



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated February 27, 2023, which reads as follows:*

**G.R. No. 263789 – CENTENNIAL TRANSMARINE INC. (SUBSTITUTED BY JEBSEN PTC MARITIME INC.) AND/OR MIDEAST SHIPMANAGEMENT LIMITED, Petitioners, v. MELVIN P. DARVIN, Respondent.** – The Court resolves to **GRANT** petitioners' motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

After a review of the Petition for Review on *Certiorari*,<sup>1</sup> including the assailed Decision,<sup>2</sup> dated July 26, 2021, and the Resolution,<sup>3</sup> dated September 23, 2022, of the Court of Appeals (CA) in CA–G.R. SP. No. 156622, the Court resolves to **DENY** the same for failure of the petitioners Centennial Transmarine Inc. and/or Mideast Shipmanagement Limited (collectively, **the petitioners**) to sufficiently show that the CA committed a reversible error.

In the Petition, the petitioners claim that the CA erred in awarding permanent and total disability benefits in favor of Melvin P. Darvin (**Darvin**) by ascribing fault on the petitioners concerning the third doctor referral and by giving more weight to the assessment of Darvin's doctor, Dr. Renato P. Runas (**Dr. Runas**).<sup>4</sup> The petitioners also assert that the CA erred in finding that Darvin is entitled to attorney's fees.<sup>5</sup>

The Court is not convinced.

At the outset, the resolution of the issue raised by the petitioners would ultimately require the determination of the question of fact of whether

---

<sup>1</sup> *Rollo*, pp. 59-94.

<sup>2</sup> *Id.* at 95-117. Penned by Associate Justice Maria Elisa Sempio Diy and concurred in by Associate Justices Fernanda Lampas Peralta and Carlito B. Calpatura.

<sup>3</sup> *Id.* at 118-121.

<sup>4</sup> *Id.* at 75.

<sup>5</sup> *Id.*

Darvin's injury can be classified as permanent and total disability, in which case, the Petition must fail.

The Court has consistently held that only questions of law may be raised in a Rule 45 Petition.<sup>6</sup> The Court is not a trier of facts. This is especially true in this case where the findings of the Panel of Voluntary Arbitrators (PVA) were affirmed by the CA. Thus, it bears to stress that factual findings of the PVA, which were affirmed by the CA, are binding and will not be disturbed, absent any showing that they were made arbitrarily or were unsupported by substantial evidence.<sup>7</sup>

The petitioners insist that pursuant to *Doehle-Philman Manning Agency, Inc. v. Gatchalian, Jr. (Doehle-Philman)*,<sup>8</sup> fault should not be ascribed to them as they were willing, as much as Darvin was, to submit to a third doctor for assessment; however, they failed to agree on the parameters.<sup>9</sup>

The petitioners' reliance on the ruling in *Doehle-Philman* is misplaced. In the said case, the Court faulted Jose Gatchalian, Jr. (**Jose**) because he did not timely secure and disclose to Doehle-Philman Manning Agency the contrary assessment of his doctor and signify his intention to refer the dispute to a third doctor. Also, Jose filed his complaint before securing the opinion of a doctor of his choice.<sup>10</sup>

In this case, on January 20, 2017, the company-designated physician declared that Darvin is fit to work.<sup>11</sup> However, due to the persistent pain on his right shoulder, arm, and hand, Darvin consulted a doctor of his choice, Dr. Runas, for further assessment of his medical conditions.<sup>12</sup> On February 20, 2017, Dr. Runas issued the Medical Evaluation Report, stating that Darvin is no longer fit to work as a seaman permanently in whatever capacity with a permanent disability.<sup>13</sup> The Report extensively justified the medical conclusion of Dr. Runas as to Darvin's disability.

In *Ilustricimo v. NYK-FIL Ship Management*,<sup>14</sup> the Court reiterated its earlier pronouncement<sup>15</sup> that "when the seafarer challenges the company doctor's assessment through the assessment made by his own doctor, the

---

<sup>6</sup> RULES OF COURT, Rule 45, sec. 1.

<sup>7</sup> *C.F. Sharp Crew Management, Inc. v. Daganato*, G.R. No. 243399, July 6, 2022, citing *Marlow Navigation Phils., Inc. v. Quijano*, 859 Phil. 858 (2019).

<sup>8</sup> G.R. No. 207507, February 17, 2021.

<sup>9</sup> *Rollo*, pp. 75-76.

<sup>10</sup> *Doehle-Philman Manning Agency, Inc. v. Gatchalian, Jr., supra*.

<sup>11</sup> *Rollo*, p. 70.

<sup>12</sup> *Id.* at 71.

<sup>13</sup> *Id.*

<sup>14</sup> 834 Phil. 693, 706-707 (2018), citing *Formerly INC Shipmanagement Incorporated v. Rosales*, 744 Phil. 774, 788 (2014).

<sup>15</sup> See *Bahia Shipping Services, Inc. v. Constantino*, 738 Phil. 564 (2014).

seafarer shall so signify and the company thereafter carries the burden of activating the third doctor provision.”<sup>16</sup>

Hence, when Darvin notified the petitioners of the medical assessment by Dr. Runas and his willingness to refer his medical condition to a third doctor, the burden to refer the case to a third doctor has shifted to the petitioners. Although the petitioners were able to discuss the possibility of a referral of Darvin’s condition to a third doctor, the failure to refer is still attributed to them as the referral itself is their duty.

