



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 July 2020** which reads as follows:*

“**G.R. No. 251236** (*Career Philippines Shipmanagement, Inc./Columbia Columbia Shipmanagement Limited/Sampaguita D. Marave v. Bernardo D. Joyel*). – The instant petition is **DISMISSED** for failure of petitioners Career Philippines Shipmanagement, Inc., Columbia Columbia Shipmanagement Limited, and Sampaguita D. Marave (petitioners) to attach the material portions of the record as would support the petition as required under Section 4 in relation to Section 5, Rule 45 of the Rules of Court, to wit:

Section 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, **and such material portions of the record as would support the petition**; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (2a)

Section 5. Dismissal or denial of petition. — **The failure of the petitioner to comply with any of the foregoing requirements** regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and **the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Emphasis and underscoring supplied)

A perusal of the petition reveals that the petitioners failed to attach copies of the material portions of the record that are crucial to their petition such as the copies of the decision of the minutes of the mandatory conference before the Labor Arbiter (LA), decision of the LA, decision of the National Labor Relations Commission (NLRC), resolution of NLRC denying petitioners' motion for reconsideration, among other records referred to in the present petition and that would support the petitioners' case. Such technical infirmity warrants the immediate dismissal of the Rule 45 petition.

At any rate, after a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the Decision¹ dated 27 September 2019 and Resolution² dated 6 January 2020 of the Court of Appeals in CA-G.R. SP No. 147530 for failure of petitioners to show that the CA committed any reversible error in dismissing petitioners' Petition for *Certiorari* under Rule 65 and affirming the decision of the National Labor Relations Commission (NLRC), granting private respondent Bernardo Joyel's (Bernardo) total and permanent disability benefits, sickness allowance, and attorney's fees.

The Court disagrees with petitioners' contention that the fact that Bernardo was repatriated on account of expiration of his contract and not for any medical concern belies his argument that he suffered a work-related illness. The Court ruled in *Teekay Shipping Philippines v. Jarin*³ that the employer cannot escape liability on the mere fact that the seafarer finished his contract and was not medically repatriated. Likewise in *Magat v. Interorient Maritime Enterprises, Inc.*,⁴ the Court granted disability benefits to a seafarer who was able to complete his contract upon showing that he acquired or developed his illness during the term of his contract.

The petitioners argue that Bernardo's illness is not compensable since he failed to show by substantial evidence that his illness is work-related and that it occurred while onboard. These, however, are factual issues that are not reviewable in a petition under Rule 45 of the Rules of Court.⁵

Elementary is the principle that the Court is not a trier of facts, and this applies with greater force in labor cases; only errors of law, are generally reviewed in petitions for review on *certiorari* criticizing decisions of the CA. Factual questions are for the labor tribunal to resolve. Moreover, findings of fact of quasi-judicial bodies like the NLRC, as affirmed by the

¹ *Rollo*, pp. 73-93.

² *Id.* at 94-95.

³ 737 Phil. 102 (2014).

⁴ G.R. No. 232892, April 4, 2018.

⁵ *Menez v. Status Maritime Corporation*, G.R. No. 227523, August 29, 2018.

CA, are generally conclusive on this Court. Accordingly, the instant petition must be dismissed outright as it raises a question of fact.⁶

The Court is not oblivious to the settled rule that it 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. In this case, however, 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 NLRC and LA that petitioner's illness is work-related and that he is entitled to disability benefits.

The Court also rejects the petitioners' contention that Bernardo is not entitled to the disability benefits under the Philippine Overseas Employment Agency-Standard Employment Contract (POEA-SEC) for failure to comply with the three-day reportorial requirement under Section 20(A) (3) of the 2010 POEA-SEC. The CA clearly found that the records would show that Bernardo reported to Career's office within three days from repatriation and requested for a referral to the company-designated physician. However, Career ignored his request. Petitioners cannot insist that this finding is contrary to the admission of Bernardo during the mandatory conference that he did not request for medical examination. The Court notes that petitioners failed to attach to the present petition a copy of the minutes of said conference so as to enable the Court to determine whether Bernardo's statement therein is expressly and clearly indicated as a stipulation of fact. In the absence of clear proof that Bernardo's statement is a stipulation of fact, the same can only be considered as statements, actions or agreements made by a party during conciliation proceedings before the LA which shall be treated as privileged communication and shall not be used as evidence, as explained in *Pentagon Steel Corporation v. Court of Appeals*.⁷

As to sickness allowance, the Court cannot rule on whether or not the CA is correct in finding that NLRC did not commit grave abuse of discretion in awarding the same to Bernardo in the absence of a copy of the NLRC decision attached to the instant petition.

The Court likewise finds no error on the part of the CA in affirming the award of attorney's fees to Bernardo for being forced to litigate to protect his valid claim. Case law states that where an employee is forced to litigate and incur expenses to protect his right and interest, he is entitled to an award of attorney's fees equivalent to ten percent (10%) of the award.⁸

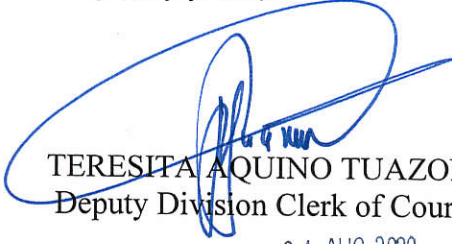
⁶ *Guerrero v. Philippine Transmarine Carriers, Inc.*, G.R. No. 222523, October 3, 2018.

⁷ 608 Phil. 682 (2009).

⁸ *Atienza v. Orophil Shipping International Co., Inc.*, 815 Phil. 480 (2017).

SO ORDERED.” (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,



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Deputy Division Clerk of Court *Utch 8/24*
24 AUG 2020

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