



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

SUPREME COURT OF THE PHILIPPINES  
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**EDGAR L. TORILLOS,**  
*Petitioner,*

**G.R. No. 215904**

- versus -

**EASTGATE MARITIME  
 CORPORATION, F.J. LINES,  
 INC., PANAMA, and  
 EMMANUEL L. REGIO,**  
*Respondents.*

X ----- X

**EASTGATE MARITIME  
 CORPORATION, F.J. LINES,  
 INC., PANAMA, and  
 EMMANUEL L. REGIO,**  
*Petitioners,*

**G.R. No. 216165**

Present:

**BERSAMIN, C.J.,  
 DEL CASTILLO,  
 JARDELEZA,  
 GESMUNDO, and  
 CARANDANG, JJ.**

- versus -

**EDGAR L. TORILLOS,**  
*Respondent.*

Promulgated:  
**JAN 10 2019**

X ----- X *[Signature]*

**DECISION**

**DEL CASTILLO, J.:**

Before the Court are two consolidated Petitions for Review on *Certiorari*,<sup>1</sup> docketed as G.R. Nos. 215904 and 216165, both seeking the reversal of the April 1, 2014 Decision<sup>2</sup> and December 15, 2014 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 130976, which awarded Edgar L. Torillos (Torillos) permanent and total disability benefits in the amount of US\$60,000.00 and attorney's fees of US\$6,000.00. *Mu*

<sup>1</sup> *Rollo* (G.R. No. 215904, Vol. I), pp. 30-64; *Rollo* (G.R. No. 216165, Vol. I), pp. 56-94.

<sup>2</sup> *Id.* at 68-81; *id.* at 98-111; penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam (retired Supreme Court Associate Justice) and Priscilla J. Baltazar-Padilla.

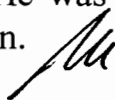
<sup>3</sup> *Id.* at 83-87; *id.* at 113-117.

### *Antecedent Facts*

For a period of 15 years, Eastgate Maritime Corporation (Eastgate), for and on behalf of its foreign principal, F.J. Lines, Inc., Panama, continuously hired Torillos under various contracts. His last contract of employment<sup>4</sup> dated November 3, 2010 on board the vessel MV Corona Lions as Chief Cook was duly approved by the Philippine Overseas Employment Administration (POEA) and was covered by the International Bargaining Forum All Japan Seamen's Union/Associated Marine Officers' and Seamen's Union of the Philippines-International Mariners Management Association of Japan (IBF JSU/AMOSUP-IMMAJ) Collective Bargaining Agreement (CBA).<sup>5</sup> Torillos underwent the requisite Pre-Employment Medical Examination (PEME) and was found fit for sea duty.<sup>6</sup>

Torillos boarded the vessel on December 4, 2010. Sometime in November 2011, while in the performance of his duties, Torillos experienced pain in his right leg radiating to his lower extremities. He reported the matter to the Master of the vessel who, in turn, brought him to a hospital in Reihoku, Japan on November 14, 2011. There, he was diagnosed to be suffering from urinary stone in his right urinary tract and was prescribed pain reliever drugs.<sup>7</sup> Due to persistent back and leg pains, he was again taken to a hospital in Newcastle, England on December 16, 2011 where the doctor recommended his repatriation for further management and treatment.<sup>8</sup>

Upon arrival in Manila on December 20, 2011, Torillos was referred to the company-designated physicians of NGC Medical Specialist Clinic, Inc., headed by Dr. Nicomedes G. Cruz (Dr. Cruz), for medical evaluation, examination and treatment. He was seen by a urology specialist who recommended Magnetic Resonance Imaging (MRI) of his lumbrosacral spine. The MRI conducted on February 9, 2012 revealed that Torillos was suffering from *Lumbar Spondylosis; L4-L5 Diffuse Bulge with Resultant Bilateral Neural Foraminal Stenosis; L5-S1 Diffuse Disc Bulge with Radial Tear; and L5-S1 Disc Desiccation*.<sup>9</sup> Upon recommendation of an orthopedic specialist, Torillos underwent knee X-ray on March 5, 2012, which showed degenerative changes on his left knee.<sup>10</sup> Thus, Torillos was referred to and evaluated by a rehabilitation specialist.<sup>11</sup> He was advised to undergo physical therapy to address his medical condition.



