Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NORTH SEA MARINE SERVICES CORPORATION, Ms. ROSALINDA CERDINA and/or CARNIVAL CRUISE LINES, *Petitioners,*	**G.R. No. 201806** Present: SERENO, *C.J., Chairperson,* LEONARDO-DE CASTRO, DEL CASTILLO, JARDELEZA, *and* TIJAM, *JJ.*
- versus -	
SANTIAGO S. ENRIQUEZ, *Respondent.*	Promulgated: AUG 14 2017

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DECISION

DEL CASTILLO, *J.*:

This Petition for Review on *Certiorari*[1] assails the January 20, 2012 Decision[2] and May 8, 2012 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 117050, which dismissed the Petition for *Certiorari* filed therewith and thus affirmed the June 25, 2010 Decision[4] and September 20, 2010 Resolution[5] of the National Labor Relations Commission (NLRC) ordering petitioners North Sea Marine Services Corporation, Ms. Rosalinda Cerdina, and Carnival Cruise Lines (collectively petitioners) to pay respondent Santiago S. Enriquez (respondent) US$80,000.00 as permanent disability benefits, US$576.00 as balance for sickness wages, and 10% thereof as attorney's fees.

Antecedent Facts

On February 27, 2008, petitioner North Sea Marine Services Corporation,

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1 *Rollo*, pp. 35-89.
2 CA *rollo*, pp. 358-377; penned by Associate Justice Vicente S. E. Veloso and concurred in by Associate Justices Stephen C. Cruz and Manuel M. Barrios.
3 Id. at 460.
4 Id. at 51-66; penned by Presiding Commissioner Herminio V. Suelo and concurred in by Commissioners Angelo Ang Palana and Numeriano D. Villena.
5 Id. at 68-72.

for and on behalf of its foreign principal, petitioner Carnival Cruise Lines, entered into a Contract of Employment[6] with respondent for a period of six months which commenced on April 27, 2008, as Assistant Plumber for the vessel *MS Carnival Triumph.*

On September 2, 2008, while in the performance of his duties, respondent experienced nape pains that radiated to his upper back. The ship doctor diagnosed him to be suffering from mechanical back pains and prescribed him with medicines.[7] However, due to the worsening of his back pains, he was medically repatriated on October 5, 2008.

Upon arrival in Manila on October 7, 2008, respondent was immediately referred to the company-designated physician, Dr. John Rabago (Dr. Rabago), at the Cardinal Santos Medical Center. An orthopedic specialist recommended Magnetic Resonance Imaging (MRI) of respondent's cervical spine, which test revealed that he was suffering from *Cervical Spondylosis with Thickening of the Posterior Longitudinal Ligament from C2-3 to C5-6; Mild Disc Bulging from C3-4 to T2-E; and Superimposed Left Paracentral Disc Protrusion at C5-6.*[8] During his confinement at the Cardinal Santos Medical Center from October 28, 2008 to October 30, 2008, respondent underwent Anterior Disectomy, Spinal fusion C5-C6 Ciliac Bone Graft, and Anterior Plating.[9] After his discharge from the hospital, respondent continuously reported to the orthopedic surgeon for medical treatment and evaluation. On November 28, 2008, he was referred to a physiatrist to undergo physical therapy.[10]

In a Medical Report[11] dated December 17, 2008, Dr. Rabago declared respondent fit to resume sea duties, with the conformity of both the orthopedic surgeon and the physiatrist. Respondent thereafter signed a Certificate of Fitness to Work,[12] releasing petitioners from all liabilities.

On February 25, 2009, respondent consulted an independent orthopedic surgeon, Dr. Venancio P. Garduce, Jr. (Dr. Garduce), of the UP-PGH Medical Center, who certified his unfitness to work as a seaman with the following findings:

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6 Id. at 202 and 269.
7 Id. at 270.
8 Certification dated December 22, 2008 by Dr. Rabago, id. at 203.
9 Cardinal Santos Medical Center Discharge Summary, id. at 209-210.
10 9th Medical Report dated November 28, 2008, id. at 277.
11 Id. at 281-282.
12 Id. at 283.

Feb. 25, 2009

To whom it may concern

This is to certify that SANTIAGO S. ENRIQUEZ, 45 years old, male, has been seen & examined by the undersigned as outpatient. History reviewed and patient's physical examination reveal limitation of neck motion associated with tenderness on posterior aspect of the neck. He also has numbness of the (R) shoulder with muscle spasm. The (L) pelvic/iliac bone graft down is tender associated with numbness.

