with Stenting of the Right Coronary Artery
Impediment Grade III (78.36%).

x x x x

Patient has significant 2 coronary vessel involvement, only one of w/c (RCA) angioplastind.

He is still at risk for complications such as acute myocardial infarction or heart attack.

His illness impairs his quality of life since he cannot be as physically active as before.

x x x x

His illness also prevents him from gainfull employment here or abroad.

He needs regular consultation with his cardiologist.

His medication is a lifetime affair. (Emphasis supplied.) [8]

However, during a conference before the LA, respondent agreed to be re-examined by Dr. Cruz. And in a report dated August 14, 2000, Dr. Cruz reiterated his earlier opinion that respondent is fit to work, thus:

The patient is presently asymptomatic. He has no nuchal pain, chest pain, shortness of breath and easy fatigability. His blood pressure is within normal limits at 120/80. His physical examination is essentially normal. He was re-evaluated by our cardiologist who allowed him to resume his previous activities.

x x x x

He is fit to work effective today, August 14, 2000.[9]

In view of the conflicting opinions of Dr. Cruz and Dr. Vicaldo, respondent filed with the LA a Motion to allow him to get a third opinion from a physician of the ECC.[10]

Petitioners opposed the motion but the LA issued an Order dated September 29, 2000,[11] allowing respondent to be re-examined by an ECC physician. The re-examination of respondent was conducted by Dr. Francisco Estacio, Chief, Medical & Rehabilitation Division, ECC, who issued the following medical report:

INJURIES/AILMENT: Coronary Artery Disease
S/P Angioplasty with stinting of the
Right Coronary Artery

DATE OF OCCURRENCE: February 1999

DISABILITY: Coronary Insufficiency

NATURE OF DISABILITY: Permanent Disability

RECOMMENDED DISABILITY RATING: There is no specific rating in the POEA [Philippine Overseas Employment Agency] Schedule of disabilities for the [respondent's] ailment, Coronary Artery Disease, but upon thorough evaluation, we are of the opinion that it falls under Grade 3 (three) of the said schedule. [12](Emphasis supplied.)

The LA admitted the report of Dr. Estacio.[13]

Petitioners appealed to the NLRC. [14] In its June 28, 2002 Resolution, the NLRC dismissed the appeal for being the wrong mode of review, and remanded the case to the LA for continuation of the proceedings. [15] It also denied petitioners' motion for reconsideration.[16]

Petitioners filed a Petition for Certiorari[17] with the CA.

While the CA disagreed with the NLRC on the propriety of the appeal taken by petitioners from an interlocutory order of the LA, the appellate court nonetheless affirmed the NLRC in dismissing the appeal for lack of merit. Petitioners filed a motion for reconsideration with the CA, but the latter denied it.

And so, the present recourse by petitioners who ascribe the following errors to the CA:

- The Court of Appeals seriously erred in holding that the POEA Contract does not suggest that it is only the company-designated physician who must determine the fitness or disability of the repatriated seaman.
- The Court of Appeals seriously erred in holding that to interpret the provisions of the POEA Contract to mean that the determination of the disability of a seaman is limited to the company-designated physician would be contrary to public policy.
- The ruling of the Court of Appeals is contrary to the jurisprudence laid down in the case of *German Marine vs. NLRC* decided by this Honorable Court.
- The Court of Appeals seriously erred in ignoring the basic rules of Statutory construction in interpreting the provisions of the POEA Contract.[18]

Everything actually comes down to just one issue: whether in deciding the claim for disability benefits filed by respondent against petitioners under their POEA Standard Employment Contract (POEA-SEC), the LA is bound by the assessment of the company-designated physician, Dr. Cruz, on the fitness or unfitness to work of respondent, and is precluded from allowing respondent to be re-examined by Dr. Estacio and admitting into evidence the latter's medical report.

The CA sustained the LA in allowing Dr. Estacio to re-examine respondent and in admitting Dr. Estacio's medical report. Citing its own ruling in *Veritas Maritime Corp. v. National Labor Relations Commission*, [19] which is in turn based on *Philippine Transmarine Carriers, Inc. v. National Labor Relations Commission* [20] and *Wallem Maritime Services, Inc. v. National Labor Relations Commission*, [21] the CA held that the POEA-SEC is generally worded as it does not employ such qualifying terms as "only," "solely" or "exclusively" in reference to how the claimant is to be medically assessed; thus, nothing therein dictates the LA to rely solely on the assessment of Dr. Cruz in deciding the disability claim of respondent; rather, the POEA-SEC gives the LA discretion to elicit the opinion of a doctor not designated by petitioners or chosen by respondent. The CA further pointed out that a contrary interpretation of the POEA-SEC will only lead to absurdity for then respondent's claim against petitioners will virtually be decided, not by the LA, but by Dr. Cruz and petitioners. Such inequity could not have been intended by the POEA and Department of Labor and Employment (DOLE) when they sought to protect the rights and welfare of Filipino seafarers by regulating the terms and conditions of the latter's overseas employment.

