

## THIRD DIVISION

[ G.R. No. 222523, October 03, 2018 ]

**JOSE JOHN C. GUERRERO, PETITIONER, VS. PHILIPPINE  
TRANSMARINE CARRIERS, INC., CELEBRITY CRUISES, AND  
CARLOS C. SALINAS, RESPONDENTS.**

### DECISION

**PERALTA, J.:**

Before the Court is a petition for review on *certiorari* seeking to reverse and set aside the September 10, 2015 Decision<sup>[1]</sup> and the January 14, 2016 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 132711.

The case traces its roots to a Complaint<sup>[3]</sup> filed by petitioner Jose John C. Guerrero (*Guerrero*) for permanent and total disability benefits, compensatory damages, exemplary damages, moral damages and attorney's fees against respondents Philippine Transmarine Carriers, Inc. (PTCI), Celebrity Cruises (CC), and/or Carlos Salinas (*Salinas*) [*collectively, respondents*].

A series of conferences between Guerrero and respondents were held before the Labor Arbiter (*LA*), but the parties failed to reach an amicable settlement. Hence, the *LA* required the parties to submit their respective position papers.

In his Position Paper,<sup>[4]</sup> Guerrero alleged that on August 15, 2011, he was employed by PTCI, represented by its President, Carlos Salinas, on behalf of its principal, CC, as a Casino Dealer on board the vessel GTS Constellation for a period of six (6) months with a basic monthly salary of US\$255.00. Prior to embarkation, he underwent pre-employment medical examination at Metrics Center, Makati City, and was declared "fit to work as a seaman." He boarded the vessel on October 12, 2011. His duties and responsibilities as a casino dealer include having an understanding of all the games he will operate, dealing cards, distributing dice, operating game apparatus such as roulette wheel or baccarat wheel, as well as keeping an eye on patrons to make sure they are not cheating, and the gamblers are having a good time.

Guerrero averred that: sometime in January 2012 during a gastro-intestinal outbreak in the ship, he and other crew members were tasked and ordered to bring elderly guests out of the ship through wheelchairs; since the platform was not levelled with the ship's door exit, and the bridge connecting the platform and the door exit was too steep, they decided that the best way to move and transfer the elderly passengers was by pulling the wheelchairs; while he was pulling a wheelchair with a passenger, a sudden motion occurred which caused him to lose his balance but managed to prevent the wheelchair, the passenger and himself from falling; in order to keep the passenger safe, he had to push the wheelchair really hard to gain control over it; after said incident, he started experiencing back pains which he just

ignored due to the demands of his work as a casino dealer; to manage his back pain, he took mefenamic acid tablets and applied pain relieving liniment and hot water on the painful area; and later, his back pain became unbearable prompting him to consult the doctor of the vessel who prescribed him pain reliever medication and sleeping pills.

While his vessel was docked at a port in the Caribbean, Guerrero underwent a Magnetic Resonance Imaging (*MRI*) procedure at the Isle Imaging Center of St. George, Caribbean, and after which, the attending physician made the following Impression: *Findings revealed changes of Lumbar Spondylosis involving L2-3, L3-4, L4-5 disc causing of compression of left L5 and bilateral L4 roots as described. No cords conus abnormality seen.*<sup>[5]</sup> In view of his medical condition, he was recommended for medical repatriation. Upon his arrival in Manila on March 26, 2012, Guerrero immediately reported to respondents and was referred to the Manila Doctors Hospital and the Philippine General Hospital (*PGH*) for post-employment medical examination and for further treatment. He underwent a series of physical therapy sessions at the Orthopedics Department of the *PGH* under the supervision of the company-designated physician/surgeon, Dr. Adrian Catbagan (*Dr. Catbagan*). On October 19, 2012, a major surgery called Transforaminal Lumbar Interbody Fusion L3-L4 & L4-L5 was performed on Guerrero by Dr. Catbagan at the Manila Doctors Hospital. On November 19, 2012, Dr. Catbagan issued a Medical Certificate<sup>[6]</sup> stating that Guerrero was confined at the Manila Doctors Hospital on October 19, 2012 and was discharged on November 9, 2012 with the following final diagnosis: *Degenerative Disc Disease & Disc Herniation L3-L4 & L4-L5 Moyamoya Disease, resolved*. After Guerrero's surgery, he continued his therapy sessions with Dr. Catbagan until January 15, 2013.

