



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**SKIPPERS UNITED PACIFIC,
INC., and/or IKARIAN MOON
SHIPPING, CO., LTD.,**

G.R. No. 217036

Petitioners,

Present:

PERALTA,* *J.*, *Acting Chairperson*,
DEL CASTILLO,
JARDELEZA,
TIJAM, and
GESMUNDO,** *JJ.*

- versus -

ESTELITO S. LAGNE,
Respondent.

Promulgated:

AUG 20 2018

X-----

DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari* under Rule 45¹ of the Rules of Court seeking the reversal of the Decision² dated April 30, 2014 and the Resolution³ dated February 23, 2015 of the Court of Appeals in CA-G.R. SP No. 123897 entitled "*Skippers United Pacific, Inc. and/or Ikarian Moon Shipping Co., Ltd. v. Estelito S. Lagne.*"⁴

The facts are as follows:

Estelito S. Lagne (*Lagne*) was hired by Skippers United Pacific, Inc. (*petitioner*) to serve as Oiler on board the vessel "Nicolaos M" which is owned and operated by its foreign principal, co-petitioner Ikarian Moon Shipping Co., Ltd. On September 14, 2009, Lagne signed his employment contract

* Designated Acting Chairperson, per Special Order No. 2582 (Revised), dated August 8, 2018.

** Designated Acting Member, per Special Order No. 2560 (Revised), dated May 11, 2018.

¹ *Rollo*, pp. 3-15.

² *Id.* at 11-22.

³ *Id.* at 24-25.

⁴ Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Rosmari D. Carandang and Marlene Gonzales-Sison, concurring.

which included the standard terms and conditions governing the employment of Filipino seafarers as prescribed by the Philippine Overseas Employment Administration (*POEA*). The contract has a duration of nine months with basic salary of US\$465.00.

Part of his pre-employment requirements, Lagne was subjected to a Pre-Employment Medical Examination (*PEME*) where he was declared "fit for sea duty." Thus, on September 25, 2009, Lagne boarded his assigned vessel to commence his work.

Sometime in January 2010, Lagne started to feel pain on his anus whenever he carries heavy weights or performs laborious tasks. He also experienced chest pains and difficulty in breathing during his work which he tried to endure. However, his ailment persisted as he even experienced intolerable pain even during defecation. Later, Lagne felt that there was a protruding mass on his anus which he noticed to be increasing in size. Alarmed, he reported the matter to his supervisor.

On May 12, 2010, Lagne was brought to the clinic at 51 Rue D'ansou 66600 Saint Nazaire, Montoir, France, where he was attended by a certain Dr. Bourgois. He was diagnosed to have a "rectal mass" and was recommended for medical repatriation after having been declared "unfit for duty." Based on said findings, on May 17, 2010, Lagne was repatriated to the Philippines.

Upon his arrival, Lagne was referred for medical check-up at the General Med Health Services. After a series of laboratory tests, he was advised to undergo surgical evaluation and biopsy of the rectal mass. Subsequently, Lagne was endorsed at the Metropolitan Medical Center, under the care of Dr. Esther G. Go (*Dr. Go*), the company-designated physician, who conducted colonoscopy and biopsy on Lagne. The results confirmed the presence of "anorectal mass." Lagne was also subjected to CEA determination and CT scan of his whole abdomen and chest. While his medical assessment was ongoing, Lagne filed a complaint before the arbitration branch of the NLRC claiming permanent total disability benefits, sick wages, damages and attorney's fees against petitioners. The case was docketed as NLRC NCR OFW Case no. (M) 09-12437-10.

On September 16, 2010, Dr. Go issued a follow-up medical evaluation report on Lagne's condition containing the following findings:

x x x x

Repeat, complete blood count showed decreased hemoglobin (98 g/L), hematocrit (0.30), elevated eosinophils and adequate platelet count.

His CEA result showed markedly elevated result.



Histopath result of the rectal biopsy showed moderately differentiated adenocarcinoma.

His CT Scan of the whole abdomen with contrast revealed rectosigmoid mass. Consider adenocarcinoma with probable beginning pericolonic tumoral spread or congestion. Multiple hepatic nodule. Metastatic (?)

