Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 26, 2020**, *which reads as follows:*

"G.R. No. 247582 (*Oceanlink Maritime Inc., East Bulk Shipping SA., Jaime Portus, Capt. Ronald Mercado, and Reynaldo Eroy v. Eldefonso H. Facundo*). – Respondent's comment dated November 14, 2019 on the petition for review on *certiorari* is **NOTED**.

This is a Petition for Review on *Certiorari*[1] of the Decision[2] dated October 29, 2018 and the Resolution[3] dated May 24, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 153290.

Facts of the Case

The petition arose from a complaint for disability benefits, sickness allowance, backwages, separation pay, moral damages, exemplary damages, and attorney's fees that respondent Eldefonso Hamoy Facundo (Facundo) filed against Oceanlink Maritime Inc. (Oceanlink); East Bulk Shipping SA (East Bulk); Jaime C. Portus (Portus), president of Oceanlink; Captain Ronald Mercado (Mercado), ship captain of MV Brenda; and Reynaldo Eroy (Eroy), fleet manager of Oceanlink (collectively, petitioners).

Facundo was a seafarer employed as an oiler by Oceanlink, for and in behalf of its foreign principal, East Bulk. His contract of employment provided for a duration of nine months. He boarded the vessel on July 29, 2014. On December 5, 2014, Facundo's contract of employment was amended in order to reflect the collective bargaining agreement (CBA) entered into by Oceanlink and the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP), of which Facundo is a member. The CBA provides *inter alia* that a covered seafarer is entitled to immediate medical attention when required and to dental treatment of acute pain and emergencies.[4]

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1 *Rollo*, pp. 25-66.
2 Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Ramon M. Bato, Jr. and Ramon A. Cruz, concurring; id. at 14-21.
3 Id. at 22-23.
4 Id. at 15.

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On January 15, 2015, while on board MV Brenda, Facundo noted red and itchy rashes developing on his right foot. When the rashes began to swell, he reported the matter to Mercado and requested medical treatment upon their arrival in Liverpool. Mercado informed him that since his condition was not work-related, he was not entitled to medical treatment at the expense of Oceanlink. As his condition became unbearable, he sent photos of his rashes to his wife for the latter to seek medical advice in the Philippines. He purchased the prescribed medicine, as relayed to him by his wife, from his own pocket.[5]

Upon arrival in Egypt, Facundo again requested medical treatment from Mercado and even proposed that the expenses for the treatment be deducted from his salary. Mercado allegedly told him that treatment in a foreign country is allowed only if it is a matter of life and death. Feeling aggrieved, Facundo requested to be repatriated.[6]

On April 17, 2015, Facundo returned to the Philippines and underwent a post-employment medical examination with company-designated dermatologists. He was diagnosed to have "allergic contact dermatitis." On May 19, 2015, after several appointments with the dermatologists, he was issued a certificate of fitness for work. However, despite his fitness for sea duty, he was never re-deployed. Thus, on September 15, 2015, he consulted another dermatologist, Dr. Altonette Bautista-Ocampo (Dr. Ocampo), who opined that he was suffering from "atopic dermatitis" and was unfit to resume work as a seafarer.[7]

Due to the conflicting findings of the company-designated dermatologists and Dr. Ocampo, Facundo sought the assistance of AMOSUP in claiming disability benefits from Oceanlink. Grievance proceedings were conducted. He received two checks in the amounts of ₱22,619.45 and ₱29,757.56 as sickness allowance covering the period from April 17 to June 15, 2015. As the parties failed to reach a settlement with regard to Facundo's claim for disability benefits, the parties agreed to refer the matter to voluntary arbitration.[8]

However, instead of resorting to voluntary arbitration, Facundo proceeded to the National Labor Relations Commission (NLRC) National Capital Region arbitration branch. During one of the mandatory conferences, Oceanlink allegedly waived the issue of jurisdiction even if Facundo's employment was governed by a CBA. Due to the parties' failure to reach a settlement, Facundo filed a complaint for disability benefits and other monetary claims. Facundo alleged that his illness was an occupational disease as it was contracted while on board MV Brenda and due to his constant

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5 Id.
6 Id. at 15-16.
7 Id. at 16.
8 Id.

exposure to chemical agents in the ship.[9]

In a Decision dated February 24, 2017, Labor Arbiter Jose Antonio C. Ferrer dismissed the complaint after finding that the company-designated dermatologists' assessment was more credible as they spent more time evaluating and managing Facundo's illness unlike Dr. Ocampo's one-time physical examination. It was also pointed out that he consulted Dr. Ocampo more than four months after he had been declared fit to work by the company-designated dermatologists, during which period he may have been exposed to the allergens that triggered his medical condition.[10]

In a Decision dated May 31, 2017, the NLRC affirmed the findings of the Labor Arbiter. Facundo moved for reconsideration but the same was denied.[11]

