

FOURTEENTH DIVISION

[CA – G.R. SP No. 131027, March 31, 2014]

MAGSAYSAY MARITIME CORPORATION, TRILINES SHIPPING CORP., AND/OR MARLON R. RONO, PETITIONERS, VS. RONY C. DURAN AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

D E C I S I O N

GALAPATE-LAGUILLES, J:

Before this Court is a *Petition for Certiorari*^[1] filed in accordance with Rule 65 of the Rules of Court assailing the following issuances of the National Labor Relations Commission (Second Division) in NLRC LAC No. 02-000174-13/ NLRC NCR (M) 05-08237-12, entitled "*Rony C. Duran, versus Magsaysay Maritime Corp., and/or Trilines Shipping Corp., and/or Mr. Marlon Rono:*"

a.) *Resolution*^[2] dated April 25, 2013, denying petitioners' appeal; and

b.) *Resolution*^[3] dated May 30, 2013 denying petitioners' Motion for *Reconsideration*^[4] of the adverse judgment.

The following are the factual antecedents:

On May 27, 2011, private respondent Rony C. Duran (private respondent) entered into a maritime engagement contract with Trilines Shipping Inc. through its local manning agent Magsaysay Maritime Corp. (petitioners). Per contract, he was hired to work as First Assistant Engineer on board the vessel "M/V Universal Green" for a duration of eleven (11) months. Private respondent's *Contract of Employment*^[5] contained, among others, the following terms and conditions:

- 1.1 Duration of Contract : 11 Months
- 1.2 Position : First Assistant Engineer
- 1.3 Basic Wage : US \$1,500.00 per month
- 1.4 Hours of Work : 48 per week
- 1.5 Office Fixed Overtime : \$450.00 105 hours per month
- 1.6 Leave Pay : \$300 per month
- 1.7 FSA Allowance : \$3,560.00 per month
- 1.8. Superior License Bonus : \$150.00 per month
- 1.9 Seniority Pay : \$0.00 per month
- 2.0 Retirement Pay : \$50.00 per month under FSA Retirement Program
- 2.1 Point of Hire : Manila

Prior to deployment, private respondent was subjected to the usual mandatory physical examination required in all maritime employment contracts. He was declared "*FIT FOR SEA DUTIES*"^[6], but noted with the following conditions: *Renal Parenchymal Calcification, Bilateral, Renal Parenchymal Disease not ruled out- Asymptomatic*. He left the Philippines sometime in July 2011 to board the said vessel and assumed his post.

Sometime in March 2012, while on board the vessel M/V Universal Green, private respondent experienced cramps on both legs and recurring high blood pressure which rendered him very ill. The Captain was informed of private respondent's predicament but failed to act accordingly. Private respondent was thus forced to continue with his work despite failing health. When his condition did not improve, the Captain sought medical consultation through Telemedical Maritime Assistance Services (TMA Italia). Private respondent's illness, however, progressed despite medications prompting the Captain later on to request for an emergency airlift. Private respondent was brought to the ICU of Royal Perth, Australia for medical examination and treatment. He was diagnosed^[7] thereat as suffering from "*Acute Renal Failure probably acute tubular necrosis secondary to elevated CK; Peripheral neuropathy (consistent with Guillian Barre Syndrome); Chronic Renal Failure; Normocytic Anaemia secondary to chronic renal failure*".^[8] Consequently, he was repatriated to the Philippines on April 26, 2012 for medical reasons.

Upon arrival in Manila, private respondent was referred to the company-designated physicians Dr. Benigno A. Agbayani Jr. (Dr. Agbayani) and Dr. Elizabeth Montemayor for evaluation. Thereafter, private respondent was brought to the Manila Doctors Hospital for further diagnosis and medical treatment. After thorough examination, numerous tests^[9] and operation^[10] for "AVF Creation" in his left arm at the said hospital, private respondent was diagnosed with *Type 2 Diabetes Mellitus; Hypertension, Acute Renal Failure; Acute Kidney Disease probably secondary to Rhabdomyolysis*. Dr. Agabayani declared that these are not work-related illnesses as shown in the *Follow Up In-Patient Report*^[11] dated May 16, 2012 stating the following:

"Initial Determination: Our Nephrologist was also asked to give a final determination of work relatedness and her response is as follows: 'Based on the clinical presentation of the patient Mr. Duran, the primary working diagnosis is Type 2 Diabetes, Mellitus; HPN, Acute Renal failure Acute kidney disease probably secondary to Rhabdomyolysis, Statin-induce myositis, S/P Plasma and Hemodialysis. This is commonly an immune complex disease.' Immune complex diseases are non work related illnesses."

The same doctor likewise executed an *Affidavit*^[12] dated September 4, 2012 attesting to the facts stated in his report. Henceforth, medical expenses were shouldered by private respondent.

Dr. Agbayani's treatment was followed by private respondent's consultation with a nephrologist of his choice, Dr. Helen Caro-Pastolero (Dr. Caro-Pastolero) of the Philippine Society of Nephrology who, in the *Renal Abstract*^[13] dated May 28, 2012, assessed his disability as permanent.

On the basis of the findings of his doctor, private respondent instituted a *Complaint*^[14] dated May 30, 2012 for total and permanent disability benefits, medical expenses reimbursement, sickness allowance, damages and attorney's fees.