CT Scan of the chest with contrast showed multiple tiny pulmonary nodules, right upper lobe probably due to inflammatory or metastatic process. Degenerative changes, thoracic spine.

x x x x⁵

Later, Dr. Go diagnosed Lagne as suffering from "*Moderately Differentiated Rectosigmoid Adenocarcinoma.*" Lagne was advised to undergo Abdominal Perineal Resection of the Rectosigmoid Tumor which includes the placement of permanent colostomy as management for his condition. Dr. Go, likewise, recommended transfusion of two (2) units of packed red blood cells in preparation for his surgery. Lagne, however, refused and manifested his desire to seek second opinion from his private doctor.⁶

Lagne then sought the expertise of Dr. May S. Donato-Tan (*Dr. Donato-Tan*, a specialist in internal medicine and cardiology at the Philippine Heart Center, for the assessment and evaluation of his health condition. On November 30, 2010, Dr. Donato-Tan found Lagne to have sustained a permanent disability due to "*Moderately Differentiated Rectosigmoid Adenocarcinoma and Atherosclerotic Cardiovascular Disease*" and declared him "UNFIT FOR DUTY in whatever capacity as seaman."⁷

In his claim for disability compensation, Lagne asserted that his illness, *rectosigmoid adenocarcinoma*, was directly caused by his employment with petitioners. He alleged that the food regularly served in their assigned vessel involved mostly carbohydrates and meat, usually with saturated fat. He also averred that his duties as an oiler exposed him to manual and laborious tasks such as carrying heavy equipment and other materials which contributed to the worsening of his condition.

Lagne further claimed entitlement to sickness allowance as provided under Section 20 (B), paragraph 3 of the POEA Standard Contract for Seafarers, to wit:

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

⁵ *Rollo*, p. 295.

⁶ *Id.*

⁷ *Id.* at 297-298.

company-designated physician but in no case shall this period exceed one hundred twenty (120) days.

Lagne, thus, prayed that petitioners be ordered to pay him permanent total disability benefits in the amount of US\$60,000.00, sickness allowance in the sum of US\$2,536.36, moral as well as exemplary damages of ₱500,000.00 each, and attorney's fees.

Meanwhile, petitioners argued that Lagne is not entitled to any disability compensation since *rectosigmoid adenocarcinoma* is not listed as one of the occupational diseases under Section 32-A of the POEA Standard Employment Contract for Seafarers (*POEA-SEC*). They insisted that the same is not connected with his duties as an oiler and, therefore, is not compensable under the provisions of the *POEA-SEC*. They further claimed that even the medical conclusion of the company-designated physician confirmed that Lagne's illness is not work-related.

On February 28, 2011, the Labor Arbiter dismissed Lagne's claim for total permanent disability benefits for his failure to substantiate his claim that his illness is work-related.⁸ It ruled that the findings of Dr. Go should be upheld over the assessment of Dr. Donato-Tan because the former conducted an extensive and regular monitoring of Lagne's condition as opposed to the latter who made her conclusion after a single consultation only. The Labor Arbiter, likewise, denied the prayer for sickness allowance, damages and attorney's fees. The dispositive portion of the Decision reads:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered DISMISSING the instant complaint for lack of merit.

SO ORDERED.⁹

Aggrieved, Lagne appealed to the NLRC. In a Decision¹⁰ dated September 15, 2011, the NLRC reversed the decision of the Labor Arbiter and granted Lagne's prayer for monetary awards. It held that the food provisions on the ship consisting mostly of frozen meat and canned goods, as well as Lagne's arduous job as an oiler, undoubtedly aggravated the latter's rectal illness entitling him to recover permanent total disability benefits under the *POEA-SEC*. The dispositive portion of the Decision reads:

WHEREFORE, the Decision on Appeal is SET ASIDE and REVERSED and a NEW ONE entered declaring all the respondents-appellee liable to pay complainant, in peso equivalent at the time of payment, the following amounts:

⁸ *Id.* at 191-196.

⁹ *Id.* at 196.

¹⁰ *Id.* at 159-167.

- a) USD \$1,860 as sickness allowance;
- b) USD \$60,000.00 as disability benefits; and
- c) 10% of the money awards as and for attorney's fees.

SO ORDERED.¹¹

Dissatisfied, petitioners sought reconsideration but the NLRC in a Resolution¹² dated January 27, 2012, denied the same.

On April 30, 2014, in its disputed Decision,¹³ the Court of Appeals affirmed the Resolutions dated September 15, 2011 and January 27, 2012 of the NLRC.

