

PASCUAL PACAÑA, DECEASED SUBSTITUTED BY FILOMENA C. PACAÑA, ET AL., PLAINTIFF-APPELLANT, VS. CEBU AUTOBUS COMPANY, ET AL., DEFENDANTS-APPELLEES.

G.R. No. L-25382. April 30, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Appeal from an order of dismissal of the Court of First Instance of Cebu, as certified to this Court by the Court of Appeals as involving an issue of jurisdiction.

The facts of the case are thus stated by the appellate Court in its certification resolution: "'The plaintiff alleged in his veri-fied complaint that since 1931 to May 26, 1962, he has been em-ployed as driver of the defendant Company and he was separated from the service as driver, by the defendant, due to infirmities which were caused by, and arose from the nature of his work as driver for said defendant Company which affected his eyesight on the left eye and permanently disabled him from his work; that dur-ing the time of his employment he was entitled to collect from the defendants the following money claims which he was entitled to collect and which were not yet paid to' him, to wit; (1) separation pay of P2,326.50, during the period of his service from 1931 to May 26, 1962, - for 31 years, 3 months and 15 days; (2) sick leave pay, P2,326.50; (3) vacation leave pay, P2,326.50; (4) overtime pay, P4,169.00; (5) permanent disability compensa-tion benefits, P4,000.00; (6) for moral damages, P6,000.00, and (7) for attorney's fees of P3,000.00, plus costs. He also asked for such other relief and remedy consistent with law and equity.

"'After filing their answer, the defendants moved for the dismissal of the case.

"'In support of their motion for dismissal, the defendants invoked the provisions of the Workmen's Compensation Act, as amended, and the decision of the Supreme Court in the case of Francisco Pelaez vs. Luzon Lumber Co. (G. R. No. L-8564, April 23, 1958; Vol. 55, No. 43, pp. 9037-9041, O. G.).'

"In their motion to dismiss dated October 12, 1963, the def-endants allege, among others, that '(1) the lower court had no juris-diction over the subject-matter of the plaintiff's cause of action because the Workmen's Compensation Commission has the jurisdic-tion to try and decide on the claims; and (2) that there was pending an action between the same parties for the same cause of action before the Court of Industrial Relations."

The lower Court based its dismissal order mainly on its alleged lack of jurisdiction, which according to it pertained exclu-sively to the Workmen's Compensation Commission, thus:

"The Court after a consideration of the grounds of the defendants' motion to dismiss, specially the first ground, and, taking into account the allegation of the complaint describing the nature of the plaintiff's prin-cipal claim which is compensation for permanent phy-sical disability, has reached the conclusion and so holds and declares that the Court lacks jurisdiction to hear and decide the case. In the case just cited,[1] the claims which were presented to the Court of First Instance of Manila, which were assailed by the defendant on the ground of lack of jurisdiction of said Court; consisted of money claims for overtime pay; sick and vacation leave pays;

medical treatment; actual and compensatory damages caused by pulmonary tuber-culosis contracted by him in the course of his employ-ment as defendant's driver; and for attorney's fees, the Supreme Court affirmed the decision of said Court a quo which declared itself without jurisdiction to hear and decide the plaintiff's claims for vacation and sick leave, medical aid and actual and compensatory damages because they pertained to the Workmen's Compensation Commission and, so it dismissed them and, as to the claim for overtime pay which was heard, it also dismissed the same for lack of sufficient evidence to sustain it.

""While it is true that, according to the allega-tion of the complaint parts of said claims had become accrued before June 20, 1952 when jurisdiction to hear and decide them were transferred from the jurisdic-tion of the ordinary courts to the Workmen's Compen-sation Commission, the same should pertain to the said Commission when the said claims were only claimed and asserted after June 20, 1952. Such is the ruling of the Supreme Court in the case of Castro vs. Sagales (G. R. No. L-6359 decided December 29, 1953) which was affirmed and applied with approval in the said later case of Francisco Pelaez vs. Luzon Lumber Company[2] (supra).

x x x x

""While it is true that the plaintiff's claim for one month separation pay without asking for reinstate-ment, may be within the jurisdiction of the ordinary courts, if he is entitled under the law and the action has not yet prescribed, the Court may reserve the right to the plaintiff, or his widow to claim it in a se-parate suit. But as to the rest of money claims of the plaintiff, the opinion of the Court is that they should be dismissed for lack of jurisdiction.

