REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

# NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated* **January 11, 2023** *which reads as follows*:

"**G.R. No. 259553 (Varhael V. Toledo,** Petitioner **v. Wilhelmsen Smithbell Manning, Inc. and Mr. Fausto Presyler,* Jr.,** Respondents). — The Court resolves to **GRANT** petitioner Varhael V. Toledo's (petitioner) motion[1] for an extension of thirty (30) days from the expiration of the reglementary period, within which to file a petition for review on *certiorari*.

Assailed in this Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court are the Decision[3] dated March 4, 2021 and the Resolution[4] dated March 4, 2022 of the Court of Appeals (CA) in CA-G.R. SP No. 160311, which reversed and set aside the Decision[5] dated February 6, 2019 of the Sole Voluntary Arbitrator (SVA) and accordingly, dismissed the complaint for, *inter alia*, disability benefits filed by petitioner.

**The Facts**

This case stemmed from a complaint[6] for disability benefits, illness allowance, reimbursement of medical expenses, damages, and attorney's fees filed by petitioner against respondent Wilhelmsen Smithbell Manning, Inc. (Wilhelmsen) before the National Conciliation and Mediation Board (NCMB), National Capital Region. Petitioner averred that: (*a*) on July 17, 2016, he was hired by Wilhelmsen to work as motorman on board the vessel Energy Orpheus for a period of nine (9) months; (*b*) prior thereto, he underwent a pre-employment medical examination (PEME), and was declared fit for sea duty despite having been assessed to be a known hypertensive and on prescribed medication; (*c*) his echocardiography and color flow doppler

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* "Preysler" in some parts of the *rollo*.
1 *Rollo*, pp. 3–5.
2 Dated April 29, 2022; id. at 9–35.
3 Id. at 75–87. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Emily R. Aliño-Geluz and Carlito B. Calpatura.
4 Id. at 88.
5 Id. at 62–74. Penned by Sole Voluntary Arbitrator Reynaldo R. Ubaldo.
6 Not attached to the *rollo*.

showed that he has "[e]ccentric left ventricular hypertrophy with abnormal septal motion secondary to bundle branch block with borderline systolic function [and] [n]ormal pulmonary arterial pressure by acceleration time;"[7] (*d*) thereafter, he boarded Energy Orpheus and performed his work as motorman until the expiration of his contract; (*e*) he disembarked on April 17, 2017; (*f*) he reported to Wilhelmsen's office on April 25, 2017 and executed a debriefing report indicating his willingness to rejoin the same vessel in June or July 2017, and that he had no comments about his last tenure; (*g*) on May 19, 2017,[8] he underwent PEME where his 2D echo with doppler test disclosed that he has "[e]ccentric left ventricular hypertrophy with multi-segmental wall motion abnormality indicative of multi-vessel coronary artery disease with depressed systolic function and Grade II diastolic dysfunction (Psuedonormal Pattern) with elevated left ventricular filling pressure; [i]ncreased left atrial volume index; [n]ormal right ventricular dimension with adequate contractility and slightly depressed systolic function; [a]ortic sclerosis, [m]itral sclerosis with mild mitral regurgitation; [t]rivial tricuspid regurgitation; and [m]ild pulmonary hypertension;"[9] (*h*) he was diagnosed with *ischemic cardiomyopathy* and assessed to be "[f]it for Look-Out Duty," but "[u]nfit For Engine Service," and was, therefore, not deployed;[10] (*i*) on August 9, 2017, he wrote to Wilhelmsen, through respondent Fausto Presyler, Jr. (collectively, respondents), requesting for medical assistance but he did not receive any reply;[11] (*j*) on August 29, 2017, he wrote respondents a letter[12] informing them of his decision to consult another doctor to determine his true condition; (*k*) thereafter, he consulted Dr. May S. Donato-Tan (Dr. Donato-Tan) at the Philippine Heart Center, who assessed him to be permanently disabled with Impediment Grade 1, and declared him unfit for duty in whatever capacity as a seaman;[13] and (*l*) his counsel notified respondents of Dr. Donato-Tan's findings and requested for a discussion, which did not transpire; hence, the complaint.[14]

