Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOSEPH MARTINEZ, *Petitioner,*	**G.R. No. 237373**
- versus -	Present:
OSG SHIP MANAGEMENT MANILA, INC. (SUBSTITUTED BY PACIFIC OCEAN MANNING, INC.), OSG SHIP MANAGEMENT (GR) LTD., MS. MA. CRISTINA H. GARCIA, *Respondents.*	PERLAS-BERNABE, *J.*, Chairperson, GESMUNDO,* INTING, DELOS SANTOS, and BALTAZAR-PADILLA, *JJ.*
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OSG SHIP MANAGEMENT MANILA, INC. (SUBSTITUTED BY PACIFIC OCEAN MANNING, INC.), OSG SHIP MANAGEMENT (GR) LTD., MS. MA. CRISTINA H. GARCIA, *Petitioners,*	**G.R. No. 237378**
- versus -	Promulgated:
JOSEPH MARTINEZ, *Respondent.*	29 JUL 2020
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D E C I S I O N

DELOS SANTOS, *J.*:

Before this Court are two consolidated Petitions for Review on

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* Designated as additional member in lieu of Associate Justice Ramon Paul L. Hernando per Raffle dated February 24, 2020.

Certiorari docketed as G.R. Nos. 237373[1] and 237378[2] which seek modification and reversal, respectively, of the Decision[3] dated 17 August 2017, and the Resolution[4] dated 6 February 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 145338. In the assailed Decision and Resolution, the CA sustained the ruling of the National Labor Relations Commission (NLRC) that Joseph Martinez (Martinez) is entitled to permanent and total disability benefits in the amount of $95,949.00 but deleted the award of sick wage allowance, medical and travel expenses, and attorney's fees.

Facts

Joseph Martinez was engaged by OSG Ship Management Manila, Inc., in behalf of its principal OSG Ship Management (GR) Ltd., as Chief Cook on board the vessel MT Overseas Antigmar for eight (8) months. He boarded the vessel on 5 December 2013.

During the first week of June 2014, Martinez complained of severe abdominal pain. He was referred to a doctor in Seoul, Korea and was diagnosed with Obstructed Descending Colon Cancer. He was repatriated on 16 June 2014 and was brought to Cardinal Santos Medical Center and at Marine Medical Services. After undergoing several medical procedures, Martinez was diagnosed to have Intestinal Obstruction Secondary to Well Differentiated Mucinous Adenocarcinoma, Descending Colon with Periocolic Involvement. In a medical report dated 26 June 2014, the company-designated doctors explained that the risk factors of Martinez' condition include age, diet rich in saturated fat, fatty acid and linoleic acid and genetic predisposition. They then opined that Martinez' illness is "likely not work-related". Martinez was then treated as an out-patient and underwent chemotherapy.

Meanwhile, on 16 June 2014, the management of MT Overseas Antigmar was transferred to Pacific Ocean Manning, Inc. (Pacific Ocean Manning) which executed an Affidavit of Assumption of Responsibility in favor of OSG Ship Management, Inc.[5]

On 17 November 2014, Martinez filed a complaint for total and permanent disability benefits, payment of sick wages for 130 days, reimbursement of medical and transportation expenses, moral and exemplary damages, and attorney's fees against OSG Ship Management Manila, Inc., OSG Ship Management (GR) Ltd., and Ms. Ma. Cristina H. Garcia

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1 Not attached to the *rollo*.
2 *Rollo* (G.R. No. 237378), pp. 34-60.
3 Penned by Associate Justice Mario V. Lopez (now a Member of this Court), with Associate Justices Remedios A. Salazar-Fernando and Ramon Paul L. Hernando (now a Member of this Court), concurring; id. at 15-24.
4 Id. at 26-30.
5 Id. at 17.

(collectively, OSG). Martinez claimed that his illness is work-related since his job is strenuous and stressful; the meals being served are lengthily frozen, salty and fatty; and in some cases, the water is substandard.

In its Position Paper, OSG, substituted by Pacific Ocean Manning, alleged that as declared by the company-designated physicians, Martinez' illness is not work-related. As such, the same is not compensable under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC). Furthermore, Pacific Ocean Manning claimed that Martinez is not entitled to damages and attorney's fees, and that he was given medical assistance and was fully paid of his sickness allowance.

