

ABOITIZ SHIPPING CORPORATION, PETITIONER, VS. DEMETRIA OQUERIA, AND THE MINORS MEMORACION, ELICITA, MAXIMO AND MARIETA, ALL SURNAMED BUEN, REPRESENTED BY THEIR MOTHER, THE RESPO...*G.R. No. L-20998. August 31, 1965*

Ponente: CONCEPCION, J.

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Appeal by certiorari, taken by petitioner Aboitiz Shipping Corporation, from an order and a resolution of the Workmen's Compensation Commission, sustaining a claim for compensation of respondents Demetria Oqueria and her children based upon the alleged death of Demetria's husband and father of her children, Sofronio Buen.

The record shows that Sofronio Buen, a seaman of petitioner "was lost at sea while the M/V Carmen was" navigating in the high seas, near Kaubian Island, "making its voyage from Cebu City to Surigao del Norte, on October 14, 1961. A marine protest was filed by the Master" of said vessel, "Publio Gacela, at Tandag, Surigao del Sur, after futile attempts had been made to recover the body of Sofronio Buen" (in the language of the order appealed from). On January 3, 1962, in view of petitioner's failure to submit its "employer's report of accident" prior thereto, Regional Office No. VIII wrote to the Manager of the Aboitiz Co., Inc., a communication (Annex A) enclosing therewith the corresponding forms, with the request that the same be accomplished and then returned to said office. On January 26, 1962, Aboitiz Co., Inc., replied stating that said vessel belongs, not to said enterprise, but to petitioner Aboitiz Shipping Corporation, to which said letter (Annex A) and the aforementioned forms were indorsed (see Annex B). Soon, thereafter, or on January 29, 1962, petitioner wrote to Regional Office No. VIII the communication Annex C, acknowledging receipt of Annex A and enclosing therewith the aforementioned forms duly accomplished.

Soon, thereafter, or on February 20, 1962, the Regional Labor Administrator, who considered respondents' claim for compensation uncontroverted, made the award, Annex G, declaring that said respondents are entitled to a total compensation of P3,806.40, and, accordingly, directing petitioner herein to pay this sum to the respondents, and the sum of P39.00 to the Workmen's Compensation Commission as fee thereof under Section 55 of the Workmen's Compensation Act, as amended.

On March 16, 1962, petitioner filed a motion, dated March 14, 1962, to set aside said award, which motion was denied in an order of the Regional Labor Administrator of May 14, 1962. On June 21, 1962, petitioner moved for the review of said award of February 20, 1962 and of the aforementioned order of May 14, 1962. By an order dated January 14, 1963, the petition for review was denied by the Chairman of the Workmen's Compensation Commission, upon the ground that the motion to set aside the award had been filed out of time. On or about January 26, 1968, petitioner filed a motion for reconsideration of this order of January 14, 1963. The motion was denied by the Workmen's Compensation Commission en banc on February 19, 1963.

Hence this appeal by certiorari taken by the petitioner, which maintains that the Workmen's Compensation

Commission erred: (1) in holding that petitioner had not controverted the claim for compensation involved in this case; (2) in not holding that the award of February 20, 1962 and the order of May 14, 1962, denying the petition to set aside said award, are illegal and invalid, the award having been made without previous notice and hearing; (8) in impliedly presuming the death of Buen in consequence of his disappearance from petitioner's vessel; (4) in not holding that the filing by petitioner of the Employer's Report of Accident or Sickness on January 30, 1962, had satisfied the requirements of Section 1, Rule 14, of the Rules of the Workmen's Compensation Commission; (5) in not holding that in sending copy of the award dated February 20, 1962 to petitioner's manager instead of to petitioner's counsel, the Commission contravened Section 2, Rule 27, of the Rules of Court; (6) in not holding that the reglementary period to seek a review of such award commenced to run from receipt of notice thereof by petitioner's counsel; and (7) in concluding that said award has already become final and executory and in affirming said award.

It is not disputed that Sofronio Buen disappeared from petitioner's vessel while the same was navigating in the high seas on October 14, 1961, that a watchman of the vessel discovered said disappearance on that same date, and that, after searching in vain for the body of Sofronio, the Master of said vessel filed the corresponding protest. Petitioner was aware, therefore, of said disappearance of P)uen since October 14, 1961. Yet, it did not file the corresponding Employer's Report of Accident within fourteen (14) days from said date or within ten (10) days after it acquired knowledge of the accident. Pursuant to the second paragraph of Section 45 of the Workmen's Compensation Act, as amended, petitioner is deemed, accordingly to have renounced the right to controvert the claim for compensation (National Development Co. vs WCC, et al., L-20504, March 31, 1965; Manila Railroad Co. vs. Vda. de Chavez, etc., et al., L-20103, September 30, 1964; Agustin vs. WCC, L-19957, September 29, 1964; Manila Railroad Co. vs. Pineda, L-19773, May 30, 1964) unless it "submits reasonable grounds for the failure to make the necessary reports, on the basis of which the commissioner may reinstate his right, to controvert the claim". Although petitioner did not submit its Employer's Report of Accident and the Employer's Supplementary Report of Accident until January 30, 1962, or 108 days after the accident, and after its agent had had knowledge thereof, it did not try, either to justify, or even explain, its failure to submit the report aforementioned within the statutory period. As a consequence—despite the statement in said Employer's Report of Accident (Annex B) to the effect that it controverted the claim for compensation—petitioner is deemed, therefore, to have admitted the validity of respondents' claim for compensation, so that the Regional Labor Administrator was justified in readily making the corresponding award, without previous notice and hearing.

It is, also, clear that, apart from the circumstance that the death of Buen is deemed admitted by petitioner in view of its failure to controvert respondents' claim for compensation, said death was properly deduced from the fact that Buen disappeared from petitioner's vessel while the same was navigating in the high seas; that, according to petitioner's Supplementary Report of Accident (Annex F), Buen must have jumped or fallen overboard; that Buen was then under the influence of Liquor, and, hence, under circumstances unfavorable to an intelligent and effective effort on his part to save his life; that, despite diligent search, his body could not be found, because of which the corresponding marine protest was filed by the Master of said vessel; and that, up to the present, or almost four (4) years later, the whereabouts of Buen has not been located.

As regards the party on whom notice of the award should have been served, suffice it to say that, at the time of said award, petitioner's counsel had not, as yet, entered his appearance in the case. Accordingly, notice of said award was properly served upon petitioner itself, on February 24, 1962. Petitioner's motion of March 16, 1962, to set aside said award, was filed, therefore, after the expiration of the period of fifteen (15) days prescribed therefor in Rule 23, Section 1, of the Rules of the Commission. In other words, the award was then final and executory.

Wherefore, the order and the resolution appealed from are hereby affirmed, with costs against the petitioner. It is

so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Regala, Macalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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