Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILIPPINE TRANSMARINE CARRIERS, INC., CARLOS C. SALINAS, AND/OR GENERAL MARITIME MANAGEMENT LLC, Petitioners, **-versus-** **ALMARIO C. SAN JUAN,** Respondent.	**G.R. No. 207511** Present: PERLAS-BERNABE, *J.*, Chairperson, HERNANDO, INTING, DELOS SANTOS, and BALTAZAR-PADILLA,* *JJ.* Promulgated: 05 OCT 2020

x - x

DECISION

HERNANDO, *J.*:

This Petition for Review on *Certiorari*[1] assails the December 11, 2012 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 121634, which set aside the May 26, 2011 Decision[3] and July 15, 2011 Resolution[4] of the National Labor Relations Commission (NLRC) denying the award of permanent total disability benefits, sickness allowance, damages and attorney's fees to respondent Almario C. San Juan (San Juan). In a June 6, 2013 Resolution,[5] the CA refused to reconsider its earlier Decision.

---

* On leave.
[1] *Rollo*, pp. 33-53.
[2] Id. at 62-79; penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr.
[3] CA *rollo*, pp. 308-315; penned by Commissioner Romeo L. Go and concurred in by Presiding Commissioner Gerardo C. Nograles and Commissioner Perlita B. Velasco.
[4] Id. at 338-339.
[5] Id. at 102.

Antecedent Facts

This case stemmed from a Complaint[6] for recovery of permanent total disability benefits, medical expenses, compensatory, moral, and exemplary damages, and attorney's fees filed by San Juan against petitioners Philippine Transmarine Carriers, Inc. (PTCI), General Maritime Management LLC, and Carlos C. Salinas (Salinas), president and/or local manager of PTCI.

PTCI is engaged in the business of providing marine management services. It hired San Juan on several occasions as Chief Cook during the periods from February 24, 1992 to May 15, 2008.[7] He was re-hired on August 26, 2009 in behalf of PTCI's principal, General Maritime Management LLC, to work as a Chief Cook aboard the vessel MV Genmar George T for a period of eight (8) months.[8] Prior to his embarkation, San Juan underwent a routine Pre-Employment Medical Examination (PEME) where he declared that he suffered from "hypertension treated with medication."[9] San Juan was eventually given cardiac clearance and was certified as "fit to work"[10] by PTCI's company-designated physicians.

On September 12, 2009,[11] San Juan departed from the Philippines and commenced his work on board the vessel. San Juan claimed that he performed hard manual labor and engaged in strenuous physical activities for twelve (12) hours a day. He eventually suffered fatigue, shortness of breath, and severe headaches. His condition worsened when he worked on food preparations for three (3) consecutive days, or from December 24 to 26, 2009. San Juan further alleged that he collapsed several times during the voyage due to lack of medications and medical attention.

Due to his condition, San Juan was brought to a medical facility in India for a medical examination and treatment. On January 19, 2010, his attending physician issued a Medical Certificate[12] indicating the following, *viz.:*

> The crewmember has presented high blood pressure which is not controlled by the medication he is taking currently.[13]

On January 23, 2010, San Juan signed off from the vessel and was medically repatriated to the Philippines on February 1, 2010. He was immediately referred to the company-designated physicians at the Metropolitan Medical Center (MMC) for medical examination and further treatment.[14]

---

[6] CA *rollo*, pp. 49-50.
[7] Id. at 83.
[8] Id. at 53.
[9] *Rollo*, p. 111.
[10] CA *rollo*, p. 80.
[11] Id. at 84.
[12] Id. at 87.
[13] Id.
[14] *Rollo*, p. 118.

