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FIRST DIVISION

[G.R. No. 168922, April 13, 2011]

WILFREDO Y. ANTIQUINA, PETITIONER, VS. MAGSAYSAY MARITIME CORPORATION AND/OR MASTERBULK, PTE., LTD., RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is a Petition for Review on *Certiorari*, assailing the Court of Appeals' Decision[1] dated May 31, 2005 and Resolution[2] dated July 14, 2005 in CA-G.R. SP No. 82638. In the Decision dated May 31, 2005, the Court of Appeals modified the September 27, 2002[3] Decision of the Labor Arbiter in OFW Case No. 01-06-1216-00 awarding sickness allowance, permanent medical unfitness benefits and attorney's fees in favor of petitioner. The Court of Appeals denied petitioner's motion for reconsideration of the May 31, 2005 Decision in the assailed Resolution.

The material facts of the case, as culled from the records, follow:

Sometime in February 2000, petitioner Wilfredo Y. Antiquina was hired, through respondent manning agency Magsaysay Maritime Corporation (MMC), to serve as Third Engineer on the vessel, M/T Star Langanger, which was owned and operated by respondent Masterbulk Pte., Ltd. (Masterbulk). According to petitioner's contract of employment,[4] his engagement on the vessel was for a period of nine (9) months at a salary of US$936.00 per month. It is undisputed that petitioner's contract conformed to the standard Philippine Overseas Employment Agency (POEA) contract of employment.

Petitioner commenced his employment on the M/T Star Langanger on March 1, 2000. Almost seven months later, or on September 22, 2000, during a routine maintenance of the vessel's H.F.O Purifier #1, petitioner suffered a fracture on his lower left arm after a part fell down on him. After first aid treatment was given to petitioner, he was brought to a hospital in Constanza, Romania where the vessel happened to be at the time of the accident. At the Romanian hospital, petitioner was diagnosed with "fractura 1/3 proximala cubitus stg." as shown by the medical certificate[5] issued by the attending physician and his arm was put in a cast.

On October 1, 2000, petitioner was signed off the vessel at Port Said, Egypt and was repatriated to the Philippines, where he arrived on October 3, 2000. He immediately reported to the office of MMC on October 4, 2000 and was referred to Dr. Robert Lim of the Metropolitan Hospital. On October 5, 2000, petitioner was examined at the Metropolitan Hospital and Dr. Lim subsequently issued a medical report confirming that petitioner has an undisplaced fracture of the left ulna. Petitioner was given medication and advised to return after two weeks for repeat x-

ray and re-evaluation.[6]

After one month, petitioner's cast was removed and he was advised to undergo physical therapy sessions. Despite several months of physical therapy, petitioner noticed that his arm still had not healed and he had difficulty straightening his arm. Another company designated doctor, Dr. Tiong Sam Lim, evaluated petitioner's condition and advised that petitioner undergo a bone grafting procedure whereby a piece of metal would be attached to the fractured bone. Upon learning from Dr. Tiong Sam Lim that the metal piece will only be removed from his arm after one and a half years, petitioner allegedly reacted with fear and decided not to have the operation.[7]

After formally informing respondents of his decision to forego the medical procedure recommended by the company physician, petitioner filed a complaint for permanent disability benefits, sickness allowance, damages and attorney's fees against herein respondents.

In his position paper[8] filed with the Labor Arbiter, petitioner asserted that he is entitled to sickness allowance equivalent to his basic wage for 120 days as stipulated under Section 20 of the POEA Standard Employment Contract. With respect to his claim for permanent disability benefits, he relied on the medical opinion of two doctors; namely, Dr. Rimando Saguin and Dr. Antonio A. Pobre who both issued medical certificates,[9] finding to the effect that petitioner was no longer fit for sea service and recommending a partial permanent disability grade of 11 under the POEA Schedule of Disability Grading. However, petitioner claimed that, notwithstanding his own medical evidence regarding his disability grade, he was entitled to the purportedly superior benefits provided for under Section 20.1.5 of respondents' collective bargaining agreement (CBA) with the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP).[10] Section 20.1.5 allegedly provides:

