

**LINO P. BERNARDO, PETITIONER, VS. EUFEMIA PASCUAL, ET AL.,
AND WORKMEN'S COMPENSATION COMMISSION,
RESPONDENTS.***G.R. No. L-13260. October 31, 1960*

Ponente: GUTIERREZ DAVID, J.

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This is a petition to review on certiorari a decision of the Workmen's Compensation Commission, awarding compensation to the widow and children of the deceased Pedro Pascual who met death as a result of an accident while felling a tree in petitioner's lumber concession.

The record shows that on March 9, 1955, the deceased Pedro Pascual was, together with Rogelio Bacane and Martin Quinto, in the woods at Corona, San Miguel, Bulacan. Bacane and Quinto, both loggers admittedly in the employ of herein petitioner, were cutting timber, while fifty meters away from them the deceased was felling a tree which he had started hewing three days before. When Bacane and Quinto heard the sound of the falling tree—and following the practice among loggers—they shouted to Pascual to find out if he was alright. As the latter did not answer, they rushed to where he was and there found him prostrate on the ground with blood trickling from his mouth. Shortly thereafter, he died from a fractured skull and his companions took his body home in petitioner's truck.

On March 31, 1955, the widow of the deceased on behalf of herself and their children filed a claim for compensation with the Workmen's Compensation Commission. Originally filed against the Bernardo Sawmill, the claim was on February 6, 1956 amended to include herein petitioner Lino P. Bernardo, the timber concessionaire and owner and operator of the sawmill, as party respondent. In his answer, the latter denied that he was a timber concessionaire before October 13, 1955, or that he had an employer-employee relationship with the deceased. He also objected to the claim on the ground of prescription. The referee assigned to hear the case having denied the claim, the claimants petitioned for review. On August 27, 1957, the reviewing commissioner reversed the referee's decision and ordered Lino P. Bernardo to pay claimants P3,120.00 as compensation, to reimburse them P200.00 for burial expenses and to pay to the Workmen's Compensation Fund P32.00 as fees. Reconsideration of this award having been denied, Lino P. Bernardo brought the present petition for certiorari.

Petitioner first charges that the respondent Commission abused its discretion in reversing the decision of the referee and finding that the deceased was his employee. Petitioner, however has failed to substantiate the charge. On the other hand, Rogelio Bacane and Martin Quinto, whose employment with the petitioner was never denied and who were present and were working together with the deceased at the time the latter met his death, testified at the hearing of the case that the said deceased was their co-laborer in the lumber concession of petitioner Lino P. Bernardo. Indeed, the respondent Commission, expressly found that their testimonies "clearly point to the existence of an employer-employee relation between the respondent (herein petitioner) and the deceased." It also appears that the deceased, Bacane and Quinto used to receive their wages from Emilio Bautista, petitioner's

"katiwala". As a matter of fact, the widow of the deceased received from said Bautista the wages corresponding to services last rendered by her husband. Petitioner claims that Bautista was a forest guard of the Government and was not his employee. This claim, however, loses its force when we consider the fact that forest guards hired by lumber concessionaires, though appointed by the Department of Agriculture and Natural Resources (under Forestry Order No. 11), are still deemed employees of the concessionaires. (See *Martha Lumber Mill vs. Lagradante, et al.*, 99 Phil., 434; 52 Off. Gaz. [9] 4230.)

In disclaiming employer-employee relationship with the deceased, petitioner has made the rather reckless accusation that the said deceased was a "lumber smuggler" who had been stealing timber from the concession area. No explanation, however, was given why the deceased at the time of his death was felling a tree in broad daylight and in the presence of petitioner's two loggers. In this connection, we might add that the finding of the respondent Commission that the deceased was petitioner's employee at the time of his death is a finding of fact and there being no sufficient showing that the same is unsupported by substantial evidence, the same should be deemed final and conclusive upon this Court. (*Madrigal Shipping Co. vs. Del Rosario, et al.*, G. R. No. L-13130, October 31, 1959; *NLU vs. Sta. Ana*, 101 Phil., 297; 54 Off. Gaz. [6] 1817; see also *PAL vs. PAL Employees Association*, G. R. No. L-8197, October 31, 1958; *Donato vs. Phil. Marine Officers Association*, G. R. No. L-12506, May 18, 1958; *15c and Up Employees' Association vs. Dept. and Bazaar Free Workers' Union*, G. R. No. L-9168, October 18, 1956; *NLU vs. Dinglasan*, 98 Phil., 649; 52 Off. Gaz. (4) 1933; *Batangas Transportation Co. vs. Rivera and WCC*, *supra*, p.175.)

Petitioner also argues that the claim was made out of time and therefore already barred because it was filed only on February 6, 1956. It will be recalled that claimants filed their original claim on March 31, 1955 against the Bernardo Sawmill, and on February 6, 1956, amended it to include petitioner Lino P. Bernardo as party respondent, it appearing that he was the owner and operator of the sawmill. It will thus be seen that in amending the claim, claimants merely specified the real party in interest in accordance with the rule that every action must be prosecuted in the name of such party in interest (Section 2, Rule 3, Rules of Court). Since the amendment did not state a new cause of action but merely made more determinate the real party respondent, it evidently relates back to the date of the original complaint or claim, which was admittedly filed within the 3-month period from the death of the employee as fixed by tsection 24, of the Workmen's Compensation Act.

With respect to petitioner's claim that he became a lumber concessionaire only on October 13, 1955, suffice it to say that prior to that date, he was a partner to several persons owning the concession in San Miguel, Bulacan, and subsequent thereto, he acquired the interest of his partners and became the sole concessionaire. Under those circumstances he became liable to the creditors of the partnership. (Art. 1840, new Civil Code.)

Wherefore, the decision of the Workmen's Compensation Commission sought to be reviewed is affirmed, with costs.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

Decision affirmed.

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