Republic of the Philippines
Supreme Court
Manila

**SECOND DIVISION**

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| **ORIENTAL SHIPMANAGEMENT CO., INC., ROSENDO C. HERRERA, and BENNET SHIPPING SA LIBERIA,** Petitioners, | **G.R. No. 177103** |
| | Present: |
| | BRION, *J.*,* *Acting Chairperson,* |
| - versus - | DEL CASTILLO, |
| | PEREZ, |
| | PERLAS-BERNABE, and |
| | LEONEN,** *JJ.* |
| | Promulgated: |
| **RAINERIO N. NAZAL,** Respondent. | JUN 0 3 2013 |

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**DECISION**

**BRION, *J.*:**

We resolve the petition for review on *certiorari*[1] filed by the petitioners, seeking to nullify the resolutions dated December 19, 2006[2] and March 23, 2007[3] rendered by the Court of Appeals (*CA*) in CA-G.R. SP No. 97180.

## The Antecedents

On November 15, 2000, respondent Rainerio N. Nazal entered into a twelve-month contract of employment[4] as cook with Oriental

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* In lieu of Associate Justice Antonio T. Carpio per Special Order No. 1460 dated May 29, 2013.

** Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio, per Special Order No. 1461 dated May 29, 2013.

1 *Rollo*, pp. 8-37; filed pursuant to Rule 45 of the Rules of Court.

2 Penned by Associate Justice Fernanda Lampas Peralta, and concurred in by Associate Justices Bienvenido L. Reyes (now a member of this Court) and Myrna Dimaranan-Vidal; id. at 44.

3 Id. at 86.

4 Id. at 168.

Shipmanagement Co., Inc. (*agency*) for its principal, Bennet Shipping SA Liberia (collectively, *petitioners*). He was to receive US$500.00 plus other benefits. He had two earlier contracts with the petitioners – from January 25, 1999 to September 14, 1999 and from February 12, 2000 to August 2000.

Nazal boarded the vessel *M/V Rover* on November 22, 2000 and finished his contract on November 24, 2001. Allegedly after his arrival in Manila, he reported to one Ding Colorado of the agency about his health condition and work experience on board *M/V Rover*. He claimed that the agency referred him to a company-designated physician who found him to be suffering from high blood pressure and diabetes. He then asked for compensation and medical assistance, but the agency denied his request. The agency allegedly advised him not to work again.

On May 18, 2002, Nazal consulted Dr. Virginia Nazal, an internal medicine and diabetes specialist, of Clinica Nazal. Almost a year after, or on May 3, 2003, he underwent a medical examination at Clinica Nazal, which included a random blood sugar test. His blood sugar registered at 339. On September 8, 2004, more than a year later, Dr. Nazal certified Nazal to be unfit to work as a seaman.

Claiming that his condition was getting worse, Nazal went to the Philippine Heart Center on September 29, 2004 and underwent medical examination and treatment under the care of Dr. Efren Vicaldo, an internist-cardiologist. Dr. Vicaldo diagnosed Nazal's condition as: **hypertension, uncontrolled; diabetes mellitus, uncontrolled; impediment grade X (20.15 %)**; and unfit to resume work as a seaman in any capacity.[5]

Thereafter, Nazal demanded permanent total disability compensation from the petitioners, contending that his ailments developed during his employment with the petitioners and while he was performing his duties. As his demand went unheeded, he filed the present complaint.

The agency, for itself and for its principal, argued that Nazal's claim is barred by *laches* as it was filed at least two years and ten (10) months late; even if it were otherwise, it still cannot prosper because of Nazal's failure to submit himself to a post-employment medical examination by a company-designated physician within three working days upon his disembarkation, as mandated by the Philippine Overseas Employment Administration Standard

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[5] Id. at 177.

Employment Contract (*POEA-SEC*). This resulted, it added, in the forfeiture of his right to claim disability benefits.

**The Compulsory Arbitration Rulings**

In his decision[6] dated May 25, 2005, Labor Arbiter (*LA*) Eduardo J. Carpio dismissed the complaint, principally on the ground that Nazal failed to comply with the mandatory reporting requirement under his standard employment contract. LA Carpio gave no credence to Nazal's claim that he reported to Colorado, as there was no proof presented in this respect. LA Carpio pointed out that while Nazal might have been complaining about his health condition while on board the vessel, there was no evidence showing that he reported his ailments to the vessel's authorities.

Nazal appealed from LA Carpio's decision. On September 20, 2005, the National Labor Relations Commission (*NLRC*) rendered a decision[7] in Nazal's favor. It set aside LA Carpio's ruling and awarded Nazal US$10,075.00 as partial disability benefit, plus 5% attorney's fees. The NLRC declared that contrary to LA Carpio's conclusion, Nazal presented substantial proof that his ailments had been contracted during his employment with the petitioners. The NLRC relied on Dr. Vicaldo's disability rating of Grade X (20.15%) pursuant to the POEA-SEC.

Both parties moved for partial reconsideration. For his part, Nazal pleaded with the NLRC that he be granted permanent total disability benefits as he would not be able to resume his employment as a seaman anymore. On the other hand, the agency insisted that *laches* barred Nazal's claim, but in any event, he failed to comply with the mandatory post-employment reporting requirement under the POEA-SEC.[8] Further, it stressed that a higher degree of proof should have been required by the NLRC because of the badges of suspicion/fraud apparent in the case. It explained in this regard that Nazal submitted proof that he had taken another overseas employment after he disembarked from the vessel *M/V Rover*.

By a resolution dated November 30, 2005,[9] the NLRC denied both motions, stressing that they were based on the same arguments presented to the LA. The agency filed an urgent motion for reconsideration on grounds of newly-discovered evidence and pending motions/incidents. It argued that the new evidence showed that Nazal had entered into another overseas

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6 Id. at 123-127.
7 Id. at 128-136.
8 Schedule of Disability Allowances.
9 *Rollo*, pp. 137-143.

contract after his stint with the petitioners for which reason, his disability could not have been due to his work on board the vessel *M/V Rover*.

The NLRC denied the motion in its resolution[10] of October 31, 2006, declaring as "superfluous and immaterial" the claimed newly-discovered evidence. It emphasized that Nazal's subsequent voyage did not prove that he had not been sick or that his sickness had not been aggravated by his work on board the vessel *M/V Rover*. Thereafter, the agency elevated the case to the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

## The CA Decision

The CA dismissed the petition outright for having been filed out of time.[11] It pointed out that the assailed NLRC resolution of October 31, 2006 – the subject of the petition – is a ruling on the agency's urgent motion for reconsideration of the NLRC resolution dated November 30, 2005 which, in turn, denied the agency's motion for reconsideration of the NLRC decision of September 30, 2005. The second motion for reconsideration filed by the same party, the CA declared, is expressly prohibited by Section 2, Rule 52 of the Rules of Court. The agency moved for reconsideration, but the CA denied the motion.[12]

## The Petition

The agency now asks the Court to set aside the CA resolutions, contending that the appellate court committed an error of law and gravely abused its discretion in holding that it filed a prohibited second motion for reconsideration with the NLRC. It argues that the two motions alluded to dealt with different subject matters; the first one (dated November 11, 2005) dealt with the merits of the case while the second one (dated March 21, 2006) was based on newly-discovered evidence.

The NLRC denied the agency's urgent motion for reconsideration in its resolution of October 31, 2006, copy of which the agency allegedly received on November 15, 2006.[13] It maintains that it had until January 10, 2007 to file the petition for *certiorari* which it did on time, or on December 11, 2006.

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10 Id. at 145-149.
11 *Supra* note 2.
12 *Supra* note 3.
13 Id. at 49.

The agency bewails the CA's resort to technicalities to "thwart substantial justice," insisting that it has proven the merits of its case. It submits that Nazal's claim may even be fraudulent considering that he filed it after he disembarked from the vessel *M/V Rover* and, subsequently, obtained employment with another vessel and kept silent about it. It argues that the fact that Nazal was able to secure a subsequent posting shows that he was fit and able when he left his employment with the petitioners. In any event, it adds that Nazal is disqualified from claiming disability benefits because of his failure to comply with the mandatory post-employment medical examination under the POEA-SEC.

**The Case for Nazal and Related Incidents**

On July 4, 2007, the Court required Nazal to comment on the petition.[14] Instead of filing his comment, however, Nazal petitioned[15] the CA to convert his "disability to permanent total disability" (G.R. No. SP No. 104246). This prompted the petitioners to file a "motion for leave to file manifestation and admission of manifestation"[16] in relation with the petition for conversion. The petitioners submitted a brief chronology of events showing that Nazal appeared to be "forum shopping" with the filing of the petition with the CA, subsequent to the filing of the present case. The CA, for its part, promptly dismissed the petition.