Petitioner further claimed that while on board the vessel, he experienced chest pains despite taking medications but ignored the same until he finished his contract as he will, anyway, be undergoing PEME that would reveal his illness. He stressed that the absence of a post-employment medical examination within three days from arrival (three-day rule) would only result to forfeiture of his sickness allowance. Since respondents had prior knowledge of his hypertension and heart ailment, they must accept and assume any risk or liability arising therefrom. Besides, his illness is a listed occupational disease under Section 32-A (11) of the Philippine Overseas Employment

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7 Id. at 41, 63, and 75.
8 "May 17, 2017" in some parts of the SVA Decision.
9 Id. at 50, 63–64, and 76.
10 Id. at 64 and 76.
11 Id. at 53, 64, and 76.
12 Id. at 55.
13 Id. at 57–58, 64–65, and 76.
14 Id. at 65 and 75–76.

Agency-Standard Employment Contract[15] (POEA-SEC), and therefore, is compensable.[16]

For their part, respondents maintained that petitioner is not entitled to total and permanent disability benefits, positing that: (*a*) his employment contract was deemed terminated upon his arrival in Manila and as such, cannot be the source of any right or obligation for both parties; (*b*) he was disqualified from filing a claim for disability benefits for failure to comply with the three-day rule; (*c*) his claim that he experienced chest pains while on board the vessel was belied by his admission during his debriefing and during the mandatory conference that he had no medical complaints on board; (*d*) his illness is attributable to his lifestyle as he admitted that he is a smoker despite being hypertensive; (*e*) he failed to establish that his illness was contracted during the course of his employment and that it was work-related; and (*f*) he failed to establish the conditions for compensability under Section 32-A (11) of the POEA-SEC.[17]

## The SVA Ruling

In a Decision[18] dated February 6, 2019, the SVA granted petitioner's claim for full disability benefits, holding that: (*a*) his heart ailment is work-related; (*b*) he suffered from illness during employment and was aggravated by his work on board the vessel; and (*c*) since respondents have prior knowledge of his heart ailment, they cannot be deemed to have been deprived of the opportunity to determine the work-relatedness of his illness despite his failure to comply with the three-day rule.[19]

Respondents moved for reconsideration,[20] which was denied in a Resolution[21] dated March 15, 2019; hence, they filed a Petition for Review[22] before the CA.

## The CA Ruling

In a Decision[23] dated March 4, 2021, the CA reversed and set aside the SVA ruling and accordingly, dismissed petitioner's complaint for lack of

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[15] Entitled "AMENDED STANDARD TERMS AND CONDITIONS GOVERNING THE OVERSEAS EMPLOYMENT OF FILIPINO SEAFARERS ON-BOARD OCEAN-GOING SHIPS." (October 26, 2010).
[16] Id. at 66–67 and 77.
[17] Id. at 67–68 and 77-78.
[18] Id. at 62–74.
[19] Id. at 69-73.
[20] See *rollo*, p. 78.
[21] Not attached to the *rollo*.
[22] Not attached to the *rollo*.
[23] *Rollo*, pp. 75–87.

