

FRANCISCO VELOSO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND LA ELEGANCIA JEWELRY, AND/OR ANTONIO LUI LAO, RESPONDENTS.

G.R. No. L-40718. August 31, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for certiorari to review the decision of the Workmen's Compensation Commission in R04-WC Case No. 19748.

Francisco Veloso was employed in La Elegancia Jewelry as a platero from 1961 to December 14, 1971. During his employment he was treated for a lung ailment, which however did not prevent him from continuing with his regular work. On September 9, 1971, he had his chest X-Ray at the Philippine Tuberculosis Society, Inc., whose findings is:

"Minimal infiltration, predominantly fibrotic, more on the left."

On December 14, 1971, he signed a "voluntary resignation paper" which was duly accepted by his employer effective on said date. On September 26, 1972, he filed a notice of injury or sickness and claim for compensation before the regional office of the Department of Labor, Manila.

The Regional Office No. 4 found that the illness of the claimant was directly caused or aggravated by the nature of his work with the respondent. But it denied the claim for compensation because "his claim for disability for labor was filed during the period after the cessation of their employer-employee relation."

In affirming the decision of the Regional Office, the Workmen's Compensation Commission stated that "this Commission cannot agree that claimant's act of resignation was brought about by his illness, for his chest x-ray which was that taken on September 9, 1971 or only about three (3) months before resignation in December, 1971, showed that his PTB was already predominantly fibrotic, indicating, more or less, the presence of a healed PTB lesion. Such a finding likewise (belies) claimant's allegation of blood vomiting sometime in that month of September, 1971. It is an established fact in this case that claimant had never been on sick leave on account of his above-named sickness during his employment with the respondent." The Commission further stated that claimant's resignation was voluntary in nature; consequently, even granting that he was really sick of P.T.B., he can no longer claim for disability benefit.

The decision must be reversed.

The findings of the Acting Referee of Regional Office No. 4 of the Department of Labor that the illness of the claimant was directly caused or aggravated by the nature of his work with respondent undoubtedly makes the claim compensable under the Act. All that Section 2 of the Workmen's Compensation Act requires as ground for compensation, among others, is that the "employee x x x contracts tuberculosis or other illness directly caused by such employment; or either aggravated by or the result of the nature of such employment" (Tecla Magpantay, etc.,

et al. vs. WCC, et al., L-43457, Oct. 26, 1976).

That the claim was filed after claimant was separated from the service is not a fatal defect which will deprive the Workmen's Compensation Commission of its jurisdiction to entertain the claim legally due to the claimant. The compensation under the Workmen's Compensation Act as amended is a liability vested by statute which prescribes in 10 years pursuant to Article 1144 (2) of the Civil Code. The rule is especially true when there is no showing that the employer sustained damage as a result of the delayed filing of the claim (Domingo Vallo vs. WCC, et al., L-41816, October 19, 1976).

WE agree with the claimant that he was asked to resign because he was already too weak to work. For, were it not for that reason, complainant would not have resigned. After claimant had resigned from the service, he never engaged in any other employment, evidencing that he can no longer be gainfully employed.

WHEREFORE, THE DECISION OF RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT LA ELEGANCIA JEWELRY IS HEREBY ORDERED TO PAY:

1. CLAIMANT FRANCISCO VELOSO:

A) THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS LIABILITY COMPENSATION; AND

B) THE AMOUNT REPRESENTING MEDICAL AND HOSPITAL EXPENSES EVIDENCED BY PROPER RECEIPTS;

2. COUNSEL FOR CLAIMANT, ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF THE RECOVERABLE AMOUNT; AND

3. SIXTY-ONE (P61.00) PESOS AS ADMINISTRATIVE FEE.

WITH COSTS AGAINST PRIVATE RESPONDENT.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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