Considering all these findings, it would be impossible for him to work as seaman-plumber. Disability grade of three (3) is recommended.[13]

Proceedings before the Labor Arbiter (LA)

On March 4, 2009, respondent filed a Complaint[14] with the NLRC seeking to recover permanent disability compensation in the amount of US$80,000.00 under the International Transport Workers' Federation Cruise Ship Collective Bargaining Agreement (ITF Cruise Ship CBA),[15] balance of sick wages for two months, moral and exemplary damages, and attorney's fees. Respondent claimed that despite the lapse of 120 days and medical attention given to him by the company-designated physician, his condition did not improve, as attested by the medical findings of his own physician Dr. Garduce.

Petitioners, on the other hand, disclaimed respondent's entitlement to any disability benefit since he was declared fit to work by Dr. Rabago, as attested by both the orthopedic surgeon and physiatrist. Petitioners asserted that the fit-to-work assessment of the company-designated physician deserved utmost credibility because it was rendered after extensive monitoring and treatment of respondent's condition by a team of specialists, and it contained a detailed explanation of the progress in respondent's condition. Petitioners also asserted that there was no proof that respondent's employment was covered by a CBA or that his injury was caused by an accident as to fall under the CBA provisions. Moreover, petitioners insisted that respondent had executed a Certificate of Fitness to Work, releasing petitioners from any obligation in relation to his employment.

In a Decision[16] dated September 29, 2009, the Labor Arbiter denied respondent's claim for disability benefits. The Labor Arbiter found credence in Dr. Rabago's fit to work assessment, which was buttressed by the findings of the

[13] Id. at 211.
[14] Id. at 284-285.
[15] Id. at 212-230.
[16] Id. at 107-119; penned by Labor Arbiter Aliman D. Mangandog.

specialists, was arrived at after careful and accurate evaluation of respondent's condition, and well-substantiated by the medical records.

The Labor Arbiter disregarded the ITF Cruise Ship Model CBA presented by respondent for lack of proof that petitioners were parties to such agreement. Further, there was no evidence that respondent's illness resulted from an accident. The dispositive portion of the Decision read:

> WHEREFORE, premises considered, judgment is hereby rendered dismissing the Complaint for lack of merit.
>
> However, in the interest of justice, this Arbitration Branch awards complainant US$3,000.00 as financial assistance.
>
> All other claims are likewise denied for want of any basis.
>
> SO ORDERED.[17]

Records show that only respondent appealed from the Decision of the Labor Arbiter. Petitioners did not appeal but instead filed an Opposition to Complainant's Request for Payment of Financial Assistance.[18]

Proceedings before the National Labor Relations Commission

In a Decision[19] dated June 25, 2010, the NLRC found respondent's appeal meritorious. The NLRC gave more weight to the medical certificate of Dr. Garduce which declared respondent unfit to resume sea duties since petitioners never redeployed him for work despite the company-designated physician's assessment of fitness to resume sea duties. The NLRC ruled that permanent and total disability did not mean a state of absolute helplessness but mere inability to perform usual tasks. The NLRC also held that the Certificate of Fitness is akin to a release or quitclaim, which did not constitute a bar for respondent to demand what was legally due him.

The NLRC found that respondent's injury was caused by an accident when his spinal column cracked while lifting some heavy pipes; it thus awarded him total and permanent disability benefits under the ITF Cruise Ship CBA. The dispositive portion of the Decision read:

> WHEREFORE, premises considered, the assailed Decision rendered by Labor Arbiter Aliman D. Mangandog dated September 29, 2009 is hereby

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17 Id. at 119.

18 See NLRC Decision, id. at 51-66 at 55.

19 Id. at 51-66.

> REVERSED and SET ASIDE and a NEW ONE ENTERED holding respondents liable to pay jointly and severally, complainant's claim for permanent disability benefits in the sum of US$80,000.00 and US$576.00 as balance for sickness wages, plus attorney's fees in the sum equivalent to 10% of the total judgment award.
>
> SO ORDERED.[20]

Petitioners filed a motion for reconsideration on the grounds that the NLRC erred in granting disability benefits under the alleged CBA and in awarding attorney's fees in the absence of a finding of bad faith. This motion was, however, denied by the NLRC in a Resolution[21] dated September 20, 2010.

Proceedings before the Court of Appeals

Petitioners filed a Petition for *Certiorari* with Application for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction to enjoin the enforcement and execution of the NLRC judgment. In a Resolution[22] dated March 2, 2011, the CA denied petitioners' prayer for a TRO.