merit. It held that petitioner failed to prove the elements for compensability as he did not comply with the 3-day rule or justify such failure, thereby forfeiting his right to claim compensation and benefits, and failed to show that his *ischemic cardiomyopathy* was contracted during the term of his employment and in relation to his work environment and the risks involved in his tasks as a motorman. As regards the latter finding, the CA explained that: (*a*) there was no proof that his heart disease was known to have been present during his employment, as his earlier diagnosis of 'eccentric left ventricular hypertrophy' is not an illness but a mere condition that involves the thickening of the muscle wall of the heart's left pumping chamber that can be well-managed and usually only develops over time; (*b*) he failed to establish that his work as motorman brought about an acute exacerbation of his eccentric left ventricular hypertrophy that could have caused his *ischemic cardiomyopathy*, or that he showed signs and symptoms of a cardiac injury during the performance of his work and that these symptoms persisted; (*c*) Dr. Donato-Tan failed to explain how petitioner's work has contributed to the development of his *ischemic cardiomyopathy* and how his working conditions had increased the risk of him acquiring this illness; (*d*) there was no evidence that his hypertension was uncontrolled during the term of his contract, and the fact that he smokes ten (10) sticks per day, which is a major risk factor for *ischemic cardiomyopathy*, cannot be discounted as a contributory factor to the development of his illness; and (*e*) he failed to substantiate his claim that he experienced chest pains during the term of his contract, and the lack of any medical complaints before he disembarked from the vessel was bolstered by his decision to forego any post-employment medical examination since a person afflicted with an illness would seek immediate medical treatment instead of reemployment.[24]

Dissatisfied, petitioner filed a motion for reconsideration,[25] but the same was denied in a Resolution[26] dated March 4, 2022; hence, this petition.[27]

## The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly reversed and set aside the SVA ruling and accordingly, dismissed petitioner's complaint for, *inter alia*, disability benefits.

## The Court's Ruling

There is no merit in the petition.

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[24] Id. at 79–86.
[25] Not attached to the *rollo*.
[26] *Rollo*, p. 88.
[27] Id. at 9–35.

At the outset, it is well to note that the CA ruling held that petitioner is already barred from claiming disability benefits for failure to undergo medical examination within three days from his repatriation, citing Section 20 (A)(3) of the 2010 POEA-SEC.

The CA erred in this regard.

Section 20 (A)(3) of the 2010 POEA-SEC governs the procedure for compensation and benefits for a work-related injury or illness suffered by a seafarer on board sea-going vessels during the term of his or her employment contract, which sets out the following liabilities of the employer: (1) seafarer's wages; (2) costs of medical treatment both in a foreign port and in the Philippines until the seafarer is declared fit to work, or the disability rating is established by the company-designated physician; (3) sickness allowance which shall not exceed 120 days; and (4) reimbursement of reasonable medicine, traveling, and accommodation expenses. However, in order to be qualified for these monetary benefits, the seafarer is required to submit themselves to post-employment medical examination by a company-designated physician within three working days upon their repatriation (**three-day rule**).

The purpose of the three-day rule is to allow the employer's doctors a reasonable opportunity to assess the seafarer's medical condition in order to determine whether or not his illness is work-related. As explained by the Court in *Jebsens Maritime, Inc. v. Undag*[28] through Associate Justice Jose C. Mendoza:

> x x x. The rationale behind the rule can easily be divined. Within three days from repatriation, it would be fairly 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.
>
> To ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.[29]

"Likewise, reporting to the company within three (3) days from repatriation is required so that the company-designated physician can promptly arrive at a medical diagnosis, considering that he has either 120 or 240 days, depending on the circumstances, within which to complete the

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[28] 678 Phil. 938 (2011) [Third Division].
[29] Id. at 948-949.

assessment of the seafarer; otherwise, the disability claim should be granted."[30]

Nevertheless, there are recognized exceptions to the three-day rule, namely: (1) when the seafarer is incapacitated to report to the employer upon his repatriation; and (2) when the employer inadvertently or deliberately refused to submit the seafarer to a post-employment medical examination by a company-designated physician.[31] Moreover, in *Caraan v. Grieg Philippines, Inc.*,[32] the Court, through Associate Justice Amy C. Lazaro-Javier, held that this three-day period filtering mechanism is not a bright line test or an all-or-nothing requirement that noncompliance automatically means disqualification.

