



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:*

“**G.R. No. 211468 – SEA SUNSHINE SHIPPING, INC., CAPT. JOVENCIO C. LOPEZ, JUNCO NAVIERRA S.A. & M/V MARINE VICTOR, petitioners, versus HECTOR V. REYES, respondent.** – This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court filed by the petitioners Sea Sunshine Shipping, Inc. (**Sea Sunshine**), Capt. Jovencio C. Lopez, Junco Navierra S.A. and M/V Marine Victor (collectively, the **petitioners**), assailing the Decision,<sup>2</sup> dated November 12, 2013, and the Resolution,<sup>3</sup> dated February 24, 2014, of the Court of Appeals (CA), in CA-G.R. SP No. 114606. The assailed Decision granted the Petition for *Certiorari* filed by respondent Hector V. Reyes (**Hector**) and reversed the Decision,<sup>4</sup> dated February 19, 2010, and the Resolution,<sup>5</sup> dated April 15, 2010, of the National Labor Relations Commission (NLRC), in NLRC NCR Case No. OFW (M) 05-07969-09 (LAC No. 11-000700-09), which dismissed Hector’s claim for total and permanent disability benefits. The petitioners’ Motion for Reconsideration<sup>6</sup> was denied in the assailed Resolution.

*The Facts*

Hector boarded M/V Marine Victor on November 15, 2006 as Chief Cook under a contract with Sea Sunshine, for and in behalf of its foreign principal, Junco Naviera S.A., for a period of nine (9) months.<sup>7</sup>

On April 26, 2007, while on board the vessel, Hector felt pain in his left lumbar region and experienced difficulty in urinating. He was immediately sent by the ship captain to Klinik Sharifah Ihsan in Malaysia for medical

<sup>1</sup> *Rollo*, pp. 26-49.

<sup>2</sup> *Id.* at 12-20. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Normandie B. Pizarro and Jane Aurora C. Lantion.

<sup>3</sup> *Id.* at 22-24.

<sup>4</sup> *CA rollo*, pp. 33-45. Penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Teresita D. Castillon-Lora and Napoleon M. Menese.

<sup>5</sup> *Id.* at 46-48.

<sup>6</sup> *Id.* at 391-398.

<sup>7</sup> *Rollo*, p. 13.

treatment. Thereat, Hector was diagnosed to be suffering from “urinary calculus.”<sup>8</sup>

After the initial treatment, Hector resumed performing his duties. However, the pain persisted and Hector underwent medical attention at the Port of Bintulu and also at the Port of Sandakan, both in Malaysia, on May 2, 2007 and May 6, 2007, respectively.<sup>9</sup>

However, Hector continued to suffer extreme pain in his left lumbar region and, in addition, there was blood discharge from his nose. He was again sent for treatment at the Ejima Clinic at the Port of Hiroshima, Japan, and also at Kaku Clinic in Senboku, Japan where he was diagnosed to be suffering from “Left Ureter Stone; Cystitis; Rhinitis.” Hector’s condition persisted.<sup>10</sup>

On May 29, 2007, he was examined at Tosekai Condo Clinic in Chiba, Japan and was similarly diagnosed to be suffering from “Ureteral Calculi and Sinusitis.”<sup>11</sup>

Due to the persistence of his illness, Hector was declared to be unfit for sea duty and consequently, repatriated to the Philippines on May 30, 2007.<sup>12</sup>

Upon arrival on May 31, 2007, Hector immediately submitted himself to a post-employment medical examination by Sea Sunshine’s designated physician, Dr. Wilanie Romero-Dacanay (**Dr. Dacanay**), who gave the diagnosis of “Bilateral Nasal Polyposis and Ureterolithiasis (right).” The same examination showed that Hector’s urine sample had blood and pus; thus, he was recommended to undergo further tests, cystoretrograde and ureterolithotomy.<sup>13</sup>

On November 27, 2007, Dr. Dacanay issued his Final Report stating that Hector is “cleared ENT-wise.” He, however, advised that Hector should continue consultation for his urological complaints.<sup>14</sup>

Hector then filed a complaint for total and permanent disability benefits.

