

VICTORIANO F. CORALES, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND THE GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF LANDS), RESPONDENTS.

G.R. No. L-44063. March 15, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

For consideration are the motions for clarification and/or reconsideration filed by respondents Employees' Compensation Commission (ECC) and Government Service Insurance System (GSIS) in Corales on March 28 and April 17, 1979; in Villones on September 6 and 7, 1978; in Barga on June 5 and July 1, 1980; and in Cañeja on May 10 and 22, 1980.

The main issue common to all these cases revolves on the entity liable to pay the compensation claims of petitioners for ailments initially suffered before the effectivity of the New Labor Code -- whether the Government Service Insurance System or the government offices and agencies which are the employers of petitioners -- which were filed with the Government Service Insurance System under the provisions of the New Labor Code, adversely decided by the System and affirmed by the Employees' Compensation Commission, but on appeal to this Court, were favorably considered; because WE applied the more favorable and compassionate provisions of the old workmen's compensation law (Workmen's Compensation Act, as amended), instead of the provisions of the New Labor Code on employees' compensation which have been criticized as retrogressive. The social justice impact of the new compensation law as compared to the prior compensation law has been deeply noted and lamented in a resolution of this Court, through the Second Division, in the case of Ibañez vs. ECC, et al., L-47008, March 8, 1978, before Corales, thus: "Upon consideration of the allegations of the petitioner and the comments thereon of respondent Employees' Compensation Commission, and the Government Service Insurance System, the Court resolved to DENY the petition, noting that since the current Labor Code, as amended by Presidential Decree No. 626, has indeed reduced the broad instances of compensability under the former Workmen's Compensation Act, the Court is powerless to apply the doctrines laid down under said Act to petitioner's case, even as it feels that perhaps a legislative remedy may be worthy of study by those concerned to the end that what was conceded to be humane attitude inspired by the social justice precepts of the Constitution may be reconciled with the new or additional benefits, if any, that the Labor Code provides in compensation cases and thereby avoid the impression that in regard to the security aspect of public or private employment, so worthy of compassionate approach, there has been an intentional backward step in the policies of the New Society."

The mother case is Corales vs. ECC, et al., wherein petitioner, who started his career in the government in 1932 and retired on March 26, 1975 under Republic Act No. 660, as amended by Republic Act No. 4968, filed on August 4, 1975 a compensation claim with the Government Service Insurance System for his tuberculosis which was traceable to 1965 when he was downed by a high fever.

In OUR February 27, 1979 extended resolution, WE stressed that the substantive provisions applicable to his

claim are those of the old workmen's compensation law and not those of the New Labor Code on employees' compensation, because of the following considerations: (1) the cause of action accrued as early as September, 1965, hence during the effectivity of the Workmen's Compensation Act, as amended; (2) the time limitation in Article 292 of the Labor Code -- which requires that workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975, otherwise, they shall forever be barred -- does not apply to petitioner who filed his claim on August 4, 1975 with the Government Service Insurance System; because of the controlling juris-prudence under the old law that the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended, is ten [10] years, it being a right founded on statute and, as such, is considered a vested right; (3) the provisions of the New Labor Code on Employees' Compensation, Book IV, Title II, apply only to injury, sickness, disability or death accruing on or after January 1, 1975 (Art. 208); and more precise is Section 1(c) of Rule III of the Amended Rules on Employees' Compensation, which declares that only injury or sickness that accrued on or after January 1, 1975 and the resulting disability or death shall be compensable under the rules; and (4) the filing by petitioner of the claim with the GSIS, instead of with the appropriate regional office of the Department of Labor does not militate against the claim; because the filing of a claim in an office that has no authority to act on it can be treated as having been filed with the appropriate agency as long as it is filed within the period allowed by law [Pobre vs. WCC, 77 SCRA 315-320, May 31, 1977]; and Art. 294, Title II (Transitory and Final Provisions) of the New Labor Code provides that all actions and claims accruing prior to the effectivity of this Code shall be determined in accordance with the laws in force at the time of their accrual and under the third paragraph of Article 292, Title II [Prescription of Offenses and Claims], workmen's compensation claims accruing prior to the effectivity of this Code and during the period from November 1, 1974 up to December 31, 1974 shall be processed and adjudicated in accordance with the laws and rules at the time their causes of action arose.

Because WE declared the aforesaid resolution as final and executory, respondents resorted to this present motion for clarification. Thus respondent Employees' Compensation Commission submitted on March 28, 1979 the following points for clarification:

- A. Payment by the Government Service Insurance System (GSIS) of compensation/medical benefits for claims filed under the New Labor Code with said office which it finds to be non-compensable under said code but may be considered compensable under the repealed Workmen's Compensation Act, as amended;
- B. Legal implications of the application by this Honorable Court of the ten (10) year prescriptive period to the claim filed in the present case on claims filed under similar circumstances in relation to the provision in the New Labor Code on prescription of actions whereby all workmen's compensation claims accruing prior to January 1, 1975 are required to be filed not later than March 31, 1975, otherwise, they shall be forever barred;
- C. Legal basis for the Employees' Compensation Commission to assume jurisdiction over and apply the provisions of the repealed Workmen's Compensation Act to compensation cases involving causes of action accruing prior to January 1, 1975.

