

PHILIPPINE RABBIT BUS-LINES, INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION, ETC., RESPONDENTS. PHILIPPINE RABBIT BUS LINES, INC., PETITIONER, VS. HON. JULIAN E. LU...

G.R. Nos. L-20614 & L-21517. May 24, 1964

Ponente: DIZON, J.

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The two above-entitled cases arose from R03-WC Case No. 653 of the Workmen's Compensation Commission and, being intimately related to each other, are now the subject of the present joint decision.

To avoid confusion, We shall separately state the material facts of each case.

G.R. No. L-20614; On September 19, 1958, respondent Ildefonso Rodumban filed a claim for compensation under the Workmen's Compensation Act with the Manila Regional Office, Department of Labor, against petitioner, alleging that, while in the employ of the latter, he had met with an accident resulting in the loss of sight of both eyes (R03-WC Case No. 653).

Petitioner controverted the claim contending that the loss of sight of Rodumban was due to venereal disease.

On September 30, 1961, the chief hearing officer of the Manila Regional Office rendered judgment ordering petitioner to pay Rodumban the amount of P3,800.16 as compensation for the injury sustained by the latter, and the sum of P38 as fees.

After denying petitioner's motion for reconsideration, the chief hearing officer elevated the case to the Workmen's Compensation Commission, pursuant to Section 49 of the Workmen's Compensation Act, as amended by Republic Act 772, and Rule 23 of the Rules of said Commission.

The petition for certiorari under consideration alleges: that since November 21, 1961, when petitioner received notice of the elevation of the case to the Commission, neither petitioner nor its counsel had heard, or received notice regarding the case from the Commission until October 22, 1962, when its counsel, Atty. Angel A. Sison, received a copy of a petition filed by Rodumban with the Court of First Instance of Tarlac—Civil Case No. 3833—for the execution of a decision allegedly rendered by the Commission on May 31, 1962, affirming that of the chief hearing officer, and further sentencing petitioner to pay Rodumban the sum of P285.01 as attorney's fees,

and P5.00 for the review; that petitioner received the copy of said petition for execution not through the office of the Sheriff of Tarlac but through Atty. Tirso U. Aganon, one of its retained counsel, residing in Tarlac, Tarlac, who happened to be present in the branch of the Court presided by Judge Gopengco when said petition was called for hearing, and although the case was not one of those handled by him for petitioner, he moved for postponement and asked for a copy thereof when he became aware that nobody had appeared for herein petitioner; that upon examination of the record of RO3-WC Case No. 653 in the office of the Workmen's Compensation Commission, petitioner's counsel found the original of the notice of judgment attached thereto signed on his behalf on June 6, 1962 by someone who was not an employee of his law office nor a person authorized by him to receive similar notices; that as a result, on October 24, 1962, petitioner filed in said case a verified motion to declare void the alleged service of notice of judgment, with the supporting affidavits of his secretary and his clerk in the law office, both to the effect that the questioned signature was not theirs nor of any employee of the law office; that all notices and pleadings received in the office of Atty. Sison are, as a matter of practice, stamped with a receiving stamp, which was not the case in that of the notice of judgment in question; that the Commission, in its order of November 2, 1962, received by petitioner's counsel on the 8th of the same month, denied the motion and declared its decision of May 31, 1962 final and executory, petitioner's motion for reconsideration of November 10th of the same year having been denied likewise by the Commission for lack of merit; that the Commission acted with grave abuse of discretion in ruling that petitioner, through counsel, had received due notice of the decision of May 31, 1962, on June 6, 1962; in declaring that said decision had become executory, and in denying petitioner's motion to declare void the alleged service of notice of judgment mentioned heretofore. Upon these grounds, petitioner prays that the order of the Commission of November 2, 1962 be declared void.

G.R. No. L-21517: This is another petition for certiorari, with a prayer for the issuance of a writ of preliminary injunction, filed by Philippine Rabbit Bus Lines against the Hon. Julian I. Lustre of the Court of First Instance of Tarlac, and Ildefonso Rodumban, alleging the following:

That on October 1st, 1962, Rodumban filed in the Court of First Instance of Tarlac a petition for the execution of the decision rendered in his favor in RO3-WC Case No. 653, the same having been docketed as Civil Case No. 3533 of said court. Upon being apprised of said petition, in the manner already stated in connection with G.R. No. L-20614, petitioner filed a verified opposition denying that the aforesaid decision had become executory, the truth being that no copy thereof had ever been duly served upon it. When the case was called for hearing on October 19, 1962, Judge Gopengco postponed the hearing to the 26th of the same month upon petition of Atty. Aganon, one of petitioner's retained counsel, who happened to be in court that day. On October 26th, petitioner's counsel appeared in court for the scheduled hearing, but not Rodumban nor his counsel. Judge Gopengco, however, postponed the hearing until further assignment in view of a telephonic message received by him from Atty. Olandesca, counsel for Rodumban.

