

**CALTEX (PHILIPPINES) INC., SHELL CO., OF THE PHIL. LTD.,
STANDARD VACUUM OIL CO., PETITIONERS, LAMBERTO
SANGUILLOSA, CLAIMANT-APPELLEE, VS. LUIS U. GO,
ASSIGNEE-APPELLANT.**

G.R. No. L-20831. August 31, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appeal from an order of the Court of First Instance of Iloilo as an insolvency court (Special Proceedings No. 1403) issued on October 6, 1959, the dispositive portion of which is as follows:

"As it is now, the claim of Lamberto Sanguillosa has already become final and executory and, consequently, by virtue of the proof claim presented by Lamberto Sanguillosa, the said claim of P7,274.52, plus with legal rate of in-terest from June 11, 1957 up to the date of payment, plus P727.00 as attorney's fees, is here-by approved and declared as preferred claim in accordance with the provisions of the insolvency law and Arts. 2241, 2242 and 2244 of the new Civil Code."

On June 11, 1957 Lamberto Sanguillosa, hereinafter referred to as appellee, at the time a resident of Manila, filed a claim under oath with Regional Office No. 3 of the Department of Labor at Manila for payment of vacation and sick leave, for underpayment of wages and for overtime compensation against Lopez and Ledesma Transportation Co., Inc., by whom he had been employed as Line Inspector for a number of years until he resigned on February 5, 1975.

On June 22 of the same year the Company filed its answer with denials and affirmative defenses, and a counterclaim for damages.

Upon the issues arising from the above pleadings, the case was heard. On February 21, 1958, after appellee had rested his case, the Company made of record that it was waving its right to present its own evidence and announced its intention to file an action for prohibition or certiorari against the Hearing Officer for the purpose of questioning the jurisdiction of the Regional Office to try and decide the case.

Thereafter, the Company filed the action for prohibition, with a prayer for the issuance of a writ of preliminary injunction, against F. A. Fuentes, administrator of Regional Office No. 3, Jorge Benedicto, the Hearing Officer and appellee (Civil Case No. 4753 of the Court of First Instance of Iloilo) for the purpose of having Reorganization Plan No. 20-A on Labor and Rules and Regulations No. 1 promulgated by the Labor Standards Commission declared unconstitutional. On May 27, 1958, however, said court dismissed the action. No appeal from this dismissal was taken.

After Regional Office No. 3 had received notice of the dismissal mentioned above, the Hearing Officer thereof rendered his decision on August 5, 1958 ordering the Company to pay appellee the total sum of P7,274.52, representing his claim for underpayment and overtime, with legal interest thereon from the date of the filing of the

claim, plus the amount of P727.00 as attorney's fees. From this decision, the Company appealed to the Labor Standards Commission (Case No. LSC-R03-185). On August 9, 1958 - during the pendency of this appeal - the insolvency proceedings against the Company were commenced in the lower court. As a result the appeal proceedings were suspended as of August 30 of the same year until January 24, 1959 when the Insolvency Court allowed them to be continued. The court also allowed the assignee of the insolvent company, by the name of Luis U. Go, to be substituted in its place.

As the appeal of the Company pending before the Labor Standards Commission was dismissed on March 24, 1959, appellee filed with the insolvency court on April 13 of the same year his verified claim or proof of debt as required by the Insolvency Law, and prayed for its allowance based on the final judgment of August 5, 1958 rendered by Regional Office No. 3, and to have the same declared as a preferential claim. The motion was opposed by the assignee as well as by two creditors, namely, The Shell Company of the Philippines and Caltex (Phil.) Inc., but on October 6, 1959, the Insolvency Court issued the order appealed from.

In the meantime the Company which had been declared insolvent by the lower court on August 30, 1958 filed an original petition for certiorari and mandamus with Us against the Labor Standards Commission and herein appellee, questioning the legality and constitutionality of the action taken by said Commission dismissing its appeal from the decision of Regional Office No. 3 of the Department of Labor (G.R. No. L-15732), but said petition was dismissed on August 5, 1959.

