

RUBEN F. SANTOS, ETC., PETITIONER, VS. THE HONORABLE BIENVENIDO A. TAN, ETC., ET AL., RESPONDENTS.*G.R. No. L-8804. October 31, 1956*

Ponente: PARAS, C.J.

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For some time previously Ruben F. Santos, in his capacity as Acting Chief of the Wage Administration Service, Department of Labor (petitioner herein), had been investigating the herein respondent, Jai Alai Corporation of the Philippines, for the purpose of determining its liability to pay some 65 betting ushers (who are members of the Jai Alai Betting Ushers' Association), the minimum wage of P4 a day from August 4, 1951, when the Minimum Wage Law (Republic Act No. 602), became effective. The investigations thus conducted caused respondent Jai Alai Corporation to institute in the Court of First Instance of Manila a complaint for prohibition and injunction against the petitioner and Jai Alai Betting Ushers' Association.

In its answer, the Jai Alai Betting Ushers' Association claimed that the betting ushers are employees of respondent Jai Alai Corporation and prayed that the latter be sentenced to pay the sum of P243,360, representing back wages from August 4, 1951 to September 21, 1954. The petitioner in his answer alleged that any decision of the Wage Administration Service was not binding on respondent Jai Alai Corporation and would at most be advisory in nature which the latter might ignore. After trial, respondent Judge Bienvenido A. Tan of the Court of First Instance of Manila rendered a decision in favor of respondent Jai Alai Corporation, the dispositive part of which reads as follows:

"Wherefore, this Court hereby holds that the betting ushers are not employees of the plaintiff corporation, and that, consequently, the Wage Administration Service, Department of Labor, and/or Ruben F. Santos, as its Acting Chief has too jurisdiction to conduct the investigation of the plaintiff for any liability under the Minimum Wage Law to pay to betting ushers the minimum wage of P4 per day from August 4, 1951. The claim of defendant Jai Alai , Betting Ushers Association asserted in its answer, that its members be paid said minimum wage of P4 a day from August 4, 1951 to September 24, 1954, or a total of P243,360, is hereby denied for lack of merits, said betting ushers not being employees of the Jai Alai Corporation of the Philippines. The defendants are ordered to desist from further proceedings in the matter and the writ of preliminary injunction made permanent."

Whereas, the Jai Alai Betting Ushers' Association did not appeal, the petitioner, on December 27, 1954, filed a notice of appeal and posted an appeal bond in the sum of P60. On January 13, 1955, the respondent Judge ordered the petitioner to notify respondent Jai Alai Corporation of the posting of the appeal bond in accordance with the doctrine laid down in *Prisco et al., vs. Castelo et al*, 48 Off. Gaz., p. 2193. Accordingly, the petitioner served the necessary notice and set the corresponding hearing for January 22, 1955, when the respondent Judge issued an order dismissing the appeal, on the ground that the notice regarding the posting of the appeal bond was not made within the reglementary period; whereupon the present petition for certiorari and mandamus was filed by the petitioner.

We deem it unnecessary to decide whether or not the service by the petitioner of the notice in question beyond the reglementary period, although the notice of appeal was filed on time, is fatal to the appeal, because we hold that, in view of the failure of the Jai Alai Betting Ushers' Association to appeal from the decision of the respondent Judge, the main case had become academic. The betting ushers involved are unquestionably the parties interested in demanding the payment of back wages which in turn caused the petitioner to look into the matter. The question that arose was whether the betting ushers were employees of respondent Jai Alai Corporation, and the necessity for finally deciding it has disappeared by the failure or desistance of the Jai Alai Betting Ushers Association to appeal from the decision of the respondent Judge, the petitioner not having alleged any right or interest independently of that arising from the demands of the beating ushers.

Wherefore the petition is dismissed without pronouncement as to costs. .

Padilla, Montemuyor, Bautista Angela, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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