



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **11 March 2020** which reads as follows:*

“G.R. No. 246895 (*United Philippine Lines, Inc., Carnival Cruise Lines and/or Eduardo San Juan v. Arman Salvacion Maquiso*). — This is a petition for review on *certiorari*¹ taken under Rule 45 of the Rules of Court seeking to nullify the Decision² dated January 23, 2019 and Resolution³ dated May 7, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 156025.

Factual Antecedents

Arman Salvacion Maquiso (respondent) is a seafarer employed as a team headwaiter on board the vessel of United Philippine Lines, Inc. of foreign employer Carnival Cruise Lines (petitioners).⁴ According to him, sometime in the first week of January 21, 2016, while cleaning the kitchen area, his eyes were accidentally splashed with bleach.⁵ Later that day, as he continued his work, his right eye was hit by ground coffee. The next day his eyes become swollen and blurred in vision. Upon consultation with the ship doctor, he was initially diagnosed with blepharitis or inflammation of the eyelids.⁶

On March 17, 2016, respondent sought medical attention in Mexico where Dr. Rafael Gerardo Romero Flores diagnosed him with Catarrhal Ulcer or the inflammation or redness which occurs near the limbus of the cornea.⁷ On April 2, 2016 he was medically repatriated, and on April 4,

¹ *Rollo*, pp. 26-53.

² *Id.* at 11-21; penned by Associate Justice Stephen Cruz with the concurrence of Associates Justices Pedro B. Corales and Gabriel T. Robeniol.

³ *Id.* at 23-24

⁴ *Id.* at 28.

⁵ *Id.* at 12.

⁶ *Id.*

⁷ *Id.*

2016, he requested a post-employment medical examination from his manning agency.⁸ Respondent was referred by petitioners to the company designated physician who, after examination, recommended that he undergo an eye surgery.⁹ He underwent follow-up treatment and further medication. According to respondent, when he asked for a copy of the company designated physician's assessment of his medical condition, the doctor refused on the ground that the medical reports are confidential and for petitioner's consumption only.¹⁰

This prompted the respondent to consult Dr. Eileen Faye Enrique-Olonan (Dr. Enrique-Olonan), an ophthalmologist, who found him to be suffering from a total permanent unfitness for sea duty.¹¹ He informed the petitioner in writing of the contrary findings of Dr. Enrique-Olonan and then requested for his case to be referred to a third independent doctor pursuant to the conflict resolution outlined in the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC). However, due to petitioners' failure to comply with the request, respondent filed a complaint for payment of total and permanent disability benefits, moral and exemplary damages as well as attorney's fees before the Labor Arbiter (LA).¹²

Ruling of the LA

On December 21, 2017, the LA promulgated a decision finding the respondent entitled to permanent partial disability adjudging the petitioners jointly and severally liable to pay the respondent the sum of US\$10,075.00 or its peso equivalent at the time of payment, plus 10% attorney's fees.¹³

Although the petitioners failed to refer the case to a third doctor, the LA did not take this against it as it interpreted section 20.A.3 of POEA-SEC as an option for an alternative course dispute settlement.¹⁴ Moreover, considering that the Ophthalmological report indicated that the respondent's left eye is normal and that the blurring of vision is on his right eye only, the LA found that the disability cannot be considered a Grade 1 disability involving the total and permanent loss of vision of both eyes. Accordingly, the LA ruled that the respondent is entitled to a disability allowance equivalent to 20.15% of the base amount of US\$50,000.00, or permanent partial disability benefit of US\$10,075.00.¹⁵

Dissatisfied, both the petitioners and respondent appealed the decision before the National Labor Relations Commission (NLRC).

Ruling of the NLRC

⁸ *Rollo*, p. 13.
⁹ *Id.*
¹⁰ *Id.*
¹¹ *Id.*
¹² *Rollo*, p. 13.
¹³ *Id.* at 14.
¹⁴ *Id.* at 14-15.
¹⁵ *Id.* at 14.

On January 31, 2018, the NLRC promulgated a decision granting the petitioners' appeal and reversing the LA's decision.

The NLRC ruled that the respondent's decision to seek a second opinion seven months after the company designated physician found him fit to work is a mere afterthought made when he was not deployed for work.¹⁶ It considered the presumption of regularity of the assessment of the company-designated physician over the allegedly belated and subjective report of the respondent's own physician.¹⁷

Unfazed, the respondent filed a petition for *certiorari* to the CA.

Ruling of the CA

On January 23, 2019, the CA granted the petition, to wit:

WHEREFORE, premises considered, the petition is hereby **GRANTED**. Accordingly, the Decision dated January 31, 2018 and the Resolution dated March 28, 2018 of the National Labor Relations Commission – Sixth Division (NLRC) in NLRC LAC Case No. 01-000084-18-OFW [NLRC NCR CASE NO. (M)-08-12807-17] are **ANULLED and SET ASIDE**.

Private respondents United Philippine Lines, Inc. and Carnival Cruise Lines and/or Eduardo San Juan are held jointly and severally liable to petitioner Arman Salvacion Maquiso for the amounts of (a) US\$60,000.00 as total and permanent disability allowance, and (b) ten percent (10%) thereof as attorney's fees, at the prevailing rate of exchange at the time of payment. An interest of six percent (6%) per annum is likewise imposed upon the total monetary award reckoned from the date of finality of this Decision until full satisfaction thereof.

