

MADRIGAL SHIPPING CO., PETITIONER, VS. MONICA MELAD, FRANCISCA SICCUAN, JUANA SICCUAN, BARBARA TULIAO, PLACIDA DE LA CRUZ, APARRI PILOT'S ASSOCIATION AND WORKMEN'S COMPENSATION ...

G.R. Nos. L-17362 and L-17367-69. February 28, 1963

Ponente: REGALA, J.

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REGALA, J.:

The S.S. "Cetus" was owned and operated by petitioner Madrigal Shipping Co., Inc. On November 25, 1955, it left the port of Aparri for Manila. However, after sailing five miles, the officers of the ship decided to return to the port of Aparri for repair of its rudder. For this purpose, the Captain sent Jua Siong Kong Ho, Inc., the ship's agent in Aparri, a telegram with instruction to "PLEASE ADVISE PILOT WILL ENTER AGAIN FOR RUDDER REPAIR."

Accordingly, the agent informed the Aparri Pilots' Association of the contents of the telegram and, forthwith, Primitivo Siccuan, chief pilot, and Francisco Ricerra, Ricerra; district pilot, of pilots association, made arrangements with Filoteo Siccuan and Domingo Batta to take them by boat to the ship in distress.

The party reached the ship about past 12 midnight of November 25. Primitivo Siccuan, Francisco Ricerra and Filoteo Siccuan boarded the ship while Domingo Batta remained on the boat. At about 2:30 a.m., November 26, the ship sank on account of heavy waves. The boat was also lost. Among those who perished in the tragedy were Primitivo Siccuan, Francisco Ricerra, Filoteo Siccuan and Domingo Batta.

In due time, four claims were filed in the Workmen's Compensation Commission against petitioner. Upon the creation by Reorganization Plan 20~A of. Regional Offices in the Department of Labor, these cases were transferred to Regional Office No. 2, which, after hearing, made an award ordering petitioner to pay the claimants the following :

"1. To the heirs and dependents of decedent FRANCISCO RICERRA, the sum of FOUR THOUSAND PESOS (P4,000.00), the maximum amount allowed by law, which should be divided among them; .

"2. To the heirs and dependents of decedent FILOTEO SICCUAN, the sum of FOUR THOUSAND PESOS (P4,000.00), the maximum amount allowed by law, which should be divided among them;

"3. To the heirs and dependents of decedent PRIMITIVO SICCUAN, the sum FOUR THOUSAND PESOS (P4,000.00), the maximum amount allowed by law, which should be divided among them;

"4. To the widow and dependent of decedent DOMINGO BATTÀ, the sum of ONE THOUSAND SEVEN HUNDRED TWENTY FIVE PESOS AND TWELVE CENTAVOS (P1,725.12), which includes burial expenses.

"5. To this office, the sum of One Hundred Forty-One Pesos Only (P141.00), pursuant to Section 55 of said

Act."

This award was affirmed by Associate Commissioner Jose Sanchez and later by the Workmen's, Compensation Commission sitting en banc. Hence, this petition for review, petitioner contending in seven assignments of errors:

1. That the hearing officer of Regional Office No. 2 had no jurisdiction to decide these cases;
2. That there was no employer-employee relationship between it (petitioner) and the persons for whose death these claims were filed; and
3. That some of the respondents were not the depend-ents of Primitivo Siccuan and Domingo Batta, as the term dependents is used in the law.

With regard to the first point, petitioner argues that Reorganization Plan 20-A, which confers jurisdiction to hear workmen's compensation claims on Regional Offices of the Department of Labor, is unconstitutional.

The contention is without merit. As this Court held in *San Miguel Brewery, Inc. vs. Sobremesana, et al.*, G.R. No. L-18730, September 16, 1961,

"Petitioner argues incorrectly that our previous rulings (*Corominas vs. Labor Standards Commission*, G.R. No. L-14837, and related cases decided June 20, 1961) held null and void Reorganization Plan 20-A in so far as it vests the Regional Offices of the Department of Labor with original and exclusive jurisdiction to try and decide labor claims including workmen's compensation claims. This Court never ruled that the Regional Offices have no authority to pass upon workmen's compensation claims under Plan 20-A; on the contrary, in our decisions in the case of *Miller vs. Mardo*, G. R. No. L-15138, and related cases, promulgated on July 31, 1961, we said:

"On the basis of the foregoing consideration, we hold and declare that Reorganization Plan No. 20-A, insofar as it confers judicial power to the Regional Offices over cases other than those falling under the Workmen's Compensation Law, is invalid and of no effect. (Italics supplied)

"The reason for the ruling is that, as pointed out. in the same cases, the consideration and adjudication of claims under the Work-men's Compensation Law was already being exercised by the Department of Labor's Compensation Commission even prior to its reorganization under Plan 20-A. In conferring initial power to hear and decide such claims upon the hearing officers of the Department's Regional Offices, section 25 of Plan 20-A was merely reallocating powers already possessed by the Department, and was in conformity with the authority granted by section 6 of Republic Act 997 as amended by Republic Act No. 1241. There was in the particular case no assumption of powers not previously vested in the Department, and, therefore, no transgression of the reorganizational authority and purposes of the enabling laws."