### *The Ruling of the Labor Arbiter*

In the Decision,<sup>15</sup> dated October 23, 2009, the Labor Arbiter granted Hector’s disability claim:

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 14.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> CA rollo, pp. 24-32.

**WHEREFORE**, premises considered, judgment is hereby rendered finding complainant to have suffered permanent disability and, on relation thereto, holding Respondents jointly and severally liable to pay Complainant US\$60,000.00, plus US\$6,000.00 in attorney's fees, or their peso equivalent at the time of payment.

All other claims are dismissed for lack of merit.

**SO ORDERED.**<sup>16</sup> (Emphasis in the original)

The Labor Arbiter ruled that Hector's illnesses, Bilateral Nasal Polyposis and Ureterolithiasis (right), are work-related that rendered him permanently and totally disabled. It found that Hector's work as a Chief Cook would constantly expose him to various fumes and smoke and countless condiments and ingredients which act as catalysts for allergies. According to the Labor Arbiter, the daily exposure to gases and natural chemical extracts can aggravate even those related illnesses which are genetically predisposed. Further, it found that Hector was ill and out of work since his repatriation on May 30, 2007. Hence, he is entitled to full disability benefits.<sup>17</sup>

### *The Ruling of the NLRC*

In the Decision,<sup>18</sup> dated February 19, 2010, the NLRC set aside the Decision of the Labor Arbiter:

**WHEREFORE**, premises considered, the appealed Decision is hereby ordered SET ASIDE and a new one entered declaring the DISMISSAL of the case for lack of merit.

As a consequence, the money awards are, likewise, ordered DISMISSED for want of basis.

**SO ORDERED.**<sup>19</sup>

The NLRC ruled that Hector is not entitled to permanent disability benefits. According to the NLRC, the company-designated physician opined that Hector's illness, Ureterolithiasis, was not work-related and that he was cleared ENT-wise for his nasal polyposis.<sup>20</sup> Thus, the NLRC held that Hector failed to establish that he was suffering from total and permanent disability.<sup>21</sup>

Aggrieved, Hector appealed to the CA.

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<sup>16</sup> Id. at 32.

<sup>17</sup> Id. at 30.

<sup>18</sup> Id. at 33-45.

<sup>19</sup> Id. at 44.

<sup>20</sup> Id. at 40-41.

<sup>21</sup> Id. at 42.

*The Ruling of the CA*

In the Decision,<sup>22</sup> dated November 12, 2013, the CA set aside the NLRC Decision:

**WHEREFORE**, in view of the foregoing, the Decision dated 19 February 2010 and the Resolution dated 15 April 2010 are **ANNULLED** and **SET ASIDE**. The Decision dated 23 October 2009 of the Labor Arbiter Thomas T. Que, Jr. is **REINSTATED**.

**SO ORDERED.**<sup>23</sup> (Emphasis in the original)

The CA ruled that Hector contracted the illnesses, Ureterolithiasis and Nasal Polyposis, during the term of his contract and while on board M/V Marine Victor. According to the CA, there was little effort on the part of Sea Sunshine to address his urinary complaints, which caused the numerous consultations and/or treatments in various medical clinics abroad during their port stops.<sup>24</sup>

The CA held that Dr. Dacanay's statement that "Ureterolithiasis on the other hand is usually secondary to genetic predisposition, diet and water intake," is merely a generalized statement and does not overcome the presumption that the said illness is work-related. The CA further pointed out that Hector's illness remained untreated considering that in his Final Report, Dr. Dacanay advised Hector to follow-up consultation regarding his urological complaints.<sup>25</sup>

The CA further found that Hector acquired Ureterolithiasis on account of the nature of his work, or at the very least, the work conditions prevailing increased the risk of acquiring the illness.<sup>26</sup> According to the CA, from the perspective of seafarers' benefits, the employee does not need to be rendered completely disabled or paralyzed. A disability will be considered total if the employee cannot perform his usual work, and it shall be considered permanent if it persists for more than one hundred twenty (120) days, such as in this case where Hector had been ill and out of work for more than one (1) year since his repatriation.<sup>27</sup>

*The Issue*

Did the CA err in ruling that Hector is entitled to total and permanent disability benefit?