On 14 January 2015, Martinez consulted Dr. Efren Vicaldo who declared that Martinez is unfit to resume work as seaman in any capacity and that his illness is work-aggravated or work-related. He submitted the said medical findings to the Labor Arbiter (LA). On the other hand, OSG and Pacific Ocean Manning submitted the Affidavit of Mervin Balane Daet (Daet), a Messman on MT Overseas Antigmar, who attested that the crew on board the said vessel was provided safe and healthful working conditions and adequate and nutritious food.

Labor Arbiter Ruling

On 7 April 2015, the LA rendered a Decision in favor of Martinez, the dispositive portion of which reads:

> WHEREFORE, premises considered, complainant's illness is deemed work-related and is considered to be permanent and total.
>
> Pacific Ocean Manning, Inc., OSG Shipmanagement Manila Inc., OSG Shipmanagement Manila, Inc. (sic) are hereby ORDERED to pay complainant a sum of US Dollars $95,949.00 or its peso equivalent at the time of payment, as permanent total disability benefits, a sum of US Dollars $5,240.00, or its peso equivalent as of the time of payment, as sick wage allowance, Php49,218.25 as medical and travel expenses reimbursement. The respondents are also ordered to pay the complainant attorney's fees equivalent to ten percent of the judgment award.
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> SO ORDERED.[6]

Hence, OSG and Pacific Ocean Manning appealed the above Decision to the NLRC.

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[6] Id. at 17-18.

NLRC Ruling

In its 14 December 2015 Decision, the NLRC affirmed the LA's Decision. OSG and Pacific Ocean Manning filed a motion for reconsideration but the same was denied in the NLRC 29 February 2016 Resolution. Thereafter, they went to the CA on a Petition for *Certiorari* under Rule 65 of the Rules of Court.[7]

On 4 August 2016, by virtue of a conditional satisfaction of judgment agreed by the parties, OSG paid the total amount of ₱5,181,389.00 to Martinez.

Court of Appeals Ruling

On 17 August 2017, the CA rendered the now assailed Decision which sustained the ruling of the NLRC that Martinez' illness is work-related and that he is entitled to permanent and total disability benefits. The CA ruled that the NLRC did not commit grave abuse of discretion since its factual finding that Martinez' illness is work-related is supported by substantial evidence. The CA, however, modified the Decision of the NLRC by deleting the award of sick wage allowance, medical and travel expenses, and attorney's fees. The CA decreed as follows:

> **FOR THESE REASONS**, the petition is **PARTLY GRANTED**. The December 14, 2015 Decision and February 29, 2016 Resolution of the National Labor Relations Commission is **MODIFIED** in that the award of sick wage allowance, medical and travel expenses, and attorney's fees are deleted.
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> **SO ORDERED**.[8]

Dissatisfied with the CA Decision, OSG and Pacific Ocean Manning filed a motion for reconsideration. Martinez also filed a motion for partial reconsideration in so far as the CA deleted the award of attorney's fees. He also maintained that the *certiorari* petition was mooted by virtue of a conditional settlement which would prevent OSG and Pacific Ocean Manning from taking back the judgment award previously granted by the labor tribunals, which was already paid and received by Martinez in full amount. The two motions for reconsideration were denied by the CA in a Resolution dated 6 February 2018.[9]

Thereafter, Martinez filed before the Court a Motion for an Extension

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7 Id. at 18.
8 Id. at 23.
9 Id. at 30.

of Time to File Petition Under Rule 45[10] which was docketed as G.R. No. 237373. On the other hand, OSG and Pacific Ocean Manning filed a Petition for Review on *Certiorari*[11] which was docketed as G.R. No. 237378. Both cases were accordingly consolidated.

In the Court's 18 June 2018 Resolution,[12] G.R. No. 237373 was declared closed and terminated after Martinez failed to file the intended petition. Hence, what remains now for resolution of the Court is the petition of OSG and Pacific Ocean Manning.