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<sup>4</sup> Id. at 112 and 219; id. at 232 and 305.

<sup>5</sup> Id. at 113-150 and 229-265; id. at 233-270 and 306-351.

<sup>6</sup> Id. at 151-152; id. at 271-272.

<sup>7</sup> Medical Report dated November 14, 2011, id. at 267; id. at 353.

<sup>8</sup> Medical Report dated December 16, 2011, id. at 153-155 and 269; id. at 273-275 and 355.

<sup>9</sup> Radiography Report dated February 9, 2012, id. at 157; id. at 277.

<sup>10</sup> Radiography Report dated March 5, 2012, id. at 158; id. at 278.

<sup>11</sup> Medical Report dated February 13, 2012, March 5, 2012 and March 12, 2012, id. at 276-278; id. at 362-364.

On April 19, 2012, Dr. Cruz issued a Medical Report with the following findings:

1. Lumbar spondylosis is a disorder in which discs and vertebrae degenerate. With aging, the bone of the spine overgrows and narrows the spinal canal.
2. It is degenerative in nature and most likely pre-existing.
3. The estimated length of further treatment is 2-4 weeks.
4. The estimated cost of further treatment is P 5,000.00.
5. The interim disability grading under the POEA schedule of disabilities is Grade 8 – moderate rigidity or two thirds (2/3) loss of motion or lifting power of the trunk.<sup>12</sup>

Torillos continued with his physical therapy as well as occupational therapy with the company-designated physicians. However, despite continued therapy sessions, he filed on May 8, 2012 a complaint<sup>13</sup> with the National Labor Relations Commission (NLRC) against Eastgate for payment of permanent total disability benefits, medical expenses, sickness allowance, damages and attorney's fees.

On July 9, 2012, Torillos consulted an independent orthopedic surgeon, Dr. Marcelino T. Cadag (Dr. Cadag), who declared him unfit for sea duty with the following diagnosis and findings:

Diagnosis: Lumbar Spondylosis; Neural Foraminal Stenosis, L4-L5;  
Degenerative Disc Disease, L5-S1

Given the amount of pain he is experiencing on his lower back and legs, and the associated weakness of his toe flexors, which is essential in the gait cycle, I advise the patient against heavy manual labor, especially lifting heavy objects. In my professional opinion, it would take at least 6 months of regular physiotherapy before the patient can have, if any, improvement in terms of pain relief and motor function of his toes. Physical therapy is further recommended. His present medical condition will prevent him from performing his duties as a seafarer (chief cook). He is therefore deemed not fit for sea duty, or work aboard any seafaring vessel.<sup>14</sup>

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<sup>12</sup> Id. at 284; id. at 370.

<sup>13</sup> *Rollo* (G.R. No. 215904, Vol. I), pp. 88-89.

<sup>14</sup> Id. at 161; *rollo* (G.R. No. 216165, Vol. I), p. 281.

***Proceedings before the Labor Arbiter***

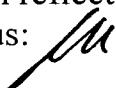
In his position paper, Torillos claimed for permanent total disability benefits in the sum of US\$118,800.00 under the CBA since, according to him, his illness was a result of an accident that occurred while he was performing his duties as chief cook. He narrated that sometime in October 2011, he fell down on the floor after losing balance while carrying a sack of rice weighing 25 kilos. This caused his work-related injury that has rendered him incapable of returning to his sea duties, as confirmed and attested by the medical findings of his own physician, Dr. Cadag.

Eastgate, on the other hand, denied Torillos' entitlement to permanent total disability benefits under the CBA as Torillos' condition was not a result of an accident to be entitled to the benefits thereunder. Neither is Torillos entitled to the maximum disability benefits under the POEA-SEC since his condition was diagnosed to be pre-existing and degenerative by Dr. Cruz who made an extensive evaluation of his condition. At the most, Torillos is only entitled to the benefits corresponding to Grade 8 disability under the POEA-SEC, as assessed by Dr. Cruz.

