

DIONISIA ABUEG ET AL., PLAINTIFFS AND APPELLEES, VS. BARTOLOME SAN DIEGO, DEFENDANT AND APPELLANT.

CA-No. 773. December 17, 1946

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2b999e297846/>

PADILLA, J.:

This is an appeal from a judgment rendered by the Court of First Instance of Manila in the above-entitled cases awarding plaintiffs the compensation provided for in the Workmen's Compensation Act.

The record of the cases was forwarded to the Court of Appeals for review, but as there was no question of fact involved in the appeal, said court forwarded the record to this Court. The appeal "was pending when the Pacific War broke out, and continued pending until after liberation, because the record of the cases was destroyed as a result of the battle waged by the forces of liberation against the enemy. As provided by law, the record was reconstituted and we now proceed to dispose of the appeal.

Appellant, who was the owner of the motor ships San Diego II and Bartolome S, states in his brief the following:

There is no dispute as to the facts involved in these cases and they may be gathered from the pleadings and the decision of the trial Court. In case CA-G. R. No. 773, Dionisia Abueg is the widow of the deceased, Amado Nunez, who was a machinist on board the M/S San Diego II belonging to the defendant-appellant. In case CA-G. R. No. 774, plaintiff-appellee, Marciana S. de Salvation, is the widow of the deceased, Victoriano Salvacion, who was a machinist on board the M/S Bartolome S also belonging to the defendant-appellant. In case CA-G. It. No. 775, the plaintiff-appellee, Rosario R. Oching is the widow of Francisco Oching who was captain or natron of the defendant-appellant's M/S Bartolome S.

The M/S San Diego II and the M/S Bartolome, while engaged in fishing operations around Mindoro Island on Oct. 1, 1941 were caught by a typhoon as a consequence of which they were sunk and totally lost. Amado Nunez, Victoriano Salvacion and Francisco Oching while acting in their capacities perished in the shipwreck (Appendix A, p. IV).

It is also undisputed that the above-named vessels were not covered by any insurance. (Appendix A, p. IV.)

Counsel for the appellant cite article 587 of the Code of Commerce which provides that if the vessel together with all her tackle and freight money earned during the voyage are abandoned, the agent's liability to third persons for tortious acts of the captain in the care of the goods which

the ship carried is extinguished (Yangco vs. Laserna, 73 Phil., 330) ; article 837 of the same Code which provides that in cases of collision, the shipowners' liability is limited to the value of the vessel with all her equipment and freight earned during the voyage (Philippine Shipping Company vs. Garcia, 6 Phil., 283) ; and article 643 of the same Code which provides that if the vessel and freight are totally lost, the agent's liability for wages of the crew is extinguished. From these premises counsel draw the conclusion that appellant's liability, as owner of the two motor ships lost or sunk- as a result of the typhoon that lashed the island of Mindoro on October 1, 1941, was extinguished.

The real and hypothecary nature of the liability of the shipowner or agent embodied in the provisions of the Maritime Law, Book III, Code of Commerce, had its origin in the prevailing conditions of the maritime trade and sea voyages during the medieval ages, attended by innumerable hazards and perils. To offset against these adverse conditions and to encourage shipbuilding and maritime commerce, it was deemed necessary to confine the liability of the owner or agent arising from the operation of a ship to the vessel, equipment, and freight, or insurance, if any, so that if the shipowner or agent abandoned the ship, equipment, and freight, his liability was extinguished.

But the provisions of the Code of Commerce invoked by appellant have no room in the application of the Workmen's Compensation Act which seeks to improve, and aims at the amelioration of, the condition of laborers and employees. It is not the liability for the damage or loss of the cargo or injury to, or death of, a passenger by or through the misconduct of the captain or master of the ship; nor the liability for the loss of the ship as a result of collision; nor the responsibility for wages of the crew, but a liability created by a statute to compensate employees and laborers in cases of injury received by or inflicted upon them, while engaged in the performance of their work or employment, or the heirs and dependents of such laborers and employees in the event of death caused by their employment. Such compensation has nothing to do with the provisions of the Code of Commerce regarding maritime commerce. It is an item in the cost of production which must be included in the budget of any well-managed industry.

Appellant's assertion that in the case of *Enciso vs. Dy-Liaco* (57 Phil., 446), and *Murillo vs. Mendoza* (66 Phil, 689), the question of the extinction of the shipowner's liability due to abandonment of the ship by him was not fully discussed, as in the case of *Yangco vs. Laserna*, *supra*, is not entirely correct. In the last mentioned case, the limitation of the shipowner's liability to the value of the ship, equipment, freight, and insurance, if any, was the *lis mota*. In the case of *Enciso vs. Dy-Liaco*, *supra*, the application of the Workmen's Compensation Act to a master or patron who perished as a result of the sinking of the motorboat of which he was the master, was the controversy submitted to the court for decision. This Court held in that case that "It has been repeatedly stated that the Workmen's Compensation Act was enacted to abrogate the common law and our Civil Code upon culpable acts and omissions, and that the employer need not be guilty of neglect or fault, in order that responsibility may attach to him" (pp. 449-450) ; and that the shipowner was liable to pay compensation provided for in the Workmen's Compensation Act, notwithstanding the fact that the motorboat was totally lost. In the case of *Murillo vs. Mendoza*, *supra*, this Court held that "The rights and responsibilities defined in said Act must be governed by its own peculiar provisions in complete disregard of other similar provisions of the civil as well as the mercantile law. If an accident is compensable under the Workmen's Compensation Act, it must be compensated even when the workman's right is not recognized by or is in conflict with other provisions of the Civil Code or of the Code of Commerce. The reason behind this principle is that the Workmen's Compensation Act was enacted by the Legislature in abrogation of the other existing laws." This quoted part of the decision is in answer to the contention that it was not the intention of the Legislature to repeal articles 643 and 837 of the Code of Commerce with the enactment of the Workmen's Compensation Act.

In the memorandum filed by counsel for the appellant, a new point not relied upon in the court below is raised. They contend that the motorboats engaged in fishing could not be deemed to be in the coastwise and inter-island trade, as contemplated in section 38 of the Workmen's Compensation Act (No. 3428), as amended by Act No. 3812, inasmuch as, according to counsel, a craft engaged in the coastwise and inter-island trade is one that carries passengers and/or merchandise for hire between ports and places in the Philippine Islands.

This new point raised by counsel for the appellant is inconsistent with the first, for, if the motor ships in question, while engaged in fishing, were to be considered as not engaged in inter-island and coastwise trade, the provisions

of the Code of Commerce invoked by them regarding limitation of the shipowner's liability or extinction thereof when the shipowner abandons the ship, cannot be applied (*Lopez vs. Duruelo*, 52 Phil., 229). Granting however, that the motor ships run and operated by the appellant were not engaged in the coastwise and inter-island trade, as contemplated in section 38 of the Workmen's Compensation Act, as amended, still the deceased officers of the motor ships in question were industrial employees within the purview of section 39, paragraph (d), as amended, for industrial employment "includes all employment or work at a trade, occupation or profession exercised by an employer for the purpose of gain." The only exceptions recognized by the Act are agriculture, charitable institutions and domestic service. Even employees engaged in agriculture for the operation of mechanical implements, are entitled to the benefits of the Workmen's Compensation Act (*Francisco vs. Consing*, 63 Phil., 354). In *Murillo vs. Mendoza*, supra, this Court held that "our Legislature has deemed it advisable to include in the Workmen's Compensation Act all accidents that may occur to workmen or employees in factories, shops and other industrial and agricultural workplaces as well as in the inter-island seas of the Archipelago." But we do not believe that the term "coastwise and inter-island trade" has such a narrow meaning as to confine it to the carriage for hire of passengers and/or merchandise on vessels between ports and places in the Philippines, because while fishing is an industry, if the catch is brought to a port for sale, it is at the same time a trade.

Finding no merit in the appeal filed in these cases, we affirm the judgment of the lower court, with costs against the appellant.

Moran, C. J., Paras, Feria, Pablo, Perfecto, Hilado, Bengzon, Briones, and Tuazon, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.