

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ERNESTO P. HERNANDO, ETC., ET AL., RESPONDENTS.

G.R. No. L-9252. July 31, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari which seeks to set aside the decision of respondent referee-rendered on November 29, 1954 ordering the Director of Public Works to pay to the claimant the sum of P4,000 as compensation for the death of one Napoleon Alvaro, as well as the order of said referee entered on June 3, 1955 denying the petitions for relief filed by the Solicitor General on behalf of the Republic of the Philippines.

On August 26, 1952, somewhere at Quezon Boulevard Extension, Quezon City, one Anicetas M. Yco, a project engineer, shot Napoleon Alvaro as the latter attempted to strike the former with a hammer, resulting in the death of Alvaro, for which killing, Yco was acquitted on the ground of self-defense in a decision rendered by the Court of First Instance of Quezon City on November 2, 1953.

On September 29, 1952, Filomena Mendoza, on her own behalf as widow of the deceased and on behalf of her minor children, Maria Corazon and Napoleon, Jr., filed a claim with the Workmen's Compensation Commission against Segundo Villacorta, as the employer of the deceased Napoleon Alvaro, claiming compensation for the latter's death under Act No. 3428. Segundo Villacorta was made a party respondent because he entered into a contract with the Director of Public Works to construct the right lane of the Quezon Boulevard Project where the incident took place in accordance with certain plans and specifications.

On January 19, 1954, the claimant, through her counsel, amended her claim by including for the first time the Director of Public Works as party respondent. At the hearing held before referee Ernesto P. Hernando, Atty. Generoso Candelario appeared for the Director of Public Works and questioned the legality of including said Director as party respondent. This objection was disregarded. On November 29, 1954, the referee rendered his decision holding that (1) Segundo Villacorta is not an independent (Contractor; (2) Segundo Villacorta is not liable for the compensation sought for by the claimant; (3) the contract between the Director of Public Works and Segundo Villacorta, in so far as it exempts the government from the compensation of death benefits, is contrary to law; and (4) the Director of Public Works is liable to pay the compensation in question. Accordingly, he ordered the latter to pay the claimant a compensation in the amount of P4,000.

Copy of the decision was served on the Director of Public Works on December 27, 1954, although long before that date, or on July 1, 1954, the Division of Highways of the Bureau, of Public Works which was formerly in charge of the construction of public roads was abolished, and its powers, duties and functions were transferred to the Bureau of Public Highways, headed by a Commissioner, by virtue of Republic Act No. 1192. As no substitution was made of the proper official despite the creation of the Bureau of Public Highways, copy of the decision was transmitted to the Commissioner of Public Highways only on January 13, 1955, who in turn transmitted the same to the Solicitor General with the request that the latter represent said official under Section

1661 of the Revised Administrative Code.

Shortly after the receipt of the copy of the decision by the Solicitor General, the latter filed on February 2, 1955 a "Petition to Disregard Service of Referee's Decision of this Honorable Commission to the Director, Bureau of Public Works and to Substitute Proper Party Respondent" alleging, among other things, that by virtue of the abolition of the Division of Public Highways of the Bureau of Public Works, and the creation in lieu thereof of the Bureau of Public Highways, the decision of the referees should have been served on the Commissioner of Public Highways instead of the Director of Public Works, and in view of that mistake, service of the decision was made on the Solicitor General more than 15 days after its receipt by the Director of Public Works which made it impossible for him to take within the legal period such step as may be necessary to secure the review of the decision, for which reason the Solicitor General prayed that all the proceedings so far had as may affect the government be dismissed. And on March 23, 1955, the Solicitor General filed with the Workmen's Compensation Commission a suppletory petition praying that the decision be set aside on the ground of mistake and excusable negligence and that a new trial be granted the government. The referee, on June 3, 1955, denied both petitions. Hence the present petition for certiorari.

The question to be determined is whether the Republic of the Philippines is an indispensable party in this case such that, not having been given an opportunity to be heard, the decision of respondent referee should be considered as having been rendered in excess of his jurisdiction.