This ruling was reiterated in later cases.[1]

Anent the second point, Section 2 of the Workmen's Compensation Law (Act No. 3428, as amended) provides:

"When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the person hereinafter specified. * * *."

As may be noted from the above-quoted provision, the existence of employer-employee relationship is the jurisdictional foundation for recovery under the law. (*Asia Steel Corp. vs. Workmen's Compensation Commission, et al.*, G. R. No. L-7638, June 27, 1955). Hence, the question is: Was there such a relationship between petitioner, on the one hand, and Primitivo Siccuan, Francisco Ricerra, Filoteo Siccuan and Domingo Batta, on the other? Petitioner contends that there was none for the following reasons:

1. Because its pilotage contract was with the Aparri Pilots' Association and not with the members thereof;
2. Because the salaries of the pilots were paid not by petitioner but by the association;
3. Because petitioner had no control over the action of the chief pilot and district pilot; and
4. Because the services of Filoteo Siccuan and Domingo Batta were contracted by the pilots' association and not by the petitioner.

Petitioner's claim lacks merit. As pointed out by the Workmen's Compensation Commission, Primitivo Siccuan and Francisco Ricerra were members of the Aparri Pilots' Association not its employees. While it is true that their salaries were paid by the association, yet it is equally true that the same were taken out of the pilotage fees paid by the vessels. The pilots' association cannot be considered an independent contractor so as to free the petitioner from the liability of an employer because it appears to have neither capital nor money to pay its employees nor does it appear to have filed a bond. (Madrigal Shipping Co., Inc. vs. Workmen's Compensation Commission, et al., G. R. No. L-17395, June 29, 1962; Caro vs. Rilloraza, et al., 102 Phil., 61.)

The claim that petitioner had no right of control over the work of the pilots is based on Customs Administrative Order No. 26 (Nov. 28, 1946) which provides as follows:

"Par. XLIII. A pilot shall be held responsible for the direction of a vessel from the time he assumes control thereof until he leaves it anchored free from shoal; Provided, That his responsibility shall cease at the moment the master neglects or refuses to carry his instruction" (Italic ours)

Petitioner misreads the provision in question, for while it says that a pilot is responsible for the direction of the vessel from the moment he assumes control of the same, the provision nevertheless makes the conduct of the pilot subject to approval by the master of the vessel. That is why it relieves the pilot of responsibility if his action is disapproved by the master of the vessel.

Besides, as the Commission held Customs Administrative Order No. 69 (Oct 1, 1948), likewise invoked by petitioner, shows that coast pilots are employed by the vessels needing their services. Thus, it provides:

"Any vessel employing, a coast pilot between pilotage districts shall pay the prescribed compulsory or optional pilotage fee to the pilots' association within whose jurisdictional waters any part of said service may be rendered and any vessel employing a district pilot from one pilotage district to another in addition to the payment provided for in paragraph II, shall pay to the association in the district or in which such vessel is piloted, the compulsory pilotage fee provided for said district." (Italics ours)

In some respects, this case is similar to the case of Martha Lumber Mill, Inc. vs. Lagradante, et al., 99 Phil. 434; 52 Off. Gaz., No. 9, 4230. In the latter case, the deceased was appointed by the Department of Agriculture and Natural Resources pursuant to the following provisions of Forestry Administrative Order No. 11 (Sept. 11, 1934) :

"34(s) Within thirty (30) days from the date of the issuance of a license, and after the terms and conditions of said license had been duly accepted in their entirety by the licensee concerned, at least one concession guard, if so required in the license, shall be employed by said licensee. The name and address of the concession guard so employed shall be reported to the local forest office under whose jurisdiction the license area falls. The concession guard, whose salary will be paid him directly by the licensee, shall from time to time, report to the herein mentioned forest officer for instruction regarding his duties and obligations to patrol and cooperate with the government in the protection of the area of the licensee employing him"

His appointment by the Department of Agriculture and Natural Resources and his being under the supervision and control of that department notwithstanding, this Court held the Concession guard to be an employee of licensee.

