

ISIDORO CEBRERO, PETITIONER AND APPELLANT, VS. JOSE TALAMAN, RESPONDENT AND APPELLEE.

G.R. No. L-11924. May 16, 1958

Ponente: REYES, A., J.

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REYES, A., J.:

Appeal from a decision of the Court of First Instance of Manila dismissing appellant's petition for a writ of execution to enforce an alleged judgment of the Wage Administration Service.

The record shows that sometime in 1955, the appellant Isidoro Cebrero filed a claim with the WAS (Wage Administration Service) against the respondent Jose Talamán, herein appellee, proprietor of a restaurant at Quezon Boulevard, Manila, where the appellant was working, for underpayment, overtime pay and additional compensation for services rendered on Sundays and holidays and for separation-pay. Summoned to a conference, the parties appeared before the regional investigator assigned to the case; but as the respondent denied liability on the claim, no amicable settlement resulted. Neither did the parties agree to submit the case for arbitration. But despite the absence of such agreement the regional investigator heard evidence for the claimant and questioned the respondent, who was then unassisted by counsel, and thereafter rendered a so-called "judgment" for the sum of P2,240.94 and advised the deposit thereof in his office.

Notified of the "judgment", the respondent, through counsel, filed a motion for reconsideration and new trial, alleging that he had appeared before the investigator merely to be questioned on matters incident to the operation of his business and not to answer formal charges and defend himself in an investigation that was to go into the merits of a money claim against him and that for that reason he was not assisted by counsel. The motion was denied by the investigator, but at respondent's request the chief of the regional office reassigned the case to another investigator for re-investigation. The latter, however, desisted from taking further action in the case on being informed that the same had already been taken to the City Fiscal of Manila for proper criminal action.

On the theory that the "judgment" of the WAS investigator had already become final because the same was not appealed, the claimant Isidoro Cebrero petitioned the Court of First Instance of Manila to order its execution. But the court, after hearing, decided to dismiss the petition without prejudice, holding in effect that the judgment in question was not proper, the same having been rendered without an agreement to arbitrate. Reconsideration of this decision having been denied, the claimant appealed directly to this Court, the question involved being purely legal.

Under Republic Act No. 602, known as the Minimum Wage Law, an employee is authorized to bring an action in the regular courts for the recovery of unpaid wages. But before taking such action, he is also given the option to try to collect his claim extra judicially through the mediation of the Wage Administration Service (called WAS for short), an office created in that same Act, the said office being for that purpose empowered to mediate and bring about an amicable settlement, to arbitrate the claim if there is an agreement to submit it for arbitration or, if no amicable settlement or agreement to arbitrate is arrived at, to investigate the claim and file an action in court if

the claim is found meritorious and the claimant is without counsel.

The procedure to govern the filing and prosecution of claims of this nature in the WAS is set forth in a Code of Rules and Regulations promulgated by the chief of that office under the authority of the Secretary of Labor pursuant to section 11 of the Act. The pertinent provisions of that code read:

"B. MEDIATION

"SEC. 6. At the opening of the initial conference, the claims investigator or claims attorney shall endeavor to reconcile the parties and induce them to settle the claim by amicable agreement. If any agreement as to the whole or part of the claim is arrived at between the parties a memorandum of its terms shall be made in writing, signed and acknowledged by the parties, thereto before the claims investigator or claims attorney. Such agreement shall dispose of the claim in whole or in part, as the case may be.

"SEC. 7. The period to mediate on any claim shall in no case exceed one week from the initial conference.

* * * * *

"C. ARBITRATION

"SEC. 9. If no amicable agreement is arrived at between the parties on the whole or any part of the claim, the claims investigator or claims attorney shall immediately ask the parties whether they are willing to submit the case for arbitration by the Service with him or any other claims attorney or investigator acting as arbitrator, whose decision shall be binding, final and conclusive between them, the agreement to arbitrate shall be made in writing and signed by the parties before the claims investigator or claims attorney. In case of arbitration, the hearing on the claim shall not exceed one week, from the initiation thereof.

"D. PROSECUTION

"SEC. 14. In the event that mediation fails and the parties are not willing to arbitrate, the claim shall immediately be assigned to a claims attorney, who will investigate the claimant and his witnesses to find out if such claim is meritorious or not. If meritorious, the attorney will prepare the corresponding complaint and petition for indigency for court action, as the case may be, within one week after receiving the same."

It is clear from the above provisions of the Code of Rules and Regulations for the implementation of the Act that where an employee, instead of going directly to court, files his claim with the WAS, that office, through an investigator assigned to the case, should first call the parties to a conference and endeavor to effect an amicable settlement; that if no amicable agreement is arrived at, the investigator should ask the parties if they are willing to submit the case for arbitration; and that if mediation fails and the parties are not willing to arbitrate, the claim shall immediately be assigned to a claims attorney, who shall then "investigate the claimant and his witnesses to find out if such claim is meritorious or not" and who, if he finds the claim meritorious "will prepare the corresponding complaint and petition for indigency for court action".

It is obvious that the WAS investigator assigned to the present case went beyond what the Code of Rules and Regulations of that office authorizes for without the parties having arrived at an amicable settlement or submitted the case for arbitration, he investigated the case and then rendered a "judgment" for a sum of money. That so-called judgment with its "findings" was no judgment at all, that is, a judgment that could be enforced through a writ of execution. Under the code of rules above mentioned, it is nothing more than a finding that the claim is meritorious and justifies the filing of a complaint in court.

Appellant, citing the case of *Brillantes vs. Castro* (99 Phil., 497; 56 Off. Gaz., [29], 4621), contends that even

without an arbitration agreement the decision of the WAS Investigator becomes final if not appealed. The contention is without basis. Actually, the decision of the WAS in that case was predicated on an agreement to arbitrate and, contrary to the impression that appellant seeks to convey, we did not there hold that even without such an agreement the decision of the WAS would be final if not appealed. Indeed, the rule already adopted by this Court on this point is to the contrary. Thus, in the case of *Nestle vs. Secretary of Labor et al.* (G. K. No. L-11630) and then again in *Elizalde & Co., Inc., et al. vs. Arnado, et al.* (G. R. No. L-11592), this Court, acting on a petition to review a so-called decision of the WAS rendered without an agreement to arbitrate, adopted the following resolution:

"* * * Considering that Section 14 of the Code of Rules and Regulations to implement the Minimum Wage Law (Rep. Act No. 602) provides that 'in the event that mediation fails and the parties are not willing to arbitrate, the claims shall immediately be assigned to a claims attorney, who will investigate the claimant and his witnesses to find out if such claim is meritorious or not. If meritorious, the attorney -will prepare the corresponding petition for court action, as the case may be within one week after receipt of the case', and considering further that this case falls squarely within the provisions of Section 16 of said Minimum Wage Law, which confers on Courts of First Instance jurisdiction to restrain violations of this Act and provides that 'Action by the Secretary (of Labor) or by the employees affected to recover underpayment may be brought in any competent court', the Court Resolved to dismiss the petition, without prejudice to whatever right the petitioner may have to defend her interests in this case by filing the corresponding action before the competent Court of First Instance." (See Minutes of December 14 and 18, 1956; see also *Franklin Baker Co. of the Phil. vs. Malasmas*, dismissed by minute resolution on Jan. 23, 1957.)

In view of the foregoing, the decision appealed from is affirmed, with costs against the appellant.

Paras C.J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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