Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RUEL L. GUADALQUIVER,
Petitioner,

- versus -

SEA POWER SHIPPING ENTERPRISE, INC., MISSISSAUGA ENTERPRISES, INC. AND/OR MS. ANTONIETTE A. GUERRERO,
Respondents.

G.R. No. 226200

Present:

PERALTA, *J., Chairperson,*
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, *JJ.*

Promulgated:

August 5, 2019

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DECISION

INTING, *J.*:

Before the Court is a Petition for Review on *Certiorari* challenging the Decision[1] dated May 23, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 141829 which reversed and set aside the Decision[2] and Resolution,[3] respectively dated May 20, 2015 and June 19, 2015, of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW-(M)-11-000910-14.

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1 *Rollo*, pp. 467-481; penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser.

2 Id. at 363-374; penned by Commissioner Angelo Ang Palaña and concurred in by Commissioner Numeriano D. Villena.

3 Id. at 406-407.

Also assailed is the CA Resolution[4] of August 4, 2016 denying petitioner Ruel L. Guadalquiver's (petitioner) motion for reconsideration.

The Antecedents

Under a nine-month contract[5] (with three-month extension), Sea Power Shipping Enterprise, Inc. (Sea Power), in behalf of its principal, Mississauga Enterprises, Inc. (Mississauga), employed petitioner as Able Seaman to work aboard the vessel M/V Dimi with a basic monthly salary of US$465.00, among other benefits. After passing his pre-employment medical examination, petitioner boarded the vessel on September 25, 2012.[6] Petitioner's contract was extended for two months. For which reason, the parties executed another contract on August 1, 2013.[7]

Petitioner alleged that his work involved strenuous manual work of pushing, pulling, lifting and/or carrying heavy objects. He narrated that in November 2012, after lifting a heavy jar of paint on the vessel, he felt a "click" followed by pain on his lower back. He initially ignored the incident but the pain persisted.[8] On August 30, 2013, he consulted a doctor in Egypt who diagnosed him with osteoarthritis.[9]

On September 19, 2013, petitioner was medically repatriated and immediately went to the company-designated doctor, Dr. Jose Emmanuel E. Gonzales (Dr. Gonzales).[10]

On October 7, 2013, Dr. Gonzales reported[11] that after undergoing an MRI,[12] petitioner was diagnosed with lumbo-sacral muscle strain but there was no indication that surgery was needed. Consequently, he advised petitioner to undergo physical therapy. On November 13, 2013, while petitioner was still undergoing therapy, Dr. Gonzales noted the great improvement in petitioner's pain relief. Because of this progress, he assured petitioner that he could be given a fit-to-work certification after six sessions of physical therapy. However, notwithstanding the assurance, petitioner unjustifiably failed to report back to the company-designated physician. Resultantly, in his Medical Report dated March 25, 2014, Dr. Gonzales

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4 Id. at 508-511.
5 Id. at 29.
6 Id. at 48-49.
7 Id. at 30.
8 Id. at 49-50.
9 Id. at 118.
10 Id. at 50-51.
11 Id. at 120.
12 Magnetic Resonance Imaging.

declared that petitioner abandoned his treatment as he failed to return for his follow-up physical therapy. He also gave petitioner his final diagnosis of "Lumbo Sacral Muscle Strain with Myositis S/P Physical Therapy."[13]

Meanwhile, petitioner admitted having consulted his physician-of-choice, Dr. Manuel Fidel M. Magtira (Dr. Magtira), because his condition did not improve.[14] He also declared that on February 13, 2014, Dr. Magtira already declared[15] him unfit to work at his previous occupation.

According to petitioner, he sought payment of disability benefits from his employer but to no avail.[16] Thus, on March 31, 2014, he filed a Complaint[17] for permanent and total disability benefits and reimbursement of medical expenses against Sea Power, Missisauga and/or Antoniette A. Guerrero, the President of Sea Power (respondents).