""WHEREFORE, considering the grounds of the defendant's motion to dismiss well taken, this case is ordered dismissed, together with the def-endants' counterclaims, for lack of jurisdiction; and that the plaintiff, or her widow and other legal heirs are reserved the right to claim in another suit the separation pay in the proper court if and when the plaintiff is entitled to it. The same re-servation is made for the defendants in their counterclaims. "

Plaintiff's[3] appeal should be sustained and the lower court's precipitate dismissal order, notwithstanding that issues had been joined and plaintiff had raised mostly issues of fact on his money claims against defendant as his former employer which entitled him to a trial on the merits[4] is set aside.

1. It will be noted from the outset that plaintiff's complaint is not one for compensation based on and under the Workmen's Compensation Act (Act 3428, as amended) such as to pertain to the exclusive jurisdiction of the Workmen's Compensation Com-mission under section 46 thereof. Plaintiff's complaint consists of various money claims in the total sum of P15,148.50 for (1) separation pay (2) sick leave pay (3) vacation leave pay (4) over-time pay and (5) permanent disability compensation, in the speci-fic amounts itemized at the beginning of this opinion, besides (6) P6,000. 00 for moral damages and (7) P3,000.00 for attorney's fees plus costs. Plaintiff's demand for disability compensation as 'provided for by law'[5] may be deemed predicated on def-endant-employer's liability for the sickness of, or injury to, plaintiff arising out of and in the course of his over-thirty one years' employment, as imposed by Article 1711 of the Civil Code. As held by the Court in the recent case of Valencia vs. Manila Yacht Club, Inc.,[6] such claims for compensation based on the Civil Code pertain to the jurisdiction of the regular courts. The Court, speaking through Mr. Justice J. B. L. Reyes, thus held:

"Appellant's demand for compensation is predi-cated on the employer's liability for the sickness of, or injury to, his employee imposed by Article 1711 of the Civil Code, which reads:

'ART. 1711. Owners of enterprises and other employers are obliged to pay compensation for the death of or injuries to their laborers, workmen, mechanics or other employees even though the event may have been purely accidental or entirely due to a fortuitous cause, if the death or personal injury arose out of and in the course of the employment. The employer is also liable for compensation if the employee contracts any illness or disease

caused by such employment or as the result of the nature of employment. If the mishap was due to the employee's own notorious negligence, or voluntary act, or drunkenness, the employer shall not be liable for compensation. When the employee's lack of due care contributed to his death or injury, the compensation shall be equitably reduced.'

"We find the abovequoted provision to be applicable and controlling in this case. The matter of the amount of compensation and allowable medical expenses should be properly determined by the Municipal Court after the parties are heard accordingly."

2. The Pelaez and Castro cases cited by the lower Court, *supra*, were therefore erroneously relied upon by it to disclaim its jurisdiction in favor of that of the Workmen's Compensation Commission. These and other cases mainly settled the conflict of jurisdiction between the regular courts and the Workmen's Compensation Commission after the approval on June 20, 1952 of Republic Act 772 conferring upon the said Commission "exclusive jurisdiction to hear and decide claims for compensation cases under the Workmen's Compensation Act" (Section 46) and ruled, as in *Asuncion vs. De Aquino*[7] that "(W)hile the regular courts had jurisdiction to try and decide compensation cases under Act No. 3428 as amended by Act 3812 and Commonwealth Act No. 210 however, upon the enactment of Republic Act No. 772 the regular courts were divested of such jurisdiction, because the same was transferred to the Workmen's Compensation Commission. Thus, insofar as claims accruing before June 20, 1952, but formulated thereafter, are concerned, the proper forum is the Workmen's Compensation Commission and not the regular' courts, " and that as to the particular claims under the Workmen's Compensation Act pending with the Court of First Instance at the time of enactment of Republic Act 772 that "said court had been, divested of its power to hear and decide it and so it can no longer continue acting on said claim." In the Pelaez case itself, it was specifically held that "the provisions of the Workmen's Compensation Act have been specifically invoked in paragraph 16 of appellant's complaint" and therefore, his right to seek recourse in the regular courts was barred by the provisions of section 5 of the Workmen's Compensation Act.[8]

3. In the analogous case of *Esguerra vs. Muñoz Palma*,[9] involving the application of section 6 of the Workmen's Compensation Act on the injured workers' right to sue third party tortfeasors in the regular courts, Mr. Justice B. L. Reyes, again speaking for the Court, pointed out that the injured worker has the choice of remedies but cannot pursue both courses of action simultaneously and thus balanced the relative advantage of recourse under the Workmen's Compensation Act as against an ordinary action;

