

[G. R. No. L-9807. April 17, 1957]

**PAN PHILIPPINES CORPORATION, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND LEONORA FRIAS, RESPONDENTS.**

D E C I S I O N

CONCEPCION, J.:

This is an appeal, taken by the Pan Philippines Corporation, from a decision of the Workmen's Compensation Commission ordering said appellant to pay to Leonora Frias, as the widow of Pascual Castillo, the sum of P983.84, by way of compensation for the latter's death, and the costs of the proceedings.

Pascual Castillo, was a carpenter of the Pan Philippines Corporation. On December 25, 1945, he, together with Victor Lozado and Daniel Buenafrancisca, who were, also, employees of the corporation, died by drowning, as a boat thereof capsized off the coast of the Caramoan Peninsula, while sailing from Sabang, San Jose, Camarines Sur, with a cargo of UNRRA goods for the mining concession of said appellant in the Island of Lahuy, Municipality of Caramoan, Camarines Sur. This occurrence was reported to the Workmen's Compensation Division of the Bureau of Labor, on or about August 6, 1947, when Jovita Sacil filed her claim for compensation as widow of the aforementioned Daniel Buenafrancisca. In the course of the proceedings relative to this claim of Jovita Sacil, said office learned about the death of, among others, Pascual Castillo, in view of which, on September 25, 1947, appellant was required to submit the data pertinent thereto. Subsequently, or on February 11, 1949, Leonora Frias filed with said office her claim for compensation as widow of Pascual Castillo. Acting thereon, as referee—pursuant to Section 31 of Act No. 3428, as amended by Act No. 3812—on September 9, 1950, the Bureau of Labor found that appellant should pay Leonora Frias, as widow of the deceased Pascual Castillo, the sum of P983.84 by way of compensation for his death. Thereafter, or on June 20, 1952, the Workmen's Compensation Commission was created by Republic Act No. 772. In the exercise of its authority under this Act, the Commission took cognizance of the claim

of Leonora Frias, and on February 3, 1955, a referee thereof rendered the decision above mentioned, which, upon appellee's petition for review, was affirmed by the Workmen's Compensation Commissioner. Hence, this appeal by said corporation.

Appellant maintains that, pursuant to Section 48, paragraph (2), of Act 190, the claim of Leonora Frias prescribed after six (6) years from the accrual of her cause of action on December 25, 1945 and is barred, therefore, by the statute of limitations, the Workmen's Compensation Commission having assumed jurisdiction over this case more than six (6) years after said date, or on June 20, 1952. This pretense was rejected in the decision appealed from, upon the ground that said period of prescription was extended by Article 1144 (2) of the Civil Code to ten (10) years from the accrual of the cause of action, and that said period did not expire; in the case at bar, until December 25, 1955, or after the Commission had taken cognizance of this case, and rendered said decision. Appellant assails this conclusion upon the ground that, pursuant to Article 2252 of the Civil Code:

"Changes made and new provisions and rules laid down by this code which may prejudice or impair vested or acquired rights in accordance with the old legislation shall have no retroactive effect."

and that the application of said Article 1144 to the claim of Leonora Frias would impair vested rights of said appellant. The latter had, however, no such vested right when the Civil Code of the Philippines became effective in 1950, inasmuch as the period of six (6) years provided in Act No, 190 did not expire until December 25, 1951. Accordingly, the defense of prescription of action is untenable;

It is next urged, that the Workmen's Compensation Commission had no jurisdiction to entertain this case, for Section 42 of Act 3428 (as amended by Act 3S12) provides:

"Law applicable to small industries.—All claims for accidents occurring in a trade, occupation or profession exercised by an employer for the purpose of gain, the gross income of which during the year next preceding the one in which the accident occurred was less than twenty thousand pesos, shall be governed by the provisions of Act Numbered Eighteen hundred and seventy-four and its amendment."