Petitioners moved for reconsideration but was denied in a Resolution¹⁴ dated February 23, 2015. Thus, the instant petition for review on *certiorari* raising the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS COMMITTED ERROR OF LAW WHEN IT AFFIRMED THE GRANT OF CONTRACTUAL BENEFITS TO LAGNE DESPITE THE LATTER'S FAILURE TO PRESENT ANY SUBSTANTIAL EVIDENCE TO SHOW THAT HIS COLORECTAL CANCER IS WORK-RELATED.

II

WHETHER OR NOT THE COURT OF APPEALS COMMITTED ERROR OF LAW IN AFFIRMING THE AWARD OF ATTORNEY'S FEES DESPITE THE ABSENCE OF ANY EVIDENCE SHOWING BAD FAITH ON THE PART OF PETITIONERS.

Petitioners' claim that Lagne's allegation that his illness is work-related is self-serving, as he failed to substantiate his claim. They insisted that Lagne's illness, *rectosigmoid adenocarcinoma*, is not listed as compensable under Section 32-A of the POEA-SEC. They further contend that the Court of Appeals committed error in adopting the conclusion of the NLRC that Lagne was served with unhealthy food provisions which aggravated his colorectal cancer as the same was unsupported by any evidence.

On the other hand, Lagne reiterated the ruling of the CA that his illness is work-related, and insisted that the food provisions on the ship consisting

¹¹ *Id.*

¹² *Id.* at 169-171.

¹³ *Id.* at 11-22.

¹⁴ *Id.* at 24-25.

mostly of frozen meat and canned goods and his strenuous work as an oiler aggravated his rectal illness. He argued that due to his inability to return to his work because of his illness, he is entitled to permanent total disability.¹⁵

We deny the instant petition.

As a general rule, only questions of law raised *via* a petition for review under Rule 45 of the Rules of Court are reviewable by this Court. Factual findings of administrative or *quasi*-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.¹⁶ However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:¹⁷

1. [W]hen the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;
6. when in making its findings, the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to that of the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition, as well as in the petitioner's main and reply briefs, are not disputed by the respondent;
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or
11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.¹⁸

Whether or not Lagne's illness is compensable is essentially a factual issue. However, in view of the conflicting views of the Labor Arbiter, and the NLRC and CA, this Court is compelled to look into its factual domain.

For disability to be compensable under Section 20(B)(4) of the POEA-SEC, two elements must concur: (1) the injury or illness must be work-related;

¹⁵ *Id.* at 421-448.

¹⁶ *De Leon v. Maunlad Trans., Inc.*, G.R. No 215293, February 8, 2017.

¹⁷ *Id.*

¹⁸ *Id.*

and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.¹⁹

The POEA-SEC defines a work-related injury as "injury(ies) resulting in disability or death arising out of and in the course of employment," and a work-related illness as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied."²⁰

For illnesses not mentioned under Section 32, the POEA-SEC creates a disputable presumption in favor of the seafarer that these illnesses are work-related. However, notwithstanding the presumption, We have held that on due process grounds, the claimant-seafarer must still prove by substantial evidence that his work conditions caused or, at least, increased the risk of contracting the disease. This is because awards of compensation cannot rest entirely on bare assertions and presumptions. In order to establish compensability of a non-occupational disease, reasonable proof of work-connection is sufficient – direct causal relation is not required. Thus, probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings.²¹

In the instant case, a careful review of the findings of the NLRC and the CA would show that Lagne was able to meet the required degree of proof that his illness is compensable as it is work-connected. In his Position Paper dated December 8, 2010, Lagne stated that he boarded the vessel on September 25, 2009 where he proceeded to work on his duties as an oiler. He enumerated his duties and responsibilities, to wit:

(1) performing general duties, including wiping oil, maintaining tools; cleaning, preparing, and painting of machinery, equipment, and related spaces;

(2) lubricates moving parts of propulsion engines and auxiliary equipments;

(3) pumps bilges, and cleans strainers, filters, and centrifuges;

(4) checks, during the scheduled rounds the proper operation of machinery; maintains proper temperatures and pressures; and records data in engineering log;

(5) assists engineers, while in port, with maintenance and repair of engine room equipment and spaces; loading freshwater, stores, and bunkers;

(6) connecting to shore side power and water, and maintenance and inventory of spare parts;

¹⁹ *Leonis Navigation Co., Inc., et al. v. Eduardo C. Obrero, et al.*, 802 Phil. 341, 347 (2016); citing *Tagle v. Anglo-Eastern Crew Management, Phils., Inc., et al.*, 738 Phil. 871, 888 (2014).

²⁰ *De Leon v. Maunlad Trans, Inc.*, *supra* note 16.

²¹ *Id.*

- (7) keeps the log of all watch operations and conditions, including unusual occurrences and emergency signals;
- (8) may stand engine room watch, and generator watch in port; and
- (9) may be assigned day work and performs other duties as required.²²

Considering the manual and laborious job that Lagne does, we surmised that he was able to reasonably prove that his working conditions exposed him to factors that could have aggravated his medical condition. We give credence to his positive assertion that he felt pain on his anus whenever he carries heavy weights, chest pains and difficulty in breathing during his work, and the increasing size of the protruding rectal mass. To note, petitioners have not refuted having assigned to Lagne such task of carrying heavy weights.

We likewise give weight to the NLRC's findings that his work conditions caused or, at least, increased the risk of contracting the disease, to wit:

Being a seafarer, We can take judicial notice of the food provisions on a ship which are produced at one time for long journeys across the oceans and seas. The food provided to seafarers are mostly frozen meat, canned goods and seldom are there vegetables which easily rot and wilt and, therefore, impracticable for long trips. These provisions undoubtedly contributed to the aggravation of appellant's rectal illness.

Moreover, as pointed out by both the NLRC and the CA, the compensability of colorectal cancer has already been ruled upon in the case of *Leonis Navigation Co., Inc., et al. v. Heirs of the late Catalino V. Villamater, et al.*,²³ to wit:

Factors that increase a person's risk of colorectal cancer include high fat intake, a family history of colorectal cancer and polyps, the presence of polyps in the large intestine, and chronic ulcerative colitis.

Diets high in fat are believed to predispose humans to colorectal cancer. In countries with high colorectal cancer rates, the fat intake by the population is much higher than in countries with low cancer rates. It is believed that the breakdown products of fat metabolism lead to the formation of cancer-causing chemicals (carcinogens). Diets high in vegetables and high-fiber foods may rid the bowel of these carcinogens and help reduce the risk of cancer.

A person's genetic background is an important factor in colon cancer risk. Among first-degree relatives of colon-cancer patients, the lifetime risk of developing colon cancer is 18%. Even though family history of colon cancer is an important risk factor, majority (80%) of colon cancers occur sporadically in patients with no family history of it. Approximately 20% of

²² *Rollo*, pp. 270-271.

²³ 628 Phil. 81 (2010).



cancers are associated with a family history of colon cancer. And 5% of colon cancers are due to hereditary colon cancer syndromes. Hereditary colon cancer syndromes are disorders where affected family members have inherited cancer-causing genetic defects from one or both of the parents.²⁴

We also quote with approval the appellate court's findings in support of the compensability of Lagne's rectal illness, to wit:

While there is no specific cause of colorectal cancer, certain factors can increase risk of developing the disease. These factors include genetics, diet, age and health. Experts say that individuals with a family history of colorectal cancer, especially if more than one relative has had the disease, are at increased risk. Meanwhile, age also plays a definite role in the predisposition to colorectal cancer, *According to studies, two-thirds of all cases occur after age 50 and the average age for those who develop the disease is 62. In addition, diets high in fat, red meat, total calories, and alcohol are significantly associated with the formation of cancer-causing chemicals known as carcinogens which predisposes humans to contracting the disease.*

*In the case of private respondent, it is apparent that the interplay of age and dietary factors contributed to the development of his colorectal cancer. It must be noted that at the time he signed his employment contract on September 14, 2009, private respondent was already 55 years old, having been born on October 19, 1954, an age at which the incidence of rectosigmoid cancer is more likely. The NLRC found his illness to be compensable for permanent and total disability because it found that his dietary provisions while at sea increased his risk of contracting colon cancer because of lack of choice of what to eat on board except those provided on the vessels and those consisted mainly of high-fat, high-cholesterol, and low-fiber foods.*²⁵

Notably, even Dr. Go, the company-designated doctor, while declaring that *rectosigmoid adenocarcinoma* is not work-related, she, however, admitted that *rectosigmoid adenocarcinoma's* risk factors include age, diet rich in saturated fat, fatty acid and linoleic acid, and genetic predisposition.²⁶

As above-stated, both the NLRC and the CA found Lagne's rectal illness to be compensable for permanent and total disability, because they found that his dietary provisions while at sea increased his risk of contracting colon cancer because he had no choice of what to eat on board. Suffice it to say, the strenuous nature of Lagne's job, combined with his poor diet which consists of mostly carbohydrates and meat, usually with saturated fat, his advanced age as he was 55 at the time of hiring, we find it reasonable to conclude that Lagne acquired or developed his illness during the term of his contract. There is a probability that Lagne's work as an oiler caused or

²⁴ *Leonis Navigation Co., Inc., et al. v. Heirs of the late Catalino V. Villamater, et al.*, supra note 23, at 97-98. (Citations omitted)

²⁵ *Rollo*, p. 19. (Emphasis supplied)

²⁶ *Id.* at 241.

contributed even to a small degree to the development or aggravation of his rectal illness.

