THIRTEENTH DIVISION

[CA-G.R. SP No. 124789, November 12, 2014]

PRINCESS CRUISE LINES, LTD., MAGSAYSAY MARITIME CORPORATION AND/OR MARLON RONO, PETITIONERS, VS. NORA L. JINTALAN AND NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION), RESPONDENTS.

DECISION

SADANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the February 7, 2012 Decision[1] of the National Labor Relations Commission (Sixth Division) in NLRC LAC No. (OFW-M)-01-000011-12 (NLRC-NCR-OFW-(M)-00-02-02219-11) and the March 14, 2012 Resolution[2] denying petitioner's Motion for Reconsideration.

Records show that on February 8, 2011, private respondent Nora L. Jintalan (hereafter, respondent) filed a complaint[3] for payment of total permanent disability compensation, medical expenses, moral and exemplary damages and attorney's fees against petitioner Princess Cruise Lines Ltd., A Bermuda Co. (Princess Lines, for brevity), its local manning agency, petitioner Magsaysay Maritime Corporation (MMC, for brevity) and Marlon Rono, owner and president of MMC.

It appears that on behalf of its principal, Princess Lines, MMC hired respondent on February 25, 2010 as stateroom stewardess on the vessel Diamond Princess under a ten (10) months contract[4] commencing on March 8, 2010 at a monthly salary of US$500.[5] Previous to her hiring, respondent had completed fifteen (15) contracts of employment as stateroom stewardess on board vessels owned by Princess Lines spanning the period from June 3, 1994 to June 5, 2010.[6] On June 4, 2010, while on board Diamond Princess, respondent experienced difficulty in breathing after she had an altercation with her roommate. Her co-workers brought her to the ship's medical center and she was diagnosed to be suffering from "acute bronchospasm and panic attack."[7] Later, she was referred to the Mariners Clinic General Practice in Vancouver, Canada and was found to have "status asthmaticus."[8] As she could no longer work due to her condition,[9] respondent was repatriated to the Philippines on June 5, 2010.[10] On June 16, 2010, she was examined by the company-designated doctor at the Metropolitan Medical Center and diagnosed as having "bronchial asthma."[11] Respondent underwent series tests, such as, thyroid function test, pulmonary function test, 12 lead ECG, 2D echo-cardiogram with color flow Doppler Study, chest x-ray, and psychological tests, which all showed normal findings.[12] On November 4, 2010, the company-designated physician declared respondent fit for work.[13] On the same day, respondent signed a Certificate of Fitness for Work[14] exculpating petitioners from liabilities in view of medical results.

In her Position Paper,[15] respondent averred that: she continued to have shortness of breath and chest pains; on her own initiative, she went to the Philippine Heart Center and Dr. Jose A. Yulde found that she was suffering from "chronic obstructive lung disease secondary to prolonged exposure to disinfectant (Oasis) for about 15 years" and opined that she is "physically disabled to continue her work as a cabin stewardess."[16] Oasis is the disinfectant that she used in cleaning while on board the vessel. Petitioners' doctor diagnosed her to be suffering from "acute bronchospasam secondary to occupation inhalant;" she would not have signed off from the vessel were it not for her ailment; since her repatriation, she was not abel to engage in any activity that would earn her compensation commensurate to her skills and training; disability should not be understood more on its medical significance but on the loss of earning capacity; she is entitled to the maximum benefit of US$60,000.00 because her disability is total and permanent she has been unable to work for more than 120 days despite "fit to work" declaration of the company doctor; and she is entitled to moral and exemplary damages and attorney's fees.

In their Position Paper,[17] petitioners alleged that: continuous medical attention for five months was accorded respondent by the company-designated physician and the other attending specialists and she had a series of medical tests and procedures; based on the medical reports, respondent's condition progressively stabilized until she was declared fit to work; under POEA-SEC, it is the company-designated physician who determines the seafarer's disability; respondent had exonerated petitioners from liabilities by executing Certificate of Fitness for Work; the company doctor issued the fitness to work assessment within the prescribed 240-day period; respondent received her 120-day sickness allowance; respondent's claim for damages and attorney's fees have no legal basis; and petitioner Marlon Rono should not have been impleaded because he has no employer-employee relationship with respondent.

Respondent filed a Reply[18] asserting that: the POEA contract does not state that the assessment of disability of the seafarers is exclusive to the company doctor; a seafarer may avail himself of a second or even a third opinion from private doctors; her execution of the certificate of fitness for work does not mean that the assessment of the company doctor is true and correct; having no medical background, she was not in a position to question the medical findings and she had no choice but to sign the certification; she asked the opinion of another doctor because she still had shortness of breath and chest pains.