Likewise, respondent GSIS filed on April 17, 1979 its own motion for clarification with respect to the following points:

- I - Whether or not the GSIS has a right of reimbursement from the employer of petitioner, considering that the employer was originally liable to pay the claim and payment by the GSIS for the employee rewards the employer for his failure to pay the claim.
- II - To whom should the GSIS pay the administrative costs and whether or not the GSIS should, at the very least, have a right to recover the administrative costs from the employer of petitioner.

Petitioner was required to comment on the aforesaid motions and he filed one on August 28, 1979.

Meanwhile, several cases were decided by this Court applying the doctrine in the aforesaid Corales case. Thus, the cases of Villones (G.R. No. L-46200, July 30, 1979); Cañeja (G.R. No. L-46992, March 31, 1980), and Barga (G.R. No. L-49227, April 25, 1980), were all favorably decided in favor of petitioner workers as their ailments were all traced to dates prior to the effectivity of the new compensation scheme under the New Labor Code.

In Villones, a government teacher died on September 2, 1975 or more than three (3) years from his initial service on July 3, 1972. His death was traced to an ailment he contracted way back on December 4, 1972. His dependent filed a claim on December 23, 1975.

In Barga, petitioner began working for the government on August 10, 1959 and in 1969, he began to feel the symptoms of duodenal ulcer; was hospitalized by reason thereof on February 22, 1975, discharged on March 4, 1975 and was re-admitted to be subjected to exploratory laparotomy and drainage of pelvic abscess. He was discharged on March 30, 1975 and resumed working on May 5, 1975. He thereafter filed his claim for compensation.

And in Cañeja, petitioner, who entered the government service on July 5, 1950, filed his claim on July 30, 1976 for schizophrenia, for which he was confined at the National Mental Hospital during the periods from December 6, 1961 to February 15, 1962, from July 9, 1966 to January 10, 1967, and from January 2, 1973 to May 15, 1975 and had been under treatment for the same illness as an out-patient for the periods from July 30 to November 11, 1968, and on May 2, 1974, August 26, 1974, December 22, 1975, April 26, and June 8, 1976.

Invariably, herein respondents filed motions for reconsideration and/or motions for clarification along the same points raised in the Corales case.

Hence, this consolidated disposition.

The question raised by respondent Employees' Compensation Commission under its first point of clarification is: what entity is liable to pay the compensation benefits of herein petitioners. It maintains that the respective employers of the petitioners should be the one to pay the benefits as mandated by the Workmen's Compensation Act, which was the law applied to their compensation claims. On the other hand, the respondent GSIS under its initial point of clarification manifests its willingness to pay the aforesaid benefits provided its right to seek reimbursement from the respective employers of the petitioners will be assured in this resolution.

The respondent Employee's Compensation Commission in its motion, states:

"I. The State Insurance Fund as administered by the GSIS for the government sector is liable only for the payment of benefits due under the new Employees' Compensation Program.

"Under the new Employees' Compensation Program as provided for in Title II, Book IV of the New Labor Code of the Philippines, the GSIS administers the State Insurance Fund for the government sector (Art. 175, Labor Code). And in the disposition of said Fund, the GSIS is guided by the following provisions of the New Labor Code:

'Art. 179. Investment of funds. - All revenues as are not needed to meet current operational expenses under this Title shall be known as the State Insurance Fund which shall be used exclusively for the payment of the benefits under this Title, and no amount thereof shall be used for any other purpose. x x' (underscoring supplied).

"The State Insurance Fund operates on the basis of actuarial computations, which did not include payment of

claims found compensable under the repealed Workmen's Compensation Act. For under the provisions of the New Labor Code regarding workmen's compensation claims accruing prior to January 1, 1975, such claims shall be processed and adjudicated in accordance with the law and rules at the time their causes of action accrued (Art. 292, Labor Code).

"The following provisions of the WCA make the employer or insurance carrier liable for payment of compensation/medical benefits to a disabled employee:

'Sec. 2. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sum and to the person hereinafter specified. x x' (under-scoring supplied).

'Sec. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of dis-ability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity' (underscoring supplied).

"The GSIS was not the employer of herein petitioner. Neither was the GSIS the insurance carrier for the actual employer of the petitioner. The petitioner is a compulsory retired employee of the Bureau of Lands against which no claim for compensation was ever filed by herein petitioner even impliedly by the filing of a sick leave of absence. The claim filed by petitioner with the GSIS is against the State Insurance Fund and the Bureau of Lands is not a party in the determination of the compensability of petitioner's claim either by the GSIS or the ECC.

"Under the foregoing circumstances, may the payment of the award to the petitioner be made by the GSIS? Or will payment be made by petitioner's previous employer - the Bureau of Lands?"

