

FIRST DIVISION

[G.R. No. 198097, July 30, 2014]

**STATUS MARITIME CORPORATION, MS. LOMA B. AGUIMAN,
FAIRDEAL GROUP MANAGEMENT S.A., AND MT FAIR JOLLY,
PETITIONERS, VS. SPOUSES MARGARITO B. DELALAMON AND
PRISCILA A. DELALAMON, RESPONDENTS.**

D E C I S I O N

REYES, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assails the Decision^[2] dated May 27, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 108142 awarding permanent disability benefits and sickness allowance to Margarito Delalamon (Margarito).

The Facts

Margarito was hired by Status Maritime Corporation (Status Maritime), for and in behalf of its principal, Fairdeal Group Management S.A. (Fairdeal), as Chief Engineer with a monthly basic salary of US\$1,300.00. The employment contract was originally for a period of nine (9) months from July 26, 2005 to April 26, 2006 but Margarito later on requested for, and was granted, extension until October 2006.^[3]

Margarito left Manila to join the vessel, M/T Fair Jolly, on July 26, 2005 and forthwith discharged his duties.^[4] In September 2006, while the vessel was in United Arab Emirates (UAE), Margarito complained of loss of appetite. He was sent to the National Medical Center at the Port of Fujairah, UAE, for diagnosis and treatment. In a Medical Report dated September 2, 2006, Margarito was diagnosed with "*Renal Insufficiency; Diabetes Mellitus; IHD Blood+CBC+Anemia.*" He was medically repatriated on September 6, 2006.^[5]

On December 29, 2006, Margarito and his wife Priscila (respondents) filed a complaint before the Labor Arbiter (LA) for the payment of permanent disability benefits, sickness allowance, damages and attorney's fees against Fairdeal, M/T Fair Jolly, Status Maritime and its President, Loma B. Aguiman (petitioners). The complaint was docketed as NLRC NCR OFW Case No. (M) 06-12-03874-00.^[6]

According to the respondents, Margarito was physically weak when he arrived in the Philippines. He thus sought to rest at home and failed to report to the petitioners. Priscilla nonetheless notified the petitioners of Margarito's condition through a certain Allan Lopez.^[7]

When Margarito's medical condition worsened, he was brought to Las Piñas Doctor's Hospital where he underwent a series of clinical and laboratory tests. Based on his

2D Echocardiography Results dated September 12, 2006, Margarito was found afflicted with "T/C RENAL INSUFFICIENCY, CORONARY ARTERY DISEASE."^[8]

He was again hospitalized from December 18, 2006 to January 4, 2007 at the Manila Doctor's Hospital. Based on the medical certificate issued by Dr. Elizabeth B. Salazar-Montemayor dated January 17, 2007, Margarito was found to be suffering from "End Stage Renal Disease 2 Diabetic Nephropathy." He was likewise diagnosed with a "Right Renal Cortical Cyst" on December 19, 2006. He thereafter underwent dialysis treatments three times a week and eventually became bedridden.^[9]

The respondents averred that the petitioners failed to provide any medical assistance the entire time that Margarito was undergoing medical treatments for an illness he acquired while in their employ.^[10]

For their part, the petitioners denied any liability for Margarito's monetary claims. They asserted that he failed to comply with Section 20(B), paragraph (3) of the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels (POEA-SEC) requiring him to report to the petitioners within three (3) working days from his arrival for a post-employment medical examination. He was only examined by the petitioners' designated physician on March 30, 2007 during the mandatory conference stage of the case.^[11]

According to the petitioners, Margarito's illness is not compensable based on the medical report dated May 17, 2007 of Dr. Wilanie Romero Dacanay of the Marine Medical Services of Metropolitan Medical Center stating that "Chronic Kidney Disease secondary to Diabetic Nephropathy" is NOT work-related.^[12] The petitioners further averred that during initial evaluation by their physicians, Margarito claimed to have been diagnosed with diabetes 6 years ago and has, since then, been taking 500 mg of Metformin as maintenance medication.^[13] Based thereon, the petitioners argued that Margarito concealed his illness when he was subjected to a Pre-Employment Medical Examination (PEME) hence disqualified from claiming disability benefits.

Pending the decision of the LA, Margarito died on September 11, 2007. His cause of death was "CVA" or Cardiovascular Accident.^[14]

Ruling of the LA

In a Decision^[15] dated September 28, 2007, the LA found no merit in the respondents' complaint for the reason that Margarito's illness is not work-related, *thus*:

"WHEREFORE, premises considered judgment is hereby rendered **DISMISSING** this case for lack of merit.

SO ORDERED."^[16]

Ruling of the NLRC

The NLRC affirmed the LA's ruling and added that Margarito did not even bother to comply with the mandatory requirement of reporting to the petitioners' office within three (3) days from his disembarkation for post-employment medical examination pursuant to Section 20 (B)^[3] of the POEA-SEC. The NLRC Resolution^[17] dated October 23, 2008 disposed as follows:

"WHEREFORE, premises considered, the appealed Decision is hereby AFFIRMED in toto. The instant appeal is hereby, DISMISSED for lack of merit.

SO ORDERED."^[18]

Ruling of the CA

The respondents elevated the case to the CA and, in support of their position that Margarito's illness is work-related, proffered the June 25, 2007 medical evaluation of Dr. Efren R. Vicaldo (Dr. Vicaldo) of Philippine Heart Center, articulating thus:

This patient/seaman presented with history of nausea and anorexia noted on June 2006 for which he was seen in United Arab Emirates. He underwent blood chemistry examination and abdominal ultrasound and was diagnosed as kidney disease. History revealed that he is also a known diabetic for six years now and maintained on Metformin three times a day.