Petitioners filed a Reply[19] averring that: the medical certificate issued by Dr. Yulde lacks evidentiary value because it was issued more than six months after respondent was declared fit to work by the company doctors; Dr. Yulde gave his assessment after a single isolated medical check-up and it was merely based on the medical records of the company doctor; Dr. Yulde does not specialize in seafarer's illness and he is not a pulmonologist but a cardiologist; and, the fact that respondent's medical treatment exceeded 120 days does not render her disability permanent because the assessment of the company doctor was issued within the 240-day period.

In a Rejoinder,[20] respondent argued that jurisprudence and the POEA-SEC

recognize the prerogative of a seafarer to seek the opinion of a second or third doctor. She prayed that in view of the contrasting assessments of her doctor and the company-designated physician, that she be referred to a third doctor. Petitioners did not make any manifestation on respondent's prayer.[21]

On September 30, 2011, the Labor Arbiter (LA) rendered a Decision,[22] the decretal part of which reads:

> WHEREFORE, premises considered judgment is hereby rendered ordering respondents jointly and severally liable to pay complainant NORA JINTALAN the Philippine peso equivalent at the actual payment of Sixty Thousand U.S. Dollars (US$60,000.00) representing total and permanent disability benefits and ten (10%) percent of the total money claims as attorney's fees.
>
> Other monetary claims are dismissed for lack of merit.
>
> SO ORDERED.[23]

Petitioners appealed to the NLRC and filed their Memorandum of Appeal[24] Respondent did not file a comment or opposition to the appeal.

On February 7, 2012, the NLRC rendered the challenged Decision with the following *fallo*:

> WHEREFORE, premises considered, the Memorandum of Appeal is hereby DISMISSED and the Decision of Labor Arbiter Geobel Bartolabac is hereby AFFIRMED. The Respondents are ordered to pay the Complainant USD60,000 as total and permanent disability benefits and 10% attorney's fees.
>
> SO ORDERED.[25]

Petitioners filed a Motion for Reconsideration[26] but it was denied in a Resolution[27] dated March 14, 2012. Hence, this petition.

On August 31, 2012, petitioners and respondent filed a Satisfaction of Judgment (All Without Prejudice to the Pending Petition for Certiorari in the Court of Appeals and Urgent Motion to Cancel Appeal Bond)[28] with the LA. They averred that pursuant to the writ of execution dated August 15, 2012, respondent had received P2,736,360.00 from petitioners as conditional payment of the judgment awarded by the LA whose decision was affirmed by the NLRC. However, they alleged that the conditional satisfaction of judgment is without prejudice to petitioners' instant petition for certiorari and that it was made only to prevent garnishment of their accounts and in case of reversal and/or modification of the assailed Decision, respondent shall return all that is due and owing to petitioners without need of demand. They prayed for the cancellation of Surety Bond dated November 11, 2011

(PISC Bond No. BD-NIL-HO-11-0086010-00-D) in the amount of P2,583,000.00 issued by Pioneer Insurance and Surety Corporation.

Petitioners raise the following issues:

1. WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AWARDING PRIVATE RESPONDENT PERMANENT AND TOTAL DISABILITY COMPENSATION; AND,

2. WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING PETITIONERS LIABLE FOR ATTORNEY'S FEES EQUIVALENT TO TEN (10%) PERCENT OF THE JUDGMENT AWARD.[29]

Respondent filed her Comment[30] to the petition to which petitioners filed a Reply.[31] Both parties filed their respective Memoranda.[32]

RULING

We deny the petition.

The procedure in claims for disability benefits of seafarers was discussed in *Philman Marine Agency, Inc. v. Cabanban*, thus:

> When read together with Articles 191 to 193, Chapter VI (Disability Benefits) of the Labor Code and Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code, and following our various pronouncements, Section 20-B of the POEA-SEC evidently shows that it is the company-designated physician who primarily assesses the degree of the seafarer's disability. Upon the seafarer's repatriation for medical treatment, and during the course of such treatment, the seafarer is under total temporary disability and receives medical allowance until the company-designated physician declares his fitness to work resumption or determines the degree of the seafarer's permanent disability — either total or partial. The company-designated physician should, however, make the declaration or determination within 120 days, otherwise, the law considers the seafarer's disability as total and permanent and the latter shall be entitled to disability benefits. Should the seafarer still require medical treatment for more than 120 days, the period granted to the company-designated physician to make the declaration of the fitness to work or determination of the permanent disability may be extended, but not to exceed 240 days. At anytime during this latter period, the company-designated physician may make the declaration or determination: either the seafarer will no longer be entitled to any sickness allowance as he is already declared fit to work, or he shall be entitled to receive disability benefits depending on the degree of his permanent disability.