In their petition, OSG and Pacific Ocean Manning posed the sole issue, to wit:

> WHETHER OR NOT THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW IN AWARDING FULL AND PERMANENT DISABILITY BENEFITS, DISREGARDING THE MEDICAL FINDINGS OF THE COMPANY-DESIGNATED PHYSICIAN AND AWARDING FULL DISABILITY COMPENSATION UNDER THE POEA CONTRACT AND THE COLLECTIVE BARGAINING AGREEMENT (CBA).

In support of their petition, OSG and Pacific Ocean Manning argue, in summary, that Martinez failed to present substantial evidence that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions. On the contrary, OSG and Pacific Ocean Manning posit that the CA should have given evidentiary weight to the Affidavit of Messman Daet regarding the safe and healthful working condition of Martinez while on board the vessel and of the fact that the company-designated physicians found Martinez' illness as not work-related. It is also their position that Martinez has no cause of action against them at the time of the filing of his complaint. OSG and Pacific Ocean Manning seek the attention of the Court to the fact that Martinez immediately filed his labor complaint on 17 November 2014 without consulting first his private doctor and securing a medical certificate that he is totally and permanently disabled.

The Court's Ruling

The petition is not meritorious.

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[10] *Rollo* (G.R. No. 237373), pp. 3-5.
[11] Id. (G.R. No. 237378), at 34-60.
[12] Id. (G.R. No. 237373), at 12-13.

Pursuant to Section 20 (A) of the 2010 POEA-SEC,[13] the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract.

In this case, OSG and Pacific Ocean Manning argued that Martinez' illness, which is not listed as a disability under Section 32 of the POEA-SEC nor listed as an occupational disease under Section 32-A of the same rule, is not work-related since there is no causal connection between the nature of his employment and his illness. This, however, is a factual issue that is generally not reviewable in a petition under Rule 45 of the Rules of Court.[14]

A petition for review is limited to questions of law. The Court does not re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field. Factual findings of the NLRC, when affirmed by the CA, are generally conclusive on the Court.[15] Nonetheless, OSG and Pacific Ocean Manning present no compelling reason for the Court to deviate from this general rule.

It is, however, settled in this jurisdiction that this Court may examine the CA's Decision from the prism of whether the latter had correctly determined the presence or absence of grave abuse of discretion in the NLRC's Decision.[16] In this case, the Court finds no reversible error on the part of the CA when it declared that the NLRC did not commit grave abuse of discretion in affirming the ruling of the LA that Martinez' illness is work-related and compensable.

The CA correctly ruled that the findings of the LA, as affirmed by NLRC, that Martinez' colon cancer is work-related or work-aggravated is supported by substantial evidence while the certification by the company-designated doctors that Martinez' illness is "*likely not work-related*" is uncertain and incomplete, thus:

> We thus give credence to the Labor Arbiter's observation on Matinez' illness, to wit:
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> > In this case, the complainant was only 48 years old at the time that his illness was discovered and his medical history does not reveal any genetic predisposition to cancer. Thus, the risk factor left was diet rich in saturated fat, fatty acid and linoleic acid, which were all attendant in the

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[13] Since Martinez was hired in 2014, it is the 2010 POEA-SEC (Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships) under Philippine Overseas Employment Authority (POEA) Memorandum Circular No. 010-10 which is applicable in this case.

[14] *Menez v. Status Maritime Corporation*, G.R. No. 227523, August 29, 2018.

[15] *Monana v. MEC Global Shipmanagement and Manning Corporation*, 746 Phil. 736, 749 (2014).

[16] *Quebral v. Angbus Construction, Inc.*, 798 Phil. 179, 187 (2016).

> provisions on board the vessel. It bears to point out that the complainant has been with respondents since 1994. That prior deployment to his latest contract on board Overseas Antigmar as Chief Cook, he was found fit to work and fit for sea duty. That it was only when he was serving his contract on board Overseas Antigmar that he suffered abdominal pains and was thereafter diagnosed with Colon Cancer. Most of his adult life, was spent working under the employ of the respondents, on board their vessels, consuming provisions which mostly consists of high fat and red meat, coupled with his working conditions can be said to have played a vital role in aggravating his illness.
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> In refusing to pay total and permanent disability benefits, OSG and Pacific Ocean Manning relied on the certification of the company-designated doctor that Martinez' illness is "likely not work-related". This statement is inconclusive and there is no explanation on how the company physician made this opinion. At any rate, it can also be argued that Martinez' illness is "*likely work-related*". We must stress that to establish compensability of a non-occupational disease, reasonable proof of work-connection and not direct causal relation is required. Probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings. Accordingly, since Martinez has been working for OSG and Pacific Ocean Manning for almost twenty years and has been eating frozen, fatty and salty food during his employment, his illness was essentially work-related or work-aggravated. He is entitled to permanent and total disability benefit.[17]

