



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 13, 2022** which reads as follows:*

“G.R. No. 237801 (Edward P. Caranto, Petitioner v. Seacrest Maritime Management, Inc., Nordic Hamburg Shipmanagement GMBH & Co. KG-Germany, and Rolando B. Magcale, Respondents). — This Court **NOTES:**

1.) The letter dated February 17, 2022 of Ms. Jane G. Sabido, Chief, Achieves Section, Judicial Records Division, Court of Appeals (CA), Manila, transmitting the *rollo* of CA-G.R. SP No. 136702, in compliance with the Resolution dated October 6, 2021; and

2.) The copy furnished this Court of the letter dated February 23, 2022 of Atty. Olive B. Sanchez, Chief, Legal and Enforcement Division, National Labor Relations Commission (NLRC), addressed to Executive Labor Arbiter, Jenneth B. Napiza, NLRC-National Capital Region (NCR), through Mr. Jess V. Jalalain, Records Officer IV, NCR Records & Receiving Unit, NLRC, requesting the complete records of the instant case together with the certification and table of contents, for transmittal to this Court.

This Court resolves a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Edward Caranto (*Caranto*) against respondents Seacrest Maritime Management, Inc. (*Seacrest*), Nordic Hamburg Shipmanagement GMBH & Co. KG-Germany (*Nordic Hamburg*), and Rolando B. Magcale, assailing the Decision² dated August 24, 2017 and the Resolution³ dated February 28, 2018 rendered by the CA in CA-G.R. SP No. 136702. The CA modified the NLRC’s Decision⁴ dated April 30, 2014 and reduced the award of disability benefits granted to Caranto corresponding to Grade 11 partial permanent disability rating. It also denied Caranto’s Motion for Reconsideration.

¹ *Rollo*, pp. 47-92.

² Penned by Associate Justice Maria Filomena D. Singh (now a Member of this Court), with Associate Justices Ramon R. Garcia and Edwin D. Sorongon, concurring; *id.* at 13-37.

³ *Id.* at 39-43.

⁴ Penned by Commissioner Mercedes R. Posada-Lacap, with Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Dolores M. Peralta-Beley, concurring; *CA rollo*, pp. 35-43.

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Caranto was hired by Seacrest, on behalf of its foreign principal Nordic Hamburg, on board M/V Nordic Wismar, which was later renamed Niledutch Beijing. His employment contract as seafarer was for a duration of nine months.⁵

While performing his duties on July 10, 2014, Caranto sustained a foot injury after he accidentally fell in a sewer hole. He was immediately given first-aid treatment at the ship's clinic. As soon as the vessel reached the port of Namibe in Angola, Caranto was brought to the nearest hospital where he was diagnosed to be suffering from "right foot injury, swollen, and painful to move."⁶ Despite his condition, he was sent back to the vessel to perform his shipboard tasks. It was only when the ship reached Durban City that he was allowed to return to his country.⁷

On July 22, 2012, Caranto arrived in Manila. Three days thereafter, he reported to the company-designated physician, Dr. Natalio Alegre (*Dr. Alegre*), who immediately referred him for medical assessment. Not long after, Caranto underwent a surgery at St. Lukes Medical Center.⁸ Later on, he was referred to an orthopedic specialist who scheduled him for physiotherapy and rehabilitation sessions.⁹

Caranto religiously attended his treatments. After each therapy sessions, he would meet the company doctor for medical assessment. On October 17, 2012, Caranto went to see Dr. Alegre for a follow-up check. At that moment, Dr. Alegre recommended the continuation of his physical therapy until December 3, 2012.¹⁰

Nevertheless, Caranto filed on November 26, 2012 a Complaint¹¹ with the Labor Arbiter (*LA*), claiming disability benefits, illness allowance, reimbursement of medical expenses, damages, and attorney's fees.

As his condition did not improve, Caranto consulted another orthopedic specialist, Dr. Rogelio Catapang, Jr. (*Dr. Catapang*), who found him unfit to resume sea duties as stated in a Medical Report¹² issued on November 30, 2012.¹³

Meanwhile, Caranto showed up at the clinic on December 3, 2012 and completed his physical therapy session still under the supervision of Dr.