After treatment and having undergone a treadmill stress test and Cranial Magnetic Resonance Imaging (Cranial MRI), Dr. Jaime Cayetano and Dr. Raymond L. Rosales, attending cardiologist and neurologist, respectively, of MMC, certified on April 20, 2010 and April 30, 2010 that San Juan was fit for duty. The Medical Certificates issued by Dr. Cayetano and Dr. Rosales state as follows:

> Mr. Almario San Juan, 54 year old male followed up. Patient was diagnosed to have Hypertension Stage II controlled with medications.
>
> His Stress Test is normal. **He is fit to resume sea duties cardiovascular-wise.** Final clearance care of neurologic service.
>
> Continue lifestyle and medications onboard.
>
> Dr. Jaime F. Cayetano[15] (Emphasis supplied)

> Cranial MRI did not show frontal white matter hypodensity nor any other abnormality.
>
> No headaches.
>
> **May resume sea duties from neurological standpoint**.
>
> RAYMOND L. ROSALES M.D., Ph.D.[16] (Emphasis supplied)

San Juan averred that although he executed a Certificate of Fitness for Work[17] on April 30, 2010, he was not, however, rehired by PTCI. He also claimed that he applied for employment with other manning agencies, but was unsuccessful.

On May 26, 2010, San Juan filed the instant complaint against PTCI, General Maritime Management LLC, and Salinas seeking payment of his permanent disability benefits and sickness allowance, among others. Meanwhile, on July 8, 2010, San Juan sought a second medical opinion from Dr. Antonio C. Pascual, a cardiologist from the Philippine Heart Center, who, on the same day, certified that San Juan was "medically unfit to work in any capacity as seaman."[18] The following are Dr. Pascual's findings, *viz.*:

> This is to certify that SAN JUAN, ALMARIO of 295 Molave St., Sabang Subd., Lipa City was seen and examined on 08-Jul-10 with the following finding/s and/or diagnoses:
> Hypertensive Heart Disease, Uncontrolled.
> x x x

---

[15] CA *rollo*, p. 131.
[16] Id. at 132.
[17] Id. at 133.
[18] Id. at 98.

- Patient consulted at the clinic with complains of recurrent headache and dizziness. On examination, BP= 200/135 mm Hg, HR = 90/min. ECG: Sinus rhythm. Left atrial abnormality.
- At present, patient is **MEDICALLY UNFIT TO WORK** in any capacity as a seaman.
- Advised to have regular medical check-up and maintain on the following medications: Atenolol (Tenorvas) 100 mg/tab, 1 tablet daily; Telmisartan + HCTZ (Micardis Plus) 80+25 mg/tab, 1 tablet daily; Amlodipine Besylate (Provasc) 10 mg/tab, 1 tablet daily; Aspirin (Aspilets) 80 mg/tab; 1 tablet daily; and Fenofibrate 200 mg/cap, 1 capsule daily.[19] (Emphasis supplied)

San Juan further alleged that he was only given sickness allowance for three (3) months instead of four (4) months, which only amounted to US$2,094.00, or US$698.00 per month, leaving a balance of US$698.00.

Ruling of the Labor Arbiter

On November 18, 2010, the Labor Arbiter (LA) promulgated a Decision,[20] the dispositive portion of which states:

> **WHEREFORE**, in view of the foregoing, respondents are hereby ordered to pay complainant his permanent total disability benefit in the amount of **US$60,000.00** and sickness wages in the amount of **US$698.00** plus attorney's fees amounting to **US$6,069.80** in their equivalent in Philippine Currency at the time of payment.
>
> All other claims are denied.
>
> **SO ORDERED.**[21]

The LA concluded that San Juan's engagement as Chief Cook since 1992 proved that he acquired his illness in the course of his employment with PTCI, and that his medical condition was aggravated by his day-to-day duties on board the vessel.

The LA further held that San Juan could no longer qualify as a person fit for work at sea under the Philippine Overseas Employment Administration (POEA) standards for the following reasons: *First,* his recurrent hypertension is listed as one of the occupational diseases under the POEA rules; *second,* he has been taking a total of five medications for his hypertension; and *third,* his blood pressure ranges from 140/90 mmHG to 200/135 mmHG on average.

The LA noted that the fact that PTCI did not rehire San Juan as Chief Cook, or that he was unable to find employment with other manning agencies, support the conclusion that he is not physically fit to work. The LA also

---

[19] Id.
[20] Id. at 237- 252.
[21] Id. at 252.

disregarded the Certification of Fitness to Work on the finding that PTCI forced San Juan to sign and execute the same.