By a Resolution dated June 22, 2009,[17] the Court granted the petitioners' motion and required Nazal to comment. Nazal submitted his comment on the motion on July 23, 2009[18] under his own signature. It appeared that he no longer had legal representation at the time. He informed the Court in this respect that he sought the help of RODCO Consultancy and Maritime Services Corporation (*RODCO*) for legal and financial assisstance regarding his claim for disability benefits.

RODCO provided Nazal with a lawyer – under contract with the firm for one year – in the person of Atty. Oliver C. Castro. Atty. Castro's contract with RODCO expired on February 13, 2005, prompting him to withdraw as Nazal's counsel; RODCO then sent Attys. Constantino Reyes and Rodrigo Ceniza to represent Nazal. They were also under contract with RODCO and their sevices were terminated as of July 2007, around which time, the partial disability award to Nazal was enforced,[19] as evidenced by a

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14 Id. at 289-290.
15 Id. at 345-347.
16 Id. at 335-336.
17 Id. at 378.
18 Id. 380-386.
19 Id. at 390; LA Carpio's order to release garnished amount.

notice of garnishment[20] and acknowledgment receipt by the NLRC of the garnished amount.[21]

Nazal contends in the same comment that he is entitled not only to partial disability benefits but to permanent total disability compensation since he had already lost the capacity to earn a living. This is the reason, he tells the Court, why even without a counsel, he petitioned the CA for the conversion of his disability to permanent total disability. He submits that his receipt of the amount of ₱484,046.31, corresponding to the award of partial disability benefits, does not bar him from demanding what is legally due him and that it cannot be considered as forum shopping.

In a Resolution dated August 17, 2009,[22] the Court noted Nazal's comment on the forum shopping issue. Nazal died in October 2010,[23] without any comment on the petitioners' appeal having been filed.

## Our Ruling

### *The procedural issue*

We first resolve the procedural issue of whether the CA erred in dismissing the petition for *certiorari* for having been filed out of time. Obviously, the appellate court counted the 60-day period for the filing of the petition[24] from March 13, 2006,[25] the date the petitioners claimed they received a copy of the NLRC resolution (dated November 30, 2005) denying their partial motion for reconsideration (first motion) and not from November 15, 2006,[26] the day they received the NLRC resolution (dated October 31, 2006) denying their urgent motion for reconsideration (second motion).

The CA considered the agency's urgent motion for reconsideration as a second motion for reconsideration which is prohibited under Section 2, Rule 52 of the Rules of Court[27] and also under Section 15, Rule VII of the NLRC Revised Rules of Procedure.[28] The agency takes exception to the CA

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20 Id. at 389.
21 Id. at 391.
22 Id. at 400.
23 Id. at 429.
24 RULES OF COURT, Rule 65, Section 4.
25 *Rollo*, p. 49.
26 Ibid.
27 SEC. 2. *Second motion for reconsideration.* – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. [italics supplied]
28 SECTION 15. MOTIONS FOR RECONSIDERATION. – Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or

ruling, reiterating its position that the two motions dealt with two different subject matters, the first motion addressed the merits of the case and the urgent motion was filed on the ground of newly-discovered evidence. It adds that even the NLRC did not consider the urgent motion for reconsideration a prohibited pleading.

**We find merit in the agency's argument.** Technicalities of law and procedure are interpreted very liberally and are not considered controlling in labor cases. Article 221 of the Labor Code provides that "[i]n any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process."

In keeping with the spirit and intent of the law and in the interest of fairplay, we find it both necessary and appropriate to review the present labor controversy. For the same reason, we rule out *laches* as a bar to the filing of the complaint.

***The merits of the case***

Contrary to the conclusions of the NLRC and of the CA, we find no substantial evidence supporting the ruling that the agency and its principal are liable to Nazal by way of temporary or partial total disability benefits. The labor tribunal and the appellate court grossly misappreciated the facts and even completely disregarded vital pieces of evidence in resolving the case.