We, thus, stress that in determining the compensability of an illness, we do not require that the employment be the sole factor in the growth, development, or acceleration of a claimants' illness to entitle him to the benefits provided for. It is enough that his employment contributed, even if only in a small degree, to the development of the disease.²⁷

Even assuming that the ailment of the worker was contracted prior to his employment, this still would not deprive him of compensation benefits. For what matters is that his work had contributed, even in a small degree, to the development of the disease. Neither is it necessary, in order to recover compensation, that the employee must have been in perfect health at the time he contracted the disease. A worker brings with him possible infirmities in the course of his employment, and while the employer is not the insurer of the health of the employees, he takes them as he finds them and assumes the risk of liability.²⁸

As to the second element, we find the same to be likewise present in this case. It is undisputed that Lagne boarded the vessel on September 25, 2009. He began experiencing pain in his anus sometime in January 2010. Later, on May 12, 2010, he was in fact brought to a clinic in France where he was attended by a certain Dr. Bourgois after he complained to his superior about his condition. It was also during said time when he was first diagnosed to have a rectal mass and was recommended for medical repatriation on May 17, 2010. Clearly, from the foregoing, it can be assumed Lagne's illness started to exist or developed during his nine-month employment contract.

We also affirm the award of sickness allowance in favor of Lagne, since there is no evidence on record that the same had been duly paid by the petitioners. They have likewise not disputed that Lagne was repatriated for medical reasons, thus, petitioner's liability subsists, pursuant to Section 20 (B) (3) of the POEA-SEC which provides that:

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 the period exceed one hundred twenty (120) days.

²⁷ *C.F. Sharp Crew Management, Inc. v. Legal Heirs of the Late Godofredo Repiso*, 780 Phil. 645, 671 (2016).

²⁸ *Seagull Shipmanagement and Transport, Inc., et al. v. NLRC, et al.* 388 Phil. 906, 914 (2000).



With respect to attorney's fees, it is clear that Lagne was compelled to litigate due to petitioners' failure to satisfy his valid claim. Where an employee is forced to litigate and incur expenses to protect his rights and interest, he is entitled to an award of attorney's fees equivalent to ten percent (10%) of the total award at the time of actual payment.²⁹

Finally, consistent with the State's avowed policy to afford full protection to labor as enshrined in Article XIII of the 1987 Philippine Constitution, the POEA-SEC was designed primarily for the protection and benefit of Filipino seafarers in the pursuit of their employment on board ocean-going vessels. As such, it is a standing principle that its provisions are to be construed and applied fairly, reasonably, and liberally in their favor.³⁰

WHEREFORE, the petition is **DENIED**. The assailed Decision dated April 30, 2014 and the Resolution dated February 23, 2015 of the Court of Appeals in CA-G.R. SP No. 123897 are **AFFIRMED**. Costs against petitioners.

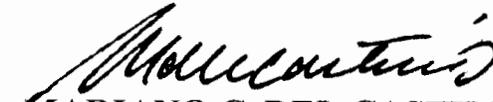
SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

²⁹ *Maersk Filipinas Crewing Inc., et al. v. Mesina*, 710 Phil. 531, 538 (2013); *Valenzona v. Fair Shipping Corporation, et al.*, 675 Phil. 713, 731 (2011); *Quitoriano v. Jebsens Maritime, Inc., et al.*, 624 Phil. 523, 532 (2010); *Crystal Shipping, Inc. v. Natividad*, 510 Phil. 332, 340 (2005).

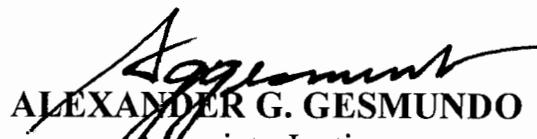
³⁰ *Racelis v. United Philippine Lines, Inc., et al.*, 746 Phil. 758, 772 (2014).

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, Republic Act
No. 292, The Judiciary Act of
1948, as amended)