The above stand of the respondent Employees' Compensation Commission was recast and expanded in its subsequent pleading in Cañeja, thus:

"Under the WCA, as amended, the employer or the insurance carrier pays the compensation benefits. In the case of government employees, the employer is the Republic of the Philippines and payment is made from the savings of the particular office or agency where the claimant employee is employed. In the present case, while the petitioner's claim was found compensable under the old WCA, the GSIS, which makes payment to public employees under the new law, is being ordered to make payment of the benefits thus found due the herein petitioner by this Honorable Court. Under the new employees' compensation program provided in PD 626 amending the New Labor Code, claims settlement was made the sole responsibility of the Social Security System (SSS) for the private sector and the GSIS for public employees. Payment is made from the State Insurance Fund (SIF) to which the employer pays premium contributions for and in behalf of its employees. The SIF was established after an exhaustive study was made of the workmen's compensation system by a distinguished actuary of the International Labor Organization (ILO), Mr. Albert Robertson, to determine the rate of premium contributions to be paid by the employers. The study showed that if the adjudication and settlement of claims under the old workmen's compensation scheme would still be followed under the new employees' compensation program in PD 626, it would require a premium contribution of between two (2) to three (3) percent of the employee's monthly wages or salary, to be paid for and in his behalf by employer and not one (1) percent, as embodied in the proposed PD 626. The framers of PD 626 agreed upon an assessment of one (1) percent contribution only from the employers considering that at the time there was a sort of recession in business. It was further provided that the principle of integration of benefits be adopted and redefinition of the coverage formula be made in the new law. Thus, the State Insurance Fund was created on the basis of actuarial computation which did not include payment of claims found compensable under the

repealed WCA, and to insure its long-term stability and liquidity, the Code specifically provided for the disposition of said Fund, as follows:

"Art. 179. Investment of funds. - Provisions of existing laws to the contrary notwithstanding, all revenues as are not needed to meet current operational expenses under this Title shall be accumulated in a fund to be known as the State Insurance Fund, which shall be used exclusively for payment of the benefits under this Title, and no amount thereof shall be used for any other purpose. All amounts accruing to the State Insurance Fund, which is hereby established in the SSS and GSIS, respectively, shall be deposited with any authorized depository bank approved by the Commission, or invested with due and prudent regard for the liquidity of the System" (underscoring supplied).

"The SIF is inherently self-operating and self-sustaining. Premium contributions of employers in the private sector and the public service constitute the sole financing source for its operations. Aside from financing payment of employees' compensation benefits and medical treatment under PD 626, as amended, it also makes possible other related services like physical, psychological and vocational rehabilitation, and placement of the disabled employee in gainful jobs which are all provided for under the new employees' compensation program. If allowed to operate as originally conceived, the SIF can generate greater benefits for workers which makes for a more meaningful return for employer's premium contributions.

"In the light of the above circumstances, we respectfully submit that the order of this Honorable Court to the GSIS to pay the herein petitioner the benefits awarded under the provisions of the WCA may not be complied with without violating the above-quoted provision of Article 179 of the Labor Code and creating a threat to the stability of the Fund and the purpose for its creation considering the basis for its foundation and the number of claims that may yet be filed which were not contemplated by the framers of PD 626 following these precedent setting decisions of this Honorable Court regarding the application of the provisions of the old and the new law on workmen's compensation.

"x x x x" (pp. 88-92, G.R. No. L-46992).

The respondent GSIS in support of its motion, pleads:

"While there is no intention of evading at all the decision of this Honorable Court in this case where the old Workmen's Compensation Act was held applicable to a claim filed with the GSIS under the Employees' Compensation Act, however, upon deeper analysis and in the interest of substantial justice, respondent GSIS had decided to file the present Motion for Clarification in order to request this Honorable Court for a crystallization of the exact legal impact of the decision.

"It has occurred to us that if the old Workmen's Compensation Act is applicable since petitioner's illness of pulmonary tuberculosis was contracted as early as 1965, then the employer of petitioner should have paid petitioner's claim, especially if the employer has apparently failed to controvert the same within the terms of the old law. If the GSIS will now pay the claim which the employer should have paid in the first place and which it did not pay, then, we shall be practically rewarding the employer with its gross failure to pay the claim. Stated differently, the GSIS is now held liable for a claim that should have been paid by the employer in the first place.

"Thus, in justice and in equity, the GSIS should have a right of reimbursement against petitioner's employer, which right, for purposes of expediency and to avoid multiplicity of suits and unnecessary expenses, could be enforced by the ECC.

"This Honorable Court stressed that the applicable law to petitioner's claim are the provisions of the old Workmen's Compensation Act, and not the provisions of the present Labor Code, upon the holding that petitioner's illness of pulmonary tuberculosis was contracted as early as September, 1965 and hence, his cause of action accrued as of that time, clearly prior to the effectivity of the Labor Code.

Petitioner's employer had long been

liable to pay his claim . -

" If petitioner had a cause of action as early as September 1965, then, his employer, the Bureau of Lands was duty-bound to pay him at that time under the provisions of the Workmen's Compensation Act, which was applied in this case.

"There is no suggestion in the record that the Bureau of Lands ever controverted its liability to petitioner under the Workmen's Compensation Act. The rule is that such controversion must be made within fourteen (14) days from disability or ten (10) days from knowledge of the accident (Section 45, Workmen's Compensation Act).

"x x x x.