SO ORDERED. (Citations omitted.)¹⁸

Citing the case of *Carcedo v. Maine Marine Philippines, Inc.*,¹⁹ the CA ruled that upon the respondent's notification of his intention to resolve the conflicting medical reports by referring to a third doctor, the ship owner has the burden of initiating the process for the referral to a third doctor commonly agreed between the parties.²⁰ In light of the foregoing, the petitioners should be faulted for the non-referral of the case to a third doctor and the medical assessment of the company-designated physician cannot be considered binding. Moreover, the findings of the respondent's physician that he suffers from a permanent total disability resulting in a loss of earning capacity is clear. Thus, the respondent should be compensated accordingly.²¹

¹⁶ Id. at 15.

¹⁷ Id.

¹⁸ *Rollo*, p. 20.

¹⁹ 758 Phil. 166, April 15, 2015.

²⁰ *Rollo*, pp. 16-17.

²¹ Id. at 18-19.

The petitioners filed a motion for reconsideration but it was denied on May 7, 2019 for lack of merit.²²

Dissatisfied, the petitioners filed the instant petition.

The Issue

Whether or not the CA committed a reversible error in ruling that the respondent is entitled to a total and permanent disability benefit.

The Ruling of this Court

The petition is bereft of merit.

Clearly, the petitioners failed to present any factual and legal reason to warrant a reversal of the CA's decision.

We reiterated Our earlier pronouncement in *Germiniano Murillo v. Philippine Transmarine Carriers Inc.*,²³ that the referral to a third doctor is mandatory, and the party who fails to abide thereby would be in breach of the POEA-SEC. In that case, the employee's failure to express his intent to submit to a third doctor to resolve the conflicting medical findings of his own doctor and that of the company-designated physician made the assessment of the company-designated physician final and binding.

Moreover, in *Marlow Navigation Philippines Inc. v. Braulio Osias*,²⁴ We further elucidated the prescribed procedure in resolving conflicting medical findings in disability benefit claims by mentioning that after the employee expressed his intent to be examined by a third doctor, the employer carries the burden of initiating the process for the referral, to wit:

In *Carcedo*, the Court held that “[t]o 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.**” (Emphasis supplied.)²⁵

In this case, the respondent informed the petitioner of his chosen doctor's medical report, finding him permanently unfit to work as a seaman and contradicting the company-designated physician's opinion. He then

²² Id. at 23-24.

²³ 877 SCRA 558, August 15, 2018.

²⁴ 773 Phil. 428, November 23, 2015.

²⁵ Id. at 446.

expressed to the petitioners his intent to be subjected to further examination by a third doctor to finally determine his medical status. However, the petitioners refused to heed the respondent's written demand without giving any justification.

Evidently, the petitioners violated the POEA-SEC. Thus, the CA properly ruled that the findings of the company-designated physician cannot be automatically deemed conclusive and binding. Moreover, a perusal of the medical findings of the respondent's doctor is important in determining whether he suffers from a total and permanent disability. The Ophthalmological Report of the respondent's doctor reveals that his eye condition is serious, permanent and will prevent him from safely returning to his post as a seaman, to wit:

Diagnosis:

Optic Neuropathy secondary to Orbital Cellulitis, right eye.

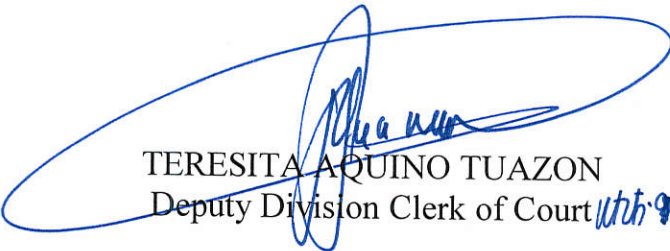
Comments:

Orbital Cellulitis is a serious condition affecting the soft tissues of the eye posterior to the orbital septum. Causes of which may include extension of an infection from sinuses or other periorbital structures such as the face, globe or lacrimal duct; direct inoculation of the orbit from trauma (such as the case of Mr. Marquiso). Prompt diagnosis and treatment is mandatory because grave consequences can occur due to its proximity to the brain and the vital nerves. In Mr. Marquiso's case, the delay in the treatment has affected his vision as he has developed optic neuropathy secondary to a prolonged elevated intraorbital pressure or the direct extension of infection to the optic nerve from the sphenoid sinus. The consequent poor vision is a permanent condition. He is therefore not advised to return to seaman duties because of his visual disability.²⁶

We agree with the CA that the foregoing Ophthalmological Report clearly provides that his visual disability is a permanent condition which made him unfit to return to seaman duties.

WHEREFORE, the petition is **DENIED**. The assailed Decision dated January 23, 2019 and Resolution dated May 7, 2019 of the Court of Appeals in CA-G.R. SP No. 156025 are **AFFIRMED**."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *11/15/23*

²⁶ Rollo, pp. 73-74.

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