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<sup>22</sup> *Rollo*, pp. 12-20.

<sup>23</sup> *Id.* at 19-20.

<sup>24</sup> *Id.* at 16.

<sup>25</sup> *Id.* at 17.

<sup>26</sup> *Id.* at 18.

<sup>27</sup> *Id.* at 19.

### *The Ruling of the Court*

The Court resolves to deny the Petition.

The seafarer's entitlement to disability benefits is governed by the law, the parties' contracts, and the medical findings. Under Section 20 (A) of the 2010 Philippine Overseas Employment Administration-Standard Employment Contract (**2010 POEA-SEC**), the employer must compensate the seafarer for work-related injuries and illnesses subject to conditions. The seafarer must timely report to the company-designated physician upon repatriation. In contrast, the company-designated physician must determine whether the seafarer is fit to work, or the degree of disability has been evaluated.<sup>28</sup>

In *Elburg Shipmanagement Phils., Inc. v. Quiogue, Jr.*,<sup>29</sup> the Court laid down the rules governing claims for permanent and total disability as follows:

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.<sup>30</sup>

It is mandatory for the company-designated physician to issue a final disability assessment within the 120/240-day period. Otherwise, the seafarer's disability shall be conclusively presumed to be permanent and total.<sup>31</sup>

To be conclusive, the medical assessments or reports should be complete and definite to afford the appropriate disability benefits to seafarers. There must also be sufficient bases to support the assessment.<sup>32</sup>

<sup>28</sup> *Skafil Maritime Services, Inc. v. Centeno*, G.R. No. 227655, April 27, 2022.

<sup>29</sup> 765 Phil. 341 (2015).

<sup>30</sup> *Id.* at 362-363.

<sup>31</sup> *Pelagio v. Philippine Transmarine Carriers, Inc.*, 848 Phil. 807, 816-817 (2019).

<sup>32</sup> *Salonga v. Solvang Philippines, Inc.*, G.R. No. 229451, February 10, 2021.

In *Jebsens Maritime, Inc. v. Mirasol*,<sup>33</sup> the Court held that a final, conclusive, and definite medical assessment must clearly state whether the seafarer is fit to work or the exact disability rating, or whether such illness is work-related, and without any further condition or treatment. It should no longer require any further action on the part of the company-designated physician and it is issued by the company-designated physician after he or she has exhausted all possible treatment options within the periods allowed by law.

Here, the Court finds that Dr. Dacanay failed to issue a final, definite and conclusive medical assessment.

Hector was diagnosed with Nasal Polyposis and Ureterolithiasis. In the Final Report, dated November 27, 2007, Dr. Dacanay stated that Hector is “cleared ENT-wise” and further advised Hector to follow-up consultation regarding his urological complaints.<sup>34</sup> The Court finds that the foregoing statements categorically prove the absence of a final and definite assessment of Hector’s disability.

In *Lemoncito v. BSM Crew Service Centre Philippines, Inc.*,<sup>35</sup> a medical assessment stating that the “[seafarer’s] blood pressure is adequately controlled with medications,” and “patient is now cleared cardiac wise,” is considered too generic and equivocal on whether the seafarer has a clean bill of health.

Similarly, in *Skafil Maritime Services, Inc. v. Centeno*,<sup>36</sup> the Court held that the generic statements on the seafarer condition, such as “[the seafarer] was previously cleared” and “patient is now cleared orthopedic wise,” did not make the assessment definitive.