⁵ *Rollo*, p. 14.

⁶ *CA rollo*, p. 76.

⁷ *Id.*

⁸ *Rollo*, p. 14.

⁹ *Id.*

¹⁰ *CA rollo*, p. 6.

¹¹ *Id.* at 51-52.

¹² *Rollo*, pp. 283-284.

¹³ *Id.* at 14.

Alegre. The next day, Dr. Alegre gave Caranto an interim disability rating of Grade 10 based on the Philippine Overseas Employment Administration (POEA) Standard Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean Going Vessels, or the POEA Standard Employment Contract (POEA-SEC). He was again advised to return for therapy session in January 2013.¹⁴ The medical evaluation reads as follows:

Plans

Orthopedic medicine special consult is sought. Repeat X-Ray of the right foot is requested on next follow-up. Physical therapy is continued. Vitamin B Complex 1 tablet twice daily and Calcium 1 tablet once daily are continued.

Follow-up is advised on 07 January 2013.

If a disability is to be assessed now, a disability grade 10 is given based on the POEA contract, the nearest of which is Lower Extremities #17, Complete immobility of an ankle joint in abnormal position. However, the prognosis of Mr. Caranto is good. He has improvement of symptoms and is responsive to physical therapy sessions. Barring unforeseen complications, he may be deemed fit to resume former work as a seafarer in 2-3 months.¹⁵

As in the past, Caranto availed of the treatment and therapy session set-up by Seacrest.¹⁶

On February 4, 2013, Dr. Alegre issued Caranto a final disability assessment of Grade 11 based on the POEA-SEC, the nearest of which is found under Lower Extremities #18, referring to complete immobility of an ankle joint in normal position, to wit:

Orthopedic medicine specialist consult is sought. The right foot pain of Mr. Caranto is experiencing secondary to the beginning bone formation at the right 5th metatarsal. Thus, the orthopaedic specialist recommended removal of the orthopaedic plate and screws 1 year after the operation (August 2013) for only after the removal of the plates and screws will there be resolution of the pain.¹⁷

In the meantime, due proceedings with the LA ensued. After trial, the LA rendered a Decision¹⁸ dated July 22, 2013, granting Caranto's complaint for disability benefits as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the complainant. Accordingly, respondents are held jointly and

¹⁴ Id. at 15.

¹⁵ Id. at 15-16.

¹⁶ Id. at 16.

¹⁷ Id.

¹⁸ Penned by Labor Arbiter Pablo A. Gajardo, Jr.: CA rollo, pp. 22-31.

severally liable to pay complainant permanent total disability compensation of US\$60,000.00 or its peso equivalent at the time of payment and attorney's fees of ten percent (10%) of the total award.

SO ORDERED.¹⁹

Aggrieved by the LA's ruling, Seacrest appealed to the NLRC. On April 30, 2014, the NLRC sustained the award of total disability benefits to Caranto. The NLRC explained that the assessment of grade 10 was temporary as it still required the doctor to schedule him for another physical therapy session. Observably, Caranto's treatment continued up to February 4, 2013 or 193 days after his repatriation, on which date the company-designated physician also issued his final assessment of grade 11. The NLRC highlighted that in the final assessment made by the company-designated physician, the latter recommended that the removal of the orthopedic implants on Caranto's ankle be done a year after the operation and only then will there be a resolution on Caranto's ankle pain. The NLRC then concluded that Caranto's injury had not yet been resolved even after the 240-day extended treatment period. Hence, Caranto deserved a total disability award.²⁰

Seacrest moved to reconsider, but the same was denied by the NLRC in its Resolution²¹ dated June 6, 2014.