In *Magat v. Interorient Maritime Enterprises, Inc.*,[33] petitioner reported to the Chief Mate that he suffered shortness of breath and chest pains after inhaling the residues and vapors coming from the paint and the thinner he used in painting the ship's pump room, but was only told to rest. When his condition improved, he continued to perform his duties until the completion of his contract. Upon his repatriation, petitioner immediately reported to respondent company but did not undergo post-employment medical examination. He subsequently reapplied with the company and underwent PEME, but tests revealed that he had hypertension, dilated cardiomyopathy, and renal parenchymal calcification, and was not redeployed. The Court, through Associate Justice Diosdado M. Peralta, ultimately held that the absence of a medical assessment from the company physician within three days from repatriation did not bar petitioner's claim and would result only to the forfeiture of his sickness allowance and nothing more. Accordingly, it proceeded to award petitioner total and permanent disability benefits.

However, in *Ventis Maritime Corp. v. Salenga* (*Ventis*),[34] the Court, through Associate Justice Alfredo Benjamin S. Caguioa, clarified that Section 20 of the 2010 POEA-SEC applies only if the seafarer suffers from an illness or injury during the term of the contract, *i.e.*, while he or she is employed, and is ***irrelevant if the seafarer is repatriated following the completion of his or her contract***. As such, the seafarer is not required to submit to the company-designated physician within three days from repatriation, and the principal/employer/master/company also has no obligation to pay him or her sickness allowance.

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[30] *Malicdem v. Asia Bulk Transport Phils., Inc.*, G.R. No. 224753, June 19, 2019 [Per J. Caguioa, Second Division]; citations omitted.

[31] See *Daño v. Magsaysay Maritime Corp.*, G.R. No. 236351, September 7, 2020 [Per J. Delos Santos, Second Division]; citing *De Andres v. Diamond H Marine Services & Shipping Agency, Inc.*, 813 Phil. 746 (2017) [Per J. Mendoza, Second Division].

[32] G.R. No. 252199, May 5, 2021 [Second Division].

[33] 829 Phil. 570, 574 (2018) [Second Division].

[34] G.R. No. 238578, June 8, 2020 [First Division].

In this case, it is undisputed that petitioner was repatriated ***due to the completion of his contract***, and underwent PEME on May 17, 2017 after he disembarked on April 17, 2017. Thus, following *Ventis*, petitioner is not barred from claiming disability benefits for his failure to undergo post-employment medical examination within three days from disembarkation for he was simply not required to do so.

This notwithstanding, petitioner's claim for disability benefits must still fail. **To clarify, the disputable presumption of work-relatedness provided in paragraph 4, Section 20 of the 2010 POEA-SEC does *not* apply when the seafarer is repatriated following the completion of his or her contract.** Such presumption arises only if or when the seafarer suffers from an illness or injury during the term of the contract — *i.e.*, the illness or injury is suffered while working at the vessel, or when the illness or injury manifests itself during the voyage — and the resulting disability is not listed in Section 32 of the 2010 POEA-SEC. This is because at the time the illness or injury manifests itself, the seafarer is in the vessel, that is, under the direct supervision and control of the employer, through the ship captain. Also, it is only during the term of the voyage that the principal/employer/master/company has the duty to take all necessary precautions to prevent or avoid accident, injury, or illness to the crew and to observe the Code of Ethics for Seafarers, and to provide a workplace conducive for the promotion and protection of the health of the seafarers.[35]

Verily, a contract between an employer and a seafarer ceases upon its completion, when the seafarer signs off from the vessel and arrives at the point of hire. Indeed, the employment of seafarers and its incidents are governed by the contracts they sign every time they are hired or rehired.[36] Thus, upon petitioner's signing off from the vessel and repatriation on April 17, 2017 due to the completion of his contract, his employment relationship with respondents correspondingly ceased. Consequently, no liability should attach to respondents for any illness or incident that may have been acquired or transpired after signing off or expiration of petitioner's contract.

Nonetheless, even if petitioner's illness manifested or were discovered after the term of the contract, and even if Section 20 (A) finds no application to him, he may still claim disability benefits. A seafarer who was repatriated for end of contract and had no medical condition during his employment but later suffers from an illness which manifested only after the end of his employment can still be entitled to disability benefits **provided, he/she can**

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[35] Id.

[36] See *Ville v. Maersk-Filipinas Crewing, Inc.*, G.R. No. 217879, February 1, 2021 [Per J. Hernando, Third Division].

