

**BIENVENIDO JORDAN (DECEASED) SUBSTITUTED BY HIS WIFE
GLORIA R. VDA. DE JORDAN AND HIS PARENTS PORFIRIO JORDAN
AND BRIGIDA JAMON JORDAN, PETITIONERS, VS. J. DE DIOS
ENTERPRISES...**

G.R. No. L-28895. September 30, 1970

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b3b0cd6387d1/>

DIZON, J.:

Appeal by certiorari taken by the heirs of the original claimant, the late Bienvenido Jordan, from a resolution en banc of the Workmen's Compensation Commission dated February 29, 1968 setting aside the decision rendered by its then Chairman, the Honorable N. Baens del Rosario on July 10, 1967 ordering the respondent J. de Dios Enterprises, Inc. - hereinafter re-ferred to as the Company - to pay to the aforesaid claimant compensation under the provisions of the Work-men's Compensation Commission and other benefits under Act 3428, as amended, and remanding the case to the Regional Office, Department of Labor, for another hearing on the merits.

On February 27, 1964 the now deceased Bienvenido Jordan filed with Regional Office No. 4, Department of Labor, Manila - hereinafter referred to simply as Regional Office - a notice of injury or sickness and claim for compensation against the Company - his employer - arising from serious physical injuries sustained by him on December 31, 1963 as a result of an accident that took place in the course of his employment. As the Company failed to controvert the claim, an award was made in favor of the claimant on June 3, 1964 by Regional Administrator F. A. Fuentes, granting disability compensation in the amount of P4,000.00 and reimbursement of medical, hospital and surgical expenses in the total amount of P7,388.08.

On June 10, 1964, the Company filed a petition to set aside the award and to set the claim for hearing, but the petition was denied in an order of July 13 of the same year. Thereafter, the records of the case were elevated to the Workmen's Compensation Commission for review. As a result thereof the Commission, through Associate Commissioner Cesareo Perez, issued an order on September 3, 1964 remanding the case to the Acting Chief of the Regional Office for the reception of evidence on the nature and extent of the claimant's injuries, his wages, and medical, surgical and hospital expenses, and declaring further that the compensability of the claim would no longer be disputed in view of the Company's failure to controvert it timely.

The Company filed a motion for the reconsideration of the order just mentioned as well as a petition for the reinstatement of its right to controvert. The then mem-bers of the Commission - Chairman N. Baens del Rosario and Associate Commissioner Cesareo Perez - considered the motion and petition aforesaid but did not reach a decision.

Associate Commissioner Perez issued a so called order dated December 3, 1964, the dispositive portion of which reads as follows:

WHEREFORE, let our Order of September 3, 1964, be modified, in the sense that the entire records of this

case should be, as it is hereby ordered, remanded to the Work-men's Compensation Unit, Regional Office No. IV, Manila, for hearing and decision on its merit."

For her part, Chairman Baens del Rosario rendered her own opinion, the dispositive portion of which reads as follows:

"For all the foregoing considerations, I vote for the denial of the respondent's petition to reinstate its right to contro-vert and for the affirmation of the Order dated September 3, 1964 remanding this case to the Regional office of origin merely to enable the respondent to be heard in regard to medical, surgical and hospital expenses allegedly incurred by the claimant."

A second voting gave the same result.

Subsequently, the case was remanded to the Regional Office where herein petitioners filed a motion for partial execution of the award. As this motion was denied, the case was again elevated to the Commission pursuant to an order issued on January 10, 1966 by Ata-nacio A. Mardo, Acting Chief Referee and Chief of Section. This second review of the case ended with the original conflicting positions taken by Chairman Baens del Rosario and Associate Commissioner Perez. On June 21, 1966 the former ordered that the case be remanded to the Regional Office for compliance with the order dated September 3, 1964 penned by Associate Commissioner Perez himself. The latter, for his part, penned a separate opinion expressing the view that his order of September 3, 1964 had been modified by his other order of December 3 of the same year which provided for the remanding of the case to the Regional Office for the latter to hear and decide it on the merits, without limitation as to the issues that the parties may deem fit to raise.

It appears, however, that on July 14, 1966, that is, after the issuance of the conflicting orders just men-tioned, the Chairman of the Commission issued another order, the dispositive portion of which reads as follows:

"WHEREFORE, in accordance with the deliberations had by the Commission en banc under the provisions of Sec. 4 of Rule 17 of the Rules of the Commission, the Order dated Sept. 3, 1964, deemed as original decision of Asso-ciate Commissioner Perez is declared affirmed and the records of this case remanded to the Acting Chief of Referee of Regional Office No. 4, Manila, for compliance therewith."

After the record of the case had once more been remanded to the Regional Office, the latter, through Acting Referee Pedro P. Pelaez, heard the case pursuant to the order of the Commission of September 3, 1964, and afterwards rendered judgment on April 4, 1967 awarding to the claimant disability compensation in the amount of P4,000.00, medical expenses in the amount of P10,120.63, and attorney's fees in the amount of P200.00.

A month thereafter the claimant passed away and was subsequently substituted by herein petitioners - his surviving widow and parents.

On May 5, 1967 the Company filed a motion for a reconsideration of Referee Pelaez' decision, claiming that it was rendered contrary to the order of December 3, 1964. This motion was denied, and the case was again elevated to the Commission for review pursuant to law.