He was repatriated on September 8, 2006 and was subsequently confined at Las Piñas Doctor's Hospital. He underwent creation of arterio-venous fistula on the left arm as access to future hemodialysis. Since then he underwent regular hemodialysis at Manila Doctor's Hospital two to three times a week on the average. Latest laboratory exams done on June 19, 2007 showed significant elevation of his creatinine and potassium.

When seen at the clinic his blood pressure was 130/90 mmHg; PE of the heart and lungs were unremarkable and he presented with hemodialysis access on his left arm (sic).

He is now unfit to resume work as seaman in any capacity.

His illness is considered work aggravated/related.

He requires regular hemodialysis to maintain his creatinine level as well as his serum electrolytes especially sodium and potassium.

Undergoing regular hemodialysis obviously impairs his quality of life. In general, patients with end stage renal disease have significant reduction in their life expectancy.

He is not expected to land a gainful employment given his medical background.^[19]

In its Decision^[20] dated May 27, 2011, the CA reversed the findings of the labor tribunals. The CA held that Margarito was exempt from complying with the 3-day mandatory reporting requirement because when he arrived in the Philippines, his physical condition was already deteriorating and was in need of urgent medical attention. Thus, it could not be expected of him to prioritize the reporting requirement before attending to his medical needs. Also, his wife actually notified the petitioners of his medical condition, through Allan Lopez.

The CA further ruled that Margarito's cause of death is actually listed as an occupational disease under the POEA-SEC. While his renal disease is not similarly listed, it is nonetheless disputably presumed work-related pursuant to Section 32-A (11) of the POEA-SEC. His employment contributed to the development and exacerbation of his illness considering that he was on board the vessel for 14 months during which he was exposed to stress, different climates and erratic time zones. The CA declared Margarito's illness as a total disability since he had to undergo dialysis three (3) times a week and was in need of regular medical aid that prevented him from seeking gainful employment. Following Section 32 of the POEA-SEC which assigns a Grade 1 disability to "(s)evere residuals of impairment of intra-abdominal organs which requires regular aid and attendance that will unable worker to seek any gainful employment", Margarito's disability due to 'End Stage Renal Disease 2 Diabetic Nephropathy' was also given a Grade 1 rating. Accordingly, the respondents' claims for sickness allowance and permanent disability benefits were granted as follows:

WHEREFORE, the petition is partly granted and the Resolutions dated October 23, 2008 and January 23, 2009 of (the) NLRC are nullified and set aside. (Petitioners) are ordered to pay the heirs of (respondent) Margarito Delalamon sickness allowance of US\$5,200.00 and disability compensation of US\$60,000.00

SO ORDERED.^[21]

The petitioners moved for reconsideration^[22] but the motion was denied in the CA Resolution^[23] dated August 4, 2011. Hence, the present appeal.

Arguments of the Parties

The petitioners aver that Margarito is disqualified from claiming any illness benefit on three grounds: (1) his diabetes is a pre-existing illness which he concealed during his PEME; (2) he failed to submit himself for post-employment medical examination to the petitioners' designated physicians within three (3) days upon his return; and (3) the respondents failed to specifically allege or prove by substantial evidence that Margarito's working conditions has causal relation to or increased his risk of contracting his illness.^[24]

The respondents, on the other hand, contend that the CA judiciously and correctly awarded Margarito with permanent disability benefits and sickness allowance. They posit that Margarito acquired his illness of "*Renal Insufficiency; Diabetes Mellitus; IHD Blood + CBC +ANEMIA*" during the term of his employment with the petitioners. They further argued that Margarito was very sick when he arrived in the Philippines and thus physically incapable of reporting to the petitioners' office for post-employment medical examination.

They denied that Margarito concealed his illness and claimed that the petitioners' physicians, who subjected him to rigid and rigorous PEME, actually found him fit to work. They argued that the compensability of an illness does not depend on whether it was pre-existing but rather if it is work-related or work-aggravated which, in this case, was found by the CA to have been substantially established.^[25]

Ruling of the Court

We find merit in the petition.

Preliminarily, it must be emphasized that at the core of the foregoing arguments are factual questions which, generally, are outside the Court's discretionary appellate jurisdiction under Rule 45.

The Court is not a trier of facts hence, only questions of law, may be raised in a petition for review on *certiorari*. It is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that findings of fact of the CA are conclusive and binding on this Court. Nevertheless, the Court will proceed to probe and resolve factual issues when any of these exceptional circumstances are present, viz: when there is insufficient or insubstantial evidence to support the findings of the tribunal or the court below, or when too much is concluded, inferred or deduced from the bare or incomplete facts submitted by the parties or,^[26] where the findings of the CA are contrary to those of the LA and the NLRC.^[27]

Observably, the third exception is attendant in the present case hence, it is imperative to review the records to determine which finding is more conformable to the evidentiary facts.

In view of the factual milieu of the case, the 3-day mandatory reporting requirement can be dispensed with.

As a general rule, a medically repatriated seafarer is required to submit himself to a post-employment medical examination by the company's designated physicians within three (3) working days upon his return. This is extant from Section 20(B)(3) of the 2000 POEA SEC, viz:

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

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