The CA likewise properly explained why the claim of Messman Daet as to the working condition and healthful diet of the crewmen of MT Overseas Antigmar is given lesser credence than that of the Martinez' evidence, to wit:

> In this case, both parties, petitioners and private respondent, agree that the risk factor of colon cancer is "diet rich in saturated fat." Martinez claims that he has been working for OSG and Pacific Ocean Manning since 1994 and the meals served during this period were lengthily frozen, salty, fatty, and the water was substandard. This claim was refuted by Messman Mervin Balane Daet who stated that "the crew was provided safe and healthful working conditions and adequate and nutritious food." However, besides this general claim that the crew was given "adequate and nutritious food", Messman Daet did not give any details on what specific kinds of food were being served. On this score, between the conflicting statements of Martinez and Daet, We give more credence to Martinez' claim. This is consistent with the policy that in any controversy between a laborer and his master, doubts reasonably arising from the evidence are resolved in favor of the laborer. x x x[18]

There being no reversible error on the part of the CA in declaring that the NLRC did not commit grave abuse of discretion, the Court affirms the

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[17] *Rollo* (G.R. No. 237378), pp. 21-22. (Citations omitted)
[18] Id. at 21.

findings of the LA and the NLRC that Martinez' illness is work-related or work-aggravated and, therefore, compensable.

Further, the Court finds no merit in the contention of OSG and Pacific Ocean Manning that Martinez has no cause of action at the time of the filing of his complaint. Contrary to their position, Martinez need not have to consult and to secure a medical certification from his private doctor that he is totally and permanently disabled before he could file his complaint on 17 November 2014, which is 154 days from the time he was repatriated.

The Labor Code and the Amended Rules on Employees Compensation (AREC) provide that the seafarer is declared to be on *temporary total disability* during the 120-day period within which the seafarer is unable to work. However, a temporary total disability lasting continuously for more than 120 days, *except* as otherwise provided in the Rules, is considered as a *total and permanent disability*.[19]

The exception referred to above, as explained in *Talaroc v. Arpaphil Shipping Corporation*,[20] pertains to a situation when the sickness "*still requires medical attendance beyond the 120 days but not to exceed 240 days*" in which case the temporary total disability period is extended up to a maximum of 240 days.[21] Note, however, that for the company-designated physician to avail of the extended 240-day period, he must first perform some significant act to justify an extension (*e.g.*, that the illness still requires medical attendance beyond the initial 120 days but not to exceed 240 days or that the seafarer was uncooperative resulting in the extended period of treatment); otherwise, the seafarer's disability shall be conclusively presumed to be permanent and total.[22]

In this case, it is undisputed that Martinez was medically repatriated on 16 June 2014 and was admitted at the hospital the following day. On 26 June 2014, the company-designated doctors issued a medical report stating that Martinez was diagnosed to have Intestinal Obstruction Secondary to Well Differentiated Mucinous Adenocarcinoma, Descending Colon with Periocolic Involvement and that the same is "likely not work-related". He was then treated as an outpatient undergoing chemotherapy. Thereafter and until the filing of the labor complaint on 17 November 2014 or for a period of 154 days from the time he was repatriated, Martinez was not issued any medical certificate to show the company-designated doctor's final medical assessment on him. Neither is there a medical report that Martinez' illness is already treated or that it still requires medical attendance beyond the initial

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[19] *Talaroc v. Arpaphil Shipping Corporation*, 817 Phil. 598, 611 (2017), citing Article 198 (c) (1) of the Labor Code, and Section 2 (b), Rule VII of the AREC.

[20] Id.

