



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 15, 2022 which reads as follows:

“G.R. No. 255411 (*Ismael B. Quilang Jr., petitioner v. Cargo Safeway, Inc., Evergreen Marine Corporation and/or Capt. Reynaldo D. Casareo, respondent*).

This appeal by *certiorari* seeks to reverse and set aside the June 29, 2020 Decision¹ of the Court of Appeals (CA) in CA-G.R. SP No. 161164, which ruled in favor of Cargo Safeway, Inc. (*Cargo Safeway*). The CA reversed the November 15, 2018 Decision² rendered by the Office of the Voluntary Arbitrators (VA) in AC-980-RCMB-NCR-MVA-059-09-02-2018, which initially granted the claims of petitioner Ismael B. Quilang, Jr. (*Quilang*) for disability benefit in the amount of US\$60,000.00 and 10% attorney’s fees.

Antecedents

Quilang had been consistently employed by Cargo Safeway since 1998.³ On June 15, 2015, in preparation for another deployment, he underwent a pre-employment medical examination, which found him fit for sea duty.⁴ Quilang, and Cargo Safeway, on behalf of its principal Evergreen Marine Corp., executed a contract of employment wherein Quilang was employed as a 3rd Engineer Officer for a duration of nine (9) months. On November 5, 2015, he was deployed on board the vessel MV Ever Unison.⁵

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¹ *Rollo* pp. 60-71, penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Fernanda Lampas Peralta and Myra V. Garcia-Fernandez, concurring.

² *Id.* at 282-293.

³ *Id.* at 61.

⁴ *Id.*

⁵ *Id.*

On October 24, 2016, Quilang was repatriated upon the completion of his employment contract.⁶ Soon after his arrival, respondent reported to the office of Cargo Safeway. Thereat, he filled out a debriefing form (*Form*) wherein he answered “N/A” to most of the questions and stated that there was good harmony onboard the vessel.⁷

On November 18, 2016, Quilang sought medical consultation on his own due to a persistent pain in his right hip. He was diagnosed to be suffering from osteoarthritis.⁸ Consequently, on February 28, 2017, he had to undergo a total hip replacement⁹ operation which would later cause his being found unfit for duty.¹⁰

Sometime in January 2017, Quilang was again considered by Cargo Safeway for another deployment. However, he could not be employed due to his expired licenses and seafarer’s documents.¹¹

On November 22, 2017, Cargo Safeway received a notice for clarificatory conference from the Associated Marine Officers’ and Seamen’s Union of the Philippines due to Quilang’s claim for disability benefit.¹² After a failed settlement, the parties were referred to voluntary arbitration.¹³

Voluntary Arbitrators Panel Decision

In its November 15, 2018 Decision, the panel of voluntary arbitrators ruled in favor of Quilang and granted him total and permanent disability benefits. The VA held that Quilang’s illness was work-related since he was exposed to the risks enumerated under the Philippine Overseas Employment Administration-Standard Employment Contract (*POEA-SEC*). The dispositive portion of the VA decision reads:

WHEREFORE, PREMISES CONSIDERED, a Decision is hereby rendered declaring ISMAEL B. QUILANG to have suffered a permanent disability and therefore ordering CARGO SAFEWAY, INC. to pay Ismael B. Quilang under the POEA-SEC

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⁶ Id.

⁷ Id.

⁸ Id. at 19.

⁹ Id. at 20.

¹⁰ Id.

¹¹ Id. at 61.

¹² Id. at 62.

¹³ Id.

in the amount of US\$60,000.00 and 10% attorney's fees computed based on the award at its equivalent in Philippine Peso at the time of payment.

Other claims are dismissed for lack of merit.

SO ORDERED[.]¹⁴

Aggrieved, Cargo Safeway appealed to the CA.

The CA Ruling

In its June 29, 2020 Decision, the CA reversed the VA decision. It declared that Quilang failed to satisfy the essential requirements for compensability, mainly for failing to submit himself to a post-employment medical examination within three (3) working days from repatriation and for failure to prove that his illness was work-related. The *fallo* of the CA decision states:

WHEREFORE, the petition is **GRANTED**. The Decision dated 15 November 2018 and Resolution dated 26 April 2019 rendered by the Office of the Voluntary Arbitrators in AC-980-RCMB-NCR-MVA-059-09-02-2018 are **REVERSED** and **SET ASIDE**.

SO ORDERED.¹⁵

Refusing to concede, Quilang filed the present appeal by *certiorari*.

ISSUES

Essentially, Quilang raises the following issues for resolution of the Court.

I.

Whether or not petitioner meets the essential requirements for compensability under the 2010 POEA-SEC;

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¹⁴ Id. at 292.