The LA thus awarded San Juan permanent and total disability benefits amounting to US$60,000.00. As San Juan has been undergoing medication and treatment for his hypertension, the LA also awarded him the balance of his sickness allowance amounting to US$698.00. Although the LA awarded San Juan attorney's fees in the amount of US$6,069.80, his claims for moral, exemplary, and compensatory damages were denied for lack of merit.

Ruling of the National Labor Relations Commission

In their appeal[22] to the NLRC, petitioners averred that the LA committed serious and palpable error in awarding San Juan total and permanent disability benefits. Petitioners mainly contended that San Juan's successive employment with the PTCI does not necessarily prove that his illness is work-related. Petitioners also argued that San Juan has not presented substantial evidence to show that his illness was aggravated by his work as Chief Cook. To further counter San Juan's claim for disability benefits, petitioners emphasized that the fact that San Juan was declared as physically fit to work by no less than two physicians proved that he is not beset with any disability, which therefore negates his claim of entitlement to permanent total disability benefits.

In discrediting the medical certificate issued by San Juan's own physician, petitioners pointed out that San Juan procured the said certificate only after more than two (2) months since the PTCI's company-designated physicians issued their respective fit-to-work certifications. Petitioners concluded that the certification of San Juan's designated physician did not accurately present San Juan's medical condition considering the intervening time and possible external factors that may have aggravated San Juan's condition prior to his consultation with his chosen physician. Petitioners also alleged that since San Juan's fit-to-work certifications were issued by the company-designated physicians within the 120-day period as prescribed under the POEA rules, then he cannot, by legal contemplation, be considered as permanently disabled.

Petitioners further insisted that the Certification of Fitness of Work is valid and binding absent any showing that San Juan was coerced or deceived by PTCI into signing or executing the same. Petitioners also disagreed with the findings of the LA that San Juan's non-rehiring served as a badge of his unfitness to work at sea since re-hiring of employees is within PTCI's management prerogative.

Anent the claim for the balance of San Juan's sickness allowance, petitioners argued that the POEA rules state that sickness allowance for 120 days must be paid if the seafarer is under medical treatment for 120 days. As

---

[22] Id. at 205-223.

San Juan was declared fit to work on his 89th day of treatment, he can no longer claim the balance of his sickness allowance amounting to US$698.00.

In its May 26, 2011 Decision,[23] the NLRC reversed the Decision of the LA and dismissed San Juan's complaint for payment of permanent total disability benefits and sickness allowance. The dispositive portion of the Decision states, as follows:

> **WHEREFORE**, the instant appeal is GRANTED. Accordingly, the Decision of Labor Arbiter Fe S. Cellan dated November 18, 2010 is REVERSED and SET ASIDE. Complainant's complaint is dismissed for lack of merit.
>
> **SO ORDERED**.[24]

The NLRC found that San Juan failed to substantiate his claim that the conditions of his employment caused or aggravated the risk of contracting his illness. It held that his hypertension cannot be classified as an occupational disease under the POEA rules. It emphasized that as early as April of 2010, San Juan's blood pressure was controlled at 130/80 mmHg, and that the company-designated physicians have already certified his fitness to work. Although San Juan's blood pressure was 200/135 mmHg during his follow-up consultation with his physician on July 8, 2010, the NLRC noted that such finding was made months after he was declared fit to work by the company-designated physicians. Moreover, San Juan's execution of the Certification of Fitness for Work belied his allegation that he is unfit to work.

The NLRC also held that San Juan is not totally and permanently disabled considering that his degree of his disability was established within 240 days from his repatriation, thus:

> The fitness of work of complainant was established within the 240 day period. Complainant was medically signed [off] on February 1, 2010 while his degree of disability was established on [April] 30, 2010. Complainant is under medical treatment for eighty nine (89) days or for less than 240 days. A temporary total disability only becomes permanent when so declared by the company physician within the periods he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or the existence of a permanent disability. In this case, complainant within the 240-day period, he was declared fit to work. In the absence of any disability after his temporary disability was addressed, any further discussion of permanent partial and total disability, their existence, distinctions and consequences, becomes a surplusage that serves no useful purpose. x x x[25] (Citations omitted)

---

[23] Id. at 308-315.
[24] Id. at 314.
[25] Id. at 313.

