

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. BRICCIO INCIONG AND WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.*G.R. No. L-14298. April 29, 1960*

Ponente: LABRADOR, J.

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This is a petition for a writ of certiorari to review the decision of the Workmen's Compensation Commission dated August 24, 1958. In the above decision Associate Commissioner Jose Sanchez found the following facts: Briccio Inciong was a latheman in the Bureau of Public Works from January 2, 1948 to June 7, 1949. On August 20, 1948, while riveting galvanized iron sheets on a building in Legaspi Landing, Manila, he missed a nail he was hammering at and the nail jumped out and hit his right eye. His foreman and co-worker brought him to the Philippine General Hospital where he was treated and released on the same day. The next day he reported for work. The foreman who had knowledge of the accident reported the matter to his superior at the Bureau of Public Works at Fort Santiago. Nothing more was done about the accident and Inciong continued to be employed in the Bureau. In May, 1954, a medical officer of the Workmen's Compensation Commission made an examination of the eye of Inciong and found him to be suffering from traumatic cataract, which means that a foreign body had penetrated the lense of the eye causing the loss of vision or total blindness, occurring immediately after the accident. The records of the Philippine General Hospital where Inciong was treated were consulted, hut there was nothing found, except the examining physician declared that the claimant was injured in his right eye on August 20, 1948.

Inciong did not file any action or claim for the injury caused his right eye, until October 7, 1957, when he filed a complaint against the Republic of the Philippines alleging the above accident, which had caused total blindness in his right eye, and for which he claimed compensation, P200.00 as medical expenses, and P100.00, as attorney's fees. The Republic of the Philippines filed an answer to the petition, denying the allegations of the complaint. As affirmative defense it alleged that the injury was not reported to the Bureau of Public Works where plaintiff was then working; that no claim for compensation was filed by him with said Bureau, except on October 7, 1957, or over 9 years after the alleged injury was sustained, so that the action had prescribed. It also claimed in the answer that the Republic has not given consent to the prosecution of the complaint.

The officer of the Commission who heard the case recommended payment of compensation. Upon the submission of the case to a member of the Commission, the said member confirmed the recommendation of the hearing commissioner, for the payment of P1,260.00 as compensation, P200.00 as medical expenses, and P13.00 as fees. It is this decision of affirmance that is sought to be reviewed by the petitioner before Us.

One of the special defenses raised in the Answer of the respondent Inciong is that the petition filed in this Court is premature because it seeks to review a decision of only one Commissioner, and not that of the Workmen's Compensation Commission en banc, in violation of Rules 24 and 25 of the Workmen's Compensation

Commission, published in the Official Gazette on April 15, 1957. While We have previously denied a motion to dismiss on the same ground, our denial was impelled by a desire on our part that all issues raised by the petition may be considered by the Court, all at the same time. In that sense, i.e., that the motion to dismiss should be taken up when we consider the case on its merits, our denial of the motion to dismiss must be understood. This has been the constant practice of this Court.

In the case of Madrigal Shipping Co., Inc. vs. Nieves Baens del Rosario, et al., G. R. No. L-13130, prom. October 31, 1959, We held through Mr. Justice Jesus Barrera that:

"The records disclose that the present appeal has been taken from the decision of only one of the Commissioners in the Workmen's Compensation Commission. Since the petitioner-appellant filed the present petition for review on November 16, 1957, after the effectivity of the Rules and Regulations on April 30, 1957, without first seeking remedy from the Commission en banc, this action is premature."

In view of our ruling above-quoted, We are constrained to hold that the petition is premature and to dismiss the petition, without passing upon the question of prescription and the other issues raised by the petitioner. Without costs.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Concepcion, Endencia, and Barrera, JJ., concur.

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