"As applied to this case, petitioner Esguerra can not maintain his action for damages against the respondents (defendants below), because he has elected to seek compensation under the Workmen's Compensation Law, and his claim (case No. 44549 of the Compensation Commission) was being processed at the time he filed this action in the Court of First Instance. It is argued for petitioner that as the damages recoverable under the Civil Code are much more extensive than the amounts that may be awarded under the Workmen's Compensation Act, they should not be deemed incompatible. As already indicated, the injured laborer was initially free to choose either to recover from the employer the fixed amounts set by the Compensation Law or else, to prosecute an ordinary civil action against the tortfeasor for higher damages. While perhaps not as profitable, the smaller indemnity obtainable by the first course is balanced by the claimant's being relieved of the burden of proving the causal connection between the defendant's negligence and the resulting injury, and of having to establish the extent of the damage suffered; issues that are apt to be troublesome to establish satisfactorily. Having staked his fortunes on a particular remedy, petitioner is precluded from pursuing the alternate course, at least until the prior claim is rejected by the Compensation Commission. Anyway, under the proviso of Section 6 aforequoted, if the employer Franklin Baker Company recovers, by derivative action against the alleged tortfeasors, a sum greater than the compensation he may have paid the herein petitioner, the excess accrues to the latter."

4. Plaintiff, as stated above, had the choice, which he duly exercised, of instituting action in the lower court for

compensation under Article 1711 of the Civil Code, and not by virtue of Republic Act No. 1171, as erroneously claimed by him, which merely provides for the venue of action on claims of employees and laborers at either the residence of the plaintiff or the defendant, at the plaintiff's election. Of course, the plaintiff thus foregoes the far more expeditious procedures for recovery as provided in the Workmen's Compensation Act, which practically foreclose the employer from controverting the claim upon failure to file a report of disability with notice of controversion (Section 45) and the liberal presumptions in favor of the employee, inter alia, that the claim comes within the provision of the Act. (section 44). But there may be cases where, as in the case at bar, the plaintiff is constrained to invoke the provisions of Article 1711 of the Civil Code and file his suit in the regular courts due to his prosecution of various other money claims, such as separation pay, accrued sick and vacation leave pay, and overtime pay during his employment, which do not fall under the purview of the Workmen's Compensation Act.

5. The validity of upholding the lower court's jurisdiction to hear and decide the various claims of plaintiff in the single case filed by him may readily be seen from the tenuous jurisdictional arguments raised by defendant, where it would have the plaintiff shuttle to four different courts and agencies to prosecute his claims, namely, Workmen's Compensation Commission and Social Security Commission for disability compensation benefits and sick leave pay, the Court of Industrial Relations for overtime pay and the Municipal Court for separation pay. Courts do not look with favor on split jurisdiction and piece-meal litigation. Mr. Justice Sanchez' pronouncement in *Rheem of the Philippines, Inc. et al. vs. Ferrer*[10] may be aptly quoted: "(A) piece-meal resort to one court and another gives rise to multiplicity of suits. To force the employees to shuttle from one court to another to secure full redress is a situation gravely prejudicial. The time to be lost, effort wasted, anxiety augmented, additional expense incurred -- these are considerations which weigh heavily against split jurisdiction. Indeed, it is more in keeping with orderly administration of justice that all the Causes of action here 'be cognizable and heard by only one court; x x'".

6. Defendant's contention that plaintiff's filing of claims with the Social Security Commission for social security benefits by way of sick leaves and disability benefits deprives the lower court of its jurisdiction to take cognizance of plaintiff's claims for compensation under Article 1711 of the Civil Code (or the Workmen's Compensation Act, in a proper case) has long been held untenable by the Court in several cases. [11] As re-affirmed by the Court in *Valencia vs. Manila Yacht Club, Inc.*, supra, "(I)n several cases decided by this Court, the employee's right to demand compensation from the employer, notwithstanding previous receipt of benefits under the Social Security Law, was already upheld. For, by their nature and purpose, the sickness or disability benefits to which a member of the System may be entitled under the Social Security law are not the same as the compensation that may be claimed against the employer under the Workmen's Compensation Act or the Civil Code, so that payment to the member employee of social security benefits would not wipe out or extinguish the employer's liability for the injury or illness contracted by his employee in the course of or during the employment. It must be realized that, under the Workmen's Compensation Act (or the Civil Code, in a proper case), the employer is required to compensate the employee for the sickness or injury arising in the course of the employment because the industry is supposed to be responsible therefore; whereas, under the Social Security Act, payment is being made because the hazard specifically covered by the membership, and for which the employee had put up his own money, had taken place."