Appellant claims to be in the nature of a small industry, as contemplated in this provision, for it did not do any business during the occupation, and, consequently, it had no income whatsoever in 1944, the year preceding the death of Pascual Castillo. In this connection, the decision appealed from has the following to say:

“* * * The testimony of the respondent, thru its representative Mr. Nicasio Martin, discloses that the respondent company is a Philippine Mining Corporation; that it had a capital stock before the war of more than 1/2 million pesos; that its mining properties are mainly located in the Bicol region; that the operation of their mining activities was closed during the war; that after liberation, it received more than 1/2 million pesos as payment for war damages. The exemption of liability to pay compensation as sought by the representation of the respondent based on the provisions of section 42 of the Compensation Act is not justified because this provision of law refers to small industries, and as the law so recites, it only refers to a trade or occupation or profession exercised by an employer for the purpose of gain. It does not refer to large or big industries such as mining¹ and similar large enterprises wherein big capital investment is needed to make the enterprise productive.

“Organized mining enterprises are not small industries. It is also our view that the phrase ‘during the; year preceding the one in which the accident occurred was less than P20,000’ in Section 42 of the Act, should be interpreted as ‘during the business year preceding etc.’ which in this case is the year 1941, the last year of business activity of the respondent corporation before its closure due to war. How could there have been a gross income of less than P20,000 if there was no business transacted the preceding year due to closure of the plant? When the law speaks of gross income, it presupposes business activity.”

We are fully in agreement with this view, not only for the reasons therein set forth, but, also, because, otherwise, all employers, no matter how big their capital and income may be, would be exempt, during their first year of operation, from any and all liability under the Workmen’s Compensation Law. Neither its spirit, nor its language, justifies, however, the belief that such could possibly have been the intent of the framers of said legislation.

Appellant insists that the death of Pascual Castillo did not arise out of and in the course of his employment, for it took place while he was transporting UNRRA goods, which is foreign

to his employment as appellant's carpenter. This pretense was correctly found untenable in the decision appealed from. As stated therein,

“* * * it was testified to by the representative of the respondent that the mining company had recalled its pre-war employees to do rehabilitation work in their plant, and it is undeniable that part of the rehabilitation work of the respondent was to rehabilitate its employees by providing them with clothing due to the loss or destruction of their personal belongings during the war. The fact that the workers or employees of the respondent in 1945 were assigned to do jobs other than actual mining work did not mean that no employer-employee relation existed between the laborers and the respondent corporation, and if during their work a laborer is injured, the respondent must pay compensation under the Act.”

It is lastly argued that the alleged marriage of Leonora Frias to Pascual Castillo has not been duly established, the proof thereon being purely hearsay. The evidence on record consists of:

1. An affidavit of Alejandro Frias and Ana Plopinio (Exhibit A-4), stating that they were witnesses to the wedding of Pascual Castillo and Leonora Frias on June 25, 1941, in the Parochial Church of the barrio of San Miguel, Municipality of Caramoan, Camarines Sur, where said affiants reside;
2. An affidavit of Pedro Frias (Exhibit A-5), another resident of the same barrio, to the effect that he knew personally said spouses; that they were married in the place and on the date above stated; that, thereafter, they lived as husband and wife, in the Island of Lahuy, Caramoan, Camarines Sur; and that they had a baby boy, born on March 10, 1943, who died ten (10) days later, without the benefit of baptism;
3. The verified claim of Leonora Frias (Exhibit A), stating, among other things, that she is the wife of Pascual Castillo; and
4. The statement, Exhibit A-3, of the parish priest of San Miguel, Caramoan, Camarines Sur, certifying that the marriage certificate of Pascual Castillo and Leonora Frias cannot be found among the records of his parish owing to the partial destruction of said records during the Japanese occupation.

These documents were part of the report of the investigator appointed by the Commission and were properly considered in evidence, pursuant to Section 49 of Act 3428, as amended by Republic Act No. 772. The only qualification imposed therein is that “any party in interest shall have an opportunity to examine and rebut” said evidence “by further evidence”, which opportunity appellant has had. There is, accordingly, no merit in its aforesaid pretense.

Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L. Endencia, and Felix, JJ., concur.