In a Decision<sup>15</sup> dated October 29, 2012, the Labor Arbiter found Torillos entitled to permanent total disability benefits under the CBA amounting to US\$118,800.00. The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, respondents CORDIAL SHIPPING, INC. and CAPT. DEVER BESANA are hereby directed to pay jointly and severally complainant ANANIAS F. DANAY the amount of ONE HUNDRED EIGHTEEN THOUSAND AND EIGHT HUNDRED US DOLLARS (US\$118,800.00) representing permanent total disability benefits, or its peso equivalent at the time of actual payment.

SO ORDERED.<sup>16</sup>

Eastgate appealed to the NLRC. In its Memorandum of Appeal,<sup>17</sup> Eastgate, among others, emphasized that the case was decided based on facts and evidence pertaining to another case as revealed by the Labor Arbiter's erroneous citation of the parties' names in the dispositive portion of the decision. Subsequently, the Labor Arbiter corrected the disparity by issuing a new Decision<sup>18</sup> dated January 3, 2013, which reflected the correct names of the parties in the decretal portion thereof. Thus: 

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<sup>15</sup> Id. at 311-316; id. at 470-475; penned by Labor Arbiter Corazon C. Borbolla.

<sup>16</sup> Id. at 316; id. at 475.

<sup>17</sup> Id. at 317-354; id. at 430-465.

<sup>18</sup> Id. at 357-362; *rollo* (G.R. No. 216165, Vol. II), pp. 563-568; penned by Labor Arbiter Corazon C. Borbolla.

WHEREFORE, foregoing premises considered, respondents EASTGATE MARITIME CORPORATION and/or EMMANUEL L. REGIO are hereby directed to pay jointly and severally complainant EDGAR L. TORILLOS the amount of ONE HUNDRED EIGHTEEN THOUSAND AND EIGHT HUNDRED US DOLLARS (US\$118,800.00) representing permanent total disability benefits, or its peso equivalent at the time of actual payment.

SO ORDERED.<sup>19</sup>

### *Proceedings before the National Labor Relations Commission*

From the Labor Arbiter's Decision dated January 3, 2013, Torillos filed a Memorandum of Partial Appeal<sup>20</sup> with the NLRC, questioning the Labor Arbiter's failure to award him attorney's fees.

In its Comment,<sup>21</sup> Eastgate moved for the denial of Torillos' partial appeal, contending that it was filed out of time. It argued that the period for filing the appeal should be reckoned from the date of receipt of the October 29, 2012 Decision and not from the date of receipt of the January 3, 2013 Decision.

In a Decision<sup>22</sup> dated February 28, 2013, the NLRC dismissed Eastgate's appeal and found Torillos' appeal meritorious. The NLRC agreed with the Labor Arbiter that Torillos indeed suffered an accident, holding that "the suddenness of the injury as well as the nature of his work convinces us that his medical condition was caused by his having slipped and fallen while carrying heavy provisions on board the vessel." The NLRC further ruled that while lumbar spondylosis may be degenerative, such illness can be aggravated by the nature of the work of the seafarer, as what happened in the case of Torillos. The NLRC then awarded Torillos' claim for attorney's fees, ruling that Eastgate's refusal to settle the claims for disability compensation prompted Torillos to file a suit and incur expenses to protect his interest. It, thus, awarded Torillos permanent and total disability benefits in the amount of US\$118,800.00 as stipulated by the parties in the CBA plus attorney's fees, thus:

WHEREFORE, premises considered, Respondents appeal is hereby DISMISSED for lack of merit and the Decision of the Labor Arbiter dated October 29, 2012, as corrected under the Decision dated January 3, 2013 is AFFIRMED with MODIFICATION in that the respondents are further

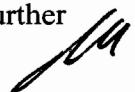
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<sup>19</sup> Id. at 362; id. at 568.

<sup>20</sup> Id. at 363-370; id at 574-597.

<sup>21</sup> *Rollo* (G.R. No. 216165, Vol. III), pp.1233-1248.

<sup>22</sup> *Rollo* (G.R. No. 215904, Vol. I), pp. 401-408; *rollo* (G.R. No. 216165, Vol. I), pp. 20-27; penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Alex A. Lopez.



ordered to pay the complainant attorney's fees in the amount equivalent to ten percent (10%) of the total monetary award or the amount of US\$11,880.00 in its Philippine peso equivalent at the time of payment.