Further, the Court finds no error in the CA’s finding that Dr. Runas’ assessment should prevail over the company-designated physician’s findings.<sup>17</sup> The CA ratiocinated that “[u]nlike the company-designated physician’s assessment that merely described [Darvin] to be already ‘fit to resume sea duties,’ Dr. Runas exhaustively observed the movement limitations and pain on [Darvin’s] right arm caused by the shoulder injury and thereafter correlated the same with the expectation that [Darvin] could no longer effectively perform his duties as Chief Cook.”<sup>18</sup> Dr. Runas stated in his Medical Evaluation Report:

Seaman Darvin sustained a recurrent injury to the right shoulder due to excessive lifting and carrying heavy loads while working aboard a sea vessel. After rehabilitation treatment, he developed a residual limitation of inability to raise his arm more than 90 degrees from perpendicular position and accompanied by limitation of external rotation and internal rotation. This limitation of movement associated with pain should be correlated to his job as a Chief Cook wherein he performs various activities which require frequent shoulder movements of the arm. Due to this impediment, he can no longer do heavy and strenuous tasks which require frequent shoulder movements aside from lifting and carrying heavy objects containing provisions. The unrelenting right shoulder pain and limitation of movement affected his activities of daily living and capacity to work. Physical therapy aims to improve the range of motion and strength of the shoulder but it is more important to avoid activities that aggravate the condition. Change in activity and lifestyle is highly recommended.

Seaman Darvin is incapacitated and is no longer fit to work as a seaman permanently in whatever capacity with a permanent disability.<sup>19</sup>

Given the foregoing, the Court concurs with the findings of the CA that Darvin is entitled to permanent and total disability benefits in the amount of

---

<sup>16</sup> *Ilustricimo v. NYK-FIL Ship Management, supra* at 706-707.

<sup>17</sup> *Rollo*, p. 112.

<sup>18</sup> *Id.* at 115.

<sup>19</sup> *Id.* at 114.

USD 102,308.00 pursuant to Article 20.1.4<sup>20</sup> of the Collective Bargaining Agreement.

As to the attorney's fees awarded by the CA in favor of Darwin, the Court agrees with such ruling as it is in accordance with Article 2208 of the Civil Code of the Philippines.<sup>21</sup> In line with prevailing jurisprudence,<sup>22</sup> all monetary awards in favor of Darwin shall earn legal interest at the rate of 6% *per annum* from finality of this Resolution until fully paid.

**WHEREFORE**, the Petition for Review on *Certiorari* filed by the petitioners Centennial Transmarine Inc. and/or Mideast Shipmanagement Limited is **DENIED**. The Decision, dated July 26, 2021, and the Resolution, dated September 23, 2022, of the Court of Appeals in CA-G.R. SP. No. 156622 are **AFFIRMED**. All monetary awards shall earn legal interest at the rate of 6% *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAEL DOMINGO C. BATTUNG III**  
Division Clerk of Court *15/3/23*

<sup>20</sup> Article 20.1.4 of the Collective Bargaining Agreement reads:

20.1.4 Permanent Medical Unfitness

A seafarer whose disability is assessed at 50% or more under the POEA Employment Contract shall, for the purpose of this paragraph be regarded as permanently unfit for further sea service in any capacity and entitled to 100% compensation, as follows: . . . US\$102,308.00 for ratings (effective 2017). Furthermore, any seafarer assessed at less than 50% disability under the Contract but certified as permanently unfit for further sea service in any capacity by the company doctor, shall also be entitled to 100% compensation.

<sup>21</sup> CIVIL CODE, Art. 2208 provides:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;**
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.** (Emphasis supplied)

<sup>22</sup> See *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales*, G.R. No. 225433, Resolution, dated September 20, 2022; *Benhur Shipping Corporation. v. Riego*, G.R. No. 229179, March 29, 2022; *Jerzon Manpower and Trading, Inc. v. Nato*, G.R. No. 230211, October 6, 2021; *Teodoro v. Teekay Shipping Philippines, Inc.*, G.R. No. 244721, February 5, 2020.

Atty. Kristina Carol A. Bautista  
Counsel for Petitioner  
DEL ROSARIO & DEL ROSARIO LAW OFFICES  
14/F DelRosario Law Office Centre Office  
21st Drive cor. 20th Drive  
Bonifacio Global City  
1630 Taguig City

COURT OF APPEALS  
CA G.R. SP No. 156622  
1000 Manila

Atty. Arvin C. Dolendo  
Counsel for Respondent  
DOLENDO & ASSOCIATES  
5/F Rooms 504-505, S & L Bldg.  
1500 Roxas Blvd., Ermita 1000 Manila

NATIONAL CONCILIATION & MEDIATION BOARD  
Office of the Panel of Voluntary  
Arbitrators, DOLE Bldg., Intramuros  
1002 Manila  
(AC-980-RCMB-NCR-237-17-07-2017)

PHILIPPINE JUDICIAL ACADEMY  
Research Publications and Linkages Office  
Supreme Court, Manila  
[research\_philja@yahoo.com]

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila  
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila

**G.R. No. 263789**

*/joy*

  
**(281)  
URES**