Guerrero alleged that since the pain still persisted notwithstanding the medical procedures performed on him, he consulted, on January 17, 2013, Dr. Cesar H. Garcia (*Dr. Garcia*), an orthopedic surgeon/bone and joint disease, who issued on even date a medical certificate<sup>[7]</sup> declaring him "UNFIT for further sea service in whatever capacity as a SEAFARER." Guerrero alleged that despite his permanent unfitness for further sea service as determined by his physician, respondents failed to compensate him of permanent and total disability benefits. He maintained that he sustained a spinal injury due to an accident arising out, and in the course of, his employment.<sup>[8]</sup>

In their Position Paper,<sup>[9]</sup> respondents maintained that Guerrero is not entitled to disability benefits because he sustained the alleged injury during an incident at the crew gym. Respondents adduced in evidence documents denominated as Crew Injury Statement,<sup>[10]</sup> dated March 22, 2012, and Personal Injury Illness Statement<sup>[11]</sup> in support their submission.

Respondents alleged that the essential duties of Guerrero as a Casino Dealer are reflected in the Job Description Manual. They contended that going to the gym and the use of gym facilities are not part of Guerrero's job and could not have any relation to his duties as a Casino Dealer. Respondents theorized that disability benefits are compensable only when the seafarer, such as Guerrero, suffers work-related injury or illness during the term of his contract. They posited that Guerrero's injury is not compensable since it has not arisen from a work-related incident.

Respondents alleged that Guerrero's claim for damages and attorney's fees are bereft of any factual and legal basis stressing that they had faithfully complied with their contractual obligation to him and had even provided him with extensive medical attention for humanitarian consideration. By way of counterclaim, respondents alleged that the filing by Guerrero of a baseless complaint tarnished their reputations and were constrained to engage the services of an attorney to protect their rights. For these reasons, they prayed that they should be awarded damages of P200,000.00 attorney's fees and cost of litigation in the sum of P400,000.00.<sup>[12]</sup>

### ***The LA Ruling***

On February 28, 2013, the Labor Arbiter rendered a Decision<sup>[13]</sup> declaring that PTCI and CC are solidarily liable for disability compensation to Guerrero. The *fallo* of the Decision states:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents PHILIPPINE TRANSMARINE CARRIERS [INC.]/CELEBRITY CRUISES, jointly and severally, liable to pay JOSE JOHN GUERRERO the amount of US DOLLARS: SIXTY THOUSAND (US\$60,000.00) or its peso equivalent at the prevailing rate of exchange at the time of actual payment representing his total permanent disability benefits and attorney's fees.

Mr. Carlos Salinas is hereby EXCLUDED/DROPPED as party-respondent in this case.

All other claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[14]</sup>

The LA ruled that although Guerrero's injury had resulted from a gym incident, the same would not release respondents PTCI and CC from their liability for disability benefits. It held that Guerrero's medical condition has rendered him permanently incapacitated to be a seafarer, as found by his chosen physician, Dr. Garcia. Lastly, it observed that Guerrero has been incapacitated to work for more than 120 days from the date he was repatriated and seen by the company-designated physician.

Not in conformity, respondents PTCI and CC filed a joint appeal before the National Labor Relations Commission (NLRC) praying for the reversal and nullification of the February 28, 2013 Decision of the LA .and for the dismissal of Guerrero's complaint for lack of merit.

### ***The NLRC Ruling***

On July 31, 2013, the NLRC rendered a Decision<sup>[15]</sup> reversing February 28, 2013 Decision of the LA. The NLRC disposed the case as follows:

WHEREFORE, premises considered, the appealed decision is hereby REVERSED and SET ASIDE, and the case DISMISSED for UTTER LACK OF MERIT.

SO ORDERED.<sup>[16]</sup>

The NLRC ruled that Guerrero is not entitled to disability benefits and payment of his other monetary claims because his injury is not work-related or not an injury sustained while working on-board the vessel. The NLRC added that apart from Guerrero's assertion, no other evidence was adduced to support and corroborate his "wheelchair theory," which incident allegedly caused his injury.