On April 9, 2014, Dr. Gonzales specified that he last treated petitioner on February 28, 2014; he required petitioner to report back on March 11, 2014 for his physical therapy session but the latter did not return for his follow-up treatment. Because of this, Dr. Gonzales gave him his final disability grade of "Grade 11 – Slight rigidity or one third (1/3) loss of motion or lifting power of the trunk[.]"[18]

In his Position Paper[19] and Reply,[20] petitioner asserted that from his repatriation on September 19, 2013 until the filing of his complaint on March 31, 2014, more than 120 days had lapsed without him regaining his fitness to work as a seafarer. He also refuted that he committed medical abandonment contending that there was no evidence to prove that his disability was because he absconded his treatment. He added that his personal doctor already declared him unfit to work as seafarer which made him entitled to full disability benefits.

Respondents, on their end, countered in their Position Paper[21] and Reply[22] that petitioner was still on his 188th day of medical treatment with the company-designated doctor when he filed this suit. They averred that on April 9, 2014, the company-designated physician issued his final disability

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[13] *Rollo*, pp. 122-123.
[14] Id. at 50.
[15] Id. at 77-78.
[16] Id. at 52.
[17] Id. at 44-46.
[18] Id. at 127.
[19] Id. at 47-62.
[20] Id. at 132-156.
[21] Id. at 79-112.
[22] Id. at 157-193.

assessment based on petitioner's last physical examination. They insisted that the final assessment was given within the 240-day period as required by law.

Moreover, respondents contended that petitioner committed medical abandonment when he did not return for his physical therapy session with the company-designated doctor. They also maintained that petitioner was not entitled to permanent and total disability benefits because the company-designated doctor only found him to have suffered from Grade 11 disability.

Ruling of the Labor Arbiter

In his Decision[23] dated September 8, 2014, the Labor Arbiter (LA) ordered respondents to pay jointly and severally permanent and total disability benefits (US$60,000.00) as well as attorney's fees equivalent to 10% of the total monetary award in favor of petitioner.

The LA ruled that the opinion of the company-designated physician could not outweigh the categorical declaration of petitioner's personal doctor, who certified as to his permanent unfitness. The LA further noted that more than 120 days had lapsed from the time petitioner was repatriated yet there was no indication that he had gained employment as seafarer. According to the LA, petitioner's inability to find work for more than 120 days already amounted to permanent and total disability.

Ruling of the National Labor Relations Commission

On appeal, the NLRC affirmed *in toto* the LA Decision.

The NLRC decreed that considering that petitioner could no longer resume his duties as an Able Seaman, then he was entitled to permanent and total disability benefits. It was unconvinced with respondents' argument that no credence should be given to the medical report given by the doctor-of-choice because the report was a result of a single consultation only and was given after seven months from petitioner's repatriation. It also did not agree with the finding that petitioner committed any medical abandonment noting that the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) required mandatory reporting to the company-designated doctor within three days from repatriation and no other.

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[23] Id. at 223-231; penned by Labor Arbiter Fedriel S. Panganiban.

With the denial of their motion for reconsideration, respondents filed a petition for *certiorari* with the CA.

Ruling of the Court of Appeals

On May 23, 2016, the CA reversed and set aside the NLRC Decision and Resolution and, accordingly, ordered Sea Power and Missisauga to jointly and severally pay petitioner income benefit for 202 days in the amount of US$3,131.00 and partial disability benefit amounting to US$7,465.00 to be paid in Philippine Currency at the exchange rate prevailing at the time of payment.

The CA stressed that petitioner was duty-bound to complete his medical treatment until the company-designated doctor declares him fit to work or his disability was duly assessed. It underscored that at the time petitioner filed this case, the company-designated physician had not yet determined the extent of his disability and it remained undisputed that petitioner failed to report back for his already scheduled treatment.

In addition, the CA ruled that petitioner had no cause of action when he filed this suit emphasizing that while a seafarer has a right to seek medical opinion from his chosen doctor, it must be undertaken on the presumption that there was already a certification given by the company-designated physician. Since no such certification was given here, then the filing of the case was premature.

Notwithstanding the foregoing, the CA decreed that petitioner was entitled to sickness allowance or income benefit for the period from his repatriation until the date that the company-designated doctor issued his assessment on his condition. It further ruled that petitioner is entitled to Grade 11 disability benefits considering that respondents themselves acknowledged that the company-designated doctor made such assessment on petitioner.

Issues

With the denial of his motion for reconsideration, petitioner filed this Petition arguing that:

THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW [(1)] IN HOLDING THAT PETITIONER WAS GUILTY OF

MEDICAL ABANDONMENT FOR HIS ALLEGED FAILURE TO COMPLETE HIS TREATMENT WITH THE COMPANY-DESIGNATED PHYSICIAN[; AND (2)] IN DISREGARDING SUBSTANTIAL EVIDENCE PROVING THAT [PETITIONER IS] ENTITLED TO DISABILITY BENEFITS.[24]

Petitioner maintains that he did not commit a breach of his contractual obligations as he did not abandon his treatment. Instead, he faults the company-designated doctor from failing to issue any certification on his condition within 120 days from his repatriation. He maintains that he underwent the prescribed therapy; and even before its completion, the prognosis was known that regardless of whatever medical management, he could no longer be restored to his pre-injury health status.

On the other hand, respondents insist that petitioner was duty-bound to complete his medical treatment with the company-designated doctor. They stress that seafarers are to report regularly to the company-designated physician for their treatment otherwise, they will be guilty of medical abandonment and be disqualified from seeking disability benefits.

Our Ruling

The Petition is bereft of merit.

As a rule, only questions of law may be raised in a petition under Rule 45 of the Rules of Court. The Court is not a trier of facts. At the same time, it accords much respect on the factual findings of administrative bodies, like labor tribunals, since they are specialized to decide matters within their jurisdiction. However, this rule allows certain exceptions, including situations where the factual findings are conflicting,[25] as in the case at bench. There being variance in the findings of fact of the LA and the NLRC, on one hand, and of the CA, on the other hand, the Court deems it necessary to re-assess these factual findings for the just resolution of the case.

When is a seafarer deemed to be permanently and totally disabled?

Citing *Vergara vs. Hammonia Maritime Services, Inc.*,[26] the Court has elucidated in *Seamar Maritime Services, Inc. vs. Hernandez, Jr.*[27]

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[24] Id. at 9.

[25] *Career Philippines Shipmanagement, Inc. vs. Silvestre*, G.R. No. 213465, January 8, 2018.

[26] 588 Phil. 895 (2008).

[27] G.R. No. 211187, April 16, 2018.

that the period of 120 days from repatriation is the duration within which the employer is to determine the fitness of the seafarer to work or to ascertain the degree of his disability; in such case where the seafarer remains in need of medical attention, the 120-day period may be extended to a maximum period of 240 days within which the company-designated doctor must make a definite declaration on the fitness to work or the degree of the disability of the seafarer. A seafarer is thus considered permanently and totally disabled when so declared by the company-designated doctor within the period of 120 or 240 days, as the case may be; or after the lapse of 240 days without any declaration being issued by the company-designated physician.

In *Scanmar*,[28] the Court went further in enumerating the instances when the seafarer may already pursue a case for full disability benefits, *viz.*:

> (a) the company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days;
>
> (b) 240 days had lapsed without any certification being issued by the company-designated physician;
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> (c) the company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his physician of choice and the doctor chosen under Section 20-B(3) of the POEA-SEC are of a contrary opinion;
>
> (d) the company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well;
>
> (e) the company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading;
>
> (f) the company-designated physician determined that his medical condition is not compensable or work-related under the POEA-SEC but his doctor-of-choice and the third doctor selected under Section 20-B(3) of the POEA-SEC found otherwise and declared him unfit to work;

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[28] Id.

(g) the company-designated physician declared him totally and permanently disabled but the employer refuses to pay him the corresponding benefits; and

(h) the company-designated physician declared him partially and permanently disabled within the 120-day or 240-day period but he remains incapacitated to perform his usual sea duties after the lapse of the said periods.

Keeping these guidelines in mind, the Court finds that the CA did not err in ruling that the NLRC committed grave abuse of discretion in affirming the LA Decision awarding permanent and total disability benefits to petitioner.