The pertinent provisions of the Workmen's Compensation Act, as amended by Republic Act No. 722, in so far as they may have a bearing on the liability of the government, are those embodied in sections 3 and 53 which in substance provide that the provisions regarding compensation therein contemplated shall also be applicable "to the employees and laborers employed in public works and in the industrial concerns of the Government and to all other persons performing manual labor in the service of the National Government and its political subdivisions and instrumentalities" (section 3), and that the national government "shall deposit with the office of the Workmen's Compensation Commissioner an amount to be determined by said Commissioner to guarantee payment of compensation" (section 53). For ready reference, we are quoting hereunder the two sections above referred to:

"Sec. 3. Applicable to Government.—This Act shall also be applicable to mounted messengers in the service of the National Government and all its political subdivisions and to the employees and laborers employed in public works and in the industrial concerns of the Government and to all other persons performing manual labor in the service of the National Government and its political subdivisions and instrumentalities: Provided, however, That laborers and employees insured with the Government Service Insurance System, and their dependents when entitled to the benefits of the said Insurance System shall, in addition to the same be entitled to the benefits granted by this Act."

"Sec. 53. Deposits of government entities to guarantee payment of compensation.—The National, provincial and municipal governments, as well as government-owned or controlled corporations employing laborers and employees comprised within the provisions of this Act shall deposit with the office of the Workmen's Compensation Commissioner an amount to be determined by said Commissioner to guarantee payment of compensation. The said deposits shall be receive by the Commissioner and disbursed, thru the authority of the Commissioner or his deputy, as compensation payments to injured laborers of the government entities making the contribution or the laborers' dependents in cases of death whenever the said laborers or their dependents are entitled to compensation under the provisions of this Act."

From the above it clearly appears that the benefits of the Compensation Act equally apply with the same force and extent to all the employees and laborers employed in public works of the national government and its political subdivisions with the particularity that the law expressly enjoins that to make effective the payment of such

compensation the government must deposit such amount as may be determined by the Commissioner with the office of the Workmen's Compensation Commission to guarantee the payment of such compensation, which clearly indicates that when it affects government employees and laborers employed in any public work, the party in interest is either the national government, or any of its political subdivisions, because the money involved is part of the public funds. In fact, with regard to national projects, the law expressly requires that the contracts covering awards be executed by the Director of Public Works (now by the Commissioner of Public Highways) , "on behalf of the Government", with the approval of the Secretary of Public Works and Communications "(section 1920, Revised Administrative Code). If such is the law on the matter, then the proper party who should be made respondent in a claim for death benefit or compensation affecting employees and laborers of the national government is the Republic of the Philippines, the service of process to be made upon the Solicitor General as required by section 15, Rule 7, of the Rules of Court And there is nothing strange if this be (Tone considering that, under our government set-up, the Solicitor General is the official called upon "to act for and represent the Government of the Philippine Islands, its officers, and agents in any official investigation, proceeding, or matter requiring the services pf a lawyer" (section 1661, Revised Administrative Code).

While it is true that the Director of Public Works or the Commissioner of Public Highways can be sued on matters covering their official functions or activities, the situation varies when it refers to a claim for death benefit or compensation, for, as already adverted to, the proper party in interest is the national government because the money to be applied to the payment of the compensation belongs to it under section 53 of the Workmen's Compensation Act. This is the situation obtaining in the present case. And as it appears that the national government was not given its day in court, the decision of the referee cannot stand, since it was rendered in excess of his jurisdiction. In the circumstances, law and equity demand that the whole proceedings be set aside and the case remanded to the Workmen's Compensation Commission in order that a new hearing may be had with due notice to the national government.

Wherefore, petition is granted. The decision of the referee dated November 29, 1954, as well as his order dated June 3, 1955, are hereby set aside. The case is ordered remanded to the Workmen's Compensation Commission for further proceedings as ordered in this decision. No pronouncement as to costs.

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

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