

**PROCESO APOLEGA, PETITIONER, VS. PERSEVERANDA HIZON,
LUCIANO ALCANTARA AND MARIANO PRIMICIAS, PRUDENCIO D.
DEQUINA, AMADO M. ENRIQUEZ, HON. CESARIO PEREZ AND
PROVINCIAL SHERIFF ...**

G.R. No. L-23832. September 28, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

On May 26, 1961 Melanio Hizon filed a notice of claim for compensation with Regional Office No. 5, Department of Labor, San Pablo City, for injury sustained by him on January 5, 1961, while under the employ of Proceso Apolega, now petitioner. On June 16 following, petitioner received a letter from the Chief, Administrative Section of Regional Office No. 5, together with Form No. 3 (Employer's Report of Sickness and Accident) and Form No. 5 (Employer's Supplementary Report of Sickness and Accident), for him to fill out in connection with the claim. He failed to do so, however, although he now alleges that he went to the aforesaid office and verbally informed the officers concerned that the claimant was not his employee.

On July 21, 1961 Regional Administrator Luciano Alcantara issued an award requiring petitioner to pay the claimant the sums of P158.90 for medical expenses, P3,744.00 as compensation benefits and P38.00 as fee.

On November 30, 1962 Melanio Hizon died from complications resulting from the injury suffered in the aforesaid accident and on January 22 the following year his widow, Perseveranda. Hizon, in her own behalf and as guardian ad litem of their minor children, filed a death compensation claim with the same office, a copy of which was received by petitioner on January 28. The claim was again uncontroverted, and on February 22, 1963, an award was issued in favor of the wife and children of the deceased Melanio Hizon in the following amounts: (1) P328.90 for medical expenses; (2) P200.00 as burial expenses; (3) P3,744.00 as compensation benefits; and (4) P38.00 as fee. This award was renewed on July 8, 1963 by hearing officer Amado A. Enriquez of the same Regional Office, requiring petitioner to pay claimants the same amount of compensation. Copy of the renewed award was received by petitioner on July 19 following.

On August 8, 1963, petitioner through counsel filed a motion for extension of time to file a "Motion to Vacate the Award and Motion to Dismiss the Case." An extension of ten (10) days from August 12 was granted by the hearing officer. Petitioner failed to file the pleading contemplated, and so the hearing officer, on September 9, 1963, issued an order declaring the award as final and executory and elevated the record of the case to the Workmen's Compensation Commission for review. In an order dated July 24, 1964 the Commission, thru Associate Commissioner Cesario Perez, declared the award of February 22, 1963 final and executory and remanded the case to the Regional Office a quo for appropriate action.[1] The Regional Office, thru Prudencio D. Dequina, issued a writ of execution against the properties of the petitioner, pursuant to Section 51 of the Workmen's Compensation Act as amended by Section 17 of Republic Act. 4119.

On November 17, 1964 petitioner elevated the case to this court in a petition for certiorari and prohibition with

preliminary injunction. In a resolution dated November 20, 1964, we directed the issuance of the writ of preliminary injunction prayed for upon petitioner's posting a bond of P3,000.00.

Petitioner avers (1) that respondent's claim was time-barred; (2) that the hearing officer's failure to set the case for hearing and to give notice to petitioner amounted to grave abuse of discretion or excess of jurisdiction; and (3) that Section 17 of Republic Act 4119 is unconstitutional and therefore the Commission or the duly deputized officials in the Regional Offices of the Department of Labor have no authority to issue a writ of execution.

Petitioner denies the fact that the deceased Melanio Hizon was his employee at the time of the accident and maintains that in any case the claim for compensation was filed beyond the reglementary two-month period prescribed in Section 24 of the Workmen's Compensation Act. He further contends that he was never given a chance to present evidence as he was not advised of any hearing and therefore the proceedings taken were null and void.

The allegation of lack of notice and hearing cannot be sustained. Petitioner failed to controvert both claims (injury and death) for compensation, as required by Section 45 of the Workmen's Compensation Act. By reason of such failure petitioner waived his right to present evidence concerning the claims^[2] and therefore cannot complain that he was not duly heard.^[3] Under the circumstances the hearing officer could make the award without the necessity of a formal hearing, treating the claim as uncontested and thus dispensing with the reception of evidence.^[4] As to the failure of the claimant to file the claim within the time prescribed in Section 24 of the Act, the same was non-jurisdictional^[5] and did not constitute a bar to the proceeding, *Surigao Consolidated Mining Co., Inc. vs. WCC, et al.*, *Supra*; *Rio y Cia. vs. WCC et al.*, L-21467, Aug. 30, 1967 and cases cited therein.

considering that the employer did not suffer by such delay or failure (*Rio y Cia. vs. WCC, et al.*, *supra*). Indeed, petitioner was given the chance to be heard when he was granted time within which to file a motion to vacate the award and to dismiss the case, but which he failed to do.

Besides, it appears that in respondent's claim for death benefits there is a notation that petitioner had paid the total amount of P530.00 — P480.00 when Melanio Hizon was still alive and P50.00 after his death. Under Section 24 of the Workmen's Compensation Act, as amended by Republic Act No. 4119, such partial payment of benefits renders it unnecessary to file the claim within the time limit.

On the last issue petitioner contends that the Commission or the duly deputized officials in the Regional Offices of the Department of Labor have no authority to issue writs of execution, and questions the constitutionality of Section 17, Republic Act 4119, which amended Section 51 of the Workmen's Compensation Act and vests such authority in the Commission and its duly deputized officials.

Originally the power to enforce a final award made under the Workmen's Compensation Act was vested "in any court of record in the jurisdiction of which the accident occurred" (Section 51, Act 3428). Subsequently, pursuant to Republic Act 997 as amended by Republic Act 1241, and as effected by Reorganization Plan 20-A adopted in 1956, the authority to enforce awards was transferred from the courts of justice to the Regional Administrator and the Workmen's Compensation Commission. This Court, in a number of cases (*Everlasting Pictures, Inc., et al. vs. Fuentes, et al.*, L-16512, November 29, 1961; *Divinagracia vs. CFI Manila, et al.*, L-17680, December 2, 1961; *Community Sawmill Co. vs. WCC*, L-17937, December 28, 1961; *A.V.H. & Co. vs. WCC, et al.*, L-17502, May 30, 1962; *Chung Quiao vs. Abaday, et al.*, L-20315, June 30, 1964, and cases cited therein), nullified writs of execution issued by the Regional Offices and by the Commission on the ground that Reorganization Plan 20-A, insofar as it purported to grant such power, was without legislative authority or sanction.

As the law now stands, however, the power to enforce awards under the Workmen's Compensation Act is

expressly vested in the Commission or the duly deputized officials in the Regional Offices of the Department of Labor (R.A. 4119). This grant of power does not contravene the Constitution. Execution is a necessary step in the enforcement of the award, and while it is procedural in nature and therefore essentially falls within the rule-making power of this Court, it may be legislated upon by Congress under its constitutional authority to repeal, alter or supplement the rules concerning pleading, practice and procedure" (Section 13, Article VIII, Constitution of the Philippines). In the law under consideration the legislative intent to vest in the Commission the power to enforce its awards is clear, in contrast of Republic Act 997, which did not authorize the Reorganization Commission to transfer such judicial power from the courts of justice to the officials appointed or offices created under Reorganization Plan 20-A. In one case (*Lo Chi, et al., vs. De Leon, et al.*, L-18584, January 30, 1967), where the Regional Administrator issued a writ of execution to enforce a compensation award, we held that "inasmuch as the writ of execution was issued by Regional Administrator De Leon on December 2, 1960, before the effectivity of Republic Act 4119, the said writ is therefore null and void," thus impliedly upholding the constitutionality of Republic Act 4119. The writ of execution issued by respondent Prudencio D. Dequina is valid.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the petition is dismissed and the writ of preliminary injunction dissolved, with costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Sanchez, Ruiz Castro, Angeles, Fernando and Capistrano, JJ., concur.

Dizon, J., took no part.

Zaldivar, J., is on official leave.

Petition dismissed.

[1] The renewal of said award on July 8, 1963 was disregarded by the Commission on the ground of the finality of the previous one.

[2] *Rebar Buildings, Inc. vs. WCC, et al.*, L-27486, April 30, 1968, and cases cited therein.

[3] *Filipino Pipe & Foundry Corp. vs. WCC et al.*, L-20381, December 24, 1963; *Surigao Consolidated Mining Co., Inc. vs. WCC, et al.*, L-26077, May 27, 1968; *Aboitiz Shipping Corp. vs. Demetria Oqueria*, L-20998, August 31, 1965.

[4] *Iloilo Dock & Engineering Co. vs. WCC, et al.*, L-17283, July 31, 1965.

[5] *Surigao Consolidated Mining Co., Inc. vs. WCC, et al.*, *Supra*; *Rio y Cia. vs. WCC et al.*, L-21467, Aug. 30, 1967 and cases cited therein.

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