To recall, from his repatriation on September 19, 2013, petitioner had been under the care of the company-designated doctor, who regularly monitored and issued reports on petitioner's condition. However, after his physical therapy session on February 28, 2014, petitioner simply did not return for his treatment. At that time, petitioner was on the 162nd day of treatment, and the company-designated doctor has not yet issued his definite declaration on petitioner's condition for the apparent reason that *petitioner was still under treatment and the maximum period of 240 days to issue the certification had not yet lapsed.*

It is equally important to note that when petitioner filed his disability case on March 31, 2014, only 193 days had lapsed, which is again, within the above-cited 240-day period. This only means that there were remaining days for the company-designated doctor to issue his assessment on petitioner's condition. However, without waiting for such declaration and/or the lapse of the 240-day period, petitioner prematurely filed this suit even if his cause of action had not yet accrued.

Put in another way, petitioner's cause of action had not yet accrued considering that the 240-day period had not yet lapsed and the company-designated doctor still had a remaining period within which to give his definitive assessment on the medical condition or the fitness of petitioner to return to work. In fact, prior to the filing of the case, petitioner was under the close monitoring of the company-designated physician and the latter even assured him that after completing six physical therapy sessions, he would be given fit-to-work certification. However, petitioner simply did not report back to the company-designated doctor, and already filed this case against respondents.

Moreover, the opinion of petitioner's personal doctor cannot be given credence since it did not give petitioner the necessary cause of action he lacked when he filed the complaint. Indeed, while a seafarer has the right to seek the opinion of other doctors, such right may be availed of *on the presumption that the company-designated doctor had already issued a definite declaration on the condition of the seafarer*, and the seafarer finds it disagreeable. Given the lack of certification from the company-designated doctor, petitioner cannot rely on the assessment made by his own doctor.[29]

Maximum period of 240 days applies to this case

Petitioner contends that he is entitled to full disability benefits on the ground that the company-designated doctor failed to give his assessment on petitioner's condition within the 120-day period from his repatriation.

The Court is unconvinced.

In *Oriental Shipmanagement Co., Inc. vs. Ocangas*,[30] the Court pointed out its ruling in *Kestrel Shipping Co., Inc. vs. Munar*[31] where it, in turn, clarified that if the seafarer filed his or her case for disability benefits *before* October 6, 2008 (the date the Court promulgated its ruling in *Vergara)*, the 120-day rule shall apply. However, if the case was filed *after* October 6, 2008, as in this case, the 240-day rule elucidated in *Vergara* and discussed above must be considered.

In this case, while petitioner properly reported to the company-designated doctor upon his repatriation, he nevertheless did not continue his treatment despite the clear instruction of the company-designated doctor for him to continue to do so. During this time, it is evident that petitioner needed further medical attention and the maximum period of 240 days had not yet lapsed. Hence, petitioner cannot invoke that simply because 120 days had passed, he was already entitled to full disability benefits. As mentioned, the Court itself made it clear in *Kestrel* that the 240-day rule must be observed in deciding disability benefits cases filed after its ruling in *Vergara*.

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[29] Id.

[30] G.R. No. 226766, September 27, 2017.

[31] 702 Phil. 717 (2013).

Petitioner is nonetheless entitled to Grade 11 disability benefits

Similar to the finding of the CA, the Court decrees that petitioner is nevertheless entitled to Grade 11 disability rating, as determined by the company-designated doctor within the specified period of 240 days. The Court gives weight to this finding as neither party refuted that the company-designated doctor indeed made such diagnosis within the allowable period for him to do so.[32]

Given all these, the Court rules that the CA did not err in ascribing grave abuse of discretion on the part of the NLRC in affirming the LA Decision. The assailed CA Decision and Resolution are well in accord with applicable laws and prevailing jurisprudence thus, must be upheld by the Court.

WHEREFORE, the petition is **DENIED.** The Decision dated May 23, 2016 and the Resolution dated August 4, 2016 of the Court of Appeals in CA-G.R. SP No. 141829 are **AFFIRMED.**

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

[32] *Oriental Shipmanagement Co., Inc. vs. Ocampo*, supra note 30.

MARVIC M.V.F. LEONEN
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
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
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

MISAEL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

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