

**CESAREO DE LEON, AS WORKMEN'S COMPENSATION
COMMISSIONER, PABLO SARAGINA, AND FILOMENA TAMBIS,
PETITIONERS, VS. THE HON. JUDGE MACAPANTON ABBAS OF THE
COURT OF FIRST INSTANCE OF ...**

G.R. No. L-15394. April 29, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for a writ of certiorari and mandamus to set aside certain orders of respondent, Hon. Macapanton Abbas, as Judge of First Instance of Davao, and to compel him to allow petitioners Pablo Saragina and Filomena Tambis, as defendants in Civil Case No. 2586 of said court, to appeal as paupers, to permit petitioner Cesareo de Leon as Workmen's Compensation Commissioner, likewise, as defendant in said case, to perfect his appeal from the decision therein rendered, without filing an appeal bond, and to certify the record on appeal filed in connection with said appeal.

Petitioners Pablo Saragina and Filomena Tambis are the parents of Jacinto Saragina, driver of a truck belonging to Agustin Pahamotang and used by the latter in logging operations. On March 6, 1954, Jacinto Saragina died in consequences of injuries sustained by him as said truck fell into a ditch and turned turtle, somewhere in Campostela, Davao, on said date. By a communication dated November 21, 1955, the Workmen's Compensation Commissioner advised Pahamotang that the sum of P1,996.80 was due to the parents of the deceased by way of compensation for his death, aside from P200 as burial expenses. A reconsideration of this award having been denied, Pahamotang gave notice of appeal and then filed with this Court, on December 11, 1956, a petition for certiorari with preliminary injunction, which was docketed as G. R. No. L-11657, for a review of said award. The petition was dismissed, however, on March 8, 1957, on motion of the respondents therein (petitioners herein), who claimed that said petition had been filed beyond the statutory period.

One year later, or on March 1, 1958, Pahamotang instituted Civil Case No. 2586 of the Court of First Instance of Davao against petitioners herein. In the complaint therein filed, Pahamotang alleged that the aforementioned award of the Workmen's Compensation Commission had been made without complying with the pertinent law and in violation thereof, and, accordingly, prayed that it be set aside and declared null and void. In due course, the defendants therein (petitioners herein) filed a motion to dismiss, the consideration of which was eventually deferred until after the trial of the case on the merits. Subsequently, the defendants therein (petitioners herein) were declared in default, for failure to file an answer within the reglementary period, and, upon the evidence introduced by Pahamotang, decision was rendered on August 7, 1958, annulling the aforementioned award. On August 20, 1958, the defendants therein (petitioners herein) filed a motion to lift the order of default, upon the ground of accident and excusable negligence, but, the motion was denied by an order dated September 9, 1958. A reconsideration of this order having been, likewise, denied, the defendants therein (petitioner's herein) filed a notice of their intention to appeal and petition that the appeal of Pablo Saragina and Filomena Tambis be given due course as pauper's appeal. The court, presided over by Hon. Macapanton Abbas, Judge, "denied" the "notice

of appeal and petition to appeal as pauper" upon the ground that it had not been "filed within the reglementary period". On motion of the defendants therein (petitioners herein), the court, by an order dated January 2, 1959, reconsidered its stand insofar as the timeliness of the notice of appeal, but refused to allow Pablo Saragina and Filomena Tambis to appeal as paupers, upon the ground that the principal defendant was the Workmen's Compensation Commissioner, and declared that the record on appeal would be certified upon the filing of defendants' appeal bond. The defendants therein (petitioners herein) sought a reconsideration of this order, insofar as it denied the appeal as paupers of Pablo Saragina and Filomena Tambis and required the Workmen's Compensation Commissioner to file a bond, but in vain. Hence the present action for certiorari and mandamus to compel allowance of the appeal of Pablo Saragina and Filomena Tambis as paupers, and certification of the aforementioned record on appeal without any appeal bond.

It is not disputed that Pablo Saragina and Filomena Tambis are poor. This notwithstanding, the lower court refused to allow them to appeal as paupers upon the ground that they are nominal defendants in said Civil Case No. 2586, that the principal defendant therein is the Workmen's Compensation Commissioner, with whom they are jointly sued, and that all defendants have filed a joint record on appeal and are represented by the legal counsel of the Department of Labor. If Pablo Saragina and Filomena Tambis, whose indigency is admitted, were merely nominal parties, then this would be an added reason to exempt them from incurring the usual expenses entailed by an appeal, and, hence, to authorize their appeal as paupers. The fact is, however, that being the parties in whose favor the award sought to be annulled has been made, Pablo Saragina and Filomena Tambis are not nominal parties, but the principal parties and real parties in interest, without whom no decision on the validity of said award could legally be rendered. The nominal party was the Workmen's Compensation Commissioner.

With respect to the appeal taken by the latter, it is, also, patent that he being sued in his official capacity, aside from being a nominal party, the main action is in effect one against the Government which is not required to file an appeal bond. Accordingly, respondent Judge committed a grave abuse of discretion in requiring the Workmen's Compensation Commissioner to file such bond as a condition for the perfection of his appeal and the certification of the record on appeal.

There being now no question that the same has been seasonably filed and is regular insofar as its form and contents are concerned, the writs prayed for are hereby granted and respondent Judge is directed to allow the appeal of Pablo Saragina and Filomena Tambis as paupers and to certify said record on appeal without the usual appeal bond, with costs against respondent Agustin Pahamotang. It is so ordered.

Bengzon, C.J., Labrador, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

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