Private respondent later on sought the medical opinion of a neurologist, Dr. Amado San Luis (Dr. Luis) on July 8, 2012, who in a *Medical Report*^[15] diagnosed him as having *Guillain-Barre syndrome, rhabdomyolysis, accute renal failure, possible occupational exposure to toxic substances in the work place.*^[16]

In its *Position Paper*^[17], petitioners averred, among other things, that the company-designated physician had determined that Duran's (private respondent) illness is not work-related and hence not compensable; and that the complainant failed to prove that his illnesses was caused or aggravated by the nature of his employment or due to his working conditions.

On December 12, 2012, Labor Arbiter Adolfo C. Babiano (LA Babiano), rendered a *Decision*^[18] upholding private respondent's claim for benefits as follows:

“xxxAgainst this backdrop, it cannot be gainsaid that substantial evidence exists to prove that complainant's illnesses was caused by or at least – even if contracted prior to his latest employment, aggravated by his working conditions.

xxx xxx xxx

Respondents' assertion that complainant's disease was pre-existing merely confirms that it developed during his uninterrupted employment with the former. We note that respondents had subjected complainant to a pre-employment medical examination or PEME each time that he applied for redeployment and that respondents hired him despite whatever medical infirmities were observed in the course thereof. Complainant's latest PEME merely mentioned the possibility of a renal disease and controlled hypertension (See p. 35, record) which can only mean that his latest hiring aggravated a latent disease and converted it into full-blown acute renal or kidney disease.xxx”^[19]

Consequently, petitioners appealed^[20] to public respondent NLRC (respondent NLRC) which in turn affirmed the ruling of LA Babiano ,thus:^[21]

“WHEREFORE, all of the foregoing premises, judgment is hereby rendered DISMISSING the instant Appeal for lack of merit and the appealed Decision of Labor Arbiter Adolfo C. Babiano is hereby AFFIRMED.

SO ORDERED.”

Petitioners filed a *Motion for Reconsideration*^[22] but the same was denied in a *Resolution*^[23] dated May 30, 2013 .

Hence, the instant recourse raising the following issues^[24]:

A. IN THE INSTANT CASE, PRIVATE RESPONDENT'S CONDITION WAS PRESENT EVEN PRIOR TO BOARDING THE SUBJECT VESSEL. FURTHER, THE COMPANY-DESIGNATED PHYSICIAN HAS DETERMINED THAT THE CONDITION IS NOT WORK-RELATED. WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING PRIVATE RESPONDENT'S AILMENT AS COMPENSABLE.

B. IN ANY EVENT, WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AWARDING TOTAL AND PERMANENT DISABILITY COMPENSATION.

C. WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AWARDING FURTHER PAYMENT OF SICKWAGE ALLOWANCES.

D. WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AWARDING DAMAGES AND ATTORNEY'S FEES CONSIDERING THAT THE DENIAL OF PRIVATE RESPONDENT'S CLAIM IS SUPPORTED BY VALID GROUNDS.

Mainly, petitioners contend that public respondent NLRC committed grave abuse of discretion when it decided that private respondent's illnesses are work-related, perforce, compensable. It submits that private respondent's illnesses were already pre-existing as shown in the notations^[25] in his pre-employment medical examination; and that there was absence of causal connection between the adverted illnesses and his work as determined by the company-designated physician.^[26]

Private respondent, on the other hand, insists that he is entitled to total permanent disability benefits as he was declared fit to work before boarding M/V Universal Green. Hence, it follows that he contracted the illnesses during the effectivity of the contract or, at the very least, his work aggravated the same.

We dismiss the Petition.

A reading of the arguments advanced by the petitioner reveals that the issues posed for Our resolution are essentially factual in nature. Stated differently, We are asked to revisit the factual findings of respondent NLRC by re-examining the probative value of the evidence on record. As a rule, the Court refrains from reviewing factual assessments of lower courts and agencies exercising adjudicative functions, such as the NLRC^[27] because factual findings of administrative or quasi-judicial bodies, which are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence.^[28] Rule 133, Section 5 of the Rules of Court defines substantial evidence as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."^[29] Further, in certiorari proceedings under Rule 65, judicial review does not go as far as to evaluate the sufficiency of evidence upon which the NLRC based its determinations, the inquiry being limited essentially to whether said tribunal has acted without or in excess of its jurisdiction or with grave abuse of discretion.^[30] Occasionally, however, the Court is constrained to wade into factual matters when there is insufficient or insubstantial evidence on record to support those factual findings; or when too much is concluded, inferred or deduced from the bare or incomplete facts appearing on record.^[31] None, however, is extant in this case. The ruling of respondent NLRC is conformable to the evidentiary facts, hence, there is no necessity to review the entire records of the case.

But even assuming that the instant Petition is not defective as aforesaid, still, the same cannot prosper.

Under the Definition of Terms found in the Standard Contract applicable to the parties, a work-related illness is defined as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied".^[32] An illness not otherwise listed in Section 32-A is disputably presumed work-related.^[33] As decreed by the Supreme Court in **Magsaysay Maritime Corp., vs. NLRC**:^[34]

"For disability to be compensable under Section 20 (B) of the 2000 POEA-SEC, 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. In other words, to be entitled to compensation and benefits under this provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted."

From the medical documents proffered by private respondent, he has amply proven his entitlement to the disability benefits as the causal link between the adverted illnesses and the working conditions he was subjected to was sufficiently established. The diagnosis of Dr. San Luis stating that the causes of his illnesses were the task of his work and delay in the medical treatment as well as exposure to toxic substance in the work place cannot be gainsaid.^[35] In fact, such findings appear to jibe with the circumstances referred to by private respondent in his