NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. WORKMEN’S COMPENSATION COMMISSION AND TOMAS MENDOZA, FOR HIMSELF, AND AS GUARDIAN AD-LITEM OF THE MINORS DOLORES, LOLITA, PENAFRANC...

G. R. No. L-20501. March 31, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Review of the disability compensation awarded by the Workmen's Compensation Commission in favor of the claimant, Isabelina Mendoza,[1] against the petitioner, National Development Company.

The claimant Mendoza, being then physically fit, started working for the petitioner company on 4 February 1946. She operated a twister machine until 1953 and then a rotocone-skein machine until 1957 in the company's textile mill. In 1954, the medical department of the company treated her for pulmonary tuberculosis. On 25 January 1956, her chest X-ray showed the existence of the disease. She was confined at the Quezon Institute, at the instance of the company physician, from 15 May to 30 August 1956. Showing great improvement, she was discharged from the hospital, rested at home, and, on 17 December 1956, returned to her work as regular winder of the rotocone-skein machine upon certification of her fitness by the company physician.

On 11 May 1957, while in the performance of her duties, she was hit by a machine and she spat blood. Her chest X-ray taken on 13 May 1957 showed that her disease was active and far advanced. She went on sick leave from 13 May to 28 August 1957, but on the latter date she received a letter from the company laying her off as of 15 June 1957.

Finding Mendoza's sickness to be work-connected, the Workmen's Compensation Commission, after hearing, granted the claim.

The petitioner company assigns only one error in the decision, which is: that the Commission erred in proceeding with the case, "in spite of the fact that the claim for compensation had already been barred by Section 24 of Act No. 3428, as amended, and, therefore, has no more jurisdiction to try the case".

The employer company predicates the foregoing assignment of error on the fact that it received the written notice of injury and claim for compensation on 5 September 1960, which is three (3) years, five (5) months and fourteen (14) days, from 11 May 1957, from the time the claimant met the accident. The fact is true, but it is, likewise, true that the company knew that the claimant was suffering from advanced tuberculosis as of 13 May 1957, for which reason the company physician advised her hospitalization. It is also undenied that the claimant made a demand for compensation with the general manager of the company in August 1957.

The decisive consideration is that under Section 45, paragraph 2, of the Workmen's Compensation Act, as amended, the company was bound, "on or before the fourteenth day of disability", to file with the Commissioner a notice of controversies to the employee's right to compensation. The company failed to comply with this

requirement, resulting in its statutory renunciation of its right to controvert the claim even if the same was filed beyond the periods prescribed by the Compensation Act.

Citing several cases, this Court had stated:

> "Tim law bars all defenses available to the employer, making no exception. Hence, even the defense based on the employee's failure to file the claim in due time is now barred. (Cases cited in footnote) It is well to note that while the statute speaks of 'renunciation of the right to controvert the claim', what is actually prescribed is a statutory bar or forfeiture of the employer's right to defend under the conditions given, since the loss is imposed regardless of the actual intent of the employer. Consequently, the tolling of the right to controvert under section 45 is not subject to the limitations of a voluntary waiver." (National Development Co. vs. WCC A Aguirre, L-19863, April 29, 1964) (Italics supplied).

The obligation of the employer to file the notice of controversion, under paragraph 2, Section 45, Workmen's Compensation Act, is independent of the filing by the employee of the notice of injury and the claim under Section 24. This is clear from the reference in section 45 to the employee's "right to compensation", instead of "claim" under section 21; and also from the different periods provided for in the two sections. Under the former provision, the employer (the company, in the present case) was obliged to file the notice of controversion within fourteen (14) days from disability (or ten days from knowledge of the accident) ; while by section 24 the employee is allowed to file claim within two (2) months from disability.

Finding no merit in the assigned error, the decision under review is hereby affirmed, with costs against the petitioner.

Bengzon, C. J., Bautista Angelo, Conception, Barrera, Paredes, Dizon, Regain, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

Decision affirmed.

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[1] She died on 5 March 1962 of pulmonary T. B. after the termination of the hearing of the case before the Commission, and has been substituted by the private parties named in the above caption

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