> Permanent Medical Unfitness - A seafarer whose disability is assessed at 50% or more under the POEA Employment Contract shall, for the purpose of this paragraph, be regarded as permanently unfit for further sea service in any capacity and entitled to 100% compensation, i.e. US$80,000.00 for officers and US$60,000.00 for ratings, AB and below. Furthermore, any seafarer assessed at less than 50% di[s]ability under the Contract but certified as permanently unfit for further sea service in any capacity by the company doctor, shall also be entitled to 100% compensation.[11]

Anent his prayer for damages and attorney's fees, petitioner asserted that respondents should be made liable in view of their negligence and delay in the payment of his allegedly valid claims and the latter's contravention of the terms and conditions of the contract of employment.[12]

In their defense, respondents contended that petitioner's monetary claims were premature by reason of the latter's refusal to undergo the operation recommended by the company designated physician. Respondents presented Dr. Tiong Sam Lim's

typewritten opinion[13] dated June 4, 2001, stating that:

> IF BONE GRAFTING WAS DONE AND THE BONE HEALED, THEN HE WILL BE ABLE TO GO BACK TO SEA DUTIES. IF THE LEFT FOREARM IS LEFT AS IS, THEN, THERE WILL BE PAIN AND INABILITY TO TURN THE FOREARM CAUSING DISABILITY. THE DISABILITY THEN WILL BE GRADE 10.

Further citing Section 20(B)(2) of the POEA Standard Employment Contract, respondents claimed that, although it was their obligation to repatriate an injured or sick seaman and pay for his treatment and sick leave benefits until he is declared fit to work or his degree of disability has been clearly established by the company designated physician, it was allegedly petitioner's correlative obligation to submit himself for medical examination and treatment to determine if he is still fit to work or to establish the degree of his disability.[14] Respondents made known their willingness to shoulder the cost of the operation or procedure needed but it was allegedly petitioner who refused to undergo the operation in bad faith and in contravention of the terms of the employment contract.[15] Further, respondents argued that they were not liable for damages and attorney's fees for there was no bad faith or ill motive on their part.[16]

In a Decision dated September 27, 2002, the Labor Arbiter ruled in favor of petitioner and awarded him the amount of US$3,614.00 as sickness allowance; US$80,000.00 "representing [his] permanent medical unfitness benefits under the pertinent provisions of the Collective Bargaining Agreement";[17] and attorney's fees.

Respondents appealed the Labor Arbiter's decision to the National Labor Relations Commission (NLRC), contending, in addition to their previously proffered arguments, that they have already paid petitioner's sickness allowance[18] and that the Labor Arbiter had no basis to award disability compensation for failure of petitioner to present the CBA and proof of membership to AMOSUP.

The NLRC dismissed respondents' appeal in a Decision[19] dated August 20, 2003 and subsequently denied their motion for reconsideration.[20]

Undeterred, respondents filed a petition for *certiorari*[21] with the Court of Appeals. In a Decision dated May 31, 2005, the Court of Appeals noted that the NLRC appeared to have followed the rule that the conclusions of the Labor Arbiter when sufficiently corroborated by the evidence on record must be accorded respect by the appellate tribunals and thus, the NLRC no longer examined the evidence submitted by respondents to prove payment of petitioner's sickness allowance.[22] However, relying on our decision in *Philippine Telegraph and Telephone Corporation v. National Labor Relations Commission*,[23] the Court of Appeals held that:

> **Although said evidence were filed for the first time on appeal, it would have been prudent upon the NLRC to look into them** since it **was not bound by the rules of evidence** prevailing in courts of law or

> equity. In fact, labor officials are mandated by Article 221 of the Labor Code to use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. x x x.[24] (Emphasis supplied.)