The CA, in a Decision[23] dated January 20, 2012, dismissed petitioners' Petition for *Certiorari* for lack of merit. The CA held that while it is the company-designated physician who is tasked under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) to assess the condition of the seafarer, his medical report is not binding and may be disputed by a contrary opinion of another physician. The CA went on to affirm the NLRC's reliance on the medical assessment of Dr. Garduce as it was based not merely on respondent's physical examination but also after considering the medical findings of Dr. Rabago.

Petitioners sought reconsideration of this Decision but was denied by the CA in its Resolution[24] dated May 8, 2012.

Issues

Hence, petitioners filed the instant Petition, arguing that:

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20 Id. at 65.
21 Id. at 68-72.
22 Id. at 325.
23 Id. at 358-377.
24 Id. at 460.

A. The Court of Appeals committed a serious error in law in affirming the award of US$80,000.00 under the CBA. Respondent's employment has no overriding CBA.

B. The Court of Appeals committed serious error in holding that Respondent is entitled to disability benefits. Respondent was declared FIT TO WORK by the company-designated physician. The findings of the company-designated physician should be given weight in accordance with the rulings of this Honorable Court in the cases of *Coastal Safeway Marine Services, Inc. v. Esguerra, G.R. No. 185352, 10 August 2011* and *Allen Santiago vs. Pacbasin Shipmanagement, Inc. and/or Majestic Carriers, Inc., G.R. No. 194677, 18 April 2012.*

C. The Court of Appeals committed a serious error in law in ruling that respondent is entitled to attorney's fees. The denial of private respondent's claims were based on legal grounds and made in good faith.[25]

Petitioners maintain that the CA committed serious error in awarding respondent full disability benefits despite the timely fit to work assessment of Dr. Rabago, which was rendered after extensive treatment of respondent's condition, vis-à-vis the baseless opinion and medical findings of Dr. Garduce that was rendered only after a single consultation. Besides, probative weight should be given to the company-designated physician's assessment as there was no third doctor appointed to properly dispute the same. Moreover, the Certificate of Fitness to Work signed by respondent corroborated the fit to work assessment of Dr. Rabago; therefore, respondent lacked any basis in claiming disability benefits.

Petitioners also argue that there was no sufficient evidence to entitle respondent to disability benefits in the amount of US$80,000.00 under an alleged CBA. The CBA presented was merely a model CBA which was unsigned and unauthenticated. There was likewise no concrete proof to support respondent's claim that his condition resulted from an accident as to entitle him to claim benefits under the CBA's provisions.

Our Ruling

We find merit in the Petition.

No proof was presented to show that respondent's employment was covered by the CBA.

We find that respondent failed to adequately prove that he was entitled to the benefits of an alleged CBA he had presented. The *ITF Cruise Ship Model*

[25] *Rollo*, p. 316.

Agreement For Catering Personnel April 2003[26] presented by respondent bore no specific details as regards the parties covered thereby, the effectivity or duration thereof, or even the signatures of contracting parties. Records are bereft of evidence showing that respondent's employment was covered by the supposed CBA or that petitioners had entered into any collective bargaining agreement with any union in which respondent was a member.

There was likewise no evidence that an accident happened that caused respondent's injury. There was no report in the crew illness log[27] dated September 2, 2008 that an accident happened on board the vessel which resulted in respondent's back pain. It is basic that respondent has the duty to prove his own assertions. And his failure to discharge the burden of proving that he was covered by the CBA militates against his entitlement to any of its benefits. As such, the NLRC and the CA had no basis in awarding respondent disability benefits under the supposed CBA.

Respondent's entitlement to disability benefits is therefore governed by the POEA-SEC and relevant labor laws which are deemed written in the contract of employment with petitioners.

Dr. Rabago's fit to work assessment prevails. Respondent is not entitled to total and permanent disability benefits.

Section 20 B (3) of the POEA-SEC provides:

> 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.

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26 CA *rollo*, pp. 212-230.

27 Id. at 270-271.

It is clearly provided in the POEA-SEC that in order to claim disability benefits, it is the company-designated physician who must proclaim that the seafarer suffered a permanent disability, whether total or partial, due to either injury or illness, during the term of his employment. If the doctor appointed by the seafarer makes a finding contrary to that of the assessment of the company-designated physician, a third doctor may be agreed jointly between the employer and seafarer whose decision shall be binding on both of them. In *Vergara v. Hammonia Maritime Services, Inc.*,[28] the Court pronounced that while a seafarer has the right to seek a second and even a third opinion, the final determination of whose decision must prevail must be done in accordance with this agreed procedure. The Court went on to emphasize that failure to observe this will make the company-designated physician's assessment final and binding.