SO ORDERED.<sup>23</sup>

Eastgate filed a motion for reconsideration.<sup>24</sup> This motion was, however, denied in the Resolution<sup>25</sup> dated April 30, 2013 of the NLRC.

### *Proceedings before the Court of Appeals*

Eastgate filed a Petition for *Certiorari* with Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction<sup>26</sup> to enjoin the enforcement of the NLRC Decision. Eastgate attributed grave abuse of discretion on the NLRC in awarding permanent total disability compensation in accordance with the provisions of the CBA despite absence of evidence that Torillos was involved in an accident and despite Dr. Cruz's medical opinion that Torillos' condition was degenerative and pre-existing, not to mention the Grade 8 disability assessment. Eastgate likewise asserted that Torillos was not entitled to attorney's fees for his failure to timely question the October 29, 2012 Decision of the Labor Arbiter denying such claim as well as absence of bad faith on their part.

The CA, on April 1, 2014, rendered a Decision<sup>27</sup> affirming, albeit with modification the Decision of the NLRC. It disallowed the award of US\$118,800.00 under the CBA and ruled that Torillos failed to prove that his disability was caused by an accident. The CA, nonetheless, held that Torillos can recover the maximum disability benefits under the POEA-SEC, finding that Torillos' disability was work-related because his job as chief cook has exposed him to heavy manual labor that caused back strain and injury to his lumbar vertebrae. The CA concluded that Torillos is considered permanently and totally disabled since his disability incapacitated him to perform his customary work as a cook. The CA then affirmed the award of attorney's fees. The dispositive portion of the CA Decision is as follows:

WHEREFORE, premises considered, the assailed Decision dated February 28, 2013 of the NLRC is AFFIRMED with MODIFICATION. The disability benefit awarded to private respondent Edgar L. Torillos is reduced to US\$60,000.00 in accordance with Section 20 (B)(6) and Section 32 of the 2000 Philippine Overseas Employment Administration Standard Terms and Conditions Governing the Employment of Seafarers on Board

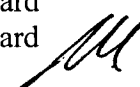
<sup>23</sup> Id. at 408; id. at 27.

<sup>24</sup> Id. at 409-423; *rollo* (G.R. No. 216165, Vol. III), pp. 1362-1373.

<sup>25</sup> Id. at 425-426; *rollo* (G.R. No. 216165, Vol. I), pp. 29-30.

<sup>26</sup> Id. at 428-470; *rollo* (G. R. No. 216165, Vol. II), pp. 726-765.

<sup>27</sup> Id. at 68-81; *Rollo* (G.R. No. 216165, Vol. I), pp. 98-111.



Ocean Going Vessels and the award of attorney's fees is correspondingly reduced to US\$6,000.00.

SO ORDERED.<sup>28</sup>

Both parties filed their respective motions for reconsideration. Eastgate maintained that Torillos' lumbar spondylosis was pre-existing that did not entitle him to permanent disability compensation. Torillos, for his part, sought reconsideration of the CA's reduction of the award of permanent total disability. He insisted that his disability was caused by an accident on board the vessel thus the CBA should have been applied.

Both motions for reconsideration were denied by the CA in its Resolution<sup>29</sup> of December 15, 2014. Hence, both Torillos and Eastgate filed separate Petitions for Review on *Certiorari*,<sup>30</sup> which were consolidated by this Court.

### Issues

#### G.R. No 215904 (Torillos' Petition)

- 1) WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN ITS APPRECIATION OF EVIDENCE IN REDUCING THE AWARD OF PERMANENT TOTAL DISABILITY BENEFITS TO SEAMAN TORILLOS.
- 2) WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED IN A WAY NOT IN ACCORD WITH THE DECISIONS OF THE HONORABLE SUPREME COURT IN NOT APPLYING THE RULING IN THE CASE OF *NFD INTERNATIONAL MANNING AGENTS, INC./BARBER SHIP MANAGEMENT LTD. V. ESMERALDO C. ILLESCAS* (G.R. NO. 183054, SEPTEMBER 29, 2010).
- 3) WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REDUCING THE AWARD OF ATTORNEY'S FEES IN FAVOR OF SEAMAN TORILLOS.<sup>31</sup>

Torillos insists that he is entitled to compensation under the parties' CBA because his illness was brought about by an accident that happened while in the performance of his duties on board the vessel. He further opines

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<sup>28</sup> Id. at 81; id. at 111.