[21] Id. at 611, citing *Vergara v. Hammonia Maritime Services, Inc.*, 588 Phil. 895, 911-912 (2008).

[22] Id. at 611-612, citing *Elburg Shipmanagement Phils., Inc. v. Quiogue, Jr.*, 765 Phil. 341, 361-362 (2015).

120 days. Necessarily, there was no point of extending the period because the disability suffered by the Martinez was permanent. Consequently, by operation of law, Martinez' illness is deemed permanent and total as of the date of the expiration of the 120-day period counted from his repatriation to the Philippines. Hence, by the time that Martinez filed his labor complaint on the 154th day from his repatriation, his illness is already deemed total and permanent. Coupled with the presumption that a seafarer's injury or illness during the term of his employment contract is work-related, which remained unrebutted by the incomplete and uncertain 26 June 2014 medical report of the company-designated doctor, Martinez certainly has a cause of action against OSG and Pacific Ocean Manning when he filed his complaint. He was under no obligation to consult with a physician of his choice under the given circumstances.

Finally, the Court rejects the argument of Martinez that the instant petition is rendered moot and academic by virtue of the fact that he had already received in full amount the judgment award granted by the LA through a conditional satisfaction of the judgment award.

It is worthy to note that the parties agreed into a conditional satisfaction of judgment award before the CA rendered its decision which deleted the award for sick wage allowance, medical and travel expenses, and attorney's fees. As correctly found by the CA, the nature and terms of their agreement (conditional satisfaction of the judgment award) are very clear in that the same is without prejudice to the final outcome of the petition for *certiorari* pending before the CA. Moreover, it is unrebutted that Martinez himself executed an affidavit of claimant in which he understood and agreed to return the amount should there be a reversal or modification of the decisions of the LA and the NLRC. In the absence of special circumstances that would warrant a departure from the rule, stipulations in a contract are binding as between the parties unless they are contrary to law, morals, good customs, public order or public policy.[23] Thus, the Court holds that the terms of the conditional satisfaction of judgment award are binding upon Martinez. As such, the filing of the *certiorari* petition and the decision of the CA was not rendered moot by the conditional settlement entered into by the parties which clearly indicated that it is subject to the outcome of the *certiorari* petition. The same can be said to the instant petition for review which is simply an appeal and continuation of the *certiorari* petition. In addition and as stated earlier, the parties' conditional settlement is subject to the reversal or modification of the judgment of the LA and the NLRC, which includes the modification of said judgment by the Court. Accordingly, nothing would prevent OSG and Pacific Ocean Manning from demanding from Martinez to return or restitute, in accordance with existing rules, any excess amount that they have paid by virtue of the conditional satisfaction of the judgment award. Needless to say, to allow Martinez to retain the excess payment would be tantamount to unjust enrichment at the expense of OSG and

[23] NEW CIVIL CODE, Article 1306.

Pacific Ocean Manning whose entitlement thereto is further buttressed by, and in line with, Section 14, Rule XI of the 2011 NLRC Rules of Procedure which provides:

> EFFECT OF REVERSAL OF EXECUTED JUDGMENT. – Where the executed judgment is **totally or partially reversed or annulled by the Court of Appeals or the Supreme Court,** the Labor Arbiter shall, **on motion**, issue such orders of **restitution of the executed award,** except wages paid during reinstatement pending appeal.[24]

WHEREFORE, premises considered, the Court resolves to **DENY** the petition filed by OSG Ship Management Manila, Inc., Pacific Ocean Manning, Inc., OSG Ship Management (GR) Ltd., and Ms. Ma. Cristina H. Garcia in G.R. No. 237378. The Decision of the Court of Appeals dated 17 August 2017 and the Resolution dated 6 February 2018 in CA-G.R. SP No. 145338 are **AFFIRMED**.

SO ORDERED.

EDGARDO L. DELOS SANTOS
Associate Justice

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[24] See *Hernandez v. Magsaysay Maritime Corporation*, G.R. No. 226103, January 24, 2018, citing *Philippine Transmarine Carriers, Inc. v. Legaspi*, 710 Phil. 838, 849-850 (2013). (Emphasis supplied)

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

ALEXANDER G. GESMUNDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

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, Second Division

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