Undeterred, Seacrest went to the CA *via* a Petition for *Certiorari*.²² In a Decision²³ dated August 24, 2017, the CA modified the labor tribunals' rulings and found Caranto entitled only to disability benefits corresponding to Grade 11 disability. In granting the petition, the CA stated that Caranto is not entitled to total and permanent disability benefits because no cause of action had yet accrued at the time he filed his complaint before the LA on November 27, 2012. The CA explained that from the time Caranto was repatriated on July 22, 2012, only 128 days had lapsed, which, while beyond the 120-day initial treatment period, is still within the 240-day extended treatment period. The CA emphasized that Caranto's medical records and the declaration of the company-designated physician, both showed that Caranto needed further medical attention and monitoring such that the extension of his treatment to up to 240 days period is justified. The CA likewise noted that Caranto only secured a medical report from the physician of his choice regarding his unfitness to return to work three days after he filed his complaint. Thus, when Caranto filed his labor complaint before the release of the initial assessment of his disability by the company-designated physician within the 240-day extended treatment period, and prior to the issuance of the medical certificate from his physician of choice, he had

¹⁹ Id. at 31.

²⁰ CA *rollo*, pp. 35-43.

²¹ Id. at 45-46.

²² Id. at 3-17.

²³ Id. at 13-37.

neither factual nor legal bases thereof. Further, the CA deleted the award of attorney's fees for lack of legal and factual basis.²⁴

Caranto sought reconsideration alleging that the CA committed an error when it ruled that he had no cause of action when he filed the case for disability benefits. He also insisted on the applicability of the ruling in the *C.F. Sharp Crew Management, Inc. v. Taok*,²⁵ as cited in *Olidana v. Jepsens Maritime, Inc.*,²⁶ where this Court held that a seafarer may pursue an action for total and permanent disability benefits even if "the company-designated physician declared [them] partially and permanently disabled within the 120-day or 240-day period but remains incapacitated to perform [their] usual sea duties after the lapse of the said periods."²⁷

In its Resolution²⁸ dated February 28, 2018, the CA denied the motion. It stood firm in its ruling that Caranto had no cause of action when he filed his complaint for disability benefits. It brushed aside the medical findings of Caranto's physician of choice not only because it was issued three days after the filing of the labor complaint but also because he was only examined once, making the doctor's findings less thorough compared to the company-designated physician's series of diagnostic tests. The CA added that the jurisprudence invoked by Caranto does not apply in his case considering that, at the time of the filing of his labor complaint, there was yet no determination of his disability rating. In the absence of a definite determination of the extent of his disability from the company-designated physician or his physician of choice prior to the filing of his labor complaint, Caranto clearly had no cause of action.²⁹

Before this Court, Caranto asserts entitlement to total disability benefits amounting to US\$60,000.00 under the POEA-SEC. He again invokes *Olidana*, as rehashed from his motion for reconsideration before the CA.³⁰ He maintains that despite the disability rating given to him, he would still not be able to engage in gainful occupation given that the orthopedic screws and plates installed in his foot can only be removed a year after the operation. Only then can there be resolution of the pain on his foot.³¹

In its Comment,³² Seacrest argued that Caranto is bound by the medical findings of the company doctor as the same enjoys the presumption of validity absent any proof that the medical evaluation was given

²⁴ *Rollo*, pp. 18-34.

²⁵ 691 Phil. 521 (2012).

²⁶ 772 Phil. 234 (2015).

²⁷ *Id.* at 250.

²⁸ *Rollo*, pp. 39-43.

²⁹ *Id.*

³⁰ *Id.* at 60-76.

³¹ *Id.* at 64.

³² *Id.* at 585-601.

fraudulently.³³ Seacrest adds that Caranto's failure to procure an assessment from his doctor of choice prior to the filing of his complaint bolsters Caranto's lack of cause of action, hence, the complaint was dismissible outright.³⁴

Caranto filed a Reply reiterating the existence of his cause of action and the applicability of the *Olidana* ruling in his case.

Here, the issue that needs resolution is whether Caranto is entitled to total and permanent disability benefits.

Disability claims of seafarers are governed by the Labor Code, its implementing rules, and by the employment contract, such as the 2010 POEA-SEC, which covered petitioner's period of employment.³⁵

In *Salonga v. Solvang*,³⁶ this Court, citing *Elburg Shipment Phils., Inc. v. Quiogue*,³⁷ summarized the guidelines to be observed when a seafarer claims permanent and total disability benefits, *viz.*:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;
2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;
3. If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification (e.g., seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The employer has the burden to prove that the company-designated physician has sufficient justification to extend the period; and
4. If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.³⁸
(Citations omitted)

³³ Id. at 588.

³⁴ Id. at 595.