<sup>29</sup> Id. at 83-87; id. at 113-117.

<sup>30</sup> Torillos' Petition, id. at 30-64; Eastgate's Petition, id. at 56-92.

<sup>31</sup> See Memorandum for Edgar L. Torillos, *rollo* (G.R. No. 215904, Vol. II), p. 780.

that assuming his condition was not the result of an accident, he is still entitled to permanent total disability compensation under the permanent medical unfitness clause of the CBA.

**G.R. No. 216165 (Eastgate's Petition)**

A.

IS [TORILLOS] ENTITLED TO TOTAL PERMANENT DISABILITY UNDER THE POEA-SEC?

B.

IS [TORILLOS] ENTITLED TO ATTORNEY'S FEES?<sup>32</sup>

Eastgate, on the other hand, argues that Torillos is not entitled to total and permanent disability benefits under the CBA which covers injuries arising only from accident. Neither is Torillos entitled to total and permanent disability compensation under the POEA-SEC since his illness was determined to be degenerative and pre-existing by the company-designated physician. Besides, even if Torillos' illness was considered work-related, he is only entitled to compensation equivalent to Grade 8 disability, as assessed by the company-designated physician, which was an accurate reflection of Torillos' degree of disability. Eastgate also contends that the CA erred in awarding attorney's fees. According to Eastgate, Torillos failed to timely question the decision of the Labor Arbiter denying such claim, and since there was no showing that it acted in bad faith, Torillos' claim for attorney's fees should be denied.

**Our Ruling**

We grant Eastgate's Petition. Torillos' Petition is without merit.

*The parties' CBA is inapplicable.*

Torillos based his claim for total and permanent disability benefits under the CBA. He maintained that his disability was caused by an accident that happened on board the vessel while performing his duties as chief cook.

We are not convinced as there was no evidence to show that Torillos met an accident on board the vessel that caused his injury. There was no accident report or any medical report issued indicating that Torillos figured in an accident while on board. Moreover, the Medical Report<sup>33</sup> dated December

<sup>32</sup> See Eastgate's Memorandum of Arguments, *rollo* (G.R. No. 216165, Vol. III), p. 1569.

<sup>33</sup> *Rollo* (G.R. No. 215904, Vol. I), pp. 153-155 and 269; *rollo* (G.R. No. 216165, Vol. I), pp. 273-275 and 355.



16, 2011 issued by the physician who attended Torillos in Newcastle, England did not mention that his injury was caused by an accident on board but instead noted that the primary cause of the injury was: “*Pain occurred at his right leg up to his pelvis during standing for a long period of time.*” Hence, Torillos’ claim that he met an accident on board was based on pure allegations. It is basic that Torillos must 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.<sup>34</sup>

Torillos’ reliance on the Court’s ruling in *NFD Int’l Manning Agents, Inc./Barber Ship Mgmt. Ltd. v. Illescas*<sup>35</sup> is misplaced. In the *Illescas* case, the Court held that Illescas’ disability, while not caused by an accident, was still compensable under the CBA as the CBA contained a permanent medical unfitness clause which stated that a seafarer who becomes disabled *as a result of any injury* shall be entitled to compensation. This is not the case here. As aptly observed by the CA, there was no similar provision in the IBF JSU/AMOSUP-IMMAJ, which is the CBA effective at the time of Torillos’ employment with Eastgate. The grant of disability benefits under the IBF JSU/AMOSUP-IMMAJ CBA is confined only to “*xxx accident whilst in the employment of the Company regardless of fault, including accidents occurring while travelling to or from the ship, and whose ability to work as a seafarer is reduced as a result thereof, but excluding permanent disability due to willful acts, x x x*”.<sup>36</sup> As discussed, Torillos failed to prove by substantial evidence that his disability was caused by an accident, hence, there is no basis in awarding him disability benefits under the CBA.

As we find the CBA inapplicable, Torillos’ 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 Eastgate.

