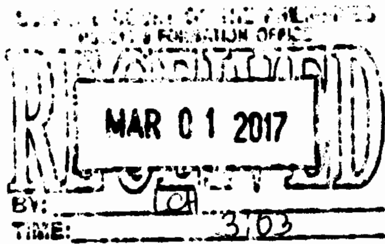

Republic of the Philippines
**Supreme Court**
Manila

Third Division
FEB 2 8 2017

**THIRD DIVISION**

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|---|---|
| **STATUS MARITIME CORPORATION, and ADMIBROS SHIPMANAGEMENT CO., LTD.,** Petitioners, | **G.R. No. 198968** |
| | Present: |
| | VELASCO, JR., *J., Chairperson,* BERSAMIN, REYES, JARDELEZA, and CAGUIOA,* *JJ.* |
| - versus - | |
| | Promulgated: |
| **RODRIGO C. DOCTOLERO,** Respondent. | January 18, 2017 |

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**DECISION**

**BERSAMIN, *J.*:**

Petitioners Status Maritime Corporation (Status Maritime) and Admibros Shipmanagement Co., Ltd. (Admibros) appeal to assail the March 17, 2011 decision[1] and October 6, 2011 resolution[2] promulgated in CA-G.R. SP No. 113206, whereby the Court of Appeals (CA), modifying the decision[3] rendered on August 18, 2009 by the National Labor Relations Commission (NLRC), awarded permanent and total disability benefits in favor of respondent Rodrigo C. Doctolero.

## Antecedents

On July 28, 2006, Status Maritime, acting for and in behalf of Admibros as its principal, hired Doctolero as Chief Officer on board the

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* Designated as additional Member of the Third Division per Special Order No. 2417 dated January 4, 2017.

[1] *Rollo*, pp. 28-36; penned by Associate Justice Ricardo R. Rosario, with Associate Justice Hakim S. Abdulwahid (retired) and Associate Justice Samuel H. Gaerlan concurring.

[2] Id. at 38-41; penned by Associate Justice Rosario, with Associate Justice Marlene Gonzales-Sison and Associate Justice Gaerlan concurring.

[3] Id. at 281-287; penned by Presiding Commissioner Benedicto R. Palacol, with Commissioner Isabel G. Panganiban-Ortiguerra and Commissioner Nieves Vivar-De Castro concurring.

vessel M/V Dimitris Manios II for a period of nine months with a basic monthly salary of US$1,250.00. Doctolero underwent the required Pre-Employment Medical Examination (PEME) prior to his embarkation, and was declared "fit to work." He boarded the vessel in August 2006.

On October 28, 2006, while M/V Dimitris Manios II was in Mexico, Doctolero experienced chest and abdominal pains. He was brought to a medical clinic in Vera Cruz, Mexico. When no clear diagnosis could be made, he resumed work on board the vessel. In the evening of the same day, however, he was brought to Clinic San Luis, also in Mexico, because he again complained of abdominal pains. He was then diagnosed to be suffering from "Esophago-Gastritis-Duodenitis." The attending physician, Dr. Jorge Hernandez Bustos, recommended his repatriation.

On October 29, 2006, Doctolero again experienced difficulty of breathing while waiting for his return flight schedule. He informed the ship's agent of his condition and requested assistance, but the latter extended no assistance to him. Thus, he, by himself, went to the Hospitales Nacionales, where he was admitted. He paid the hospital bills amounting to MXN$7,032.17 on his own.[4] Upon discharge, he sought assistance from the Philippine Embassy until his repatriation to the Philippines in the second week of November 2006.[5]

On November 16, 2006, the company-designated physician evaluated Doctolero's condition and found normal upper gastro-intestinal endoscopy and negative H. pylori test.[6] Doctolero was recommended for several other tests that were, however, not administered.

On January 22, 2007, on account of the illness suffered while working on board the M/V Dimitris Manios II, Doctolero filed in the NLRC his complaint demanding payment of total and permanent disability benefits, reimbursement of medical and hospital expenses, sickwage allowance, moral and exemplary damages, and legal interest on his claims.[7]

**Ruling of the Labor Arbiter**

On July 18, 2008, Labor Arbiter Pablo C. Espiritu, Jr. rendered his decision dismissing the complaint for lack of merit.[8] He opined that the initial diagnosis of gastritis-duodenitis was not one of those listed as an

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4 Id. at 30.
5 Id. at 166.
6 Id.
7 Id. at 163-B.
8 Id. at 171-177.

occupational illness in the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC); and that no evidence was adduced to establish that such illness had been caused or aggravated by the working conditions on board the vessel.[9]

## Decision of the NLRC

On appeal, the NLRC affirmed the Labor Arbiter's finding no basis for the award of sickness allowance and disability pay but held the petitioners liable to reimburse to Doctolero the cost of his medical treatment in the amount of $7,040.65. It ratiocinated and disposed as follows:

> x x x x The illness was clearly suffered during the term of his contract and insofar as work relatedness is concerned, there being no contrary evidence adduced by the respondents-appellees of the non-existence of causative circumstances of complainant-appellant's illness, We are constrained to rule in the latter's favor. The latter finding is likewise supported by the consistent ruling that it is not required that the employment be the sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits incident thereto. It is enough that the employment had contributed, even in a small measure, to the development of the disease.
>
> That said, complainant-appellant is thus entitled to reimbursement of his medical expenses in Veracruz, Mexico equivalent to $7,040.65. (Records, p. 28) However, with respect to his claims for sickness allowance and disability pay, there being no declaration as yet of complainant-appellant's fitness to return to work or degree of disability made by the company designated physician, entitlement thereto has not attached. We take note of the fact that the initial evaluation of the company designated physician was that the Gastroscopy was normal and after such evaluation there had been no other assessment on his condition made. We also note that there had been no other assessment made by any other doctor of complainant-appellant's condition that would controvert the findings of the company designated physician and that this complaint has been filed before the 120 days period given to company designated physician to make a fitness to return to work assessment or a disability grading in the latter case. It is clear therefore that the instant case has been prematurely filed and that the cause of action for disability claims has not arisen.
>
> Moreover, to this date there had been no evidence showing that complainant-appellant is permanently and totally disabled.
>
> **WHEREFORE,** premises considered, judgment is hereby rendered finding no basis for award of sickness allowance and disability pay. However, respondents-appellees are hereby ordered to reimburse complainant-appellant the cost of his medical treatment in the amount of

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[9] Id.

> $7,040.65. Accordingly, the decision of the Labor Arbiter dated July 18, 2008 is hereby **MODIFIED**.
>
> **SO ORDERED.**[10]

Doctolero moved for reconsideration, but the NLRC denied his motion for reconsideration on January 8, 2010.[11]

## Decision of the CA

By petition for *certiorari*, Doctolero assailed the adverse decision of the NLRC in the CA, insisting that the NLRC thereby committed grave abuse of discretion amounting to lack or excess of jurisdiction.

On March 17, 2011,[12] the CA granted the petition for *certiorari*, and declared Doctolero's illness as work-related because it had been contracted by him while on board the vessel; that he had undergone rigid pre-employment medical examinations by virtue of which the company physicians had declared him fit to work; that he was entitled to disability benefits because he had been unable to perform his customary job for more than 120 days; and that he was further entitled to moral and exemplary damages because the petitioners had failed to shoulder the expenses he had incurred while he was awaiting his repatriation.

The CA decision disposed thusly:

> **WHEREFORE,** judgment is hereby rendered **MODIFYING** the assailed Decision of public respondent in that private respondents are ordered to pay petitioner the following:
>
> 1. US $60,000.00 or its equivalent in Philippine peso at the time of actual payment, as permanent and total disability benefits;
> 2. Moral and exemplary damages in the amount of ₱100,000.00.
> 3. US$7,040.65 by way of reimbursement of the cost of medical treatment in Mexico City;
> 4. Legal interest on the monetary awards to be computed from the time of this decision up to the actual payment thereof;
> 5. Sick wage allowance equivalent to 120 days of his basic salary;
> 6. Attorney's fees equivalent to 10% of the total awards.
>
> **SO ORDERED.**[13]

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[10] Id. at 168-170.
[11] Id. at 185-187.
[12] Supra note 1.
[13] Id. at 35.

Upon the petitioners' motion for reconsideration, the CA amended the dispositive portion of its decision through the resolution promulgated on October 6, 2011, to wit:

> **WHEREFORE,** judgment is hereby rendered **MODIFYING** the assailed Decision of public respondent in that private respondents are ordered to pay petitioner the following:
>
> 1. US $60,000.00 or its equivalent in Philippine peso at the time of actual payment, as permanent and total disability benefits;
> 2. Moral and exemplary damages in the amount of P100,000.00;
> 3. **$7,040.65 (MXN) by way of reimbursement of the cost of medical treatment in Mexico City;**
> 4. Legal interest on the monetary awards to be computed from the time of this decision up to the actual payment thereof;
> 5. Sick wage allowance equivalent to 120 days of his basic salary;
> 6. Attorney's fees equivalent to 10% of the total awards.
>
> SO ORDERED.
>
> In all other respects, the motion for reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED.**[14]

## Issues

In this appeal, the petitioners argue that the PEME did not reveal the real state of health of Doctolero; that he did not show that his illness had occurred during the term of his contract and had been work-related or had been aggravated by the conditions of his work; and that his illness was not listed either as a disability or as an occupational disease under Section 32 and Section 32-A, respectively, of the 2000 POEA-SEC.

Doctolero counters that the CA did not err because its assailed decision was based on law and jurisprudence.

It their reply, the petitioners stress that there was no finding by an independent physician that Doctolero's illness had been work-related or had been aggravated by his working conditions; and that Doctolero's complaint was premature for being filed before the expiration of the 120-day period of

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[14] Supra note 2.

treatment by the company-designated physician and in the absence of the disability grading.

Based on the foregoing, the issue to be determined is whether Doctolero was entitled to claim permanent and total disability benefits from the petitioners.

**Ruling of the Court**

The appeal is meritorious.

Permanent and total disability is defined in Article 198(c)(1) of the *Labor Code*, to wit:

> x 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

The relevant rule is Section 2, Rule X, of the *Rules and Regulations implementing Book IV of the Labor Code*, which states:

> *Period of entitlement.* – (a) The income benefit shall be paid beginning 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.

These provisions have to be read together with the POEA-SEC, whose Section 20(3) states:

> 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.[15]

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[15] *Vergara v. Hammonia Maritime Services, Inc.*, G.R. No. 172933, October 6, 2008, 567 SCRA 610, 627.

e

Applying the aforementioned provisions, we find the filing of the respondent's claim to be premature.

In order for a seafarer's claim for total and permanent disability benefits to prosper, any of the following conditions should be present:

> (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 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 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 said periods. [16]

Although the degree and extent of the seafarer's disability constitute a factual question that this Court should not re-assess on review, the conflict between the factual findings of the Labor Arbiter and NLRC, on one hand, and those of the CA, on the other hand, compel the Court to dwell on the factual matters and to re-examine the evidence adduced by the parties.[17]

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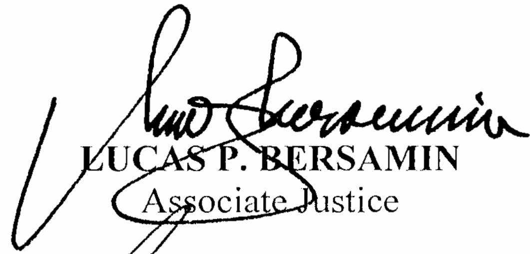
[16] *C.F. Sharp Crew Management, Inc. v. Taok*, G.R. No. 193679, July 18, 2012 677 SCRA 296, 315.

[17] *Madrigalejos v. Geminilou Trucking Service,* G.R. No. 179174, December 24, 2008, 575 SCRA 570, 573.

Upon its re-evaluation of the records, therefore, the Court concludes that the CA's findings in favor of entitling Doctolero to permanent and total disability benefits were erroneous. While the fact that Doctolero suffered the disability during the term of his contract was undisputed, it was evident that he had filed his complaint for disability benefits *before the company-designated physician could determine the nature and extent of his disability, or before even the lapse of the initial 120-day period.* With Doctolero still undergoing further tests, the company-designated physician had no occasion to determine the nature and extent of his disability upon which to base Doctolero's "fit to work" certification or disability grading. Consequently, the petitioners correctly argued that Doctolero had no cause of action for disability pay and sickness allowance at the time of the filing of his complaint.

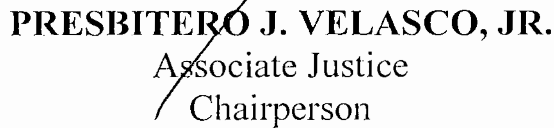
**WHEREFORE,** the Court **REVERSES** and **SETS ASIDE** the March 17, 2011 decision and October 6, 2011 resolution of the Court of Appeals awarding permanent disability benefits to respondent Rodrigo C. Doctolero; **REINSTATES** the decision rendered on August 18, 2009 by the National Labor Relations Commission; and **ORDERS** the respondent to pay the costs of suit.

**SO ORDERED.**



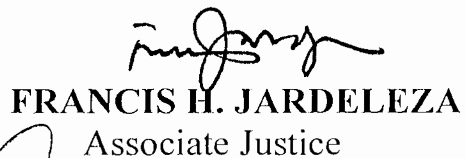
**LUCAS P. BERSAMIN**
Associate Justice

**WE CONCUR:**

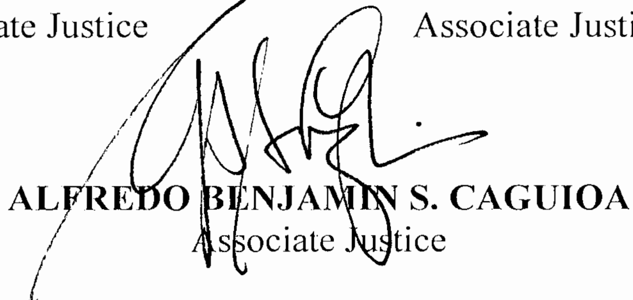


**PRESBITERO J. VELASCO, JR.**
Associate Justice
Chairperson

**BIENVENIDO L. REYES**
Associate Justice



**FRANCIS H. JARDELEZA**
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**
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.

**PRESBITERO J. VELASCO, JR.**
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.

**MARIA LOURDES P. A. SERENO**
Chief Justice