

FRANCISCO BAUTISTA, PETITIONER VS. GERARDO MURILLO, RESPONDENT.*G.R. No. L-13374. January 31, 1962*

Ponente: BAUTISTA ANGELO, J.

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Gerardo Murillo filed a claim for compensation with the Workmen's Compensation Commission against Francisco Bautista arising from an injury that he suffered while in the employ of the latter. The claim was controverted on the ground that the construction of the building where the alleged accident took place was being done on the residential building of respondent and as such is not compensable aside from the fact that the claimant cannot be considered as an employee within the meaning of the law.

The pertinent facts as found by the referee who received the evidence are: Francisco Bautista at the time of the accident was engaged in business as a dealer of gravel and sand for building construction. Before said accident the business was conducted on the ground floor of his residential house located at No. 350 Dimasalang St., Manila, the upper floor being used by his family as residence. On March 16, 1955, he decided to have the place where he was conducting his business demolished and a new building erected in its place and meanwhile he had his business temporarily transferred to the house of his brother situated about 10 meters away.

Murillo, the claimant, became acquainted with Bautista when his brother, Jesus Murillo, a servant of Bautista, introduced him to the latter as he was in need of work three months before the construction. The claimant was not a regular employee of Bautista in the construction but he volunteered to help since he was allowed to lodge in Bautista's residence at the invitation of his brother. Sometime in March, 1955, while part of the stone wall was being demolished and the claimant was performing odd jobs in and around the construction the wall toppled down and caught claimant's left leg resulting in its fracture. The construction was undertaken personally by Bautista and upon learning of the accident he personally directed that claimant be brought to the North General Hospital for treatment. He was later taken to the National Orthopedic Hospital, Bautista paying the incidental expenses. In consideration of the services rendered by the claimant during the construction he was paid P3.00 a day.

On the strength of the foregoing facts, the referee rendered decision holding that claimant "while not being a regular employee, was impliedly employed as a 'casual' laborer to help in the construction of the building connected with respondent's business by performing odd jobs in connection with said building construction." Consequently, he ordered respondent to pay claimant the sum of P699.56 by way of disability compensation, and the sum of P7.00 to the Commission as fees pursuant to the provisions of Section 55 of the Workmen's Compensation Act.

Respondent filed a petition for review alleging that the decision of the referee was contrary to law and the evidence, and when this petition was denied, he appealed to the Workmen's Compensation Commission. Again this plea was denied when the Commission affirmed in toto the decision of the referee. The case is now before us on a petition for review interposed by respondent.

It is contended that because claimant merely used to perform odd jobs during the construction of the building where he suffered the accident because "he was ashamed to the alleged employer for allowing him to lodge in his residence free" he was not a regular employee, but a mere casual laborer, and as such is not entitled to compensation within the meaning of the Workmen's Compensation Law. It is true that the referee made the conclusion that claimant "while not being a regular employee, was impliedly employed as a 'casual' laborer to help in the construction of the building connected with the respondent's business by performing odd jobs in connection with said building construction", but this does not mean that said claimant has not been actually employed, for it appears proven that in consideration of the services he has rendered he was paid by respondent P3.00 a day. He is, therefore, actually an employee of respondent, even if casual, when the accident took place.

The question now to be determined is: being a casual employee can he be considered a laborer within the meaning of the law? Being a casual laborer is he entitled to compensation?

Section 39 (b) of the Workmen's Compensation Act provides:

" 'Laborer' is used as a synonym of 'employee' and means every person who has entered the employment of, or works under a service or apprenticeship contract for an employer. It does not include a person whose employment is purely casual and is not for the purposes of the occupation or business of the employer. * * *"

It would appear that a laborer or employee means every person who has entered the employment or works under the service of another, excluding therefrom one whose employment is purely casual or is not for the purposes of the business of the employer. It thus appears that as a rule one who holds merely a casual employment, like that of claimant, does not come within the purview of the law; it is still necessary that the employment be had for the purposes of the business of the employer. The facts obtaining in this case seem to fit into the scope of this definition for here it was found by the referee that not only was claimant a casual employee but that he actually worked in the construction of the building which was being undertaken in connection with the business in which respondent was then engaged. It should be remembered that the place where the business of respondent was conducted was being demolished and another one constructed in its place, and it was in connection with such construction that the accident happened. It may, therefore, be said that the claim of claimant was for the purposes of the business of his employer.

The Workmen's Compensation Act, being a social legislation designed to give relief to labor in case of injury, its provisions should be given a liberal interpretation in order to fully carry into effect its beneficent provisions. Doubts as to the right of labor to compensation should be resolved in its favor.

" 'In addition to cases holding that workmen's compensation' acts should be given interpretation in favor of the employee, a number of cases hold that the acts should or must be construed fairly, reasonably, or liberally, in favor, or for the benefit, of employees or their dependents, all doubts as to the right to compensation being resolved in their favor, and all presumptions indulged being in their favor; and there are statutory provisions for a liberal construction in favor of employees injured.'

" 'The intention of the legislature is to be gathered from the necessity or reason of the act and the meaning of words is to be derived from consideration of the whole act, and doubts respecting the rights to compensation should be resolved in favor of the employees or his dependents.' " (Francisco vs. Consing, 63 Phil., 354)

Wherefore, the decision appealed from as affirmed by the Workmen's Compensation Commission in its resolution dated December 19, 1957, is hereby affirmed, without pronouncement as to costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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