Moreover, the NLRC denied San Juan's claim for the balance of his sickness allowance since he was already declared fit to work on his 89th day of treatment. The NLRC also denied his claim for attorney's fees.

San Juan filed a Motion for Reconsideration[26] which was, however, denied by the NLRC in its July 15, 2011 Resolution.[27]

Ruling of the Court of Appeals

Aggrieved, San Juan filed a Petition for *Certiorari*[28] with the CA ascribing upon the NLRC grave abuse of discretion when it denied his claims for disability benefits, sickness allowance, damages and attorney's fees. In his petition, San Juan discredited the fit-to-work certifications of the company-designated physicians given that they were squarely contradicted by the subsequent findings of his own physician, which attested to his unfitness to work due to hypertensive heart disease. On this point, San Juan averred that the medical certificate issued by his physician, as opposed to the fit-to-work certifications of the company-designated physicians, is in accord with the Department of Health Administrative Order No. 2007-0025, series of 2007, or the Revised Guidelines for Conducting Medical Fitness Examinations for Seafarers.

In their Comment[29] to San Juan's Petition for *Certiorari,* petitioners argued that the report and findings of PTCI's company-designated physicians should be accorded great weight and respect considering the amount of time and effort these physicians spent in treating and evaluating San Juan's condition. Moreover, petitioners argued that although San Juan was diagnosed with hypertension and vascular headache, these illnesses, however, are not classified as compensable under the POEA rules.

On December 11, 2012, the CA rendered its assailed Decision[30] granting San Juan's Petition for *Certiorari* and setting aside the May 26, 2011 Decision and July 15, 2011 Resolution of the NLRC. The dispositive portion of the appellate court's December 11, 2012 Decision reads as follows:

> **WHEREFORE**, the instant petition is **GRANTED**. The assailed Decision and Resolution of the National Labor Relations Commission dated May 26, 2011 and July 15, 2011, respectively, in NLRC NCR OFW Case No. (M) 05-07351-10 [are] hereby **REVERSED** and **SET ASIDE**.The November 18, 2010 Decision of the Labor Arbiter is **REINSTATED** with **MODIFICATION** in that the award for attorney's fees is deleted for want of factual and legal bases.

---

[26] Id. at 316-335.
[27] Id. at 338-339.
[28] Id. at 3-42.
[29] Id. at 356-404.
[30] *Rollo*, pp. 62-79.

SO ORDERED.[31] (Emphasis in the original)

In granting permanent total disability benefits to San Juan, the CA found that San Juan was able to establish a causal connection between the conditions of his work and his illness. Although San Juan's illness is not among the list of occupational diseases under the POEA rules, the CA held that his condition is, nonetheless, disputably presumed to be work-related which petitioners failed to rebut by controverting evidence. The appellate court also found that San Juan's illness was acquired in the course of his employment with PTCI. It further held that:

> x x x assessments of the company-designated physicians are not final, binding, or conclusive on the courts. x x x
>
> Here, We note that petitioner was employed by private respondents as chief cook since 1992. However from the time he was repatriated in February 2010 until the filing of the instant Petition more than a year later, petitioner had not been able to obtain gainful employment as a seaman, not even with herein private respondents. If petitioner San Juan was fit to work on April 30, 2010, private respondents could then have taken him back to continue his work as chief cook. That he was not, his disability, therefore, is undoubtedly permanent.[32]

The CA also granted San Juan's claims for the balance of his sickness allowance amounting to US$698.00. His claims for moral, exemplary, and compensatory damages, and attorney's fees were, however, denied for lack of merit.

Petitioners filed a Motion for Reconsideration[33] but the CA denied the same in its June 6, 2013 Resolution.[34]

Hence, the instant Petition.

Issues

Petitioners raise the following assignment of errors:

> I. With all due respect, the [CA] committed serious, reversible error of law in disregarding the fit to work assessment of the company-designated physician[s]. x x x
>
> x x x x[35]

---

[31] Id. at 78.
[32] Id. at 26.
[33] Id. at 80-98.
[34] CA *rollo*, p. 102.
[35] *Rollo*, p. 41.

