



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated March 13, 2023, which reads as follows:

“G.R. No. 254113 (Efren D. Cortel, *Petitioner* vs. Dohle Seafront Crewing [Manila], Inc., *Respondent*). — Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated February 19, 2020, and the Resolution³ dated October 22, 2020, of the Court of Appeals (CA) in CA-G.R. SP No. 152679. The CA held that the Office of the Panel of Voluntary Arbitrators (OPVA) of the National Conciliation and Mediation Board in MVA-973-RCMB-NCR-217-08-10-2016 erred when it found that Efren D. Cortel (Cortel) was entitled to disability benefits in the amount of US\$60,000.00, sickness allowance in the amount of US\$2,272.00, and attorney’s fees.⁴

The Antecedents

In June 2015, D’Amico Ship Ishima Philippines, Inc. (D’Amico), for and on behalf of its foreign principal, Ishima Pte. Ltd., hired Cortel as a Messman to work on board the vessel *High Prosperity*. The contract was for a period of seven months extendible for another month by mutual agreement. The employment contract was approved by the Philippine Overseas Employment Authority (POEA) and covered by a Collective Bargaining Agreement. Prior to the execution of the contract, Cortel underwent a Pre-employment Medical Examination and was declared “fit to work.”⁵

On June 25, 2015, D’Amico deployed Cortel on board *High Prosperity*. On December 29, 2015, he complained of severe pain in his back and abdomen accompanied by high fever. The ship doctor examined him and opined that he was suffering from Gastritis. As first aid, the ship

¹ *Rollo*, pp. 11–29.

² *Id.* at 30–41. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Stephen C. Cruz and Tita Marilyn B. Payoyo-Villordon.

³ *Id.* 42–44. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Myra V. Garcia-Fernandez and Tita Marilyn B. Payoyo-Villordon.

⁴ *Id.* at 34, 40–41.

⁵ *Id.* at 31.

doctor prescribed him a charcoal tablet. However, on the same day, the Master of *High Prosperity* declared Cortel unfit for sea duties.⁶

Consequently, he was repatriated and arrived in the Philippines on December 30, 2015.⁷

On January 8, 2016, Cortel went directly to Jose R. Reyes Memorial Medical Center (Jose Reyes Center), where he was admitted⁸ and examined by Dr. Andrea Camille E. Halos (Dr. Halos), Cortel's doctor of choice. Upon Dr. Halos' advice, he underwent ultrasound examination at Metropolitan Medical Center and was found suffering from Hepatic Abscess and Gallbladder Polyp or Cholesterosis.⁹

On March 3, 2016, Cortel was discharged from Jose Reyes Center and was issued a medical certificate stating that he was already "fit to work." However, despite the "fit to work" certification, D'Amico refused to re-engage Cortel's services as he was still suffering from his ailment.¹⁰

Consequently, Cortel returned to Jose Reyes Center and was examined, this time, by one Dr. Anthony Yap (Dr. Yap). According to Dr. Yap, his Hepatic Abscess was recurring, thus he declared Cortel unfit for sea duties with Grade 1 disability.¹¹

Cortel demanded from D'Amico for the payment of his disability benefits, but D'Amico refused.¹² Thus, he filed a request for voluntary arbitration in August 2016, but they failed to reach a settlement.¹³ Consequently, the OPVA required the parties to submit their respective position papers and pleadings.¹⁴

Pending the OPVA's resolution of Cortel's complaint, D'Amico transferred the management of *High Propensity* to Dohle Seafront Crewing (Manila), Inc. (Dohle). Thus, Dohle substituted D'Amico in the case.¹⁵

The OPVA Ruling

In the Decision¹⁶ dated February 21, 2017, the OPVA ruled in favor of Cortel, and held that his illness Hepatic Abscess was work-related, or

⁶ Id. at 31-32.

⁷ Id. at 32.

⁸ See petitioner's Position Paper dated January 13, 2017, id. at 84-85.

⁹ Id. at 32.

¹⁰ Id.

¹¹ See Medical Certificate, id. at 104.

¹² Id. at 33.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 34.

¹⁶ Id. at 52-65. Signed by Chairman MVA Romeo A. Young and concurred in by Member MVA Norberto M. Alensuela, Sr., with Member MVA Gregorio S. Sialsa, dissenting. See also Dissenting Opinion, id. at 66-78.

at least aggravated by his working condition as a Messman. According to the OPVA, Cortel's disability was deemed total and permanent because he remained jobless or unfit to work from the time of his repatriation until the filing of the case. Thus, the OPVA found Cortel entitled to the following: (1) disability benefits in the amount of US\$60,000.00; (2) sickness allowance of US\$2,272.00; (3) and attorney's fees equivalent to 10% of the total judgment award.¹⁷

Dohle filed a motion for reconsideration, but the OPVA denied it in the Resolution¹⁸ dated August 23, 2017.

Aggrieved, Dohle filed a Petition for Review under Rule 43 of the Rules of Court before the CA.¹⁹

The CA Ruling

On February 19, 2020, the CA rendered the assailed Decision²⁰ reversing and setting aside the OPVA Decision on two grounds: (1) Cortel breached his contractual obligation to submit himself to a company-designated physician within the prescribed period; and (2) Cortel failed to prove by substantial evidence that his illnesses were work-related.²¹

Cortel filed a Motion for Reconsideration,²² but the CA denied it in the Resolution²³ dated October 22, 2020.

Hence, the instant petition.²⁴

Issue

Whether Cortel is entitled to total and permanent disability benefits.

The Court's Ruling

The petition is denied.

In a Rule 45 Petition, only questions of law are entertained. Questions of fact or those which would require a reevaluation of the evidence are inappropriate under a petition for review on *certiorari*. "The jurisdiction of the Court under Section 1, Rule 45 is limited only to errors of law because the Court is not a trier of facts."²⁵ However, the present case falls

¹⁷ Id. at 62–65.

¹⁸ Id. at 79–80.

¹⁹ A copy of the Petition for Review was not attached in the *rollo*. See *id.* at 30.

²⁰ Id. at 30–41.

²¹ Id. at 40.

²² Id. at 45–51.

²³ Id. at 42–44.

²⁴ Id. at 11–29.

²⁵ *Reyes v. Jepsens Maritime, Inc.*, G.R. No. 230502, February 15, 2022, citing *Lopez v. Saludo, Jr.*, G.R. No. 233775, September 15, 2021.

under one of the recognized exceptions because the findings of the OPVA are contrary to the findings of the CA.²⁶

Cortel failed to prove by substantial evidence that his Hepatic Abscess and Gallbladder Polyp were work-related.

Under Section 20(A) of the 2010 POEA Standard Employment Contract²⁷ (POEA-SEC), the following elements must concur for a disability to be compensable: (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 contract.²⁸

The 2010 POEA-SEC defines a "Work-Related Illness" as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." Section 32-A provides:

SECTION 32-A. OCCUPATIONAL DISEASES. —

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The seafarer's work must involve the risks described herein;
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 other factors necessary to contract it; and
4. There was no notorious negligence on the part of the seafarer.

While illnesses not listed under Section 32 of the POEA-SEC are disputably presumed as work-related, this does not mean that compensation benefits are automatically granted to the claimant.²⁹ To underscore, the seafarer is still burdened to present substantial evidence that his/her work conditions caused or at least increased the risk of contracting the

²⁶ See *id.*, citing *Soliva v. Tanggol*, G.R. No. 223429, January 29, 2020. The recognized exceptions are: x x x (a) when the findings are grounded entirely on speculation, surmises or conjectures; (b) when the inference made is manifestly mistaken, absurd or impossible; (c) when there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the findings of facts are conflicting; (f) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (g) when the findings are contrary to those of the trial court; (h) when the findings are conclusions without citation of specific evidence on which they are based; (i) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (j) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (k) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

²⁷ POEA Memorandum Circular No. 10, Series of 2010, entitled "Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Ships," dated October 26, 2010.

²⁸ See *Reyes v. Jepsens Maritime, Inc.*, *supra*, citing *Wilhelmsen Smith Bell Manning, Inc. v. Villaflor*, G.R. No. 225425, January 29, 2020.

²⁹ See *Career Phils. Shipmanagement, Inc. v. Tiquio*, G.R. No. 241857, June 17, 2019, citing *Licayan v. Seacrest Maritime Management, Inc.*, 773 Phil. 648, 658 (2015).

disease.³⁰ Otherwise stated, while the law recognizes that an illness may be disputably presumed to be work-related, the seafarer must still show a reasonable connection between the nature of his/her work on board the vessel and the ailment contracted or aggravated.³¹ Thus, the burden is imposed upon the seafarer to present substantial evidence that the work conditions on the vessel caused or at least increased the risk of contracting the disease.³²

In the case, Cortel failed to establish that his illnesses were work-related. The Court agrees with the CA:

[O]ther than Cortel's bare allegations that hepatic abscess and gallbladder polyp are related to liver cirrhosis and cancer of epithelial lining of the bladder, which are included in the list of occupational diseases under the law; and that Cortel has never gone to other places except the vessel, no other proof was presented to prove that the same was contracted due to, or aggravated by, the conditions of his work on board the vessel.

More important, note must be taken that Dr. Halos, Cortel's chosen doctor, certified that Cortel is fit to work. Therefore, the subsequent certification of another personal doctor, Dr. Yap, finding Cortel unfit to work because of hepatic abscess cannot be given credence because x x x the medical certification was not supported by particular tests or medical procedures conducted on Cortel. The basis of Dr. Yap's findings was the same ultrasound report dated March 3, 2016 which was the basis of Dr. Halos' diagnosis.³³

In addition, it is well-settled that a seafarer seeking disability benefits must submit himself or herself to post-employment medical examination to be performed by the company-designated physician within three working days from repatriation. Section 20(A) of the POEA-SEC provides for the seafarers' claims for disability benefits, for injuries or illnesses they suffered on board or during the term of their employment contract, thus:

SECTION 20. COMPENSATION AND BENEFITS. —

A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel[.]

2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. However, if after repatriation, the seafarer still requires medical

³⁰ Id.

³¹ Id.

³² Id.

³³ *Rollo*, p. 40.

attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties. (Emphasis supplied)

Failure of the seafarer to comply with the three-day mandatory reporting requirement results in the forfeiture of his or her right to claim the POEA-SEC granted benefits.³⁴

It must be underscored that upon his arrival in the Philippines, Cortel did not report to D'Amico within three days to undergo the required post-employment medical examination. Instead, he went to Jose Reyes Center and submitted himself under the care of Dr. Halos, his doctor of choice. He readily admitted this fact in his Position Paper dated January 13, 2017 filed before the OPVA, viz.:

V. Argument

There is no dispute that on December 29, 2015, while working on board M/V High Prosperity, the complainant felt an unbearable pain on his upper abdomen and back. The ship's doctor suspected that it was due to gastritis and he was treated with Charcoal tablets. But then due to the severity of the pains, he was medically repatriated. Upon arrival, the complainant went directly to the Jose R. Reyes Medical Center [.] x x x³⁵ (Italics and underscoring supplied)

³⁴ *Jebsen Maritime, Inc. v. Ravena*, 743 Phil. 371, 389 (2014).

³⁵ *Rollo*, p. 85.

Thus, even assuming that Cortel suffered a work-related illness while on board the vessel and was medically repatriated, his failure to comply with the three-day mandatory reporting requirement without justification resulted in the forfeiture of his right to claim the POEA-SEC compensation and benefits.³⁶ Indubitably, the CA committed no reversible error in denying Cortel's claim for disability benefits. The dismissal of his complaint for disability compensation is indeed warranted.

WHEREFORE, the petition is **DENIED**. The Decision dated February 19, 2020, and the Resolution dated October 22, 2020, of the Court of Appeals in CA-G.R. SP No. 152679 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

Mis+DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *04/16/23*

Atty. Dante L. Acorda
Counsel for Petitioner
4/F FEADCO Building, 416 Marquina cor.
Dasmarinas St., Binondo, 1006 Manila

COURT OF APPEALS
CA G.R. SP No. 152679
1000 Manila

VELICARIA PALANA EGENIAS
Counsel for Respondents
3/F Adamson Centre, 121 Alfaro St.
1227 Salcedo Village, Makati City

National Conciliation and Mediation Board
4th to 6th Flrs. Arcadia Building
860 Quezon Avenue, Brgy Paligsahan
Quezon City
(MVA-973-RCMB-NCR-217-08-10-2016)

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³⁶ *Jebsen Maritime, Inc. v. Ravena*, supra.