*Torillos suffers from a work-related and compensable illness.*

Eastgate, anchors its claim against the compensability of the illness of Torillos on the finding of Dr. Cruz in his Medical Report<sup>37</sup> dated April 19, 2012, that Torillos’ condition is degenerative and pre-existing. This argument is untenable. Such medical report did not make any categorical declaration and definite conclusion that Torillos’ medical condition is not work-related. Dr. Cruz merely opined that the illness, lumbar spondylosis, is “*most likely pre-existing*”. Dr. Cruz even gave an interim disability assessment of Grade

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<sup>34</sup> *North Sea Marine Services Corporation v. Enriquez*, G.R. No. 201806, August 14, 2017, 837 SCRA 98, 108.

<sup>35</sup> 646 Phil. 244 (2010).

<sup>36</sup> See IBF JSU/AMOSUP-IMMAJ CBA, *rollo* (G.R. No. 215914, Vol. I), p. 128.

<sup>37</sup> *Id.* at 284.

8 – moderate rigidity of two thirds (2/3) loss of motion or lifting power of the trunk under the POEA schedule of disabilities. If at all, this interim assessment bolstered the fact that Torillos suffered a work-related illness.

Moreover, the Labor Arbiter based his finding that Torillos' illness is work-related on the PEME conducted on Torillos which found him fit to work. The NLRC affirmed this finding by holding that his illness was aggravated by his work as chief cook whose duties involved heavy manual labor such as carrying the heavy provisions of the ship, preparation and serving of all meals for the entire crew of the vessel, cleaning of dining, kitchen and work areas and of utensils. It further ruled that while Torillos' lumbar spondylosis may be degenerative, there was sufficient basis to rule that his condition was aggravated by the nature of his work. The CA then fully concurred with this and ultimately ruled that there was a reasonable connection between Torillos' illness and the nature of his job, which aggravated any pre-existing condition Torillos might have. The Court is not inclined to depart from these findings of the Labor Arbiter, the NLRC, and the CA. "[W]here the factual findings of the labor tribunals or agencies conform to, and are affirmed by the CA, the same are accorded respect and finality and are binding upon this Court."<sup>38</sup> We sustain the uniform findings of the Labor Arbiter, the NLRC, and the CA that Torillos' illness is work-related and compensable.

*Torillos' complaint for total and permanent disability benefits was premature.*

As aforementioned, Torillos' entitlement to disability benefits is governed not by the parties' CBA but by the POEA-SEC and relevant labor laws.

Article 192(c)(1) of the Labor Code provides that:

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

x x x x



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<sup>38</sup> *Superior Packaging Corp. v. Balagsay*, 697 Phil. 62, 68-69 (2012).

Meanwhile, Rule X, Section 2 of the Amended Rules on Employees Compensation provides:

RULE X  
Temporary Total Disability

x x x x

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 anytime 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.

Thus, the company-designated physician must arrive at a definite assessment of the seafarer's fitness to work or degree of disability within the period of 120 days, which was further extended to 240 days.<sup>39</sup> In *Vergara v. Hammonia Maritime Services, Inc.*,<sup>40</sup> the Court pronounced that a temporary total disability becomes permanent when so declared by the company-designated physician within the period allowed, or upon expiration of the maximum 240-day medical treatment period in case of absence of a declaration of fitness or permanent disability. In the case of *C.F. Sharp Crew Management, Inc. v. Taok*,<sup>41</sup> a seafarer may have basis to pursue an action for total and permanent disability benefits in any of the following conditions:

- (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;

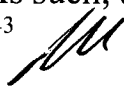


<sup>39</sup> *Centennial Transmarine, Inc., v. Quiambao*, 763 Phil. 411, 426 (2015).

<sup>40</sup> 588 Phil. 895 (2008).

<sup>41</sup> 691 Phil. 521 (2012).