In a Decision[12] dated October 29, 2018, the CA set aside the Decision and Resolution of the NLRC and directed the Labor Arbiter to refer the complaint of Facundo to voluntary arbitration. The CA held that the Labor Arbiter does not have jurisdiction over Facundo's claim because the main issue in this case involves the interpretation or implementation of the CBA, a subject matter that is within the jurisdiction of the grievance machinery and voluntary arbitration pursuant to Section 29 of Philippine Overseas Employment Administration Memorandum Circular No. 10, and Articles 217(c) and 261 of the Labor Code.[13] Although there was a supposed waiver of jurisdiction by the parties, the CA stated that jurisdiction is conferred by law and cannot be waived by agreement or acts of the parties. For the CA, it is the law that confers subject-matter jurisdiction to the voluntary arbitrators. Thus, the parties cannot deprive the voluntary arbitrators of their jurisdiction by mere agreement.[14]

Petitioners filed a motion for reconsideration arguing *inter alia* that the case should not be referred to voluntary arbitration as the parties were barred by the principle of estoppel by laches when they actively participated in the proceedings in the NLRC.[15] In a Resolution[16] dated May 24, 2019, the CA denied the motion of petitioners. The CA declared that jurisdiction over the subject matter is conferred by law and it is not within the courts, let alone the parties, to determine or conveniently set aside.[17]

In the present petition, petitioners claim that the issue of jurisdiction was only discussed *motu proprio* and for the first time in the Decision dated

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9 Id.
10 Id. at 17.
11 Id.
12 Supra note 2.
13 *Rollo*, pp. 18-20.
14 Id. at 20.
15 Id. at 81-82.
16 Id. at 22-23.
17 Id. at 23.

October 29, 2018 of the CA. Petitioners assert that to allow the referral of the present complaint to voluntary arbitration for a complete re-trial would undeniably secure unfair advantage in favor of Facundo to the prejudice of petitioners.[18] Petitioners further submit that the jurisdiction of the voluntary arbitrator cannot be invoked as the claim does not involve "unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement [nor] from the interpretation or enforcement of company personnel policies." Petitioners note that Facundo never made any claim under the CBA.[19]

In Facundo's Comment, he maintains that the CA was correct in ruling that the Labor Arbiter and NLRC had no jurisdiction over the case. Courts are not precluded from declaring that it has no jurisdiction over the case even if the parties do not raise the issue of jurisdiction.[20]Facundo further argues that the principle of estoppel finds no application in the present case.[21]

Issue

The issue to be resolved in this case is whether it is proper for the CA to refer Facundo's disability claim against petitioners to voluntary arbitration for a new trial, despite the fact that that the parties actively participated in the proceedings in the NLRC and never raised the issue of jurisdiction.

Ruling of the Court

After a judicious study of the case, We resolve to remand the case to the CA. The CA is directed to resolve the case on the merits.

The petition for *certiorari* arising from Facundo's complaint for disability benefits, sickness allowance and other monetary claims against petitioners should not have been referred to voluntary arbitration.

Admittedly, with respect to disputes involving claims of Filipino seafarers wherein the parties are covered by a CBA, the dispute or claim should be submitted to the jurisdiction of a voluntary arbitrator or panel of arbitrators.[22] It is only in the absence of a CBA that parties may opt to submit the dispute to either the NLRC or to voluntary arbitration.[23] There is no dispute that the claim arose out of Facundo's employment with Oceanlink and that their relationship is covered by a CBA with AMOSUP. Nonetheless, We find the referral of the case to voluntary arbitration, at this stage in the proceedings, improper.

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18 Id. at 41.
19 Id. at 41-42.
20 Id. at 117-119.
21 Id. at 119-121.
22 Articles 261 & 262 of the Labor Code; Section 29, POEA Memorandum Circular No. 10, Amended Standards and Conditions Governing Employment of Filipino Seafarers On-Board Ocean-Going Ships.
23 *Estate of Dulay v. Aboitiz Jebsen Maritime, Inc.*, 687 Phil. 153, 162 (2012).

The case of *Ace Navigation Co. Inc. v. Fernandez*[24] that the CA cited in justifying the referral of the case to voluntary arbitration does not involve the same facts as the present case. In *Ace Navigation Co. Inc. v. Fernandez*, the respondent immediately assailed the jurisdiction of the Labor Arbiter through a motion to dismiss that was denied by the Labor Arbiter. In the present case, it is noted that both Facundo and petitioners never assailed the jurisdiction of the NLRC. During one of the mandatory conferences, the parties waived the issue of jurisdiction even if Facundo's employment is governed by a CBA. The issue of jurisdiction was only discussed *motu proprio* and for the first time by the CA. Both parties actively participated in the proceedings in the NLRC. These factors, when taken as a whole, reveal the intention of the parties to mutually renounce their right to resort to voluntary arbitration under the CBA with AMOSUP.

To refer the dispute to voluntary arbitration, at this stage of the proceedings, would only unduly delay the resolution of the case. This is not in consonance with the objective of the State in giving preference for voluntary modes of dispute settlement. Referring the dispute to voluntary arbitration will no longer serve the purpose for which it was created, which is to promote the speedy and early resolution of labor disputes. Thus, We deem it appropriate to remand the case to the CA.

WHEREFORE, premises considered, the petition is hereby **REMANDED** to the Court of Appeals which is directed to resolve the petition on the merits.

SO ORDERED." (**Gaerlan, *J.*,** *on leave.*)

Very truly yours,

Misael DC Batt
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Division Clerk of Court
8/14/2020

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24 697 Phil. 250 (2012).

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