"It is thus crystal clear that the Bureau of Lands, as employer of petitioner, was liable to the petitioner long before the effectivity of the present Labor Code. More specifically, the Bureau of Lands was liable to the petitioner from September, 1965 to September, 1975. The Labor Code only took effect on January 1, 1975 and the filing of Workmen's Compensation claims was barred only on March 31, 1975.

" The GSIS should have a
right of reimbursement
from petitioner's employer .

"If the Bureau of Lands as employer of petitioner did not pay petitioner's claim without any legal justification, which is the compelling implication of the present decision, then the GSIS who now pays petitioner from the State Insurance Fund that it administers should have a right of reimbursement from the Bureau of Lands as to any amount that the GSIS may pay on account of petitioner's claim.

"It cannot be denied that under the old Workmen's Compensation Act, which was held to be controlling in this case, the GSIS and the State Insurance Fund are not at all liable. It is the employer who is liable to the petitioner under the old law. The present ECC contributions of the employers do not cover cases accruing prior to January 1, 1975, the date of the effectivity of the present Labor Code. If it does, there will be a deprivation of property without due process of law.

"Crystal clear, then, should be the right of the GSIS to recover payments made by it for and in behalf of an employer.

"The right of reimbursement of the GSIS from petitioner's employer is, therefore, but just, logical and reasonable because if the Bureau of Lands is not made to pay, then we will be rewarding the Bureau of Lands for its unlawful failure to pay petitioner to the prejudice of the State Insurance Fund from which petitioner's claim will be paid.

"A basic principle is that no one shall be unjustly enriched at the expense of another. The Bureau of Lands will be unjustly enriched at the expense of the State Insurance Fund.

"We believe that the right of reimbursement of the GSIS in this case finds parallelism with the recent ruling of this Honorable Court in B.F. Goodrich Inc. vs. WCC, L-42319, July 29, 1978, where this Honorable Court held that while a company may be held liable for the workmen's compensation claim of a security guard as his statutory employer, said company has a right of reimbursement from the security agency as the direct employer of the security guard under the terms of the security service contract between the company and the security agency.

" The ECC should have the
power , after hearing, to

direct petitioner's employer
to reimburse the GSIS .

"For purposes of expediency and to avoid multiplicity of suits, it should be enough for the ECC to direct the employer, the Bureau of Lands, to pay the GSIS after hearing the employer as to any defenses that the employer may set up against the right of reimbursement, in order to serve the ends of due process.

"The ECC, it bears stressing, has full power and authority to proceed against an employer with the power to issue writs of execution.

"Article 181(b) of the Labor Code provides as follows:

'(b) In all other cases, decisions, orders and resolutions of the Commission which have become final and executory shall be enforced and executed in the same manner as decisions of the Court of First Instance, and the Commission shall have the power to issue to the city or provincial sheriff or to the sheriff whom it may appoint such writs of execution, as may be necessary for the enforcement of such decisions, orders or resolutions, and any person who shall fail or refuse to comply therewith shall, upon application by the Commission, be punished by the proper court for contempt.'

"On the other hand, Sections 3 and 4 of Rule XVIII of the Amended Rules on Employees' Compensation, provide as follows:

'Sec. 3. Other decisions. - In all other cases involving payments to be made by the employer, decisions, orders and resolutions of the Commission en banc which have become final and executory shall be enforced and executed in the same manner as decisions of the Court of First Instance and the Commission shall have the power to issue to the City or Provincial Sheriff or to the Sheriff it may appoint, such writs of execution as may be necessary for the enforcement of such decisions, orders or resolutions (emphasis supplied).

'Sec. 4. Failure to comply. - Any person or persons who fail or refuse to comply with the writ of execution issued by the Commission shall be punished for contempt by the proper court. In the case of a corporation, trust, firm, partnership, association or any other entity, the manager or officer-in-charge when the offense was committed, shall be held responsible.'

"There is really no legal obstacle then for the ECC itself after due hearing to order petitioner's employer to reimburse to the GSIS whatever amounts the latter may pay petitioner on account of his claim.

"We may find juridical strength for this procedure in another recent ruling of this Honorable Court in *Pajarito vs. Señeris*, L-44627, December 14, 1978, where this Honorable Court held that the subsidiary liability of an employer may be enforced in the execution proceedings in the criminal case for reckless imprudence against the employee. This Honorable Court pronounced, speaking through Mr. Justice Felix Q. Antonio that the judgment in the criminal case for reckless imprudence, in the absence of any collusion, is conclusive upon the employer; that to require a separate action would prolong litigation and would mean unnecessary expenses; that the alleged employer's claim that he is no longer the employer could be conveniently litigated in the same criminal case, and that the rules should be liberally construed. Mr. Justice Antonio P. Barredo, in a concurring opinion in that case, declared that the only issues open are whether or not the alleged employer is still the employer and whether or not the driver is insolvent.

"So with this case. The only issue open is whether or not the GSIS has a right of reimbursement from the Bureau of Lands under the given circumstances. As in any other case where the cause of action is based on a right of reimbursement, the only defense that can be set up is that such right of reimbursement under the given circumstances does not exist.

"The employer can be given the necessary hearing by the ECC before any judgment is rendered by the latter against the employer. This is the most expedient procedure in the situation which does away with a separate

action that will merely foment unnecessary litigation and expenses" (pp. 173-179, G.R. No. L-44061).

