

NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. ESTEBAN GALAMGAM, SUBSTITUTE CLAIMANT FOR DECEASED JUANA S. GALAMGAM, RESPONDENT.*G.R. No. L-29634. April 29, 1971*

Ponente: FERNANDO, J.

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Petitioner National Development Company continues to resist an award in favor of respondent Esteban Galamgam, husband of one of its employees who died of pulmonary tuberculosis. To justify its adamant stand, petitioner would invoke what it considered sufficient legal barriers, the late filing of the claim and the insufficiency as a basis for an unfavorable judgment of a failure to controvert, which petitioner would downgrade as a pure technicality. To state the grounds thus relied upon is to demonstrate their lack of merit. We affirm.

There is no dispute that the deceased Juana Saribay Galamgam worked for many years as a weaver in the textile department of petitioner. There was danger to the health of those thus employed in view of the fibers of cotton dust flying around causing petitioner subsequently to furnish gas masks to its laborers. Her services dated back to before World War II. All the while she was at her post eight hours a day. There was time also when she was on the night shift. As a result, she suffered several illnesses, for which she was treated by the company doctor until on June 30, 1953, her employment was terminated because of her recurrent ailments. It was not until August 6, 1959 that she filed a notice and claim for compensation, being a victim of the dreaded disease of pulmonary tuberculosis. She died on March 16, 1961. After her death, now respondent Esteban Galamgam, her husband, was made party claimant in her stead.

The decision on such a claim ordered petitioner, as employer, to pay P3744.00 as compensation benefits, P500.00 as reimbursement for medical expenses incurred, P200.00 as burial expenses as well as the additional sum of P38.00 to the Workmen's Compensation Commission as administrative costs. On appeal to the Workmen's Compensation Commission, there was an affirmance of the above decision with the modification that the burial expenses should be eliminated and that claimant Galamgam was entitled to ten percent of the amount due as compensation in the sum of P374.40 as attorney's fees. A motion for reconsideration was filed by petitioner, which was denied for lack of merit on September 18, 1968. Thus, its decision of August 9, 1968 stands.

Then came the petition for certiorari of October 7, 1968. As set forth at the outset, there is no legal justification for the reversal sought.

1. For its first ground, petitioner would impugn the delay of six years before the claim was filed. It is its view that the requirement that a claim for compensation should be made not later than two months after the date of the injury or sickness or, in case of death, not later than three months after death, is jurisdictional.[1] Reference to *Operators, Incorporated v. Cacatian*[2] would readily make evident how frail is the reed thus relied upon. As was there stated: "It is much too late in the day to complain about the long delay in instituting the claim here of seven years. This Court in 1965 categorically declared that the failure to file a claim within the statutory period does not

affect the jurisdiction of the Workmen's Compensation Commission. Such a doctrine found mention in a 1968 decision, *Pampanga Sugar Mills v. Vda. de Espeleta*, citing two cases decided the year before. In the first, it took the claimant eight years and in the second, nine years before the right to compensation was sought to be enforced. Its non-jurisdictional character was stressed anew in *Victorias Milling Co., Inc. v. Workmen's Compensation Commission*, announced less than two months later. To the same effect are later cases likewise of 1968 vintage. We have had occasion this year to rule similarly."^[3]

2. Insofar as the other contention raised by petitioner to demonstrate what it considered a weakness of the decision, namely, that its failure to controvert is not to be attended with such a grave result, this is what its petition states: "It is submitted that if this technicality is allowed without the issue of compensability being squarely met and considered, grave injustice will be committed. This is so because should it be found that there was really no evidence of sickness while claimant was in the employ of petitioner, then there would have been no need to file any notice of controversion and there would have been no right to controvert that would be renounced."^[4] Petitioner seems to be unaware of the doctrine constantly adhered to by this Court as to the disastrous consequence visited on the employer who fails to controvert. A recent decision of this Court should provide the necessary enlightenment: "There is an even more formidable obstacle to the success of this petition to set aside the decision of the Workmen's Compensation Commission. As noted therein: 'Considering therefore that the injury sustained by the claimant arose out of and in the course of his employment and respondent company having failed to controvert the right of the claimant within the ten-day period prescribed in Section 45 of the Act, the compensability of the present claim, its reasonableness and validity, is now beyond challenge.' The absence of controversion is fatal to any defense that petitioner could interpose. So we have held in a host of decisions in compliance with the clear and express language of the Workmen's Compensation Act. Any assertion to the contrary is doomed to futility."^[5]

WHEREFORE, the decision of the Workmen's Compensation Commission of August 9, 1968 is affirmed. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Makalintal, J., took no part.

[1] Sec. 24 of the Workmen's Compensation Act reads in full: "No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself. Such notice may be given and such claim made by any person considering himself entitled to the compensation or by any other person in his behalf. In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary. (As amended by Section 7 of Commonwealth Act No. 210.)

[2] L-26173, October 31, 1969, 30 SCRA 218.

[3] Ibid, pp. 224-225. The first case cited is *Manila Railroad Company v. Perez*, L-21071, June 29, 1965, 14 SCRA 504. The two cases referred to in the *Vda. de Espeleta* decision, L-24073, Jan. 30, 1968, 22 SCRA 325 are *National Development Co. v. Ayson*, L-23450, May 24, 1967, 20 SCRA 192 and *National Development Co. v.*

Rongavilla, L-21963, Aug. 30, 1967, 20 SCRA 1172. Victorias Milling Co. v. Workmen's Compensation Commission, L-25640, March 21, 1968 is reported in 22 SCRA 1215. The other 1968 rulings are found in Surigao Consolidated v. Workmen's Compensation Commission, L-26077, May 29, 1968, 23 SCRA 820; Manila Railroad v. Rivera, L-23021, May 29, 1968, 23 SCRA 922 and San Miguel Brewery v. Vda. de Joves, L-24258, June 26, 1968, 23 SCRA 1093. Such a doctrine was reiterated in the 1969 case of Victorias Milling Co. v. Dadivas, L-24985, March 27, 1969, 27 SCRA 413.

[4] Petition for Certiorari, p. 4.

[5] La Mallorca v. Workmen's Compensation Commission, L-29315, Nov. 28, 1969, 30 SCRA 613, 619-620. Thirty decisions in all were cited from Bachrach Motor Co. v. Workmen's Compensation Commission, 99 Phil. 238 (1956) to Northwest Orient Airlines v. Workmen's Compensation Commission, L-25274, July 29, 1969, 28 SCRA 877. Pioneer Ceramics v. Samia, L-28819, June 23, 1970, 33 SCRA 487; Manila Surety and Fidelity Co. v. Workmen's Compensation Commission, L-27703, July 31, 1970 and Camotes Shipping Corp. v. Otadara, L-27699, October 24, 1970, promulgated subsequently, reaffirmed the doctrine.

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