> II. With all due respect, the [CA] committed serious, reversible error of law in awarding disability benefits in favor of [San Juan] despite the ruling of this Honorable Supreme Court in the recent case of [*CF Sharp Crew Management, Inc. v. Taok*] x x x
>
> x x x x[36]
>
> III. With all due respect, the [CA] committed serious, reversible error of law in awarding in favor of [San Juan] despite his failure to prove by substantial evidence a causal connection between his illness and the work for which he had been contracted to perform x x x
>
> x x x x[37]
>
> IV. With all due respect, the [CA] committed serious, reversible error of law in awarding further payment of sickness wages to [San Juan].[38]

Simply put, the issue in the instant case is whether or not the CA erred in awarding San Juan permanent total disability benefits and the balance of his sickness allowance amounting to US$698.00.

Our Ruling

San Juan is not entitled to his claim for permanent and total disability benefits.

In granting San Juan permanent total disability benefits, the CA emphasized that San Juan's medical condition is disputably presumed to be work-related, that it was acquired in the course of his employment with PTCI, and it was caused or aggravated by the working conditions aboard the vessel. The appellate court also held that while the company-designated physicians were qualified to assess San Juan's disability, their findings, nonetheless, are not conclusive on the courts. On this point, the CA noted that despite having been certified as fit to work, San Juan was refused employment by PTCI when he reported back for work. The appellate court ratiocinated that if San Juan was indeed fit to work as of April 30, 2010, PTCI could have allowed him to continue his work on board the vessel as Chief Cook. It is on this premise that the CA concluded that San Juan's disability is total and permanent.

It appears that the CA, in finding San Juan's disability as total and permanent, completely disregarded the prescribed procedure for the determination of disability compensation claims, particularly with respect to the resolution of conflicting disability assessments of PTCI's company-designated physicians and San Juan's own physician. The appellate court even went as far as to say that petitioners failed to present controverting evidence

---

[36] Id. at 47.
[37] Id. at 50-51.
[38] Id. at 52.

which would merit denial of payment of disability benefits to San Juan despite their submission of his fit-to-work certifications. We thus find the ruling of the CA seriously flawed as it was rendered in flagrant disregard of established rules on permanent disability compensation.

San Juan was declared fit to resume sea duties.

Since San Juan's employment contract was executed on August 26, 2009, his entitlement to disability benefits is governed by the Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships (2000 POEA-SEC),[39] and pertinent labor laws, which are deemed incorporated into his employment contract with PTCI.[40]

In this regard, Article 192(c)(1) [now Article 198(c)(1)] of the Labor Code, as amended, defines permanent total disability, as follows:

> Art. 192. Permanent total disability. -x x x
>
> (c) The following disabilities shall be deemed total and permanent:
>
> (1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

The Rules being referred to in Article 192(c)(1) is Section 2, Rule X of the Amended Rules on Employees' Compensation Implementing Title II, Book IV of the Labor Code,[41] which states:

> Sec. 2. Period of Entitlement - (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

Meanwhile, Section 20(B)(3) of the 2000 POEA-SEC also provides that:

> 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.

---

[39] POEA Memorandum Circular No. 9, Series of 2000, dated June 4, 2000.
[40] *TSM Shipping Phils., Inc. v. Patiño*, 807 Phil. 666, 676 (2017).
[41] Id. at 676-677.

In *Vergara v. Hammonia Maritime Services, Inc.*,[42] this Court aptly explained the foregoing recitals in this wise, *viz.:*

> As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. For the duration of the treatment but in no case to exceed 120 days, the seaman is on *temporary total disability* as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.[43]

Based on *Vergara*, it is settled that before a seafarer may claim permanent total disability benefits from his employer, it must be first established that the latter's company-designated physician failed to issue a declaration as to his fitness to engage in sea-duty or disability grading within the 120-day period or 240-day extension provided for by law. From *Vergara,* this Court, in *C.F. Sharp Crew Management, Inc. v. Taok*[44] proceeded a step further by delineating the circumstances under which a seafarer may pursue an action for total and permanent disability benefits, *viz.:*