In its motion in Cañeja (G.R. No. L-46992), respondent GSIS further stated -

"It may, of course, be argued that the State Insurance Fund and the funds of the government employers are both government funds and it would not matter where the payment of ECC claims would come from. However, we submit that our government operates on much more complicated terms than what the idea suggests. The government has numerous entities with their own distinct funds. It is not in line with sound management practice if the State Insurance Fund will be sacrificed to the benefit of other funds. The ability of the State Insurance Fund to meet rightful claims would be jeopardized by the indiscriminate payments. The Fund is newly created. Its reserves for payment of claims is actuarially determined on the basis of claims arising after January 1, 1975. As a fledgling fund it deserves great concern and careful screening of claims in order to protect rightful claimants" (p. 113, rec.).

By way of summation, respondent ECC casts doubt on the legality as the same is allegedly without legal basis to order respondent GSIS to pay the compensation benefits of the herein petitioners; on the other hand, respondent GSIS expresses its willingness to directly pay the benefits conditioned however on the affirmation by this Court in this resolution of its right to seek reimbursement from the herein employers of the petitioners.

All of the petitioners, except petitioner Felixberto Villones, concede that the stand of the respondent GSIS best suits their predicament. Thus the comment in Corales submits that "the respondent GSIS is the proper government agency to make proper reimbursement, without prejudice to asking reimbursement from the employer, the Bureau of Lands. It is, therefore, a matter of inter-governmental official actions to carry into effect the corresponding reimbursement to the petitioner as directed by the Honorable Court. The delay would only work injustice to the petitioner who should be compensated at the earliest possible date" (pp. 218-220, rec., G.R. No. L-44063).

In Barga, petitioner states in his February 14, 1981 comment that -

"x x x the main thrust of the motion for reconsideration is to shift the burden to the Commission on Audit altogether or at least to obtain reimbursement from the latter.

"Respondent GSIS maintains that the Commission on Audit (COA), which is the petitioner's employer, should be held liable and not the GSIS since the cause of action arose prior to January 1, 1975. The issue is raised for the first time in the Motion for Reconsideration and has not been brought into play at the very beginning. It is akin to a question raised for the first time on appeal constituting a change in theory which is no longer permissible (Toribio vs. Decasa, 55 Phil. 561; Jimenez vs. Bucoy, 54 O.G. 7560; Agoncillo vs. Javier, 38 Phil. 481). In fact, respondent GSIS took cognizance and assumed jurisdiction over the claim from its inception. It denied the claim not on the basis of lack of jurisdiction or that the party liable, if any, is the COA but on the substantive ground of non-compensability. Surely, respondent is estopped from raising this issue for the first time on a motion for reconsideration after the lapse of more than five years.

"Assuming for argument's sake that the party liable is indeed the Commission on Audit, petitioner submits that in the interest of justice and equity, the remedy sought by GSIS to be granted the right of reimbursement is the most equitable and expedient solution instead of absolving GSIS from liability outright. This plea is based on equitable considerations. A finding that only the Commission on Audit is liable cannot be incorporated into an enforceable judgment herein since the COA is not a party to this case. Such an eventuality will result in total negation of the decision of this Honorable Court declaring petitioner entitled to compensation. It will compel him to file a claim anew, go through the entirely new proceedings with all its concomitant delays and inconvenience. Petitioner originally filed his claim in the early part of 1975. He spent a huge sum of money for his hospitalization, a substantial portion of which was borrowed from relatives. Almost six years have already lapsed and petitioner has not yet received the compensation rightfully due him. A further delay would render the reason and purpose of employee's compensation inutile.

"Thus the alternative offered by the respondent GSIS is, to petitioner's mind the most equitable and expedient.

"x x x" (pp. 143-144, rec., G.R. No. L-49227).

However, petitioner Felixberto Villones (G.R. No. L-46200) presents a different view:

"Re: ECC'S Motion 1. Legal effect of the payment by GSIS of compensation and related benefits, etc.

"The point of clarification raised by respondent ECC is in itself vague and ambiguous. Petitioner, however, construes such query to mean whether or not GSIS will be violating the Labor Code in effecting payment of benefits to petitioner on a claim based on a cause of action that accrued before the effectivity of the Labor Code. The negative resolution of this query cannot be over-emphasized.

"Petitioner's entitlement to benefits can be based on either the Workmen's Compensation Act or the Labor Code. As will be discussed herein presently, the sickness of petitioner's son falls within the scope of the definition of 'sickness' under both the Workmen's Compensation Act AND the Labor Code.

