

CRESENCIA VDA. DE EUSTAQUIO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND DANILO DE GUIA, RESPONDENTS.

G.R. No. L-42371. February 12, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition for certiorari (pp. 12-18, rec.) seeks to set aside the December 15, 1975 decision of the Workmen's Compensation Commission (Annex E, pp. 30-32, rec.), which reversed the April 23, 1974 Award of the Acting Referee of Regional Office No. IV, Department of Labor, in R04-WC Case No. 130347, granting death compensation benefits and burial expenses to claimant Cresencia vda. de Eustaquio, herein petitioner.

It appears that petitioner and the deceased Rafael Eustaquio were married in the Roman Catholic Church of Taguig, Rizal on January 11, 1959. They begot six children, all minors and unmarried. In his lifetime, the deceased Rafael Eustaquio was employed by Danilo de Guia, respondent employer, as electrician with an average weekly wage of P50.00 since 1967 up to the time of his death on September 19, 1972 or a period of about five years.

On September 19, 1972, while the deceased was working on the electrical installation of the house of a certain Fernando Barretto, he was electrocuted and pronounced dead on arrival at the Philippine General Hospital.

On November 27, 1972, Mrs. Cresencia Vda. de Eustaquio, widow of the deceased, filed a notice and claim for death compensation benefits (p. 1, WCC rec.) with the Workmen's Compensation Commission Unit of the Department of Labor, Regional Office No. IV, substantially claiming that her husband died of electrocution while working as electrician with private respondent, allegedly a sub-contractor or engaged in the construction business.

On March 16, 1973, or two days after receipt of said notice on March 14, 1973, private respondent controverted the claim, alleging inter alia that there was no employer-employee relationship between him and the deceased and that he had no business relation whatsoever with regards to the alleged electrical work performed at the place of the accident (p. 27, WCC rec.).

Issues having been joined, the Acting Referee set the case for hearing on June 7, 1973. By agreement of the parties, said scheduled hearing was postponed to June 22, 1973. From June 22, 1973, the hearing was again moved to July 17, 1973 and from July 17, 1973 the same was deferred to August 3, 1973. From August 3, 1973, it was reset to September 11, 1973. Called for hearing on September 11, 1973, claimant-petitioner adduced evidence to prove its claim and with all her witnesses duly cross-examined by respondent's counsel. Subsequently, respondent moved for the continuance of the hearing to October 3, 1973 and in order to present its evidence (p. 41, WCC rec.). On October 3, 1973, the hearing was again moved to December 5, 1973 by agreement of the parties. Came December 5, 1973, private respondent failed to appear which prompted the referee to consider the case as submitted for decision.

On April 23, 1974, the hearing officer or acting referee rendered a decision in favor of claimant "ordering respondent Danilo de Guia: 1) to pay claimant, thru this office, the sum of SIX THOUSAND PESOS [P6,000.00] as death compensation benefits plus the sum of P200.00 as reimbursement of burial expenses; and 2) to pay this office the sum of P61.00 as administrative fees pursuant to Section 55 of the Act" [p. 50, WCC rec.].

On June 21, 1974, respondent filed a motion for reconsideration pointing out that the acting referee erred in deciding the case without affording respondent opportunity to present its evidence. Respondent likewise argued that there exists no employer-employee relationship between him and the deceased, hence, he is not liable under the Act.

Finding the motion without merit, the acting referee denied the same and the entire records were elevated to the Workmen's Compensation Commission for review.

On December 15, 1975, the respondent Commission treating sub silentio the issue of denial of due process on the part of the respondent as well as the issue of controversion, reversed the aforesaid April 23, 1974 award and thereby absolved respondent Danilo de Guia on the ground that there existed no employer-employee relationship between respondent and the deceased (pp. 62-64, WCC rec.).

Hence the instant petition. Upon the expiration of the period given to the parties to submit simultaneous memoranda, the case was considered submitted for decision.

Private respondent Danilo de Guia insists that 1) there exists no employer-employee relationship; 2) private respondent lacks the required business capital; and 3) the findings of facts by the Commission are final and conclusive and cannot be reviewed on appeal.

The conclusion of the respondent Commission that there was no employer-employee relationship between respondent and the deceased, was predicated on its findings that respondent was not engaged in the business of construction of houses and buildings, that respondent has no capital of his own nor a license to engage in such business, and that the deceased was working in the electrical installation of Fernando Barreto's house, which was not shown to be under the construction and management of the herein respondent.

There is no question that employer-employee relationship is the jurisdictional foundation without which no claim for compensation could possibly prosper (*Asia Steel Corporation vs. WCC, et al.*, L-7636, June 17, 1955, 97 Phil. 971; *Malabon Restaurant vs. Dept. of Labor*, 16 SCRA 159, 162 [1966]).

Respondent Commission correctly stated that "the test of employer-employee relationship is whether there was understanding between the parties that one is to render personal service and/or for the benefits of the other and the recognition by them of the right of one to order and control the other in the performance of the work and to direct the manner and methods of its performance (*Madrigal Shipping Company vs. Del Rosario, et al.*, L-13150 [1959])."

Respondent Commission's findings that there is no employer-employee relationship is without basis. It is a fact of record that the testimonies of petitioner's witnesses, which established the existence of employer-employee relationship between respondent and deceased, stand un rebutted. Thus, it was sufficiently demonstrated before the hearing officer (acting referee) that the deceased was hired by private respondent as electrician at the rate of P10.00 a day. Deceased used to report to work from 7:00 A.M. to 4:00 P.M., sometimes for two days or sometimes for three days. There was no supporting document or paper to show that deceased was hired by respondent as the contract was merely oral or verbal (September 11, 1973 hearing, t.s.n., pp. 1-3; pp. 46-49, WCC rec.).

The same was corroborated by another witness, Cesar Mendoza, who worked as a helper or laborer with private respondent and who substantially testified that he was assigned by respondent to the house of Fernando Barreto together with the deceased and a certain Arsing. His salary was personally paid by private respondent but he did not sign anything as his appointment with private respondent was only oral (Sept. 11, 1973 hearing, t.s.n., pp. 4-6; pp. 44-46, WCC rec.). Further, it was fortified by the testimony of Fernando Barreto, the owner of the house where the fatal accident happened, who substantially declared that private respondent was the contractor in the repair of his mansion and that the helpers of private respondent were the deceased and two other persons whom he does not know (pp. 41-43, WCC rec.).

It is patent therefore that the deceased was paid by private respondent as an independent contractor, who had sole direction and control of the deceased in his work. Private respondent was engaged in the business of independently contracting for the electrical installation in any building or edifice. Thus it was held that "an independent contractor is one who undertakes to do a piece of work for his own account, under his own responsibility, with minimum interference on the part of the other contracting party, in which case persons employed by said independent contractor do not become laborers or employees of the other contracting party (*Maligaya Ship Watchmen vs. Associated Watchmen & Security Union*, L-12214-17, May 28, 1958)" [underscoring supplied]. Similarly, "(A)n independent contractor is one who, in rendering services, exercises an independent employment or occupation and represents the will of his employer only as to the results of his work according to his own methods, without being subject to the control of his employer except as to the result of his work; and who engaged to perform a certain service for another, according to his own manner and methods, free from the control and direction of his employer in all matters connected with the performance of the service except as to the result of the work (56 C.J.S. 41, 42; *Cruz et al. vs. Manila Hotel, et al.*, 101 Phil. 358, cited in *Allied Free Workers' Union (PLUM) vs. Compania Maritima, et al.*, 19 SCRA 270; *Mansal vs. Cochoco Lumber Co.*, 96 Phil. 941)." Clearly therefore, as can be gleaned from the records, private respondent acted as an independent contractor to repair the house of Fernando Barreto and should be the one liable under the Act. (*Philippine Manufacturing Co. vs. Geronimo, et al.*, 96 Phil. 276 [1954]).

That private respondent has no license to engage in such business, does not and cannot neutralize the fact that he was the employer of the deceased. Certainly, the violation by private respondent of the law or regulation requiring him to secure a license, is not a valid defense against a claim by his employee for death compensation. That would put a premium on an illegal act. His failure to obtain a license as such independent contractor may indicate other violations of the law -- like failure to register with and pay contributions to the Social Security System and to file true income tax returns, which the government should investigate.

Private respondent's defense that he has no license as an independent contractor and that he lacks the required capital and therefore exempt from the coverage of the law, are matters favorable to him and rests upon him to prove (*Manila Yacht Club, Inc. vs. WCC*, 8 SCRA 277 [1963]; *Rolan vs. Perez*, 63 Phil. 81, [1936]; *Viana vs. Al-Lagadan, et al.*, 54 O.G. 644). And he failed miserably to establish such pretensions, despite the two postponements on October 3 and December 5, 1973 given him on his own motions. Private respondent's counsel manifested that upon failure on his part to appear on the December 5, 1973 hearing, he will submit the case for decision based on the evidence presented (December 5, 1973 hearing, t.s.n.). Clearly, private respondent was not denied due process.

Consequently, respondent Commission gravely abuse its discretion in ruling that there is no employer-employee relationship between private respondent and the deceased and in thus denying the claim for compensation.

Moreover, petitioner's claim for compensation was not controverted within the statutory period. The records clearly show that death occurred on September 19, 1972 but controversion was only made by private respondent

on March 16, 1973 (p. 4, WCC rec.).

There is no question that a cursory perusal of the records would show that petitioner filed a notice and claim for death compensation benefits on November 20, 1972, within three months from the death, in accordance with Section 24 of the Act. But under Section 45 of the Workmen's Compensation Act, as amended, private respondent had only ten (10) days from knowledge or fourteen (14) days from the date of the injury within which to file his controversion.

It can be reasonably presumed that within a period of nearly six months of from September 19, 1972 to March 16, 1973 private respondent was aware of the fatal accident that befell the deceased. It can be safely presumed that private respondent acquired knowledge of the fatal accident from his two other employees Cesar Mendoza and Arsing, who were then the helpers of the deceased, or from Mr. Fernando Barreto, having undertaken the repairs of the latter's house. Likewise, both private respondent and the deceased are residing in the same locality -- Sta. Ana, Taguig, Rizal.

Private respondent having failed to comply with the mandatory requirements of Section 45 of the Workmen's Compensation Act, as amended, to controvert the claim within ten (10) days from knowledge of, or fourteen days from, the death of the deceased, he is deemed to have waived by operation of law his right to controvert the employee's claim for death compensation on non-jurisdictional grounds (*Villones vs. ECC*, et al., L-46200, July 30, 1979; *Mercado vs. WCC*, et al., 3 PHILAJUR 258 [1978]; *Paraiso vs. Castelo Sotto*, 85 SCRA 419 [1978]; *Republic vs. WCC*, 85 SCRA 107 [1978]; *Lamco vs. WCC*, 84 SCRA 401 [1978]; *Cañonero vs. WCC*, 81 SCRA 712 [1978]; *Sebastian vs. WCC*, et al., 3 PHILAJUR 213 [1978]; *Calado, et al. vs. WCC*, 38 SCRA 577 [1971]; *Victorias Milling Co., Inc. vs. WCC & Segovia*, 28 SCRA 285 [1969]).

Finally, private respondent maintains that the findings of facts by the Commission are final and conclusive and cannot be reviewed on appeal.

In this connection, it is pertinent to state that this Court is authorized to inquire into the findings of fact made by the Commission when the conclusions therefrom are not supported by the evidence (*Abong vs. WCC*, et al., 54 SCRA 379 [1973]; *R.F. Sugay & Co., Inc. vs. Reyes*, 12 SCRA 700 [1964]).

WHEREFORE, THE DECISION OF RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT DANILO DE GUIA IS HEREBY ORDERED TO PAY

- (1) THE CLAIMANT THE SUM OF SIX THOUSAND [P6,000.00] PESOS AS DEATH BENEFITS;
- (2) THE SUM OF TWO HUNDRED [P200.00] PESOS FOR FUNERAL EXPENSES; AND
- (3) THE AMOUNT OF SIXTY-ONE [P61.00] PESOS AS ADMINISTRATIVE COSTS.

SO ORDERED.

Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Teehankee, (Chairman), J., in the result.

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