**prove that the illness suffered is reasonably linked to the work performed on board.**[37]

However, in this case, petitioner failed to show that his illness was work-related and compensable.

In instances where the illness manifests itself or is discovered after the term of the seafarer's contract, and the illness is an occupational illness listed under Section 32 (A) of the POEA-SEC, it will be categorized as a work-related illness only if it complies with the conditions stated in Section 32 (A); while an illness not listed as an occupational illness under Section 32 (A) must be reasonably linked to the work of the seafarer in order to be work-related.[38] In effect, the table of illnesses and the corresponding nature of employment in Section 32 (A) only provides the list of occupational illnesses. It does not exempt a seafarer from providing proof of the conditions under the first paragraph of Section 32 (A) in order for the illness/es complained, whether listed as occupational or not, to be considered as work-related and, therefore, compensable. Where an illness is not listed as an occupational illness, the seafarer is also burdened to prove the requirements under the first paragraph of Section 32 (A) to establish a reasonable linkage between the disease the seafarer suffered and his work.[39]

The first paragraph of Section 32 (A), which operationalizes the requirements for compensability, provides that the following general conditions must be satisfied in order for the listed occupational diseases and the resulting disability or death to be compensable: (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 other factors necessary to contract it; and (4) there was no notorious negligence on the part of the seafarer. In addition to the above-enumerated general requirements, conditions specific to a particular occupational disease must also be attendant for it to be compensable.[40] Petitioner's heart ailment is classified under a cardiovascular event as defined in Section 32 (A)(11).

Cardiovascular diseases shall be considered as occupational when contracted under working conditions involving the risks described as follows:

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[37] See *Philippine Transmarine Carriers Inc. v. Manzano*, G.R. No. 210329, March 18, 2021 [Per J. Gaerlan, First Division].

[38] See *Ventis Maritime Corp. v. Salenga*, supra. See also *Magsaysay Maritime Corporation v. Heirs of Buenaflor*, G.R. No. 227447, June 23, 2020 [Per J. J. Reyes, Jr., First Division].

[39] *Ventis Maritime Corp. v. Salenga*, supra.

[40] See *Razonable, Jr. v. Torm Shipping Philippines, Inc.*, G.R. No. 241620, July 7, 2020 [Per J. J. Reyes, Jr., First Division].

> 11. [Cardiovascular] events — to include heart attack, chest pain (angina), heart failure or sudden death. Any of the following conditions must be met:
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> a. If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by an unusual strain by reasons of the nature of his work.
>
> b. The strain of work that brings about an acute attack must be of sufficient severity and must be followed within 24 hours by the clinical signs of a cardiac insult to constitute causal relationship.
>
> c. If a person who was apparently asymptomatic before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.
>
> d. If a person is a known hypertensive or diabetic, he should show compliance with prescribed maintenance medications and doctor-recommended lifestyle changes. The employer shall provide a workplace conducive for such compliance in accordance with Section 1(A) paragraph 5.
>
> e. In a patient not known to have hypertension or diabetes, as indicated on his last PEME.[41]

It is therefore imperative to determine the seafarer's actual work, the nature of his illness, and other factors that may lead to the conclusion that his actual work conditions brought about, or at least increased the risk of contracting, his complained illness.[42]

However, as correctly ruled by the CA, petitioner failed to show that his *ischemic cardiomyopathy* existed during the term of his employment and in relation to his work environment and the risks involved in his tasks as a motorman. Notably, petitioner failed to substantiate his claim that he experienced chest pains during the term of his contract. In fact, he was able to finish his contract, and even admitted during his debriefing and during the mandatory conference that he had no medical complaints on board. As aptly pointed out by the CA, the lack of medical complaints before he disembarked from the vessel was bolstered by his decision to forego any post-employment medical examination since a person afflicted with an illness would seek immediate medical treatment instead of a reemployment.