In their Memorandum[22] and Supplemental Memorandum,[23] petitioners insist that the more binding interpretation on the provisions of the POEA-SEC was that rendered by the Court in *German Marine, Inc. v. National Labor Relations Commission*; [24] and, more recently, *Rivera v. Wallem*[25] and *Sarocam v. Interior Maritime Ent., Inc.*[26] -- which interpretation, petitioner claims, "support[s their] contention that under the

pertinent POEA Contract applicable at the time respondent's cause of action accrued, it is only the company-designated physician who has the sole and exclusive right to determine and assess whether a seafarer is entitled to disability benefits or not." [27] To their mind, no other medical assessment of the claimant should be allowed, much less one rendered by a physician of the ECC, as said agency is without jurisdiction over disability claims filed under the POEA-SEC. [28]

The Court disagrees with the contentions of petitioners.

At the time the parties entered into a contract of overseas employment on October 27, 1998, the provisions of the POEA-SEC, which were deemed incorporated into their contract, [29] were those prescribed in POEA Memorandum Circular No. 055-96, [30] dated December 16, 1996, and DOLE Department Order No. 33, series of 1996.

Section 20-B of the 1996 POEA-SEC prescribed the following requirements for claims for disability benefits, thus:

Section 20-B. Compensation and Benefits for Injury or Illness. -

The liabilities of the employer when the seafarer suffers injury or illness during the term of his contract are as follows:

- The employer shall continue to pay the seafarer his wages during the time he is on board the vessel.
- If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated.

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

- Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits. [31] (Emphasis added.)

DOLE Department Order No. 4, series of 2000, amended Section 20-B(3) of the POEA-SEC, to read as follows:

Section 20-B. Compensation and Benefits for Injury and Illness. -

x x x x

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his

forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor's decision shall be final and binding on both parties.(Emphasis added.)

The 2000 POEA-SEC took effect only on June 25, 2000.[32] By then, respondent's employment with petitioners had already been terminated by his repatriation on February 15, 1999.[33] Thus, it is the 1999 POEA-SEC, and not the 2000 POEA-SEC, which should govern respondent's claim for disability benefits.

However, even prior to its amendment, Section 20-B(3) of the 1996 POEA had long been liberally construed by the Court to mean that while it is a condition sine qua non to the filing of claim for disability benefit that, within three working days from his repatriation, the claimant submits himself to medical examination by a company-designated physician, the assessment of said physician is not final, binding or conclusive on the claimant, the labor tribunal or the courts.

In *Crystal Shipping, Inc. v. Natividad*,^[34] where the 1996 POEA-SEC was controlling, the Court upheld the medical report issued by the claimant's doctor of choice and disregarded that of the company-designated physician in view of the glaring apparent inconsistency in the latter's medical report between the classification of claimant's disability as Grade 9 and the fact stated that said claimant had been unable to work for three years, which condition makes his disability permanent and total.

Likewise, in *Seagull Maritime Corp. v. Dee*,^[35] involving a 1999 overseas contract, the Court sustained the NLRC and CA that the medical reports issued by the physicians of choice of the claimant were more in accord with the evidence, and rejected the one issued by the company-designated physician for inconsistency between the recommendation that the disability of the claimant is at Grade 11 only and the finding explicitly stated therein that "there is no guarantee that [claimant] will be able to return to his previous strenuous work." There the Court categorically ruled that "nowhere x x x did we hold that the company-designated physician's assessment of the nature and extent of a seaman's disability is final and conclusive on the employer company and the seafarer-claimant x x x while it is the company-designated physician who must declare that the seaman suffered a permanent disability during employment, it does not deprive the seafarer the right to seek a second opinion." The Court emphasized this view in *Micronesia Resources v. Cantomayor*.^[36]

Then too, in *Philippine Transmarine Carriers, Inc. v. National Labor Relations Commission*,^[37] the Court affirmed the grant by the CA and NLRC of disability benefits to a claimant based on the recommendation of a physician not designated by the employer. Said claimant consulted a physician of his choice when the company-designated physician refused to examine him.

There have been several other cases where the Court also rejected the medical report issued by the physician appointed by a claimant. In *Cadornigara v. National Labor Relations Commission*,^[38] the Court held that an assessment of a private doctor consulted by the claimant six months after he was declared fit to work by the company-designated physician has no evidentiary value, for the claimant's health condition may have drastically changed in the interregnum. The Court's ruling in *Sarocam*, which petitioners cited, was of the same tenor. The Court rejected the medical report procured by the claimant from a private doctor, 11 months after he was declared fit to work by the company-designated physician. In *Rivera*, also cited by petitioners, the Court held that no medical report issued by any physician appointed by a claimant can be considered in evidence if the latter, without reason, omitted to consult a company-designated physician within three days from his repatriation. Of course, if the claimant does not dispute the medical report issued by the company-designated physician, which was the case in *German Marine, Inc.*, the same ought to be adopted in the evaluation of the claimant's disability.