As for the probative value of the receipts submitted by respondents as annexes to the memorandum of appeal, the Court of Appeals found that:

> **As clearly shown by said annexes, [respondents] had already paid [petitioner] his sickness allowance**. In fact, he received a PCIB Check, dated November 28, 2000, in the amount of P41,467.98 on December 1, 2000; another PCIB Check, dated December 14, 2000, in the amount of P45,255.60 on January 10, 2001; an FEBTC check, dated January 25, 2001, in the amount of P48,053.68 on January 31, 2001; and lastly an RCBC check, dated February 14, 2001, in the amount of P43,691.06 on February 28, 2001. All of these documents bear [petitioner's] signature. Thus, he cannot deny that he received said sickness allowance in the total amount of P178,468.32.[25] (Emphasis supplied.)

With respect to respondents' claim that the Labor Arbiter's award of US$80,000 in medical unfitness benefits had no basis, the Court of Appeals held that:

> A careful perusal of the records shows that [petitioner's] claim that he was a member of AMOSUP and, therefore, Article 20.1.5 of the CBA providing for an US$80,000.00 permanent medical unfitness benefits applies in this case, is **not supported by the evidence**. For one, **the said CBA does not form part of the evidence presented by [petitioner]** in this case. Instead, what he submitted as an attachment to his Memorandum of Authorities before this Court is a copy of a document entitled "Addendum to Memorandum of Agreement by and between Masterbulk PTE Ltd., Associated Marine Officers & Seamen's Union of the Phils. (AMOSUP), and Magsaysay Maritime Corporation." Said Addendum merely provides:
>
> > "1. That the Agreement shall be renewed/extended for another one (1) year effective January 1, 2000.
> >
> > 2. All other terms and conditions of the Agreement not in anyway inconsistent with the foregoing shall remain unaltered and in full force and effect."
>
> Moreover, **he did not even present any identification card** that would show that he was really a member of the said labor organization. **Neither did he present any document that would show that seafarers** like him who ply the overseas route **were compulsory or**

> **automatic members** of said labor organization. **Since [petitioner] claims such membership, it was incumbent upon him to prove it.**
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> **We, thus, hold that the NLRC committed a grave abuse of discretion when it affirmed the Labor Arbiter's decision awarding [petitioner] US$80,000.00 as medical unfitness benefit, despite the fact that such claim was unsubstantiated by any documentary evidence.**[26] (Emphases supplied.)

However, as it was undisputed that petitioner suffered a work-related injury, the Court of Appeals still saw fit to award medical unfitness benefits, based on the POEA Standard Contract of Employment and the finding of petitioner's own physician that the proper disability grade for petitioner's injury was Grade 11 or 14.93%. Thus, the Court of Appeals computed petitioner's medical unfitness benefits, as follows:

> While it is true that [petitioner's] claim for disability is premature, the fact remains that there is still a work-connected injury and the attendant loss or impairment of his earning capacity that need to be compensated. On this score, Sec. 30-A of POEA Standard Contract of Employment is applicable. The same provides for a schedule of disability allowances and per said schedule, an impediment of Grade 11 is equivalent to the maximum rate of US$50,000.00. Multiply this amount by the degree of impediment, which is 14.93%, the [petitioner] is entitled to US$7,465.00, to be paid in Philippine Currency equivalent to the exchange rate prevailing during the time of payment.[27]

After finding that this case did not fall under the exceptional circumstances provided by law for an award of attorney's fees, the Court of Appeals ruled that the award of 10% attorney's fees in favor of petitioner was improper. Thus, the dispositive portion of the Court of Appeals' May 31, 2005 Decision read:

> WHEREFORE, the September 27, 2002 Decision of the Labor Arbiter is hereby modified to read as follows:
>
> "WHEREFORE, judgment is hereby rendered
>
> 1] ordering the respondents to pay the complainant the amount of US$7,480.00 or its equivalent amount in Philippine Currency at the prevailing exchange rate at the time of payment, representing permanent medical unfitness benefits, plus legal interest reckoned from the time it was due;
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> 2] denying the claim for sickness allowance, the same having been paid;
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> 3] denying the claim for attorney's fees; and
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> 4] denying the other claims of the complainant."[28]