Neither was petitioner able to establish a causal connection between his illness and the work for which he was contracted. His general averments that

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[41] See id.
[42] See id.

he was exposed to the stressful demands of his duties and responsibilities and subjected to hazardous conditions on board are mere allegations unsupported by evidence to establish how and why his working conditions increased the risk of contracting his illness. 'In the absence of substantial evidence, the Court cannot just presume that petitioner's job caused his illness or aggravated any pre-existing condition he might have had. Mere possibility will not suffice and a claim will still fail if there is only a possibility that the employment caused the disease. Probability of work-connection must at least be anchored on credible information and bare allegations do not suffice to discharge the required quantum of proof,'[43] as in this case. While the Court has in previous cases took judicial notice of the general working environment of seafarers, the Court never dispensed with the required substantial evidence to prove entitlement to disability benefits under the law.[44] 'Neither was any expert medical opinion presented regarding the cause of his condition.'[45] It is worthy to note that Dr. Donato-Tan, who merely conducted a physical examination on petitioner, failed to explain how his work has contributed to the development of his *ischemic cardiomyopathy* and how his working conditions had increased the risk of acquiring this illness.

In sum, although petitioner's heart ailment is considered as an occupational disease, the same is not compensable considering that he failed: (*a*) to present substantial evidence that the same was suffered during the term of his contract since he was repatriated for completion of contract without any reported injury or health issue; and (*b*) to establish a reasonable connection between his specific tasks on board the vessel and his illness that would show compliance with the conditions under Section 32 (A)(11) of the 2010 POEA-SEC.

Accordingly, there being no substantial evidence to support the SVA's findings, the CA did not err in setting aside the SVA ruling, and dismissing petitioner's complaint for, *inter alia*, disability benefits.

The foregoing notwithstanding, even if petitioner is not entitled to disability benefits, the Court has, in several instances, awarded financial assistance to seafarers for humanitarian reasons and compassionate justice, in consideration of the seafarer's long years of service with the company without any derogatory records,[46] or the fact that he has devoted his efforts to further

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[43] *Ventura, Jr. v. Crewtech Shipmanagement Philippines, Inc.*, 820 Phil. 1162, 1180 (2017) [Per J. Perlas-Bernabe, Second Division]; citations omitted.

[44] See *Razonable v. Torm Shipping Philippines, Inc.*, supra note 40.

[45] *Trans-Global Maritime Agency, Inc. v. Utanes*, G.R. No. 236498, September 16, 2020 [Per J. Lopez, First Division.

[46] See *Heirs of Pajares v. North Sea Marine Services Corp.*, G.R. No. 244437, September 14, 2020 [Per J. Delos Santos, Second Division].

the employer's endeavors.[47] The amount of financial assistance is essentially subject to the sound discretion of the courts.[48]

Considering that petitioner has completed three contracts with respondents without showing that he has any derogatory record, and since his employment was not severed due to the commission of any infraction, the Court hereby awards to him financial assistance in the amount of ₱100,000.00, which it finds as reasonable under the premises.[49]

**FOR THESE REASONS,** the instant petition is **DENIED.** The Decision dated March 4, 2021 and the Resolution dated March 4, 2022 of the Court of Appeals in CA-G.R. SP No. 160311 are hereby **AFFIRMED with MODIFICATION**, in that respondent Wilhelmsen Smithbell Manning, Inc. and Mr. Fausto Presyler, Jr. is ordered to pay petitioner Varhael V. Toledo the amount of ₱100,000.00 as financial assistance.

**SO ORDERED."**

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:

MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
13 OCT 2023

[47] See *Maryville Manila, Inc. v. Espinosa*, G.R. No. 229372, August 27, 2020 [Per J. Lopez, First Division].
[48] See *Heirs of Pajares v. North Sea Marine Services Corp.*, supra.
[49] See *Maryville Manila, Inc. v. Espinosa*, supra. See also *Crown Shipping Services v. Cervas*, G.R. No. 214290, July 6, 2021 [Per J. Gaerlan, First Division].

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*with a copy of the CA Decision dated March 4, 2021
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GR259553. 1/11/2023(507)URES