¹⁵ Id. at 70-71.

II.

Whether or not petitioner is permanently and totally disabled and entitled to full disability compensation under prevailing law and jurisprudence;

III.

Whether or not petitioner is entitled to attorney's fees.

Quilang argues that Cargo Safeway denied his request for post-employment medical examination on the ground that he had completed his contract and was not medically repatriated. He maintains that his failure to attend the mandatory post-employment medical examination within three (3) working days from repatriation is attributable to the fault of Cargo Safeway. Further, he asserts that his ailment is work-related and compensable based on Section 32-A of POEA-SEC.

The Court's Ruling

The appeal is devoid of merit.

To be entitled to disability benefits, a seafarer must satisfy the requirements laid down in POEA-SEC. These requirements are: (1) the seafarer must submit himself to a mandatory post-employment medical examination within three (3) working days upon repatriation; (2) the injury or illness must have existed during the term of the seafarer's employment contract; and (3) the injury or illness must be work-related.¹⁶

Quilang did not submit to the mandatory post-employment medical examination.

The Court finds that Quilang failed to submit himself to the mandatory post-employment medical examination within three (3) working days from his repatriation on October 24, 2016.

Quilang claims that he reported to Cargo Safeway within the mandatory three (3)-day period, as shown in his Form.¹⁷ During this time, Quilang allegedly informed Cargo Safeway of the persisting

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¹⁶ *Scanmar Maritime Services, Inc. v. De Leon*, 804 Phil. 279, 285 (2017).

¹⁷ *Rollo*, p. 25.

pain in his right hip and requested post-employment medical examination.¹⁸ Cargo Safeway allegedly denied his request for post-employment medical examination on the ground that his contract had been completed and he was not medically repatriated.¹⁹

However, the record is bereft of any showing that Cargo Safeway was notified of Quilang's ailment. Apart from his self-serving allegations, no other evidence was adduced showing that Quilang reported the injury he supposedly sustained while on board the vessel or that he requested a post-employment medical examination upon his repatriation. There were no medical records presented with respect to his injury while on board the vessel. Curiously, Quilang did not report his injury in the debriefing form he filled out upon repatriation.²⁰

Manifestly, Quilang was not medically repatriated. This fact, however, does not remove his claim for disability from the ambit of Sec. 20 of the 2010 POEA-SEC (*Sec. 20*) because it applies to “[t]he liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract x x x.”²¹ Thus, as required by Sec. 20, Quilang must still submit himself to the 3-day post medical examination requirement.

In *Esposito v. Epsilon Maritime Services, Inc.*,²² the seafarer therein was not medically repatriated. However, after he returned to the Philippines, he filed for disability claim alleging that he suffered an illness while on board the vessel. Even though the seafarer was not medically repatriated, the Court still applied Sec. 20(3) of the 2010 POEA-SEC because it was a claim for a disability acquired during the period of employment; nevertheless, it was found that the seafarer did not comply with the mandatory 3-day post medical examination requirement. Having failed to comply with the mandatory reporting requirements, the seafarer's claim for disability benefits was denied.

Even assuming that the 3-day post medical examination is not applicable, Quilang, at the very least, should have informed Cargo Safeway about his purported injury. However, the records are bereft of any evidence to that effect. Instead, when Quilang returned to the Philippines after the expiry of his contract, he did not declare his

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¹⁸ *Id.* at 27.

¹⁹ *Id.*

²⁰ *Id.* at 61.

²¹ Section 20(A), 2010 POEA-SEC.

²² G.R. No. 218167, November 7, 2018.

injuries in the debriefing form, especially considering that the questions can be openly answered. More specifically, for the question, “What problems have you encountered on board?”, Quilang responded, “N/A.” It was only after more than a year from Quilang’s repatriation, or on November 22, 2017, that Cargo Safeway received a notice for clarificatory conference from the Associated Marine Officers’ and Seamen’s Union of the Philippines referring to Quilang’s claim for disability benefit.

Notably, as to this factual issue, both the CA and the VA arrived at the same conclusion that Quilang did not submit himself to the mandatory post-employment test.²³ The VA brushed off this mandatory requirement by citing *Status Maritime Corporation, et al. v. Spouses Delalamon*²⁴ (*Delalamon*).

The Court finds that *Delalamon* is not on all fours with the circumstances of the present case. In *Delalamon*, the employer was already put on sufficient notice about the failing health of the seafarer during the term of his contract.²⁵ On the other hand, here, Quilang was not medically repatriated. When Quilang returned to the country on October 24, 2016, he did not raise the fact that he suffered any illness or injury during his employment with Cargo Safeway. He did not even send a written notice of his injury to Cargo Safeway during the 3-day period to inform them of his situation. In fact, Cargo Safeway was only informed of Quilang’s illness on November 22, 2017, when Cargo Safeway received a notice for clarificatory conference regarding Quilang’s claim for disability benefit.²⁶ Glaringly, it took more than a year after his repatriation for Quilang to notify Cargo Safeway of his purported medical condition.