Guerrero's motion for reconsideration was denied by the NLRC in its September 13, 2013 Resolution.<sup>[17]</sup>

Aggrieved, Guerrero assailed the NLRC Decision and Resolution via a petition for *certiorari* filed before the CA, ascribing grave abuse of discretion on the part of the NLRC in denying his claim for permanent and total disability benefits and for attorney's fees.

### ***The CA Ruling***

In its September 10, 2015 Decision, the CA resolved to deny the petition for certiorari based on the same ratiocinations the NLRC had rendered. The dispositive portion of the Decision reads:

WHEREFORE, in the light of all the foregoing, the petition is hereby DENIED. Accordingly, the Decision dated 31 July 2013 and Resolution dated 13 September 2013 issued by public respondent National Labor Relations Commission, Second Division, in NLRC LAC No. 05-000495-13 are hereby AFFIRMED.

SO ORDERED.<sup>[18]</sup>

The CA held that the challenged decision of the NLRC was in accordance with law and prevailing jurisprudence and that no grave abuse of discretion amounting to lack or excess of jurisdiction can be imputed against said labor tribunal.

Guerrero filed a motion for reconsideration, but the same was denied by the CA in its January 14, 2016 Resolution.

Unfazed, Guerrero filed the present petition insisting that he is entitled to disability benefits as well as to the award of damages and attorney's fees.

### ***The Court's Ruling***

The petition is devoid of merit.

From a perusal of the arguments raised by Guerrero, it is quite apparent that this petition is raising a question of fact inasmuch as this Court is being asked to revisit and assess anew the uniform factual findings of the CA and the NLRC that his injury was not work-related. Guerrero is fundamentally assailing the findings of the CA and the NLRC that the evidence on record does not support his claim for disability benefits. In effect, he would have us sift through, calibrate and re-examine the credibility and probative value of the evidence on record so as to ultimately pass

upon whether or not there is sufficient basis to hold PTCI and CC accountable for refusing to pay disability benefits to him under the Philippine Overseas Employment Administration's (POEA's) "Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels," which is deemed written in his contract of employment. This clearly involves a factual inquiry, the determination of which is the statutory function of the NLRC.<sup>[19]</sup>

Elementary is the principle that this Court is not a trier of facts, and this applies with greater force in labor cases; only errors of law are generally reviewed in petitions for review on *certiorari* criticizing decisions of the CA. Factual questions are for the labor tribunal to resolve.<sup>[20]</sup> Moreover, findings of fact of quasi-judicial bodies like the NLRC, as affirmed by the CA, are generally conclusive on this Court.<sup>[21]</sup> Accordingly, the instant petition must be dismissed outright as it raises a question of fact.

Even if the Court is willing to overlook this procedural lapse, the present petition would just the same fail.

We carefully examined and evaluated the records of this case. Try as we might, however, this Court failed to identify any error committed by the CA in declaring that the NLRC did not commit grave abuse of discretion in dismissing Guerrero's complaint. Likewise, the Court sees no reason to disturb the similar factual findings of the CA and the NLRC regarding the non-work relatedness of the subject injury of Guerrero.

For disability to be compensable, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.<sup>[22]</sup> Work-related injury pertains to injury(ies) resulting in disability or death arising out of, and in the course of, employment.<sup>[23]</sup> Jurisprudence elucidates that the words "arising out of" refer to the origin or cause of the accident, and are descriptive of its character, while the words "in the course of" refer to the time, place, and circumstances under which the accident takes place. As a matter of general proposition, an injury or accident is said to arise "in the course of employment" when it takes place within the period of the employment, at a place where the employee reasonably may be, and while he is fulfilling his duties or is engaged in doing something incidental thereto.<sup>[24]</sup>

Work-relatedness of an injury or illness means that the seafarer's injury or illness has a possible connection to one's work, and thus, allows the seafarer to claim disability benefits therefor. The oft-repeated rule is that whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence.<sup>[25]</sup> Thus, the burden is placed upon Guerrero to present substantial evidence, or such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his injury. The *onus probandi* fell on Guerrero to establish his claim for disability benefits by the requisite quantum of evidence that would serve as basis for the grant of the relief.

Unfortunately, Guerrero utterly failed to prove a reasonable connection between his work as a Casino Dealer and his alleged lumbar disc injury. Apart from his bare