³⁵ *Rodriguez v. Philippine Transmarine Carriers, Inc., Norwegian Crew Management A/S, and Mr. Carlos Salinas*, G.R. No. 218311, October 11, 2021.

³⁶ G.R. No. 229451, February 10, 2021.

³⁷ 765 Phil. 341 (2015).

³⁸ Id. at 362-363.

In other words, two requisites must be satisfied: (1) the company-designated physician must arrive at a final and definite assessment of the seafarer's illness or disability; and (2) the doctor's assessment must be issued within the 120/240-day treatment period.

Here, petitioner was repatriated on July 22, 2012. From the time he consulted the company-designated physician, petitioner was given extensive medical attention from his assessment to surgery and even up to his rehabilitation and therapy. However, petitioner filed his labor complaint on November 6, 2012, or just 128 days from his repatriation. At that time, the company-designated physician had not yet issued a medical assessment due to petitioner's need for further physical therapy sessions. While it is ideal for the company-designated physician to issue a notice of disability assessment within the 120-day treatment period, law and jurisprudence allow the company-designated physician to postpone the issuance of a disability rating when justified. *Rodriguez v. Philippine Transmarine Carrier, Inc.*³⁹ clarified this when this Court ruled that the mere lapse of the 120-day initial treatment period does not automatically entitle a seafarer to claim for total and permanent disability benefit as it is possible to extend the evaluation, or treatment period until 240 days from repatriation.⁴⁰

In *Tradephil Shipping Agencies, Inc. v. Dela Cruz*,⁴¹ this Court found justified the extension of the temporary disability period to the exceptional 240-day period because the seafarer was still undergoing treatment and evaluation by the company-designated physician.

So, too, in *Rodriguez*, this Court recognized the recommendation made by the company-designated physician of the seafarer's need to return for further rehabilitation and medications. In the said case, the extension of the initial 120-day treatment period was considered necessary to treat the seafarer's temporary disability completely.

Evidently, it was premature for petitioner to invoke his claim for disability benefits inasmuch as the 240-day extended treatment period had not yet lapsed.⁴² Thus, when petitioner filed his complaint before the LA, he was still undergoing rehabilitation therapy. No assessment was issued to him by the company-designated physician, not even an interim one. Worse, it was only after the filing of his complaint in court that he sought the opinion of his physician of choice, Dr. Catapang. His pursuit of his disability claim prior to the issuance of the company-designated physician's assessment foreclosed not only respondents' chance to extend to him full medical support but also the opportunity to determine, with finality, the extent of his disability and the pecuniary liability which respondents could have been

³⁹ *Supra* note 35.

⁴⁰ *Elburg Shipmanagement Phils., Inc. v. Quiogue, Jr.*, *supra* note 37, at 355.

⁴¹ 806 Phil. 338, 353-354 (2017).

⁴² See *Torillos v. Eastgate Maritime Corporation*, G.R. No. 215904, January 10, 2019.

liable for. So, even if Dr. Catapang found petitioner unfit to return to sea duty, the lack of previous assessment from the company-designated physician, coupled with petitioner's belated consultation with his choice of physician, denied him the right to seek a total disability claim with this Court.

Clearly then, petitioner had no cause of action to support his claim for total and permanent disability. Consistent with this Court's ruling in *C.H. Sharp Crew Management, Inc. v. Orbeta*,⁴³ petitioner is only entitled to claim disability benefits equivalent to his injury. The Grade 11 assessment of the company-designated physician must stand, and for this, petitioner is allowed to claim only: (1) the equivalent monetary benefit of US\$7,465.00 pursuant to the schedule of disability benefits under the POEA-SEC; and (2) unpaid sickness allowance in the amount of ₱26,477.00.

FOR THESE REASONS, the instant Petition for Review on *Certiorari* is **DENIED**. The assailed Decision dated August 24, 2017 and the Resolution dated February 28, 2018 of the Court of Appeals in CA-G.R. SP No. 136702 are **AFFIRMED**.


The Complaint is ordered **DISMISSED**.

SO ORDERED." (Lazaro-Javier, *J.*, on official leave)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mm} 12/27

27 DEC 2022

⁴³ 818 Phil. 710 (2017).

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