"It is true that the Labor Code, as amended, does not give the concept of sickness as defined therein, the same meaning as it had under the Workmen's Compensation Act. The Code restricts the kind of sickness that is compensable by the State Insurance Fund to include only sickness which is either (a) illness definitely accepted as an occupational disease listed by the ECC, or (b) any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions (Art. 167 [1] Labor Code, as amended). The ECC contends that only these kinds of sickness will serve as bases for the payment of income benefits (disability and/or death benefits) specified in the Labor Code. This was not under the Workmen's Compensation Act, there the concept of 'sickness' had a wider scope and included: (a) sickness that an employee incurred arising out of and in the course of employment, or (b) other illness directly caused by such employment, or (c) sickness aggravated by or the result of the nature of such employment [Section 2]. What is clear from definitions set forth in Article 167 (1) is that the rules which had been given definitive meaning by jurisprudence under the Workmen's Compensation Act are now, according to ECC, no longer applicable. Thus, the presumption of compensability and the rule of the compensability of work-aggravated sickness were replaced with the rule requiring proof of the increased risk of contracting sickness posed by employment as a prerequisite to compensation. The restricted meaning given to sickness considered compensable under the Labor Code does not, however, authorize the assertion that the concept of sickness delineated under the Code is totally different from the concept of sickness as used and applied by the Workmen's Compensation Act.

"Indeed these two statutes are similar in that both provide for the payment of benefits in respect of sickness caused by employment. It is in this area where the two statutes overlap.

"The Decision states, and the respondents accept, that the properly applicable governing law with respect to petitioner's cause of action is the Workmen's Compensation Act, based on the rule that 'all actions or claims accruing prior to the effectivity of this Code shall be determined in accordance with the laws in force at the time of their accrual' (Section 294, Labor Code). The fact that the Workmen's Compensation Act is made applicable does not, however, deprive petitioner's claim of any basis for compensability under the Labor Code.

"The doctrine considered well-settled by the Decision holds the disease of tuberculosis as an occupational disease or as work-connected in such occupations as that of teacher, laborer, driver, land inspector, and hence compensable. This doctrine is supported by medical science as recognized by this Honorable Court in the Decision (citing *Corales vs. Employees' Compensation Commission*, No. L-44063, August 25, 1978), thus:

'Medical science has it that tuberculosis as an ailment is latent in man regardless of his age, sex and occupation. When given favorable conditions, this disease becomes active and prominent. Some of those favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold; lack of good food as to weaken the body constituents and contact with people suffering from tuberculosis x x x' (*Corales vs. ECC*, supra).

"These factual conditions were present with respect to petitioner's son. The Decision succinctly states:

'Considering, therefore, the undisputed nature of the deceased's employment as certified by the principal of Bongabon (South District), and in addition, the fact that he had plenty of home-work to do after his regular working hours such as pre-paring the lesson plans for the next day's classes, correcting test papers and making various school reports and in doing all these, he would usually stay up late at night; that with a meager monthly pay of P297.60, with his parents, a sister, and two (2) brothers depending on him for support, he could barely afford to buy and eat good food; and that as such teacher, it becomes inevitable for him to be in constant contact with students and other types of people who may be afflicted with PTB, which is a highly communicable disease, it is not surprising that he should contract tuberculosis, so that from December 4 to 20, 1972, only five (5) months after he was employed as a teacher, he was forced to go on sick leave by reason of the aforesaid illness. When he was able to resume work, he was again exposed to the same working conditions thus aggravating his illness until he suddenly died on September 2, 1975 of severe hemoptysis due to PTB as certified by Dr. Fernando B. Viloria' (underscoring supplied).

"And respondents in respecting the findings of fact as set forth in the Decision must therefore be bound by them as evidence of the 'increased risk' of contracting tuberculosis as posed by the employment of petitioner's son.

"In *Corales*, supra, this Honorable Court found that petitioner's employment therein as a classroom teacher and later as a land investigator posed an increased risk of contracting tuberculosis, so must it be also in this case with respect to the employment of petitioner's son. There can be no question that when judged by the standards used in the Workmen's Compensation Act and its accompanying jurisprudence establishing the presumption of compensability when the sickness arose out of or in the course of employment, the sickness of petitioner's son is compensable. However, it ought to be just as unquestionable, that even judged by the standards imposed by the Labor Code, as earlier discussed, the sickness of petitioner's son is also compensable.

"Since the sickness of petitioner's son falls within the scope of the definitions of 'sickness' under both the Workmen's Compensation Act and the Code, legal bases exist for the payment of benefits by respondent GSIS. And execution of the Decision by GSIS will not violate the stated policy in the Labor Code which enjoins the use of the funds accumulated in the State Insurance Fund for the exclusive purpose of paying the benefits under Title II, Book IV of the Code and not for any other purpose (Section 179, Labor Code). Payment of the benefits specified in the Decision will therefore only effectuate the policy stated in Section 179, since the claim which the benefits seek to compensate comes within the scope of Title II, Book IV of the Labor Code in law and in fact.

"In a case squarely in point (*Corales vs. Employees' Compensation Commission and Government Service Insurance System*, G.R. L-44063, February 27, 1979) where the Solicitor General (representing ECC) and the GSIS posited that tuberculosis is not an occupational disease with respect to *Corales'* employment, that presumption of compensability and the aggravation rule no longer exist under the Labor Code, that payment of attorney's fees and administrative costs are not provided for under said Code, this Honorable Court declared, in unmistakably clear language, thus:

'Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the Employees Compensation Commission as the successor of the defunct Workmen's Compensation Commission is duty bound to observe and apply the foregoing principles in passing upon workmen's compensation. Moreover, as an agency of the State, the Employees' Compensation Commission, like the defunct Court of Industrial Relations and the Workmen's Compensation Commission, is under obligation at all times to give meaning and substance to the constitutional guarantees in favor of the workingmen, more specially the social justice guarantee; for otherwise, these guarantees would be merely a lot of meaningless patter' (underscoring supplied).

I

As already noted, the stand of the respondent ECC is that the respective employers of the petitioners are the ones liable to pay the awarded benefits in these compensation claims; respondent GSIS, however, is willing to pay the awarded compensation benefits on the condition that its right of reimbursement from the aforesaid employers of petitioners is recognized. Only petitioner Felixberto Villones does not entirely agree with the concession offered by the respondent GSIS.

Respondent ECC is silent on the said offer of respondent GSIS.

Under the New Labor Code, it is the ECC which is empowered to initiate, rationalize and coordinate the policies of the employees' compensation program (Article 176 [a]), while the general conduct of operations and management functions of the GSIS is vested in its chief executive officer, who shall be responsible for carrying out the policies of the Commission [Art. 176(c)]. Under Article 177, the Commission approves rules and regulations governing the processing of claims and other settlement of disputes arising therefrom as prescribed by the System (paragraph c); and may perform such other acts as it may deem appropriate for the attainment of the purposes of the Commission and proper enforcement of the provisions of this Title (paragraph L). And Article 178 provides that all revenues collected by the System under this Title shall be deposited, invested, administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered Eleven Hundred Sixty-One, as amended, with regard to such other funds as are thereunder being paid to or collected by the SSS and GSIS, respectively: Provided, That the Commission, SSS and GSIS may disburse each year not more than twelve percent (12%) of the contributions and investment earnings collected for operational expenses, including occupational health and safety programs, incidental to the carrying out of this Title.

Respondent ECC's silence on the posture of respondent GSIS could be construed as acquiescence thereto.

It must be noted that GSIS seeks to pursue its claims for reimbursement against the employers of petitioners before the respondent ECC which, according to respondent GSIS, may take cognizance thereof by ordering the respective employers of the petitioners to reimburse whatever payments may be made by the respondent GSIS to the petitioners, but only after the employers are afforded a hearing, in which they may plead any defense to defeat the right of reimbursement of respondent GSIS.

Under the premises, respondent GSIS' offered solution merits OUR approval. The reimbursement aspect will not be tainted with arbitrariness as due process is assured by affording the respective employers of petitioners in these cases opportunity to be heard.

II

With respect to the second and third points of clarification of the respondent ECC on the legal implications of the application by this Honorable Court of the ten (10) year prescriptive period to the claim filed in the present case (Corales) on claims filed under similar circumstances in relation to the provision in the New Labor Code on prescription of actions whereby all workmen's compensation claims accruing prior to January 1, 1975 are required to be filed not later than March 31, 1975, otherwise they shall be forever barred; and the legal basis for the Employees' Compensation Commission to assume jurisdiction over and apply the provisions of the repealed Workmen's Compensation Act to compensation cases involving causes of action accruing prior to January 1, 1975, the subject points of clarification sought for are clear from OUR pronouncement that the vested rights of claimants, whose causes of action accrued before the regime of the new compensation scheme, over the more favorable and compassionate provisions of the previous compensation statute, including the right to file their

claims during the ten-year prescriptive period, should be recognized and respected. Consequently, respondents GSIS and ECC have jurisdiction over claims the causes of action of which arose during the effectivity of the old workmen's compensation law, which must be resolved by them on the basis of the provisions of the old workmen's compensation law which is more sympathetic to the plight of the working man as it is more expressive of the social justice guarantee of the supreme law of the land.

As delineated above, petitioners whose causes of action accrued during the effectivity of the old compensation law and continued even after its repeal unto the regime of the new employees' compensation law, filed their respective claims for compensation only after the deadline set forth under the new law; but which deadline was ruled by this Court as not barring the claims of the petitioners as filed with the GSIS which under the new law is mandated to take cognizance of compensation claims, the defunct Workmen's Compensation Commission and its regional branches being then in the process of folding up.

Relevant to state at this point is the fact that herein petitioners (except petitioner Barga, who resumed working after his temporary disability), like claimant in the Romero case, [77 SCRA 482, 489 (1977)], despite their medical disability, persisted in working by their sheer determination and ingenuity until their compulsory retirement (Corales), death (Villones), and mental incapacity (Cañeja).

It must also be noted that the new compensation law in fixing the March 31, 1975 deadline of filing claims accruing during the effectivity of the old compensation law with the regional offices (WCC) of the Department of Labor, overlooked the vested rights of claimants to file their claims within the ten-year prescriptive period recognized under the previous compensation law and jurisprudence.

Hence, respondents GSIS and ECC as the only existing agencies presently entrusted by law with the processing of claims for compensation benefits have jurisdiction over the claims herein involved and over all claims of claimants similarly situated. (While P.D. 954, issued on July 6, 1976, empowered the Secretary [now Minister] of Labor to assume and exercise effective jurisdiction over workmen's compensation cases, this was however expressly limited to the power and authority to determine, dispose of and to take final action on workmen's compensation cases pending as of March 31, 1976 before the Workmen's Compensation Commission and the Workmen's Compensation Units in the regional offices of the Department [now Ministry] of Labor, and those cases remanded or to be remanded by the Supreme Court for further proceedings).

On this point, the views of counsel for petitioner Felixberto Villones is worth quoting, thus:

"Obviously precipitated by this Honorable Court's decision in the present case, respondent ECC now, however, alleged that it is without jurisdiction to entertain petitioner's claim since 'Workmen's compensation cases pending before the regional office of the then Department of Labor and the Workmen's Compensation Commission are to be adjudged by the Secretary (now Minister) of Labor and no one else.'

"However, the fact that the claim was filed in the GSIS and then appealed to the ECC 'does not militate against petitioner's claim for the filing of a claim in an office that has no authority to act on it can be treated as having been filed with the appropriate agency as long as it is filed within the period allowed by law' (Pobre vs. Workmen's Compensation Commission, 77 SCRA 315-320, May 31, 1977; Corales v. Employees' Compensation Commission, 88 SCRA 547, February 27, 1979).

"The rule *ubi jus, ibi remedium* (where there is a right, there is a remedy) can be properly applied to petitioner's claim. Based upon this rule, the creation of a new duty or obligation carried with it by implication a corresponding remedy to assure its observance since it is presumed that the law-making authority in enacting the statute intended that it become operative and effectual. If no particular procedure is prescribed it is implied that the right could be enforced through the appropriate or usual procedure already provided (Black, Statutory Construction, pp. 85-87).

"The repeal of the Workmen's Compensation Act neither abrogated petitioner's right nor deprived him of the remedy in vindication thereof. To disallow petitioner from enforcing his right through resort to the procedure established, and to the entity made liable for payment of claims, under the Labor Code, would make illusory petitioner's right to compensation arising from the loss of his son due to causes directly attributable to the latter's employment.

"As successor to the Workmen's Compensation Commission, the ECC is made responsible for effectuating the same basic policies that the Workmen's Compensation Commission had been made to apply in respect of workers' welfare. In terminating the Workmen's Compensation program (Article 297, Labor Code), what the law effected was the transfer of liability from the employers under the Workmen's Compensation Act to either the GSIS or Social Security System as administrator of the State Insurance Fund which is funded by the employers themselves through the compulsory contributions, and not the extinguishment of liability under the Code. But it would seem that respondent ECC would have this Honorable Court interpret the Code so as to leave petitioner without remedy and thereby make the constitutional guarantees of social justice and protection of labor which justify the liberal construction of labor laws (Article 4, Labor Code; Article 1702, Civil Code) meaningless.

"x x x x."

Indeed, to sustain the stand of respondent ECC on this matter would result into a situation wherein herein claimants and others similarly circumstanced would have a bare right without any forum to enforce the same. A vested right rooted from a social legislation enacted pursuant to the social justice provision of the Constitution may not be rendered worthless by a literal construction of the pertinent provisions of the New Labor Code, which would thus inflict upon the petitioners and those equally situated the harshness of the arbitrary and constricted time limitation set forth in its Article 292.

The President-Prime Minister, in promulgating the New Labor Code, did not deliberately intend to inflict such injustice on claimant employees and thereby deny them the social justice guaranteed by the Constitution he swore to uphold and defend.

As long as this Supreme Tribunal exists and functions as the vital instrument of social justice, the aforesaid situation will never be countenanced.

III

Respondent GSIS likewise pleads for the deletion of that portion of the Corales resolution which reads as follows:

"It is rather disheartening to observe that the officials and agencies designated by the law to implement the social justice guarantee in the Constitution and the social legislation in favor of the working man lack the heart and compassion to accord a liberal interpretation of the Workmen's Compensation Law and to resolve all doubts in favor of the employee as mandated by both the New Labor Code, the New Civil Code, and relevant jurisprudence."

Subsequently, however, this Court in the case of Felixberto Villones stated that ?

"It is heartening to note that the ECC, in its Resolutions Nos. 233 and 432, respectively dated March 16, 1977 and July 20, 1977, adopted a more compassionate construction of the otherwise restrictive provisions of the New Labor Code x x x by including in the list of compensable ailments and diseases, cardiovascular disease which comprehends myocardial infarction, pneumonia and bronchial asthma."

Now, we add with enthusiasm our fulsome praise for the offer - noble as it is magnanimous - of Mr. Justice Manuel Lazaro as counsel of the Government Service Insurance System which certainly will alleviate the

suffering of these destitute and needy claimants.

WHEREFORE, THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY DIRECTED TO PAY THE CLAIMANTS THE DECREED AWARDS IN THEIR RESPECTIVE CASES, WITHOUT PREJUDICE TO THE RIGHT OF THE GOVERNMENT SERVICE INSURANCE SYSTEM TO REIMBURSEMENT FROM THE RESPECTIVE EMPLOYERS OF THE CLAIMANTS OR OF THE DECEASED EMPLOYEE AFTER DUE HEARING.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Concepcion, Jr., Fernandez, Guerrero, De Castro, Ericta, Plana, and Escolin, JJ., concur.

Aquino, J., no part.

Abad Santos, J., abroad.

Melencio-Herrera, J., in the result.

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