> Based on this Court's pronouncements in Vergara, it is easily discernible that the 120-day or 240-day period and the obligations the law imposed on the employer are determinative of when a seafarer's cause of action for total and permanent disability may be considered to have arisen. Thus, a seafarer may pursue an action for total and permanent disability benefits if: **(a) the company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days; (b) 240 days had lapsed without any certification being issued by the company-designated physician; (c) the company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his physician of choice and the doctor chosen under Section 20-B(3) of the POEA-SEC are of a contrary opinion;** (d) the company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well; (e) the company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading; (f) the company-designated physician determined that his medical condition is not compensable or work-related under the POEA-SEC but his doctor-of-choice and the third doctor selected under Section 20-B(3) of the POEA-SEC found otherwise and

[42] 588 Phil. 895 (2008).
[43] Id. at 912.
[44] 691 Phil. 521 (2012).

> declared him unfit to work; (g) the company-designated physician declared him totally and permanently disabled but the employer refuses to pay him the corresponding benefits; and (h) the company-designated physician declared him partially and permanently disabled within the 120-day or 240-day period but he remains incapacitated to perform his usual sea duties after the lapse of the said periods.[45] (Emphasis supplied)

We have held that the 120-day period should be reckoned from the time the seafarer reported to the company-designated physician.[46] If the company-designated physician fails to give his assessment within the period of 120 days with sufficient justification, then the period of diagnosis and treatment shall be extended to 240 days.[47]

In the instant case, there is no dispute that San Juan reported to the company-designated physicians for examination and treatment immediately upon repatriation on February 1, 2010. Nor is there dispute on the medical treatment received by San Juan from MMC, or that he was eventually certified by two company-designated physicians as normal and fit to work for seaman duties on April 20, 2010 and April 30, 2010. Notably, the company-designated physicians issued San Juan's fit-to-work certifications 89 days after February 1, 2010, which is well within the 120-day period provided under Section 20(B)(3) of the 2000 POEA-Standard Employment Contract (SEC). Significantly, this finding was not disputed nor controverted by the parties.

As he was declared fit to resume sea duties, there was, therefore, no basis for San Juan to claim total and permanent disability benefits from PTCI.

The findings of the company-designated physicians should prevail.

It is significant to note that when San Juan filed the instant complaint on May 26, 2010, he was under the belief that he is totally and permanently disabled from rendering work as he was unable to resume work since his repatriation on February 1, 2010. Notably, the complaint was also prematurely filed since at that time, San Juan was not yet armed with a medical certificate from his physician of choice. It was only after the filing of the complaint, or on July 8, 2010, that San Juan sought the opinion of Dr. Pascual, his own physician. It is on the basis of finding of his physician *i.e.,* that he is "medically unfit to work in any capacity as seaman,"[48] that San Juan is claiming for permanent total disability benefits.

---

[45] Id. at 538-539.
[46] *Talaroc v. Arpaphil Shipping Corporation,* 817 Phil 598, 612 (2017).
[47] Id.
[48] CA *rollo,* p. 98.

The issue thus brought to fore is whether the contrary findings of San Juan's own physician should be upheld over the fit-to-work certifications issued by PTCI's company-designated physicians.

Settled is the rule that when a seafarer sustains a work-related illness or injury while on board the vessel, his fitness or unfitness for work shall be determined by the company-designated physician,[49] and that "in case of conflicting medical assessments [between the company-designated physician and the seafarer's own physician], referral to a third doctor is *mandatory*; and that in the absence of a third doctor's opinion, it is the medical assessment of the company-designated physician that should prevail."[50] Relevant to this rule is Section 20(B)(3) of the 2000 POEA-SEC, which similarly states that "[i]f a doctor appointed by the seafarer disagrees with the assessment [of the company-designated physician], 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."

In *Marlow Navigation Philippines, Inc. v. Osias (Marlow),*[51] this Court held that "the referral to a third doctor is mandatory when: (1) there is a valid and timely assessment by the company-designated physician[;] and (2) the appointed doctor of the seafarer refuted such assessment."[52] Notably, both these circumstances are present in this case.