- (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 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.<sup>42</sup>

Upon his repatriation on December 19, 2011, Torillos was given medical attention by the company-designated physicians. He was subjected to rigorous medical examinations, was prescribed medications and was put on therapy to address his condition. On April 19, 2012, Dr. Cruz issued a medical opinion stating, among others, that Torillos' lumbar spondylosis will require further treatment. As such, he gave an interim assessment of Grade 8. Thereafter, Torillos continuously received medical treatment from the company-designated physicians. However, on May 8, 2012, or 141 days since repatriation, Torillos filed a complaint for total and permanent disability benefits. Evidently, it was premature for him at this time to invoke his claim for total and permanent disability inasmuch as the 240-day period had not yet lapsed. At the time he filed his complaint, he was still under temporary total disability. Instead of continuing his treatment which is still within the 240-day period allowed for the company-designated physician to evaluate his condition, he filed a case for total and permanent disability benefits despite the absence of a definite finding from the company-designated physician. He was armed only with the interim assessment of the company-designated physician which did not give him the cause of action for his claim. It was only after the filing of such complaint or on July 9, 2012 that he sought the opinion of his own physician, Dr. Cadag. As such, the complaint should have been dismissed for lack of cause of action.<sup>43</sup> 

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<sup>42</sup> Id. at 538-539.

<sup>43</sup> *TSM Shipping Phils., Inc. v. Patiño*, G.R. No. 210289, March 20, 2017, 821 SCRA 70, 84-85.

From the foregoing, Torillos had no cause of action for total and permanent disability claim. At most, he is only qualified to claim partial permanent disability benefits equivalent to Grade 8 disability rating under the POEA-SEC, as reflected in Dr. Cruz' last assessment report.

*Torillos is not entitled to attorney's fees.*

In labor cases, attorney's fees are awarded when there is unlawful withholding of wages or benefits due,<sup>44</sup> forcing the employee to litigate.<sup>45</sup> In the present case, there was no unlawful withholding of benefits to speak of. As discussed, Torillos filed a case against Eastgate while he was still undergoing treatment and without yet a final disability assessment from the company-designated physician. His act was premature which stripped him of entitlement to attorney's fees.

Besides, Torillos was already barred from claiming attorney's fees for his failure to timely file an appeal from the October 29, 2012 Decision of the Labor Arbiter which did not award attorney's fees in his favor. In his Memorandum of Partial Appeal, Torillos alleged that he timely filed his appeal within the prescriptive period from his receipt of the January 3, 2013 Decision of the Labor Arbiter. However, the reglementary period should be counted from the receipt of the October 29, 2012 Decision and not from the January 3, 2013 Decision. The January 3, 2013 Decision was only an amendment to the October 29, 2012 Decision to correct a mere clerical error, *i.e.*, to correct the names of the parties in the dispositive portion of the decision, and thus, was not a new judgment.<sup>46</sup> As such, the period for filing the appeal should still be counted from the receipt of the original judgment.<sup>47</sup>

**WHEREFORE**, the assailed April 1, 2014 Decision and December 15, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 130976 are **REVERSED** and **SET ASIDE**. A new judgment is rendered finding Edgar L. Torillos entitled to disability benefits corresponding only to Grade 8. Eastgate Maritime Corporation, F.J. Lines, Inc., Panama, and Emmanuel L. Regio are ordered to jointly and solidarily pay Edgar L. Torillos US\$16,795.00 (US\$50,000.00 x 33.59%) or its equivalent amount in Philippine currency at the time of payment.

<sup>44</sup> *G.J.T. Rebuilders Machine Shop v. Ambos*, 752 Phil. 166, 183-184 (2015).

<sup>45</sup> *Montierro v. Rickmers Marine Agency Phils., Inc.*, 750 Phil. 937, 948 (2015).

<sup>46</sup> *De Grano v. Lacaba*, 607 Phil. 122, 130 (2009).


<sup>47</sup> *Id.*

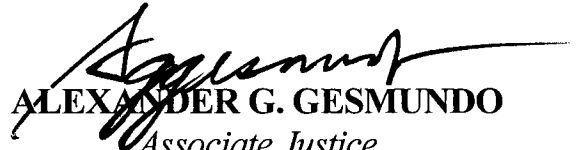
**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
*Chief Justice*

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

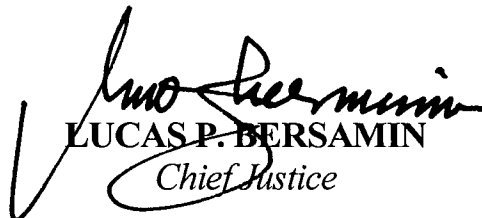
  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**ROSMAR D. CARANDANG**  
*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.



  
**LUCAS P. BERSAMIN**  
*Chief Justice*