Petitioner also argues that, even assuming that Primitivo Siccuan and Francisco Ricerra were its employees within the purview of the law, yet the same cannot be said of Filoteo Siccuan and Domingo Batta, sounder and carsman, respectively, because these two were employed not by petitioner but by the pilots' association. But it is a fact that the services of the two were needed so that the pilots could be taken to the S.S. "Cetus." It is well settled that a person who is asked for help in an emergency which threatens the employer's interests becomes an employee under an implied, contract of hire. (I Larson, Workmen's Compensation Law, sec. 47.42 (c) 699; I Schneider, Workmen's Compensation Text, sec. 234, 627) Here, as stated in the beginning, the S.S. "Cetus" had to return to port for a needed repair of its rudder. Losing no time, the pilots engaged the services of Filoteo Siccuan and Domingo Batta to take them to the ship in trouble. It is under these circumstances that We held the sounder and the oarsman to be employees of the petitioner.

Viewing from another point the relationship of the petitioner with the victims, We hold that even granting that the Aparri Pilots' Association was an independent contractor and that the deceased were its employees, still the result would be the same. Section 39 of the Workmen's Compensation Act provides in part:

"In this Act, unless the context indicates otherwise, the definition of various words used therein shall be as follows:

(a) 'Employer' includes every person or association of persons, incorporated or not, public or private, and the legal representative of the deceased employer. It includes the owner or lessee of a factory or establishment or place of work at any other person who is virtually the owner or manager of the business carried on in the establishment or place of work but who, for the reason that there is an independent contractor in the same, or for any other reason, is not the direct employer of laborers employed there.

(b) 'Laborer' is used as a synonym of 'Employee' and means every person who has entered the employment of, or works under a service or apprenticeship contract for an employer. It does not include a person whose employment is purely casual and is not for the purposes of the occupation or business of the employer. Any reference to a laborer injured shall, in case he dies, include a reference to the person dependent on him, as defined in this Act, if the context so requires, or, if the employee is a minor or incapacitated, to his guardian or nearest of kin. * * *

Construing this provision, We held in *De los Santos vs. Javier*, 58 Phil., 82; that although the owner of the factory is not the direct employer of the laborers employed therein because there is an independent contractor in the factor, the owner of the factory is nevertheless to be considered for the purposes of the law as the employer of the laborers working under the independent contractor, as long as the work is for the purposes of the business of the owner.[2]

Certainly, the pilotage of the ship so that it could enter port for necessary repair was in the usual course of the business of the petitioner in the same way that the repair of the window railing of a building intended for rent (*Caro vs. Rilloraza, et al.*, 102 Phil., 61) and the construction of a mezzanine floor of a hotel (*Shellborne Hotel vs. de Leon*, G. R. No. L-9149, May 31, 1957) have been held for the purpose of the owner's business.

Our conclusion upon this point is in accord with the doctrine that the Workmen's Compensation Law should be construed fairly, reasonably, or liberally in favor of and for the benefit of employees and their dependents and all doubt as to right of compensation resolved in their favor and all presumption indulged in their favor. (*Caro vs. Rilloraza, et al.*, 102, Phil., 61; *Francisco vs. Consing*, 63 Phil., 354)

And now We come to the last point. It is contended that the claimants of Primitivo Siccuan, who are his children, have all reached the age of 18 and therefore cannot be considered dependents under Section 9. But We find that the Commission modified the decision of the hearing officer and instead gave the award to Primitivo Siccuan's

grandchildren to whom the Commission directed the amount of P4,0000.00, to be divided equally. The Commission's finding that the grandchildren were dependent on Primitivo Siccuan is one of fact which We will not review unless shown to be without support in evidence.

Petitioner does not explain in what way proof of respondent Placida de la Cruz' marriage to Domingo Batta is not satisfactory. The same goes with respect to the claim that there is no evidence as to the amount of wages of the deceased. Hence We shall not pass upon these points.

Wherefore, the decision of the Workmen's Compensation Commission is affirmed, with costs against petitioner.

Bengzon, C. J, Padilla, Bautista Angela, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] La Mallorca, et al. vs. Ramos, et al., G.R. No. L-15746, Sept. 19, 1961; Madrigal Shipping Co., Inc. vs. Workmen's Compensation Commision, et al., G.R. L-17495, June 29, 1962.

[2]See also Philippine Mfg. Co. us. Geronimo, 96 Phil., 276; Caro vs. Rilloraza, et al., 102 Phil., 61.

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