It bears reiterating that to be considered final, conclusive, and definite assessment, it must clearly state whether the seafarer is fit to work and without any further condition or treatment. Thus, it should no longer require any further action on the part of the company-designated physician, and it is issued by the company-designated physician after he or she has exhausted all possible treatment options within the periods mandated by law.

Notably, there is nothing in the Final Report, dated November 27, 2007, issued by Dr. Dacanay which categorically and definitively states that Hector is fit to return to work. In fact, Dr. Dacanay still recommended that Hector continue his follow-up consultation as regards his urological complaints. Likewise, the record of the case is bereft of any showing that

<sup>33</sup> 854 Phil. 241 (2019).

<sup>34</sup> CA *rollo*, p. 113.

<sup>35</sup> G.R. No. 247409, February 3, 2020, 931 SCRA 139.

<sup>36</sup> *Supra* note 28.

Hector's illness, Ureterolithiasis, was ever addressed by Dr. Dacanay. As aptly pointed out by the CA, there was little effort on the part of Sea Sunshine to treat his urinary complaints, which, in the first place, caused the numerous consultations and/or treatments in various medical clinics abroad during their port stops.<sup>37</sup>

A medical assessment that does not reflect the true extent of the seafarer's sickness or injury and their capacity to resume work is incomplete and indefinite. This type of assessment must be ignored and set aside.<sup>38</sup> A final and definite disability assessment is necessary in order to truly reflect the true extent of the sickness or injuries of the seafarer and his or her capacity to resume work as such.<sup>39</sup>

Concomitantly, the failure of the company-designated physician to arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the prescribed period and if the seafarer's medical condition remains unresolved, the law steps-in to consider the latter's disability as total and permanent.<sup>40</sup> Without a valid, final, and definitive assessment from the company-designated physician, the seafarer's temporary and total disability, by operation of law, became permanent and total.<sup>41</sup>

In view of the foregoing, it is evident that Sea Sunshine failed to make a conclusive and definite medical assessment regarding Hector's fitness to work or the exact disability rating as required by POEA-SEC and jurisprudence. Consequently, Hector's disability is considered permanent and total. Hector is therefore entitled to the corresponding disability benefits under the POEA-SEC.

As to the attorney's fees awarded in favor of Hector, the Court sustains such ruling as it is in accordance with Article 2208 of the New Civil Code.<sup>42</sup> In line with prevailing jurisprudence,<sup>43</sup> all monetary awards in favor of Hector shall earn legal interest at the rate of six percent (6%) *per annum* from finality of this decision until fully paid.

<sup>37</sup> *Rollo*, p. 16.

<sup>38</sup> *Skafil Maritime Services, Inc. v. Centeno*, supra note 28, citing *Ampo-on v. Reinier Pacific International Shipping, Inc.*, 853 Phi. 483, 492 (2019).

<sup>39</sup> *Salas v. Transmed Manila Corp.*, G.R. No. 247221, June 15, 2020, 938 SCRA 83, 94-95.

<sup>40</sup> *Id.*

<sup>41</sup> *Orient Hope Agencies, Inc. v. Jara*, 832 Phil. 380, 407 (2018).

<sup>42</sup> CIVIL CODE, Art. 2208 provides:

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

x x x x

**(8) In actions for indemnity under workmen's compensation and employer's liability laws;**

x x x x

**(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>43</sup> See *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales*, (Resolution) G.R. No. 225433, September 20, 2022.

July 10, 2023

**WHEREFORE**, the Petition for Review on *Certiorari* is **DENIED**. The Decision, dated November 12, 2013, and the Resolution, dated February 24, 2014, of the Court of Appeals in CA-G.R. SP No. 114606 are **AFFIRMED**. All monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

*MicDCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *10/10/23*

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**G.R. No. 211468**

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