**First.** Nazal disembarked from the vessel *M/V Rover* for a "finished contract," not for medical reasons. This notwithstanding, he claims that immediately after his disembarkation, he reported to Colorado about his health condition and work experience on board the vessel. He further claimed that Colorado referred him to a company-designated physician who found him afflicted with high blood pressure and diabetes. Thereupon, he asked for compensation and medical assistance, but the agency denied his request and allegedly advised him not to work again.

Except for his bare allegations, nothing on record supports Nazal's claim that he contracted his supposed ailments on board the vessel. As the

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patent errors; provided that the motion is under oath and filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party, and provided further, that only one such motion from the same party shall be entertained.

LA aptly observed, if indeed a company-designated physician examined Nazal, why did the physician not issue a medical report confirming Nazal's supposed ailments? And why did Nazal not ask for a certification of the physician's findings if he really intended to ask for disability compensation from the petitioners? Under the standard employment contract, the employer is under obligation to furnish the seafarer, upon request, a copy of all pertinent medical reports or any records at no cost to the seafarer.[29]

The absence of a medical report or certification of Nazal's ailments and disability only signifies that his post-employment medical examination did not take place as claimed. We thus cannot accept the NLRC reasoning that the absence of a medical report does not mean that Nazal was not examined by the company-designated physician as the medical reports are normally in the custody of the manning agency and not with the seaman. In *UST Faculty Union v. University of Santo Tomas,*[30] the Court declared: "*a party alleging a critical fact must support his allegation with substantial evidence. Any decision based on unsubstantiated allegation cannot stand as it will offend due process*."

**Second.** While we have ruled out *laches* as a bar to Nazal's claim, the inordinate delay in the institution of the complaint casts a grave suspicion on Nazal's true intentions against the petitioners. It took him two years and 10 months to file the complaint (on September 16, 2004)[31] since he disembarked from the vessel *M/V Rover* on November 24, 2001. Why it took him that long a time to file the complaint only Nazal can answer, but one thing is clear: he obtained another employment as a seaman for three months (from March 1, 2004 to June 11, 2004), long after his employment with the petitioners. He was deployed by manning agent Crossocean Marine Services, Inc. (*Crossocean*) on board the vessel *Kizomba A FPSO,* for the principal Eurest Shrm Far East Pte., Ltd.[32] Nazal admitted as much when he submitted in evidence before the LA photocopies of the visa section of his passport showing a departure on March 1, 2004[33] and an arrival on June 11, 2004.[34]

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29 Section 20(F) of the POEA-SEC.

30 G.R. No. 180892, April 7, 2009, 656 SCRA 648, citing *De Paul/King Philip Customs Tailor v. NLRC*, G.R. No. 129824, March 10, 1999, 304 SCRA 448, 459; italics ours.

31 Id. at 150.

32 Id. at 258.

33 Id. at 172.

34 Id. at 169.

If Nazal was able to secure an employment as a seaman with another vessel after his disembarkation in November 2001, how can there be a case against the petitioners, considering especially the lapse of time when the case was instituted? How could Nazal be accepted for another ocean-going job if he had not been in good health? How could he be engaged as a seaman after his employment with the petitioners if he was then already disabled?

Surely, before he was deployed by Crossocean, he went through a pre-employment medical examination and was found fit to work and healthy; otherwise, he would not have been hired. Under the circumstances, his ailments resulting in his claimed disability could only have been contracted or aggravated during his engagement by his last employer or, at the very least, during the period after his contract of employment with the petitioners expired. For ignoring this glaring fact, the NLRC committed a grave abuse of discretion; for upholding the NLRC, the CA committed the same jurisdictional error.

As a final word, it is unfortunate that Nazal died before the case could be resolved, but his death cannot erase the fact that his claim for disability benefits was brought against the wrong party, nor the reality that his claim against the petitioners suffered from fatal defects.

**WHEREFORE,** premises considered, the petition is **GRANTED.** The assailed resolutions of the Court of Appeals are **SET ASIDE.** The complaint is **DISMISSED** for lack of merit. No costs.

**SO ORDERED.**

**ARTURO D. BRION**
Associate Justice

**WE CONCUR:**

**MARIANO C. DEL CASTILLO**
Associate Justice

**JOSE PORTUGAL PEREZ**
Associate Justice

**ESTELA M. PERLAS-BERNABE**
Associate Justice

**MARVIC MARIO VICTOR F. LEONEN**
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.

**ARTURO D. BRION**
Associate Justice
Acting Chairperson, Second Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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