The rationale behind the 3-day mandatory requirement can be easily divined. Within three (3) days from repatriation, it would be easier for a physician to determine if the illness was work-related or not. After that period, there would be difficulty in ascertaining the real cause of the illness. Ignoring this rule would set a precedent opening the floodgates to a limitless number of seafarers claiming disability benefits. In such a case, employers would have no protection against unrelated disability claims.²⁷

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²³ *Rollo*, pp. 287 and 65.

²⁴ 740 Phil. 175 (2014).

²⁵ *Id.*

²⁶ *Id.* at 67.

²⁷ *Esposo v. Epsilon Maritime Services Inc.*, supra note 22, citing *Jebsens Maritime, Inc. and/or Alliance Marine Services, Ltd. v. Undag*, 678 Phil. 938, 948-949 (2011).

In *Corpuz, Jr. v. Gerwil Crewing Phils., Inc.*,²⁸ it was stated that the 3-day period from return of the seafarer or sign-off from the vessel, whether to undergo a post-employment medical examination or to report the seafarer's physical incapacity, should always be complied with to determine whether the injury or illness is work-related. The seafarer's failure to comply with the mandatory reporting requirement shall result in the forfeiture of his right to claim disability benefits.²⁹

The claim for disability benefits was not proven.

Even on the substantive merits, the Court finds that Quilang failed to prove that he is entitled to any disability benefit.

Quilang claims that his condition was prompted while he was installing the connecting rod of the generator; he heard a cracking sound coming from his right hip and, at the same time, felt a sharp pain in the said area.³⁰ He asserted that he immediately reported his condition to his chief engineer so he could get proper medical attention but he was advised to rest as the pain might have been caused by muscle strain.³¹ As the pain persisted despite his rest, Quilang repeatedly communicated this to his chief engineer. However, he claims that his requests were not given due attention,³² thus, he claims that he is entitled to disability benefits.

The Court is not convinced.

As correctly stated by the CA, Quilang failed to establish his claims for disability benefits by substantial evidence. For osteoarthritis to be compensable under Sec. 32(A) of the POEA-SEC, the following conditions must be satisfied:

1. The seafarer's work must involve the risks described therein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer.³³

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²⁸ G.R. No. 205725, January 18, 2021.

²⁹ *Id.*

³⁰ *Rollo*, p. 18.

³¹ *Id.*

³² *Id.*

³³ See *Romana v. Magsaysay Maritime Corp.*, 816 Phil. 194, 205 (2017).

It must be underscored that in compensation proceedings, the test of proof is merely probability and not ultimate degree of certainty; the conclusions of the courts must still be based on real evidence and not just on inferences and speculations.³⁴

Here, Quilang failed to prove with substantial evidence that his disease was contracted within a period of exposure to the risks. Apart from Quilang's initial medical consultation at the Chinese General Hospital where his x-ray was taken on November 18, 2016,³⁵ all other medical records bore dates well past Quilang's disembarkation from the vessel. It must also be emphasized that Quilang's medical certificate merely stated that he is unfit for duty and that the same was issued for partial disability benefits without any explanation as to how such conclusion was reached or any statement declaring that the illness was work-aggravated.³⁶ Again, there is no medical record of any injury acquired during the term of his contract.

Due to the lack of evidence presented, it cannot be established whether Quilang indeed suffered from osteoarthritis during his employment with Cargo Safeway, or whether his duties therein exacerbated such illness. The extent of his purported osteoarthritis was not even determined. Ultimately, it boils down to the belated reporting of Quilang of his alleged illness to Cargo Safeway. Had Quilang timely raised such condition within three (3) days from his repatriation, it could have been thoroughly assessed by the company-designated physician in the mandatory post-employment medical examination. As Quilang slept on his rights, there is no disability benefit to speak of.

In fine, Quilang's claim for disability benefit is denied for his failure to comply with the 3-day rule on post-employment medical examination and for failing to satisfy the requisites for compensability under Sec. 32(A) of the POEA-SEC.

WHEREFORE, the appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. SP No. 161164, dated June 29, 2020, is **AFFIRMED in toto**.

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³⁴ *Ventis Maritime Corp. v. Salenga*, G.R. No. 238578, June 8, 2020.

³⁵ *Rollo*, pp. 283-284.

³⁶ *Id.* at 70.

SO ORDERED.”

By authority of the Court:


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Division Clerk of Court

by:

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