To emphasize, this referral to a third doctor has been consistently held by this Court as a mandatory procedure.[53] The case of *INC Navigation Co., Philippines, Inc., v. Rosales*[54] is instructive, *viz.*:

> This referral to a third doctor has been held by this Court to be a mandatory procedure as a consequence of the provision that it is the company-designated doctor whose assessment should prevail. In other words, **the company can insist on its disability rating even against a contrary opinion by another doctor, unless the seafarer expresses his disagreement by asking for the referral to a third doctor who shall make his or her determination and whose decision is final and binding on the parties.** We have followed this rule in a string of cases, among them, *Philippine Hammonia [v. Dumadag], Ayungo v. Beamko Ship Management Corp., Santiago v. Pacbasin Ship Management, Inc., Andrada v. Agemar Manning Agency, and Masangkay v. Trans-Global Maritime Agency, Inc.*Thus, at this point, the matter of referral pursuant to the provision of the POEA-SEC is a settled ruling.[55] (Emphasis supplied; citations omitted)

---

[49] POEA-SEC, Section 20 [B] (3).
[50] *Abosta Shipmanagement Corporation v. Delos Reyes,* G.R. No. 215111, June 20, 2018.
[51] 773 Phil. 428 (2015).
[52] Id. at 446.
[53] *INC Navigation Co. Philippines v. Rosales,* 774 Phil 774 (2014). Citations omitted.
[54] Id. at 787.
[55] Id.

Accordingly, the prescribed procedure in contesting the findings of the company-designated physicians has been laid out by this Court in *Carcedo v. Maine Marine Philippines, Inc. (Carcedo),*[56] *viz.:*

> To definitively clarify how a conflict situation should be handled, upon notification that the seafarer disagrees with the company doctor's assessment based on the duly and fully disclosed contrary assessment from the seafarer's own doctor, the seafarer shall then signify his intention to resolve the conflict by the referral of the conflicting assessments to a third doctor whose ruling, under the POEA-SEC, shall be final and binding on the parties. Upon notification, the company carries the burden of initiating the process for the referral to a third doctor commonly agreed between the parties.[57] (Citations omitted.)

There is no dispute that under the 2000 POEA-SEC, San Juan was not precluded from seeking a second opinion of his disability, which he in fact did on July 8, 2010 with Dr. Pascual, his own physician, who found San Juan unfit to work. San Juan, however, pursued his claim without observing the laid-out procedure above. It bears emphasis that it is only through this procedure provided by the 2000 POEA-SEC that San Juan can question the fit-to-work certifications of PTCI's company-designated physicians and compel PTCI to jointly seek an assessment from a third doctor.[58] However, instead of setting into motion the process of selecting a third doctor, he preempted the mandated procedure by filing the instant complaint for permanent total disability benefits without referring the conflicting opinions to a third doctor for final determination. On this point, non-referral cannot be blamed on PTCI as the opinion of San Juan's own physician was only sought two months after the instant complaint for disability benefits was filed by San Juan.

At any rate, based on *Carcedo,*[59] San Juan was duty-bound to actively request that the disagreement between his physician's findings and that of the findings of PTCI's company-designated physicians be referred to a final and binding third opinion. The records, however, are bereft of any such evidence that San Juan requested PTCI to refer the conflicting assessments of the physicians to a third doctor. Notably, "[a]s the party seeking to impugn the certification that the law itself recognizes as prevailing, [San Juan] bears the burden of *positive action* to prove that his [physician's] findings are correct, as well as the burden to notify [PTCI] that a contrary finding had been made by his own physician."[60] Clearly, in the absence of any such request, PTCI cannot be expected to respond, more so refer the conflicting findings to a third doctor.

---

[56] 758 Phil. 166 (2015).
[57] Id. at 189-190.
[58] See *Marlow Navigation Philippines, Inc. v. Osias,* supra note 51 at 446.
[59] Supra note 56.
[60] *Bahia Shipping Services, Inc. v. Constantino,* 738 Phil. 564, 576 (2014).

