

## THIRD DIVISION

[ G.R. No. 230357, December 06, 2017 ]

**ALMARIO F. LEONCIO, PETITIONER, V. MST MARINE SERVICES (PHILS.), INC./ARTEMIO V. SERAFICO AND/OR THOME SHIP MANAGEMENT PTE., LTD., RESPONDENTS.**

### DECISION

**VELASCO JR., J.:**

#### **Nature of the Case**

By this petition for review under Rule 45 of the Rules of Court, petitioner Almario F. Leoncio (Leoncio) seeks the reversal of the Decision dated November 9, 2016 of the Court of Appeals (CA)<sup>[1]</sup> in CA-G.R. SP No. 142956, as reiterated in its Resolution of March 2, 2017, denying the petitioner's motion for reconsideration. The assailed CA Decision sustained an earlier decision of the National Labor Relations Commission (NLRC), which overturned that of the Labor Arbiter and denied the petitioner's claim for permanent total disability benefits.

#### **Factual Antecedents**

From the assailed Decision of the appellate court, the undisputed factual background of the case may be stated as follows:

Private respondent MST Marine Services (Phils.), Inc. (MST Marine) is a domestic manning agency, with private respondent Thome Ship Management Pte. Ltd (Thome) as one of its principals.<sup>[2]</sup>

Starting May 5, 1996 and for a period of more than eighteen (18) years thereafter, MST Marine repeatedly hired Leoncio to work for its principals, including Thome.<sup>[3]</sup>

On August 23, 2001, petitioner disembarked from M/V *Golden Stream*, owned by one of respondent's principals, and was repatriated to be treated for his Coronary Artery Disease/Hypertensive Cardio-Vascular Disease (CAD/HCVD) by the company-designated physician. For two months, he received sickness allowance and was in the care and management of the company-designated physician. Thereafter, he was declared "fit to work" and redeployed by respondents on board M/V *Frontier Express*, albeit with a demotion in rank.<sup>[4]</sup>

After several more deployments from 2005, petitioner Leoncio was employed by respondents on January 27, 2014 as Chief Cook on board M/V *Knossos* for a period of nine (9) months under a POEA Standard Employment Contract (POEA-SEC). Prior to his embarkation, he underwent a pre-employment medical examination (PEME) and was declared "fit for sea duty."<sup>[5]</sup> Petitioner eventually boarded the vessel on February 5, 2014.<sup>[6]</sup>

While performing his duties on board M/V *Knossos* on May 25, 2014, Leoncio suddenly felt heavy chest pains, shortness of breath, numbness of the left portion of his face, and hypertensive reaction. The Master of the Vessel allowed him to rest and take medicine when Leoncio reported his condition. However, on June 2014, Leoncio again experienced the same symptoms. Hence, the Master of the Vessel asked respondent MST Marine to refer Leoncio for a medical check-up.<sup>[7]</sup>

On June 8, 2014, Leoncio was admitted to the Geelong Hospital in Australia where he was diagnosed with "unstable angina"<sup>[8]</sup> and subsequently, underwent "PCI (Percutaneous Coronary Intervention) to severe distal RCA (Right Coronary Artery)."<sup>[9]</sup>

In due course, Leoncio was medically repatriated to the Philippines on July 12, 2014.<sup>[10]</sup> Two days later, he was referred to the company-designated physician for post-employment medical examination and treatment of his coronary artery disease and hypertensive cardiovascular disease. He was then confined at the St. Luke's Medical Center for four days under the care of Dr. Elpidio Nolasco.<sup>[11]</sup>

While undergoing treatment, respondent MST Marine inquired from Dr. Nolasco regarding Leoncio's condition. In particular, MST Marine asked the doctor to check or confirm whether Leoncio had previously undergone stenting procedures.<sup>[12]</sup> On October 4, 2014, Dr. Nolasco confirmed that, indeed, Leoncio had previously undergone stenting procedure sometime in 2008 and that "there are stents found on the LAD [Left Anterior Descending] and LCS [Left Circumflex] arteries in the heart or in the coronary arteries."<sup>[13]</sup>

Based on this information, MST Marine cut off the medical and sickness allowances provided to Leoncio on the ground of his failure to declare during the PEME that he underwent a stenting procedure in 2009.<sup>[14]</sup> Petitioner then promptly consulted Dr. Ramon Reyes.<sup>[15]</sup> The latter issued a medical certificate dated October 24, 2014 declaring Leoncio unfit for work, viz:

This is to certify that the said patient underwent emergency angioplasty last August 26, 2014. Based on his PEME he was declared as FIT FOR SEA DUTY because of NORMAL STRESS ECHO indicative that he has no stress induced ischemia or in layman's term CORONARY ARTERY DISEASE. Therefore, **upon evaluation of his cardiovascular history he is labelled as UNFIT for further sea duty and therefore compensable with Grade 1 impediment, the basis for which is IT IS WORK-RELATED** and he was declared as FIT from his PEME based on his NORMAL STRESS ECHO and that the lesions that underwent angioplasty are new and not of the previous PCI.<sup>[16]</sup>

Dr. Fernandez Alzate, an internal medicine-cardiologist at the St. Luke's Medical Center, echoed Dr. Reyes' findings in a medical certification dated October 28, 2014.<sup>[17]</sup>

On account of the doctors' findings that the lesions found in 2014 were new and not connected with the previous stents, Leoncio filed a complaint for permanent and total disability benefits against the private respondents.

### **Ruling of the Labor Arbiter**

In a Decision dated April 20, 2015, the Labor Arbiter rendered a decision finding for the petitioner. The dispositive portion of the Labor Arbiter decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents MST Marine Services (Phils.) and/or Thome Ship Management Pte. Ltd., jointly and severally to pay complainant the following:

- 1) Permanent and total disability benefits under the IBP-AMOSUP IMEC/TCCC CBA in the amount of UNITED STATES DOLLARS: ONE HUNDRED TWENTY-SEVEN THOUSAND NINE HUNDRED THIRTY-TWO (US\$127,932.00) [or] on its peso equivalent at the time of payment;
- 2) Sickness allowance for two (2) months in the amount of US\$1,440.00 at their Philippine peso equivalent at the time of payment.
- 3) Moral damages in the amount of US\$1,000.00; and exemplary damages in the amount of US\$1,000.00 at the time of actual payment.
- 4) Attorney's fees equivalent to ten percent (10%) of the total judgment award, or at their Philippine peso equivalent at the time of actual payment.

All other claims are ordered dismissed.

The Labor Arbiter noted, as petitioner has insisted, that the respondents were already aware of the existence of Leoncio's coronary artery disease (CAD/HCVD) since 2001 but nonetheless reemployed and redeployed him to work for several more years. Thus, for the Labor Arbiter, petitioner's failure to disclose the stenting procedure in 2009 cannot bar his claim for permanent and total disability benefits. Further, the Labor Arbiter noted that the subject of the stenting procedure in 2009 were the Left Anterior Descending (LAD) and the Left Circumflex (LCX) arteries, which are distinct and different from the cause and subject of his angioplasty, and later repatriation, in 2014—the Right Coronary Artery (RCA).

### **Ruling of the NLRC**

Respondents filed an appeal with the NLRC, which was granted in the tribunal's Decision of July 28, 2015. The *fallo* of the NLRC Decision reads:

WHEREFORE, premises considered, the instant appeal is GRANTED. The assailed Decision dated April 20, 2015 of the Labor Arbiter is REVERSED and SET ASIDE, and the Complaint is DISMISSED for lack of merit.<sup>[18]</sup>

Relying on this Court's ruling in *Status Maritime v. Spouses Delalamon*,<sup>[19]</sup> the NLRC held that Leoncio's concealment of the stenting procedure during the PEME is a misrepresentation that bars his right to any disability compensation or illness benefit under the POEA-SEC.<sup>[20]</sup> The NLRC paid no heed to Leoncio's argument that the respondent already knew of his coronary artery disease since 2001 when he was first medically repatriated on account thereof. The NLRC took the opinion that "a previous illness which occurred seven years prior to the 200[9] medical procedure should not be used as proof of [petitioner's] illness."<sup>[21]</sup>

The NLRC denied petitioner's motion for reconsideration in a Resolution dated September 24, 2014. Therefrom, respondent went on a Certiorari to the CA, in CA-G.R. SP No. 142956.

### **Ruling of the Court of Appeals**

In the assailed Decision dated November 9, 2016, the appellate court ruled against Leoncio's entitlement to the benefits he claimed, and accordingly sustained the NLRC. The decretal portion reads:

WHEREFORE, the foregoing considered, the Petition for Certiorari is DENIED. The Decision dated 28 July 2015 and Resolution dated 24 September 2015 of the NLRC in NLRC LAC No. 06-000498-15 (NLRC NCR-OFW-M-11-13791-14) are SUSTAINED.

Adopting the NLRC's recitation of facts and likewise citing *Status Maritime v. Spouses Delalamon*,<sup>[22]</sup> the legal conclusions reached by the NLRC were likewise adhered to by the CA in holding that Leoncio's concealment of the stenting procedure during the PEME bars his right to disability benefit under the POEA-SEC.<sup>[23]</sup> Besides a brief statement of Leoncio's argument that the respondents' knew of his condition given his medical repatriation in 2001, this fact was lost in the appellate court's discussion.

With his motion for reconsideration having been denied by the CA in its equally challenged Resolution of March 2, 2017, Leoncio is now with this Court via the present recourse, submitting the following issues for our consideration:

1. Whether the "stenting procedure done in 2009 ... " in [Petitioner's] left Coronary Arteries constitutes willful concealment and/or fraudulent misrepresentation under Section 20(E) of the POEA-SEC which would disqualify petitioner from claiming permanent total disability benefits under Section 20 (A) (6) of the 2010 POEA-SEC; and
2. Whether the work-relatedness of petitioner's pre-existing illness of Coronary Artery Disease/Hypertensive Cardio-Vascular Disease already known to respondents since 2001 can be set aside by the alleged concealment and/or misrepresentation of the 2009 stenting procedures on his left coronary arteries.

Respondents filed their Comment on the petition on August 7, 2017 contending in the main that petitioner's employment is contractual in nature so that he is required to divulge, during each PEME, "any pre-existing medical condition that he has, including past medical history that can assist the Respondents in arriving at an accurate decision as to whether or not he is fit for employment."<sup>[24]</sup>

### **Issue**

Simply put, the main and decisive issue for resolution is whether petitioner committed a fraudulent misrepresentation that bars his recovery of total disability benefits.

### **Our Ruling**

The Court resolves to grant the petition.

The rule is that only questions of law may be raised in and resolved by this Court on petitions brought under Rule 45 of the Rules of Civil Procedure, because the Court, not being a trier of facts, is not duty-bound to reexamine and calibrate the evidence on record. Exceptions abound, however.<sup>[25]</sup> This Court may delve into and resolve factual issues when the lower fora come up with conflicting positions or where the CA manifestly overlooked undisputed relevant facts, which, if properly considered, would support a different conclusion,<sup>[26]</sup> as in this case.

### ***No fraudulent misrepresentation***

The resolution of this case pivots on the construction of the phrase "illness or condition" in Section 20(E) of the 2010 POEA-SEC, which states:

#### SECTION. 20 COMPENSATION AND BENEFITS

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E. A seafarer who knowingly conceals a pre-existing **illness or condition** in the Pre Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions. (emphasis supplied)

For the petitioner, the phrase refers to his "coronary artery disease." Thus, given his medical repatriation on account thereof in 2001, for which he was compensated and even demoted by MST Marine, he cannot be considered to have concealed the same during his PEME in 2014. Respondents, on the other hand, maintain that the phrase includes and requires the disclosure of the stenting procedure on his LAD and LCX arteries undergone by the petitioner in 2009. Thus, for the respondents, Leoncio's failure to reveal the same is a fraudulent misrepresentation that bars his entitlement to any compensation or benefit under the POEA-SEC and/or their CBA.

The rule is that where the law speaks in clear and categorical language, there is no room for interpretation; there is only room for application.<sup>[27]</sup> Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent.<sup>[28]</sup> Even then, Article 4 of the Labor Code is explicit that "all doubts in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, shall be resolved in favor of labor." This liberal interpretation of labor laws and rules have been applied to employment contracts<sup>[29]</sup> by Article 1702 of the New Civil Code<sup>[30]</sup> which mandates that "all labor contracts" shall likewise be construed in favor of the laborer.

In this case, nothing can be plainer than the meaning of the word "illness" as referring to a disease or injury afflicting a person's body. By the doctrine of *noscitor a sociis*, "condition" likewise refers to the state of one's health. Neither of these words refers to a medical procedure undergone by a seafarer in connection with an "illness or condition" **already known** to the employer as far back as 2001. For this, the Court extends its full concurrence to the conclusion reached by the Labor Arbiter that the employer cannot validly decry his supposed concealment and fraudulent misrepresentation of Leoncio's illness on account of the non-disclosure of the stenting procedure. The Labor Arbiter observed: