

MANILA RAILROAD COMPANY, PETITIONER, VS. ROSALINA DE LA PEÑA VDA. DE OLIVEROS, ET AL., RESPONDENTS.*G.R. No. L-14204. June 30, 1961*

Ponente: PADILLA, J.

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This is an appeal by certiorari under the provisions of sections 46 and 49, Act No. 3428, as amended by Act No. 3812, Commonwealth Act No. 210 and Republic Act Nos. 772 and 889, in connection with Rule 44 of the Rules of Court, to review a decision of the Workmen's Compensation Commission dated 9 December 1957 ordering the petitioner to pay to the respondent Rosalina de la Peña Vda. de Oliveros the sum of P4,000 as compensation for the death of her husband Napoleon Oliveros and to the Commission the sum of P46 as fees (Annex H) and the resolution of the Commission en banc dated 28 July 1958 denying the petitioner's motion for reconsideration (W.C.C. case No. 35306, Annex J).

On or about 20 January 1955 the respondent Rosalina Vda. de Oliveros filed a claim for compensation for the death of her husband Napoleon Oliveros in the Workmen's Compensation Commission against Tuazon, Hizon and Ocampo Construction Company. On or about 20 September 1956 the respondent widow filed an amended claim to include the petitioner Manila Railroad Company (Annex A). On 30 October 1956 the acting chief referee of the respondent Commission ordered the petitioner to answer the amended claim within 15 days from receipt of notice (Annex B). On 7 December 1956 the petitioner filed a motion to dismiss the amended claim on the ground that "There is no employer-employee relationship between the deceased and the respondent (petitioner) MRR;" and that "the claim is barred by sec. 24" (Annex D). The respondent widow filed an answer to the motion to dismiss and prayed for its denial and setting of the case for hearing on the merits. On 5 January 1957 the acting chief referee denied the motion to dismiss and set the case for hearing on 11 January 1957 at 8:00 o'clock a.m. (Annex E). At the hearing, the petitioner and the respondent widow appeared by counsel but the respondent contractor did not. On 12 January 1957, the acting chief referee rendered a decision holding that the petitioner is the statutory employer of the deceased engineer; that section 24 of the Workmen's Compensation Act, as amended, providing among others that in case of death, notice of claim for compensation must be given by the person claiming such benefit to the employer within a period of not later than three months after death of the employee, is not a prescriptive period; and that although such notice had been given after that period, the fact that the petitioner had knowledge of the death of the employee, such notice is no longer necessary, and ordering the petitioner and the respondent contractor, jointly and severally, to pay to the respondent widow the sum of P4,000 as compensation for the death of her husband and to the commission the sum of P41 as fees (Annex F). On 14 February 1957 the petitioner filed with the respondent Commission a petition for review of the decision of the acting chief referee. In support of its petition, it claimed that "the deceased employee was not a laborer within the meaning of section 39 (b) of Act No. 3428, as amended;" that "the employment of the deceased is purely casual and is not for the purpose of occupation or business of the respondent MRR Co. (petitioner);" and that "the claim is barred by section 24." (Annex G). On 9 December 1957 the Chairman of the respondent Commission rendered a decision affirming that of the acting chief referee (Annex H). On 23 December 1957 the petitioner filed a "motion for

reconsideration of the decision dated December 9, 1957." (Annex I). On 28 July 1958 the Commission en banc denied the motion for reconsideration (Annex J). Hence this appeal interposed by the petitioner.

The petitioner has raised the following questions for resolution of this Court:

- Whether the deceased was an employee of petitioner MRR or of respondent Tuazon, Hizon and Ocampo Construction.
- Whether or not the deceased was a laborer within the meaning of Section 39 (b) of Act 3428 as amended.
- Whether the employment of the deceased is purely casual, and not for the purpose of the occupation or business of MRR Co.
- Whether or not the claim is barred by Section 24 of Act 3428, as amended.
- Whether or not Section 24 is a Statute of Limitation.
- Whether or not Section 27 of the Act could be applied in the instant case to justify the claimant's delay in filing her claim when said Section has express reference to notice of injury and not claim for compensation,

which may be reduced to a single issue, to wit: whether or not the petitioner is liable to the respondent widow for compensation for the death of her husband while employed by the respondent contractor who undertook to build a bridge for the petitioner.

The evidence, as summarized by the respondent Commission, are:

The records show that on January 9, 1955, while the late Napoleon Oliveros, a civil engineer employed by respondent Tuason, Hizon & Ocampo Construction Co., was directing the construction of a bridge, a project of the MRR Company at Bacnotan, La Union, he was killed by one of the laborers. The construction of said bridge was in accordance with the contract entered into by and between the respondents under which the MRR Company would furnish the materials while the contractor, labor. The records also disclose that the MRR Co. exercised close supervision over the construction of the project in order to assure compliance by the contractor with the specifications provided in the contract.

* * * The very project engineer of the company supervising the construction of the bridge knew of the accident which resulted in the death of the workman. He made inquiry and notified the Chief Train Dispatcher of the tragedy, but notwithstanding this fact, the company did not submit its employer's reports as required by Section 37 of the Act. * * *. (Annex H.)

The recent cases of *Shellborne Hotel vs. de Leon*, G. R. No. L-9149, 31 May 1957 and *Caro vs. Rilloraza*, 102 Phil., 61, offer a solution to the question in the case at bar.

In *Shellborne Hotel vs. de Leon*, the facts are: Shell-borne Hotel is engaged in the hostelry business which consists in the entertainment of guests by offering them food and accommodations. It engaged the services of Crispin Sigua, a contractor, to construct its mezzanine floor, the hotel furnishing the necessary materials. The contractor in turn engaged the services of one Romulo, a laborer, to work on the job with a daily wage of P5.50. The hotel supervised the construction and saw to it that the work was done in accordance with the plan. The contractor did not file any bond for the faithful performance or execution of the work and had to get money by "vales" from the hotel to pay his laborers every Saturday. While working in the construction the said laborer met with an accident injuring his right hand and disabling him from work for more than two months. The question that arose was whether or not the hotel was liable to the injured laborer for compensation under the Workmen's Compensation Act. This Court held that under the facts of the case, Sigua was not an independent contractor and that the hotel was liable to the injured laborer for compensation. Said this Court:

The contention that the construction of the mezzanine floor is far removed from the business of hostelry is erroneous. Said business consists in the entertainment of guests—offering food and providing accommodations. The accommodations include comfortable and luxurious living quarters extended to guests. The construction of the mezzanine floor was for the purpose of giving comfort and luxury to petitioner's guests, more spacious and attractive rooms to satisfy its customers, thus ultimately keeping their patronage and that of others who would know of such inviting conditions. The construction can be said to be for the promotion of, and to have a direct bearing on petitioner's hostelry business.

The facts in *Caro vs. Rilloraza* are: Carmen Prieto de Caro is the owner of a building "intended or used for rental (business) purposes," managed by her husband Ramon Caro, as administrator of their conjugal partnership and president and general manager of Ramcar, Inc. The administrator engaged the services of Daniel de la Cruz, a job contractor, to change the joists and repair other parts of the building, under the direction and control of the former or his representative and in the manner or by the method designated by either. The contractor, in turn, engaged the services to Lucas Rilloraza, a carpenter, to work on the job. While working on the window railing of the building, the wooden platform on which Rilloraza and another carpenter were working collapsed and Rilloraza fell to the ground and broke his leg. The injury resulted in his temporary total disability for a period of six months and permanent partial disability of 5% of the broken leg. The question raised was whether or not the owner of the building was liable to the injured carpenter for compensation under the Workmen's Compensation Act. After reviewing the cases of *Santos vs. Javier*, 58 Phil., 82, *Andoyo vs. Manila Railroad Co.*, G. R. No. 34722, 28 March 1932. *Philippine Manufacturing Company vs. de Geronimo*, 96 Phil., 276 and *Marsal vs. P.P. Gocheco Lumber Company*, 96 Phil., 941, this Court held that—

* * * the repair of said building is part of the usual business of the administration of the aforesaid properties, so that the same may be suitable for the gainful purpose above referred to. Consequently, even if Rilloraza, who did the repair work thereof, were a casual laborer, engaged directly by De la Cruz, acting as an independent contractor, which he is not, the former would still be an employee of petitioner herein, within the purview of the Workmen's Compensation Act, and, hence, would be entitled to demand compensation from him.

From the foregoing cases, the following rule on the liability of an owner of an industrial or business establishment, ordering the performance or execution of a particular work or job by another, for injury or death of an employee or laborer of the contractor, arising out of or in the course of employment, may be drawn: Where the owner of an industrial or business establishment lets another do a certain piece of work or execute a particular job directly or necessarily connected with the conduct or pursuit of its usual or habitual business, and the owner of the said establishment has direct supervision and control of the employees or workers of the person executing the job or work, the owner of the establishment ordering the execution of the job or work becomes the statutory employer of the employees of the said contractor.

Tested by the foregoing standard, the petitioner cannot escape liability under the Workmen's Compensation Act to the respondent widow for the death of her husband. The petitioner is engaged in the transportation business. Its purpose are stated in Executive Order No. 399, 5 January 1951, 47 Off. Gaz. 7, prescribing a uniform charter for all government owned or controlled corporations, as follows:

- (a) To own or operate railroads, tramways, and other kinds of land transportation, vessels and pipe lines, for the purpose of transporting for consideration, passengers, mail and property between any points in the Philippines; and
- (b) As an auxiliary to its main purpose, to own and/or operate powerhouse, hotels, restaurants, terminals, warehouses, timber concessions, coal mines, iron mines and other mineral properties and to manufacture rolling stock, equipment, tools and other appliances; to construct and operate in connection with its railroad lines tool viaducts, tool bridges and tool tunnels.

To carry out the purposes above-mentioned, it shall have the special power to acquire by condemnation proceedings rights of way, real property or interest or easements therein as it may require for its purposes. (Italics supplied.)

The construction of the bridge, therefore, was directly or necessarily connected with the conduct or pursuit of its usual or habitual business. Furthermore, the petitioner furnished the contractor all the necessary materials for the construction of the bridge and "exercised close supervision over the construction of the project in order to assure compliance by the contractor with the specifications provided in the contract."

The petitioner tries to exploit to its advantage the fact that while the accident happened on 9 January 1955, yet the amended claim against it for compensation dated 20 September 1956, was filed by the respondent widow in the Workmen's Compensation Commission on 29 September 1956 and served upon the petitioner on 2 October 1956. It contends that, pursuant to the provisions of section 24 of the Workmen's Compensation Act, as amended, the claimant should have given it notice of claim not later than three months after the death of her husband; that the respondent widow's claim having been filed beyond the period provided for by law, it became incumbent upon her to prove that the petitioner "did not suffer by said delay in giving notice inasmuch as petitioner has not waived the defense provided by Sec. 24 aforecited;" and that the respondent widow failed to prove such fact. Furthermore, the petitioner tried to prove "that it suffered from claimant's (the respondent widow) delay in giving the required notice for said claim is now too old to be successfully investigated and defended * * *;" that it "could no longer obtain witnesses regarding the accident and since this action was brought against it after it had already paid the Contractor Martin V. Tuason, it could no longer deduct from the proceeds of the contract whatever compensation may be due the claimant * * *;" and that "by reason of the termination of the contract and the consequent release of the surety," it could no longer recover from the bond filed by respondent contractor for whatever damage or compensation it might be ordered to pay to the respondent widow.

The petitioner's contention cannot be sustained. The respondent Commission found that the petitioner "exercised close supervision over the construction of the project in order to assure compliance by the contractor with the specifications provided in the contract;" and that—

* * * The very project engineer of the company supervising the construction of the bridge knew of the accident which resulted in the death of the workman. He made inquiry and notified the Chief Train Dispatcher of the tragedy, but notwithstanding this fact, the company did not submit its employer's report, as required by Section 37 of the Act.

Section 27 of the Workmen's Compensation Act, as amended, provides that "Failure to or delay in giving notice shall not be a bar to the proceeding herein provided for, if it is shown that the employer, his agent or representative had knowledge of the accident * * *."

The decision under review is affirmed, with costs against the petitioner.

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

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