In the absence of a third doctor resolution, the assessments of PTCI's company-designated physicians should stand. As held in *Marlow,*[61] "[a]bsent proper compliance, the final medical report and the certification of the company-designated physician declaring him fit to return to work must be upheld. Ergo, he is not entitled to permanent and total disability benefits."[62]

At any rate, the certification issued by San Juan's physician cannot prevail over the conclusions of PTCI's company-designated physicians. The company-designated physicians were in a better position to assess the illness or disability of San Juan considering that their findings were based on a number of tests *i.e.,* stress test and Cranial MRI, and medical evaluation done on San Juan. Contrarily, it is undisputed that the recommendation of San Juan's physician was based on a single medical report who examined San Juan only once, which, we note, was issued several months after his fit-to-work certifications were issued by PTCI's company-designated physicians. Thus, as between the findings of the company-designated physicians, and the physician designated by San Juan, the former deserves to be given greater evidentiary weight.[63] In any event, the certification issued by San Juan's own physician could not serve as basis for his claim for permanent and total disability benefits because it merely stated that he is unfit to resume sea duties; it did not state the disability grading as required by the POEA-SEC.

Neither can we lend credence to the CA's findings that the non-hiring of San Juan served as convincing proof that his illness or disability is permanent. Our pronouncement in *Philippine Hammonia Ship Agency, Inc. v. Dumadag*[64] is instructive, to wit:

> LA Carpio noted that the petitioners suddenly stopped rehiring Dumadag despite the fact that they had continuously employed him for at least fifteen (15) times for the last 15 years. He viewed this as the most convincing proof that Dumadag's inability to work was due to the illness he contracted in the course of his last employment.
>
> x x x x
>
> With respect to Dumadag's non-hiring, the petitioners submit that the CA gravely abused its discretion when it held that the fact that they did not rehire him is the most convincing proof that his inability to work was due to his illness. x x x x.
>
> x x x x
>
> **Finally, we find the pronouncement that Dumadag's non-hiring by the petitioners as the most convincing proof of his illness or disability without basis. There is no evidence on record showing that he sought re-employment with the petitioners or that it was a** matter **of course for the**

[61] Supra note 51.
[62] Id. at 446.
[63] See *Abosta Shipmanagement Corporation v. Delos Reyes, supra* note 50.
[64] 712 Phil. 507 (2013).

> **petitioners to re-hire him after the expiration of his contract. Neither is there evidence on Dumadag's claim that he applied with other manning agencies, but was turned down due to his illness.**[65] (Emphasis supplied)

Considering the foregoing premises, and "[i]n the absence of any disability after [San Juan's] temporary total disability was addressed, any further discussion of [permanent total disability], [its] existence, distinctions and consequences, becomes a surplusage that serves no useful purpose."[66]

San Juan is entitled to the balance of his sickness allowance.

Section 20(B)(3) of the 2000 POEA-SEC provides that:

> 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.

Clearly, a seafarer's sickness allowance is computed from the time he signed-off from the vessel for medical treatment until he is declared medically fit to work or his final medical disability has been assessed by the company-designated physician. In this case, it is undisputed that San Juan signed off from the vessel on January 23, 2010 and was declared fit to work on April 20, 2010 and April 30, 2010 by the company-designated physicians, or after an interval of 97 days. Considering that San Juan was paid his sickness allowance for only 89 days, then he is entitled to receive additional sickness allowance of eight more days. Moreover, the additional sickness allowance shall earn interest at the rate of six percent (6%) per *annum* from the date of finality of this Decision until fully paid.

WHEREFORE, the instant Petition is **GRANTED**. The December 11, 2012 Decision and June 6, 2013 Resolution of the Court of Appeals in CA-G.R. No. SP No. 121634 are **REVERSED** and **SET ASIDE**. The May 26, 2011 Decision and July 15, 2011 Resolution of the NLRC, which dismissed respondent Almario C. San Juan's complaint for payment of permanent total disability benefits, sickness allowance, damages and attorney's fees are **REINSTATED and AFFIRMED** with **MODIFICATION** in that respondent San Juan is entitled to additional sickness allowance of eight more days, which shall earn interest at the rate of six percent (6%) per *annum* from the date of finality of this Decision until fully paid.

This case is **REMANDED** to the Labor Arbiter for the computation of respondent San Juan's additional sickness allowance.

---

[65] Id. at 514-523. Emphasis supplied.

[66] *Vergara v. Hammonia Maritime Services*, supra note 42 at 913.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

ATTESTATION

I attest 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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

DIOSDADO M. PERALTA
Chief Justice