Upon repatriation on October 5, 2008, respondent's condition was medically evaluated and treated by the company-designated physicians. Respondent was subjected to continuous medical examination by Dr. Rabago, underwent surgery under the care of an orthopedic specialist, and received physical therapy from a physiatrist. On December 17, 2008, Dr. Rabago, the orthopedic surgeon, and the physiatrist assessed respondent fit to resume sea duties. On February 25, 2009, respondent sought an independent opinion from Dr. Garduce who assessed him to be unfit for sea duties. However, respondent did not refer these conflicting assessments to a third doctor in accordance with the mandated procedure. In fine, the company-designated physician's assessment was not effectively disputed; hence, the Court has no option but to declare Dr. Rabago's fit to work declaration as final and binding.

In any event, the Court finds Dr. Rabago's assessment to be credible considering his close monitoring and extensive treatment of respondent's condition. His fit to work assessment was supported by the findings of the orthopedic surgeon and physiatrist who both opined, after making a thorough evaluation of respondent's condition, that respondent was already physically fit to resume work without any restrictions. The extensive medical attention and treatment given to respondent starting from his repatriation on October 5, 2008 until December 17, 2008 were clearly supported by medical reports. In Dr. Rabago's initial medical report[29] dated October 10, 2008, respondent was referred to an orthopedic specialist for proper treatment and procedure. In a subsequent medical report[30] dated November 7, 2008, respondent was evaluated after surgery and found to be recovering well although complaining of some discomfort and pain which are common during post surgery. Respondent was then referred to a physiatrist for rehabilitation. In a medical report[31] dated December 12, 2008,

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28 588 Phil. 895, 914 (2008).
29 CA *rollo*, p. 272-273.
30 Id. at 274.
31 Id. at 278-279.

significant improvement in respondent's condition was noted after a series of physical therapy and rehabilitation. These medical reports confirmed that respondent had already recovered from his injury after treatment by the specialists. On the other hand, Dr. Garduce rendered a medical opinion after a singular examination of respondent. His pronouncement of respondent's unfitness to resume sea duties and partial disability impediment of Grade 3 was unsupported by adequate explanation as to how his recommendations were arrived at.

Besides, Dr. Rabago's fit to work assessment was supported by the Certificate of Fitness to Work signed by respondent. It bears to emphasize that respondent immediately caused the execution of this waiver or release in favor of petitioners instead of disputing the fit to work declaration of Dr. Rabago. We have held that not all waivers and quitclaims are invalid as against public policy.[32] Absent any evidence that any of the vices of consent is present, this document executed by respondent constitutes a binding agreement and a valid waiver in favor of petitioners.[33]

In fine, we find Dr. Rabago's fit to work assessment a reliable diagnosis of respondent's condition and should prevail over Dr. Garduce's appraisal of respondent's disability. Dr. Rabago's timely assessment, rendered within 120 days from respondent's repatriation, which was not properly disputed in accordance with an agreed procedure, is considered final and binding. The CA erred in awarding respondent his claim for permanent disability benefits.

While the provisions of the POEA-SEC are liberally construed in favor of the well-being of Filipino seafarers, the law nonetheless authorizes neither oppression nor self-destruction of the employer. In any event, we sustain the Labor Arbiter's award of US$3,000.00 as financial assistance in the interest of equity and compassionate justice. Besides, the same was not properly assailed by the petitioners via an appeal to the NLRC. As such, the same had attained finality and could no longer be questioned by petitioners.

WHEREFORE, the Petition is **GRANTED**. The January 20, 2012 Decision and May 8, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 117050 are **REVERSED and SET ASIDE**. The September 29, 2009 Decision of Labor Arbiter Aliman D. Mangandog in NLRC-NCR Case No. (M) NCR-03-03817-09 dismissing respondent's claim for disability benefits and awarding US$3,000.00 as financial assistance is **REINSTATED and AFFIRMED**.

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32 *Intel Technology Philippines, Inc. v. National Labor Relations Commission*, 726 Phil 298, 312-313 (2014).

33 *Aujero v. Phil. Communications Satellite Corporation*, 679 Phil. 463, 478-479 (2012).

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice