

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
WORKMEN'S COMPENSATION COMMISSION, ESTANISLAO
SARTO, REFEREE, WORKMEN'S COMPENSATION UNIT RO6
AND MELCHORA C. VDA. DE BRI-TA...**

G.R. No. L-30428. February 07, 1973

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioner Development Bank of the Philippines prays that the decision of the Workmen's Compensation Commission dated January 22, 1969 be annulled, that the case be remanded to the Referee for new hearing on the merits, and that the right of petitioner to controvert the claim for death benefits filed by claimants Melchora vda. de Britanico and her eight (8) minor children be reinstated.

Wilfredo P. Britanico of Baao, Camarines Sur was the records and mailing clerk of the petitioner Development Bank of the Philippines, Naga, City branch, from April 26, 1963 until 9 o'clock in the evening of October 29, 1967 when he died due to illness.

On December 5, 1967, his widow, Melchora C. vda. de Britanico, for herself and in behalf of her eight (8) minor children, filed a notice and claim for compensation, stating among others, that the deceased was a record and mailing clerk of petitioner DBP with a salary of P712.22 per month; that he was 39 years old when he died; and that:

"On the 18th day of October, 1967, the deceased was sent to collect the monthly amortization from the Luzonian Machine Shop and upon arrival from said work he went to his desk and there he vomitted blood. Immediately he was brought to the Mother Seton Hospital and was given some medicine. Then he went home and upon arrival in Baao, Camarines Sur, he immediately went to the Saint Jude Hospital where he was confined for treatment of Massive Pulmonary Hemorrhage; Pulmonary Koch's; Hypertension. On the 29th day of October, 1967, at about 9:00 in the evening, he expired due to said ill-ness." (Annex "A", p. 20, rec.).

On December 18, 1967, acting on the above claim, the Workmen's Compensation Unit in Naga City sent by registered mail a copy of said claim with the enclosure of blank forms for employer's report of sickness to the respondent Bank of Naga City for accomplishment and return to the office, which will constitute as an answer to said claim.

On January 4, 1968, the Workmen's Compensation Unit at Naga City received a letter of even date from the DBP branch manager together with the accomplished employer's report of sickness dated January 3, 1968 duly signed by the said DBP branch manager, manifesting its controversion of the claim. The DBP in said report admitted the fact that it had knowledge of the ailment and death of the deceased on October 18 and 29, 1967.

Before the initial hearing set for March 11, 1968, the DBP filed a motion dated March 8, 1968 to dismiss the claim on the ground that the DBP is not an instrumen-tality of the government and hence not covered by the

Workmen's Compensation Commission, which motion was denied by WCU Referee for lack of merit in an order dated March 11, 1968.

On April 5, 1968, the DBP filed a motion for reconsideration of said order of March 11, 1968, which motion was denied in an order dated March 19, 1968, which order reset the case for hearing on April 8, 1968.

On April 5, 1968, the DBP filed a petition for prohibition with the Supreme Court, which dismissed said petition in its resolution of August 30, 1968 for lack of merit, holding that the DBP is a government instrumentality.[1]

At the hearing on April 8, 1968, the claimant moved that the claim be declared uncontroverted on the ground that the DBP filed a controversion beyond the period prescribed by Section 45 of the Workmen's Compensation Act, as amended, and prayed that the claimants be allowed to present their evidence ex parte, with the manifestation that the DBP failed to comply with the mandatory provisions of Section 37 of the Workmen's Compensation Act.

It appearing that the DBP had knowledge of the sickness on October 18, 1967 and of the death on October 29, 1967 of the decedent as clearly shown in its employer's report, the WCU Referee declared the present claim uncontroverted, adding that the DBP has not filed a petition for restoration of its right to controvert the claim until after September 18, 1968 when the WCU Referee rendered the decision in favor of the claimant (see Annex "G", pp. 32-37, rec.).

On October 24, 1968, the DBP filed a motion for reconsideration of the said decision of the WCU Referee dated September 18, 1968 and for the reinstatement of its right to controvert the claim (Annex "H", pp. 38-42, rec.), which was denied on October 31, 1968 by the WCU Referee who elevated the records of the case to the Workmen's Compensation Commission as the motion partakes of the nature of a petition for review (Annex "I", p. 44, rec.).

On January 22, 1969, respondent Workmen's Compensation Commissioner rendered the challenged decision:

"It appears that the late Wilfredo Britanico started working with respondent on April 26, 1963, as records and mailing clerk, with a salary of P3,432.00 per annum, working five days a week; that as records and mailing clerk, the duties of the deceased employee consisted of typing and mailing correspondence; that occasionally the deceased was required to drive respondent's jeep; that on November 25, 1966, the deceased was hospitalized in the Riverview Medical Clinic in Naga City, for severe fever, backache and cough; that on December 29 to 30, 1966, the deceased was again hospitalized in said clinic for the same illness; that on October 18, 1967, the late Wilfredo Britanico was instructed by respondent to go to the Luzonian Auto Machine Shop to collect the monthly amortization on the latter's loan account from the former; that upon returning to the office, the deceased went to his desk where he vomitted blood; that the deceased was brought immediately to the Mother Seton Hospital where he was treated; that the hospital bills of the deceased in the Mother Seton Hospital were paid by the respondent (t.s.n. Hearing April 8, 1968, p. 34); that after the deceased was treated in the Mother Seton Hospital, he was brought to his residence in Baao, Camarines Sur; that while the deceased was already in his house, he again vomitted blood and lost consciousness; that when the deceased regained consciousness, he asked to be taken to the Saint Jude Hospital in Iriga, Camarines Sur, where he was confined for eleven (11) days, for massive pulmonary hemorrhage, pulmonary Kochs and hyper-tension; that in the Saint Jude Hospital, the deceased was given blood transfusion of about 1,000 c.c. and medicines to alleviate bleeding but the same were to no avail; that on October 29, 1967, at about 9:00 p.m., the late Wilfredo Britanico died due to massive hemorrhage, respiratory obstruction (Exhibit 'I' --Physician's Report of Sickness or Accident, p. 2); and that the deceased left as dependents the claimant-widow and eight (8) minor children.

"It appears further that on December 5, 1967, the claimant-widow filed with Regional Office No. 6, Naga City, a notice and claim for death benefit and affidavit of dependency. On December 19, 1967, a notice,

together with a copy of the claim and the pertinent WCC forms, was sent to the respondent. On December 21, 1967, the respondent received said notice. On January 4, 1968, the respondent filed its Employer's Report of Accident or Sickness, wherein respondent stated that it knew of the sickness of the deceased on October 18, 1967, as well of his death on October 29, 1967.

"The only issue to be resolved in this case is whether or not the death of the late Wilfredo Britanico on October 29, 1967, caused by massive hemoptysis due to pulmonary Kochs and hyper-tension, falls within the ambit of com-pensatory coverage.

"There is no question that once the illness supervened at the time of the employment, there is a rebuttable presumption that the illness (of) arose out of the employment or was at least aggravated by such employment. To rebut this statutory presumption, the respondent must show that the deceased employee's illness was not traceable to his employment or was, at least, not aggravated by such employment. On this point, the respondent has miserably failed, be-cause it indulged in legal skirmishes when it filed its motion to dismiss the instant claim on that ground that the employees of the Development Bank of the Philippines are not covered by Act No. 3428, as amended. On March 11, 1968 said motion was denied. Respondent then filed a motion for reconsideration of the referee's order of denial. On March 19, 1968, the referee denied the motion for reconsideration. On April 5, 1968, the respondent filed with the Supreme Court a petition for prohibi-tion contesting the jurisdiction of the Workmen's Compensation Unit of Regional Office No. 6, Naga City, to hear the instant claim. The Supreme Court in its resolution of August 30, 1968, denied respondent's petition for prohibition and declared that the Development Bank of the Philippines, being an instrumentality of the national government, it follows that its employees are covered by the Workmen's Compensation Act, as amended.

"Moreover, the claimants' cause of action was bolstered by the failure of the respondent to controvert the claimants' right to compensation under Act No. 3428, as amended. The records reveal that the respondent knew not only of the sickness of the late Wilfredo Britanico but also of his death on October 29, 1967. Notwithstanding respondent's knowledge of the illness and death of Britanico, the respondent failed to file the notice of controver-sion as prescribed in Section 45 of the Act. This being the case, the respondent, by legal dictum, is deemed to have renounced its right to controvert the claimants' right to compensation benefits under the law as well as to challenge the validity or reasonableness of the instant claim. Likewise, the failure of the respondent to seasonably contro-vert the instant claim results in the consequential loss of its right to con-trovert the claim on non-jurisdictional ground. Lack of controversion or untimely controversion authorizes the Chief of the Workmen's Compensation Unit to proceed with the issuance of an administrative award in favor of claimants without hold-ing any formal hearing, and without infringing the most enshrined due process of our Constitution according to the Supreme Court, in a number of cases decided by it. Besides, for having paid Britanico's hospital bills at the Mother Seton Hospital, the respondent is deemed to have admitted its liability under the Act.

"It may be stated in passing that the filing of a petition for prohibition or a motion for reconsideration with the Supreme Court, in connection with the tribunal's resolution denying said peti-tion, does not bar the Referee from hear-ing the instant claim or from rendering a decision in the absence of an order from the Supreme Court restraining said Referee from acting on the instant claim. Hence, we find the referee to have com-mitted no reversible error in his findings of fact and in awarding death benefits to the claimants under the law.

"It is observed, however, that the Referee erred in the computation of death compensation benefits due the claimants. Although (1A.D. Santos, Inc. vs. Ventura Vasquez, G.R. No. L-25586, March 20, 1968/ 2Tan Lim Te vs. WCC, et. al. G.R. No. L-12324, Aug. 30, 1958 and allied cases/ 3Victorias Milling Co., Inc. vs. Compensation Commissioner & Simeon Villanueva, G.R. No. L-10533, May 13, 1957./ 4The Bachrach Motor Co., vs. WCC, G.R. No. L-8589, May 15, 1956; Victorias Milling Co., Inc. vs. WCC, et. al., G.R. No. L-10533, May 13, 1957; Aboitiz Shipping Corp. vs. Oqueria, G.R. No. L-20998, Aug. 31, 1965,/ 5NDC vs. Peralta, G.R. No. L-21796, August 29, 1966) it would not affect the end-result, but merely to make the computation conform with provi-sions of Section 12 of the Act, the computation should be as follows:

P3432.00 (annual salary) divided by 52 (weeks) equals P66.00 (average weekly wage), which must be reduced to P50.00 in accordance with Section 12 of the law. Sixty (60) per centum of P50.00 equals P30.00 and for 208 weeks the claimants are entitled to P6,240.00 which should be reduced to P6,000.00 (maximum compensation)." (Annex "J", pp. 45-47, rec.).

The Development Bank of the Philippines filed a motion dated February 5, 1969 for the reconsideration of the above decision (Annex "K", pp. 48-51, rec.), which was denied by respondent WCC in a unanimous resolution dated February 12, 1969 (Annex "L", p. 52, rec.).

Both in its petition and brief, petitioner Development Bank of the Philippines raises only two issues, namely: (1) that it was deprived of the right to be heard by the refusal of respondent WCU Referee to grant its motion for postponement of the hearing set for April 8, 1968; and (2) that respondent WCC erred in not reinstating petitioner's right to controvert the claim.

I

The respondent WCU Referee did not abuse his discretion in proceeding with the hearing of the claim on April 8, 1968, despite the motion for postponement filed by petitioner DBP, without waiting for the resolution of this Court on the petition for prohibition filed on April 5, 1968 by petitioner contesting the jurisdiction of the WCC Unit to hear the claim. As stated by respondent WCC, no restraining order or writ of preliminary injunction was issued by this Court in the prohibition case[2] enjoining respondent WCU Referee from hearing the claim during the pendency of said prohibition case, which was dismissed by this Court in its resolution of August 30, 1968.

As found by respondents WCC and WCU Referee, petitioner, from its own employer's report (Exhibits "A" and "A-1") admitted that it had knowledge of the ailment of the deceased worker on October 18, 1967 and his death on October 29, 1967. Said employer's report, which also controverts the claim, was filed with the WCU Referee only on January 4, 1968 (Annex "G", p. 32, rec.), over fourteen (14) days from the day of disability and over ten (10) days from its knowledge of the ailment in violation of Section 45 of the Workmen's Compensation Act, as amended. Thereafter, the case was set for hearing on March 11, 1968, which was re-set for April 8, 1968 in respondent Referee's order dated March 19, 1968 rejecting the motion filed by petitioner for the reconsideration of the order of March 11, 1968 denying its motion to dismiss the claim (Annex "D", p. 25, rec.).

From October 18, 1967 or from October 29, 1967, or even from January 4, 1968, petitioner DBP had ample time to prepare for trial -- about 5 months from October 18, 1967 or about 3 months from January 4, 1968 until the hearing on April 8, 1968 -- as it already knew the circumstances surrounding the ailment and consequent demise of the deceased employee. The medical records in the Mother Seton Hospital at Naga City and the Saint Jude Hospital at Iriga, City, Camarines Sur, were all open for examination by its lawyers. There is no intimation even that the doctors, hospital employees of both hospitals and the co-employees of the deceased and other persons who could be utilized as witnesses were not then available to petitioner. Petitioner DBP, as found by respondent Commission and WCU Referee, even paid the hospital bills of the deceased when he was confined at the Mother Seton Hospital. Petitioner therefore had ample time to prepare for the hearing on April 8, 1968, even while it was preparing its prohibition petition dated April 5, 1968 with this Court, challenging the jurisdiction of respondent WCU Referee. Incidentally, petitioner DBP could have reiterated such jurisdictional issue at the trial and on appeal by certiorari to this Court, without any disadvantage to itself, instead of prosecuting first a petition for prohibition. It is patent therefore that petitioner's motion for postponement of the hearing was purely dilatory, which this Court cannot view with tolerance.

II

Likewise, respondents WCC and WCU Referee did not err in rejecting the motion dated October 24, 1968 for the reinstatement of its right to controvert the claim, which motion was filed long after (over a month) the

re-spondent WCU Referee rendered his decision of September 18, 1968.

Section 45 of the Workmen's Compensation Act, as amended, provides:

"In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or with-in ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form pre-scribed by him, that compensation is not being paid, giving the name of the claimant, name of employer, date of the accident and the reason why compensation is not being paid. Fail-ure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim."

This Court has ruled uniformly in many cases that failure to controvert the claim within the prescribed period of fourteen (14) days from the date of the dis-ability or illness or within ten (10) days after knowledge of such illness, and to submit the report required by Section 37 of the Workmen's Compensation Act, as amended, amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable.[3]

Petitioner DBP concedes that it failed to contro-vert the claim or to submit the required report of illness or death within the prescribed period, for which reason it now merely insists that the respondent WCC erred in not reinstating its right to controvert the claim.

The Commission or WCU Referee may reinstate the employer's right to controvert the claim only if the em-ployer "submits reasonable grounds for the failure to make the necessary reports." The fact that petitioner filed an urgent motion for reconsideration of the order of this Court dated August 30, 1968 dismissing petitioner's prohibition petition in G.R. No. L-28891 as aforesaid, is not a reasonable ground for respondent WCU Referee to with-hold rendering the decision dated September 18, 1968, since the Supreme Court had already dismissed the prohibition petition which was patently groundless as petitioner DBP is a government instrumentality within the purview of Section 3 of the Workmen's Compensation Act, as amended, created and designed as it was by Congress for the accel-eration of the economic development of the country, regard-less of the nature of its functions, in line with our deci-sions in *Bolinao Electronics Corp. vs. WCC, et. al.*;^[4] *C & C Commercial Corp. vs. NAWASA*;^[5] *Gonzales vs. Hechanova, et. al.*;^[6] and *Government vs. Springer, et. al.*^[7]

Neither the pretension of petitioner that its fail-ure to seasonably controvert was due to its belief that the deceased employee suffered only an ordinary case of nose-bleeding on October 18, 1967, is credible. As here-tofore stated, the DBP branch is in Naga City, where the Mother Seton Hospital is situated, is, by its own admis-sion, only about 22 kilometers from Baao, Camarines Sur, the hometown of the deceased employee, and certainly is not far from Saint Jude Hospital in Iriga, City, where the deceased employee was confined on October 29, 1967, for "massive pulmonary hemorrhage, pulmonary Koch's, and hypertension." With the facilities and resources of petitioner, its lawyers could easily examine the records of both hospitals long before the hearing on April 8, 1968, even if its assertion that they learned that the deceased died of tuberculosis only when they received the claim of the heirs, which must have been before January 3, 1968 when petitioner prepared its employer's report (Exhib-its "A" and "A-1"), which it filed on January 4, 1968 with the respondent WCU Referee. As heretofore stated, petitioner, from its own employer's report, admitted that it knew of the illness and death of the deceased respectively on October 18, 1967 and on October 29, 1967.

When petitioner admitted that it knew of the ill-ness on October 18, 1967 and of the death on October 29, 1967 of the deceased employee, from October 18, 1967, it should have anticipated that the ailing employee or his heirs will file a claim for compensation and therefore should have already taken steps to controvert the claim.

Moreover, as heretofore stated, it already for-feited its right to any defense by reason of its failure to submit the report of injury or illness "as soon as possible" after its occurrence as required by Section 37 of the Workmen's Compensation Act, as amended.

WHEREFORE, THE DECISION DATED JANUARY 22, 1969 IS HEREBY AFFIRMED, AND THIS PETITION FOR REVIEW IS HEREBY DISMISSED, WITH COSTS AGAINST PETITIONER.

Concepcion, C.J., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Antonio, and Esguerra, JJ., concur.

[1] DBP vs. Referee, et. al., G.R. No. L-28891, 24 SCRA 931, 934-936.

[2] DBP vs. Referee, et. al., G.R. No. L-28891, 24 SCRA 931, 934-936.

[3] Atlas, etc., vs. WCC, et. al., G.R. No. L-22439, May 29, 1970, 33 SCRA 132, 135; Pioneer Ceramics Inc. vs. Samia & WCC, G.R. No. L-28819, June 23, 1970, 33 SCRA 487, 490-91; NDC vs. WCC, et. al., G.R. No. L-19863, April 29, 1964, 10 SCRA 696, 698-99; MRR vs. WCC, et. al., G.R. No. L-19377, Jan. 13, 1964, 10 SCRA 41, 44-45.

[4] G.R. No. L-23104, April 30, 1970, 32 SCRA 607.

[5] G.R. No. L-27275, Nov. 18, 1967, 21 SCRA 984, 992-993.

[6] G.R. No. L-21897, Oct. 22, 1963, 9 SCRA 230, 246-247.

[7] No. 26979, April 1, 1927, 50 Phil. 259, 288-289.

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