All told, the rule is that under Section 20-B(3) of the 1996 POEA-SEC, it is mandatory for a claimant to be examined by a company-designated physician within three days from his repatriation. The unexplained omission of this requirement will bar the filing of a claim for disability benefits. However, in submitting himself to examination by the company-designated physician, a claimant does not automatically bind himself to the medical report issued by the company-designated physician; neither are the labor tribunals and the courts bound by said medical report. Its inherent merit will be weighed and duly considered. Moreover, the claimant may dispute the medical report issued by the company-designated physician by seasonably consulting another physician. The medical report issued by said physician will also be evaluated by the labor tribunal and the court based on its inherent merits.

The CA therefore did not err in affirming the dismissal by the NLRC of the appeal of petitioners from the September 29, 2000 Order of the LA which allowed respondent to consult Dr. Estacio.

That said, however, it is entirely another matter whether the medical report of Dr. Estacio, as well as the medical report of Dr. Vicaldo, are of any credence and substance when weighed against the June 21, 1999 and August 14, 2000 medical reports of Dr. Cruz. That is for the LA to resolve when it decides the main case still pending before it.

WHEREFORE, the petition is DENIED. The Labor Arbiter is directed to resolve with dispatch the pending complaint of respondent Flaviano Manigo, Jr. against petitioners Maunlad Transport, Inc. and/or Nippon Merchant Marine Company, Ltd., Inc.

Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Reyes, and Brion., JJ., concur.

* In lieu of Justice Antonio Eduardo B. Nachura, per Special Order No. 507 dated May 28, 2008.

** The Court of Appeals having been included as a co-respondent, is deleted from the title pursuant to Section 4, Rule 45 of the Rules of Court.

[1] Penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Cancio C. Garcia (now a retired member of the Supreme Court) and Danilo B. Pine, rollo, p. 12.

[2] Rollo, p. 23.

[3] Contract of Employment, id. at 84.

[4] Id. at 132.

[5] Id. at 132-138.

[6] Id. at 138.

[7] Id. at 92.

[8] Annexes "2", "3", and "3-A", Comment, rollo, pp. 374-376.

[9] Id. at 139.

[10] Id. at 140.

- [11] Rollo, p. 379.
- [12] Id. at 380.
- [13] Id. at 108.
- [14] CA rollo, p. 49.
- [15] Rollo, p. 172.
- [16] Id. at 185.
- [17] CA rollo, p. 2.
- [18] Petition, rollo, pp. 39-40.
- [19] CA-G.R. SP No. 65639, February 27, 2003.
- [20] 405 Phil. 487 (2001).
- [21] 376 Phil. 738 (1999).
- [22] Rollo, p. 495.
- [23] Id. at 548.
- [24] 403 Phil. 572 (2001).
- [25] G.R. No. 160315, November 11, 2005, 474 SCRA 714.
- [26] G.R. No. 167813, June 27, 2006, 493 SCRA 502.
- [27] Supplemental Memorandum, rollo, pp. 541-542.
- [28] Petition, id. at 41-44.
- [29] Contract of Employment, rollo, p. 84. See also *Delos Santos v. Jebsen Maritime, Inc.*, G.R. No. 154185, November 22, 2005, 475 SCRA 656.
- [30] Revised Standard Employment Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessel; effective January 1, 1997.
- [31] The 1989 POEA-SEC contained a similar provision under Section 7(d).
- [32] See *Linsangan v. Laguesma*, G.R. No. 143476, September 10, 2001.
- [33] Section 18. Termination of employment. x x x B. The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons: 1. when the seafarer signs-off and is disembarked for medical reasons pursuant to Section 20-B(4) of this Contract x x x. See also *Prudential Shipping and Management Corporation v. Sta. Rita*, G.R. No. 166580, February 8, 2007, 515 SCRA 157, 169, citing *Hermogenes v. Osco Shipping Services, Inc.*, G.R. No. 141505, August 18, 2005, 467 SCRA 301, 307. Cf. *Philippine Transmarine Carriers, Inc. v. Laurente*, G. R. No. 158883, April 19, 2006, 487 SCRA 452, 457.
- [34] G.R. No. 154798, October 20, 2005, 473 SCRA 559. See also the Resolution in G.R. No. 154798 dated February 12, 2007.
- [35] G.R. No. 165156, April 2, 2007, 520 SCRA 109.

[36] G.R. No. 156573, June 19, 2007, 525 SCRA 42.

[37] Supra note 20; see also *Wallem Maritime Services, Inc. v. National Labor Relations Commission*, supra note 21.

[38] G.R. No. 158073, November 23, 2007.

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