After a review of the case on appeal Chairman Baens del Rosario rendered a decision on July 10, 1967 (a) declaring void Pelaez' decision for lack of authority, his authority in the premises being limited by the order of the Commission dated September 3, 1964 to receiving evidence on the nature and extent of the claimant's in-juries, his wages, medical, surgical and hospital expenses, but (b) awarding to the claimant or his estate disability compensation in the amount of P4,000.00, reimbursement of medical expenses in the amount of P8,914.90 and attorney's fees in the amount of P400.00.

On August 8, 1967, the Company filed a motion for the reconsideration of the Chairman's decision and for the

remanding of the case to the Regional Office for full proceedings pursuant to the order of December 3, 1964 issued by Associate Commissioner Perez. This motion for reconsideration was resolved by the Commission en banc after the retirement of Chairman Baens del Rosario and after the appointment of additional Associate Commissioners in the persons of Herminia Castelo-Sotto and Paciano C. Villavieja. The resolution of the Commission en banc dated February 29, 1968 set aside the abovementioned decision of Chairman Baens del Rosario of July 10, 1967 and ordered the remanding of the case to the Regional Office for full hearing on the merits pursuant to the Perez' order of December 3, 1964. Associate Commissioner Villavieja, however, dissented saying the following:

"The subsequent proceedings having been conducted pursuant to the Order of September 3, 1964, except as otherwise indicated in the decision in question, and finding the same to be in accordance with law and substantial evidence, with-out regard to technicalities, legal forms, and technical rules of evidence, the decision sought to be reviewed should be affirmed."

As the compensability of the claim under consideration is not questioned, We are now called upon to determine firstly, whether the controlling order in the premises is that of September 3, 1964 or that of December 3 of the same year; secondly, whether or not Chairman Baens del Rosario's decision of July 10, 1967 was rendered in accordance with law and the proceedings had as mentioned heretofore; and lastly, whether or not the last decision of the Commission en banc remand-ing the case again to the Regional Office for a full hearing on the merits pursuant to the Perez' order of December 3, 1964 should be affirmed or set aside.

Upon consideration of all the foregoing We are of the opinion, and so hold, that the order penned by Associate Commissioner Perez of September 3, 1964 is controlling. He issued said order in his capacity as reviewing Commissioner pursuant to Section 2, Rule 16 of the Rules of the Workmen's Compensation Commission. As such, it was subject to appeal to the Commission en banc within 10 days from notice, by means of a motion for its reconsideration in accordance with Section 1, Rule 17 of the rules of the Commission. It was, in fact, appealed to the Commission en banc when the Company filed on September 25, 1964 a motion for its reconsideration which was to be resolved in accordance with Section 4, Rule 17 of the Rules of said Commission which provides that, for the resolution of the appeal (in the form of a motion for reconsideration), two affirmative or negative votes shall decide the appealed case; that in case of a tie vote due, either to the abstention of a member of the Commission or to his continued absence for more than one week, the case shall be calendared for another voting by the Commission en banc, and if this second vote again results in a tie, the original or appealed decision or order shall be deemed affirmed.

In the instant case, the Perez' order of September 3, 1964 appealed to the Commission en banc gave rise to a tie vote, as already mentioned heretofore: the Chairman voting for its affirmance and Commissioner Perez – who was the one who penned the appealed order - voting for its modification. As the tie was not broken with the second vote taken, then, pursuant to the provisions of Section 4, Rule 17 of the Rules of the Commission, the appealed order of September 3, 1964 must be deemed to have been affirmed. As a matter of fact, on July 14, 1966 the Chairman of the Commission issued another order declaring Commissioner Perez' order of September 3, 1964 as affirmed and ordered the remanding of the records of the case to the Acting Chief Referee of the Regional Office for compliance there-with. The record discloses that no appeal from this order was taken. As a matter of fact, conformably therewith, the records of the case were again remanded to the Regional Office where a hearing was held by Acting Referee Pelaez, after which he rendered his decision of April 4, 1967 in favor of the claimant.

As stated heretofore, the Pelaez' decision of April 4, 1967 was set aside on appeal by Chairman Baens del Rosario for the reason stated in her decision of July 14, 1967.

While in so far as it set aside referee Pelaez' decision the correctness of the one rendered on July 10, 1967 by

Chairman Baens del Rosario is not entirely free from doubt, We believe that whatever error in the premises was committed is not fatal nor did it cause any substantial prejudice to the Company. On the assumption that pursuant to the order of the Commission of September 3, 1964 the referee was authorized not only to receive evidence on the matters therein mentioned but also to render judgment on the basis thereof, the Pelaez' decision must be necessarily held legal. But even in such case, Chairman Baens, decision of July 10, 1967 may legitimately be considered as one rendered on appeal therefrom, slightly modifying the relief granted by the decision of the referee. On the other hand, assuming that the decision rendered by referee Pelaez was not within the scope of his authority as limited by the terms of the order of the Commission of September 3, 1964, it can then be said that Chairman Baens del Rosario acted correctly in setting it aside and thereafter rendering judgment on behalf of the Commission strictly in accordance with the evidence of record.

WHEREFORE, judgment is hereby rendered (a) declaring the order of December 3, 1964 issued by Associate Commissioner Cesareo Perez of no legal effect, and declaring that his own order of September 3, 1964 is valid and controlling as far as subsequent proceedings in the case were concerned; and (b) reversing and setting aside the resolution of the Commission en banc issued on February 29, 1968 and affirming the decision rendered by Chairman Baens del Rosario on July 10, 1967, the same being in accordance with law and the conditions contained in the order of the Commission of September 3, 1964. With costs.

Reyes, Acting C.J., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur.
Villamor, J., took no part.
Concepcion, C.J., on official leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.