7. Similarly, defendant's contention, which was not passed upon by the lower Court in its dismissal order, that the pendency of two cases filed against it in the Court of Industrial Relations by the United Cebu Autobus & Transit Employees Association for the enforcement of several wage demands (among them, the payment of overtime pay, including a claim for plaintiff therefor in the amount of P9,516.50) does not bar plaintiff's action. It is clear from the record that plaintiff's complaint made no averment charging defendant with unfair labor practice nor seeking reinstatement as driver. Plaintiff denied being a member of the association union which filed the case with the

Industrial Court nor having authorized the suit. Prescinding then from defendants' own allegation that it itself had moved to dismiss the petition in the Industrial Court "on the ground of lack of jurisdiction" and "that said association as petitioner therein had no personality to represent the said employees,"[12] plaintiff's claim for accrued overtime pay, since he made no charge of unfair labor practice or demand for reinstatement and disclaimed membership in the labor association, was beyond the jurisdiction of the Industrial Court and was an ordinary claim for money, cognizable in the regular courts of justice. [13] It may be added that even if plaintiff were prior to the cessation of his employment a member of the labor association, his filing of the case below and his disclaimer of membership amounted to a withdrawal of any authorization previously given impliedly to the association to represent him in the Industrial Court and left him free to personally seek recourse in the lower Court. It bears notice that defendant in its answer admitted that plaintiff actually rendered overtime work, working nine hours daily, although it claimed prescription as a defense and that any overtime work rendered by plaintiff in excess of nine hours was without its authorization and knowledge. [14] It was thus precipitate error for the lower Court to dismiss the case, having before it the issues of fact joined by the parties' pleadings, and having correctly noted at the brief preliminary hearing held thereon that "There are so many decisions on that point already. This Court has jurisdiction because this is a money claim and there is no relation between employer and employee." [15]

ACCORDINGLY, the order of dismissal appealed from is hereby set aside and the case is remanded to the court of origin for due hearing and determination of plaintiff's claims on the merits. In view of the time that has been lost and the nature of the claims, the court of origin is directed to give preference to the case and to hear the plaintiff's claims with the utmost promptness and dispatch. Costs against defendant-appellee.

Reyes, JBL, Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, and Villamor, JJ., concur.

[1] Pelaez vs. Luzon Lumber Co., 103 Phil., 395 (1958).

[2] See fn. 1.

[3] Plaintiff died on April 4, 1967 and was substituted by his widow, Filomena C. Pacaña and children per the Court's resolution of June 27, 1967.

[4] De Leon vs. Henson, L-11639, April 29, 1961, (1 SCRA 1171).

[5] Rec. on Appeal, Annex A, par. 4.

[6] 7 L-27346, June 30, 1969, (28 SCRA, 724).

[7] L-13704, April 18, 1962 (4 SCRA 917); see also Uy Kiva vs. Lim, L-9232, May 31, 1957 (Unpub.); De Mallari vs. NDC, L-17914, Oct. 31, 1962 (16 SCRA 538).

[8] "SEC. 5. Exclusive right to compensation. -- The rights and remedies granted by this Act to an employee by reason of a personal injury entitling him to compensation shall exclude all other rights and remedies accruing to the employee, his personal representatives, dependents or nearest of kin against the employer under the Civil Code and other laws, because of said injury. x x "

[9] 104 Phil. 582 (1958).

[10] L-22979, Jan. 27, 1967 (19 SCRA 130).

[11] Rural Transit Employees Asso. vs. Bachrach Trans. Co. , L-21441, 15 Dec. 1967; 21 SCRA 1263; Benguet Consolidated, Inc. vs. SSS, L-19254, 31 March 1964. See also Taurus Taxi Co. , Inc. vs. Capital Insurance &

Surety Co. , L-23491, 31 July 1968, 24 SCRA 454.

[12] Defendant-appellee's brief, p. 28.

[13] Fookien Times Co. Inc. vs. C1R, L-16025, Mar. 27, 1961 (1 SCRA 844) and cases cited; Southwestern Sugar & Molasses (Far East) Inc. vs. CIR, L-17259, Aug. 29, 1961 (2 SCRA 1060).

[14] Rec. on Appeal, Annex B.

[15] T. S. N., Sept. 25, 1963, p. 4.

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