

## **THIRTEENTH DIVISION**

**[ CA-G.R. SP NO. 79194, August 28, 2006 ]**

**ST. VINCENT SHIPPING, INC., CROWN ENTERPRISES CORP., AND  
PANDIMAN PHILIPPINES, INC., PETITIONERS, VS. JOSE C.  
BARROS, RESPONDENT.**

### **D E C I S I O N**

**CRUZ, J.:**

On July 3, 1999, St. Vincent Shipping, Inc. (or "St. Vincent"), a local manning company, hired Jose C. Barros (or "respondent") for its foreign principal, Crown Enterprises Corporation (or "Crown"), as radio operator for a period of twelve months on board its vessel MV Sea Light (or "vessel").

Sometime in January 2000, respondent complained of recurrent chest pains and requested medical treatment from the master of the vessel. Respondent consulted a doctor at Longchou, China but, because of the short stay of the vessel in that place, was advised to see another doctor at their next port of call for further medical check-up. On January 22, 2000, he was repatriated to the Philippines for further treatment.

On January 25, 2000, respondent was diagnosed at the Metropolitan Hospital to be suffering from pulmonary tuberculosis, hypertension and dyslipidemia. X-ray examination conducted on January 26, 2000 yielded the impression: "minimal both upper lobe, PTB". Succeeding x-ray examinations showed common findings: "cardiomegaly, probably left ventricular, P.T.B minimal."

Respondent made demands on St. Vincent and Crown for payment of disability benefits pursuant to the POEA Standard Employment Contract (or "POEA contract") and the Labor Code. As his demands were not heeded, respondent filed a complaint against St. Vincent, Crown and Pandiman Philippines, Inc. (or "Pandiman") with the National Labor Relations Commission (or "NLRC") Arbitration Branch.

In his position paper, respondent alleged that he was declared fit to work before boarding the vessel; that his illness was incurred while working on the vessel; that his illness became manifest during the effectivity of his employment contract; and that his working condition, characterized by overwork and fatigue, contributed to the deterioration of his health. Respondent demanded payment of disability benefits in the amount of US\$50,000.00, moral damages and attorney's fees.

For their part, St. Vincent, Crown and Pandiman (or "petitioners", when collectively) claimed that respondent's illness was pre-existing and could not have developed during his short employment; that respondent admitted in his Pre-Employment Medical Examination (or "PEME") that he acquired his pulmonary tuberculosis (or "PTB") before 1990; and that they were released from any and all liabilities because

of respondent's misrepresentation in his PEME that he never had tuberculosis.

On August 13, 2001, the labor arbiter rendered a decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered ordering respondents jointly and severally to pay complainant disability benefits in the amount of US\$50,000.00 or its peso equivalent at the time of payment plus ten (10%) percent of the award as attorney's fees.

The other claim is dismissed for lack of merit.

SO ORDERED."

Aggrieved, petitioners appealed to the NLRC which, in a resolution dated February 26, 2003, affirmed the labor arbiter's decision. Petitioners moved for reconsideration of the NLRC's resolution but the motion was denied per resolution dated June 19, 2003.

Hence, this petition for certiorari ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC in issuing the resolutions dated February 26, 2003 and June 19, 2003. Petitioners ascribe palpable errors to the NLRC –

1. "(I)n failing to rule on, and effectively affirming the inclusion of Pandiman in the joint and several award, which is not proper and must be set aside";
2. "(I)n striking aside the company designated physicians' assessments for being tentative, and in refusing to give credence to Dr. Lim's assessment that complainant is fit to work on the basis of its being allegedly hearsay"; and
3. "(I)n affirming an award of disability compensation which is which is (sic) baseless in law and in fact, and which is speculative at best."

We now resolve.

Petitioners maintain that respondent was treated until he was cured and found fit to resume his work; that his fitness to resume sea duties was assessed by their accredited physicians who oversaw his treatment; that the company-designated physician's assessment is the only basis for a proper claim for disability benefits; and that respondent failed to refute the assessment made by their designated physicians.

In giving no weight to the assessment made by petitioners' designated physicians on respondent's fitness to resume his sea duties, the NLRC ratiocinated, thus:

"The basic issue here is whether or not complainant was rendered disabled by his illness. A thorough perusal of the final medical report (Annexes '8' & '9', respondents' position paper), submitted by complainant's attending physicians (Dr. J. Cayetano – Cardiologist; and Dr. Tommy L. Co – Pulmonologist) does not categorically state with