The first two assignment of errors submitted in appellant's brief assail the jurisdiction of the Hearing Officer of Regional Office No. 3 of the Department of Labor to try and decide LSC Case No. 356 upon the ground, firstly, that the conferment of judicial powers to said body was unconstitutional and secondly, that the claimant (Sanguillosa) was not a resident of Manila but of Navas, Aklan Province. The third assails the lower court's ruling to the effect that the judgment of the abovementioned regional office and the claim of Sanguillosa had become final and executory, while in the fourth and last it is claimed that said court likewise erred in approving Sanguillosa's claim as a preferred claim.

As far as the present case is concerned, appellant must be deemed in estoppel to assail the constitutionality of the powers granted to Regional Office No. 3 of the Department of Labor, upon the ground that, as stated heretofore, he had properly raised exactly the same issue in the Court of First Instance of Iloilo in Civil Case No. 4753, which said Court dismissed, said dismissal having become final and executory.

With respect to appellant's contention that the aforementioned regional office sitting in Manila had no jurisdiction to entertain the claim of Sanguillosa because the latter was not a resident of Manila, it appears that the latter's petition or claim and the evidence show that, at the time of the filing of the former, Sanguillosa was a resident of Manila. Moreover, the issue raised in this connection is purely a matter of venue, and any error committed in connection therewith raised at this stage of the proceedings would not constitute a reversible error.

With respect to the third assignment of error, all that We need to state after what has been said heretofore is that the decision of Regional Office No. 3 approving Sanguillosa's claim was appealed by the Company to the Labor Standards Commission, who dismissed the same in its order of March 24, 1959 and also denied two motions for reconsideration thereafter filed. There can be no question, therefore, that the aforesaid decision had become executory.

Lastly, appellant assails the ruling of the lower court declaring Sanguillosa's claim as a preferred claim under the provisions of the Insolvency Law and Articles 2241, 2242 and 2244 of the new Civil Code. His contention is without merit.

The claim in question is for payment of vacation and sick leave, for underpayment of wages and for overtime compensation. Being so, it should be considered as a preferred claim under Section 50(b) of the Insolvency Law or under either paragraph 2 or paragraph 14(b) of Article 2244 of the new Civil Code.

Appellant argues, however, that Sanguillosa's claim does not fall under the provisions of the Insolvency Law just mentioned because his services were not rendered during the year prior to the commencement of the insolvency proceedings against the employer.

Section 50(b) of the Insolvency Law gives preference to debts due for personal services rendered the insolvent by employees etc. immediately preceding the commencement of proceedings in insolvency. This is not the same language used in paragraph 2 of Article 2244 of the new Civil Code in establishing a preference in favor of credits for services rendered the insolvent by employees etc. for one year preceding (without the adverb "immediately") the commencement of the proceedings in insolvency. The difference, We believe is obvious. Had the framers of the new Civil Code merely intended to reproduce the provisions of the Insolvency Law, they could have easily said "for one year immediately preceding the commencement of the proceedings in insolvency". The reason for the omission of the adverb could only be the desire to broaden the meaning of the law by giving preference to credits for services rendered the insolvent by employees during any year, provided it was prior to the commencement of the insolvency proceedings.

Appellant's last contention is that the claim of Sanguillosa can not fall under paragraph 14 of Article 2244 of the New Civil Code because it did not arise from a final judgment of a regular court of justice. This is also without merit, for in *Torres vs. Llamas* (70 Phil., p. 59) this Court considered as preferential a claim arising from a final award made by commissioners of appraisal.

IN VIEW OF ALL THE FOREGOING, the order appealed from is hereby affirmed, with costs.

Concepcion, C.J., Reyes, Makalintal, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.
Angeles, J., did not take part.

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