It appears that thereafter the case (Civil Case No. 3833) was transferred to Branch III of the same court, presided by the respondent Judge Lustre, and on November 9, 1962, Rodumban filed an urgent motion to have the case set for hearing on the 16th of the same month. Petitioner filed its opposition thereto on November 12th claiming that the alleged finality of the decision of the Workmen's Compensation Commission being disputed, the same was a prejudicial question in relation to the motion for execution, and that, therefore, the hearing of the latter should be deferred until a ruling thereon may have been obtained from the Supreme Court to which it intended to elevate the matter by certiorari. On November 15th, respondent Judge issued an order providing that the hearing of the case set for November 20, 1962, be provisionally suspended, but required the parties to appear before it on the 14th of the same month "to argue and present evidence on the motion of Atty. Angel A. Sison dated November 12, 1962 — which was, in reality, the opposition already referred to with a petition to defer the hearing of Civil Case No. 3833

until a final ruling may have been obtained from the Supreme Court.

On December 14th, petitioner's counsel appeared in court — but not Rodumban nor his counsel -- and informed the court that, the day before, he had filed the corresponding petition for certiorari and mandamus with the Supreme Court for the annulment of the order of the Workmen's Compensation Commission declaring its decision in favor of Rodumban final and executory, and reiterated his petition that the hearing of the petition for execution be deferred. Thereafter, the respondent Judge issued an order in open court suspending action on the motion of Rodumban to have a date set for the hearing of Civil Case No. 3833, in view of the action for certiorari and mandamus filed with the Supreme Court. It appears, however, that after petitioner's counsel had left, Rodumban's counsel arrived and requested that Civil Case No. 3833 be called again, to which, apparently, the respondent Judge agreed, as shown by the fact that, on the same date, he issued an order reversing the one issued in open court, and setting the hearing of the case on January 11, 1963, at 9:00 a.m.

On January 2, 1963, petitioner filed a written manifestation in Civil Case No. 3833 informing the court that the Supreme Court had given due course to its petition for certiorari, and when Civil Case 3633 was called for hearing on January 11th, he reiterated the same information and prayed for deferment, but the respondent Judge issued another order setting the hearing of the case on March 14th, at 9:00 a.m. "unless enjoined by a higher court".

On March 14, 1963, Civil Case 3833 was heard, herein petitioner presenting evidence intended to show that the decision whose execution was the subject matter of the petition was not yet final and executory; that its finality was in fact in question in the petition for certiorari filed with the Supreme Court in G.R. No. L-20614.

On March 25, 1963, however, respondent Judge rendered his decision for the enforcement of that of the Workmen's Compensation Commission, copy of which decision was received by petitioner on April 8th of the same year.

On or about the 22nd of the same month, herein petitioner filed a motion for reconsideration which was set for hearing on May 9, 1963, but on April 26th, upon an ex-parte motion for execution filed by Rodumban, the respondent Judge ordered the issuance of the corresponding writ of execution. As a result of the issuance of said writ, levy was made upon one of the buses of the petitioner, and the same was advertised to be sold at public auction on May 15th. On May 13th, petitioner filed a motion for reconsideration, for the recall of the writ of execution and the lifting of the levy aforesaid, on the grounds therein stated, and offered to file a supersedeas bond, which motion was granted in an order of May 14th issued by Judge Lanting to whom it was referred in view of the fact that Judge Lustre was then on leave.

However, in an order dated June 5, 1963, the respondent Judge took up the matter anew and denied the motion for reconsideration aforesaid.

Thereupon, petitioner filed the present petition for certiorari and injunction claiming that the respondent Judge acted in excess of his jurisdiction or with grave abuse of discretion in rendering his decision of March 25, 1963 in spite of the fact that he was already apprised that the decision of the Workmen's Compensation Commission was involved in the certiorari case pending in the Supreme Court, particularly with respect to its alleged executory character.

It is obvious that We need decide only 6. R. No. L-20614 because if We affirm the order complained of therein, the writ of certiorari prayed for in the second case must necessarily be denied.

Upon the facts stated heretofore, the petition for certiorari in G. R. Mo. L-20614 must be dismissed and the writ denied, on two grounds, namely: (a) the action for certiorari is not the proper remedy, and (b) even if it were, the facts do not justify a finding to the effect that the Workmen's Compensation Commission had gravely abused its

discretion in denying relief to petitioner.

In connection with the first ground, We are of the opinion that the Commission's order of November 2, 1962 denying petitioner's motion to declare void and of no legal effect the notice of judgment repeatedly mentioned above is analogous to, and of the same nature as, a denial of a petition for relief from a final judgment, and therefore final and appealable in character. Petitioner should have availed itself of this remedy instead of bringing up the matter by special civil action of certiorari.

In relation to the second ground, We find that the crucial and decisive question is really one of fact, namely: whether or not petitioner was properly served with notice of the decision rendered by the Commission in RO3-WC Case No. 653. In this connection, petitioner sought to prove that the person who appears to have received said notice on his behalf is not an employee of his office, much less a person authorized by him to receive similar notices; but the Commission, after considering all the material evidence before it, found otherwise and held: that the signature aforesaid was that of "someone in the office of respondent's counsel"; that it had no reason to doubt that the service of the notice was regular "because the person who signed for a copy of the same obviously knew what he was doing, for he even affixed the date of actual receipt below his signature," and finally, that the presumption that official duty had been regularly performed had not been successfully assailed by the movant. While it is possible that the Commission's conclusions are wrong, still such errors would constitute mere errors of judgment but do not involve any grave abuse of discretion on its part.

Now, if petitioner's motion for the annulment of the notice of judgment already referred to was correctly denied, and the decision of the Commission had really become final and executory, it is clear that the proceedings in the Court of First Instance of Tarlac mentioned above—including the issuance of the writ of execution—were proper and in accordance with law. That at the time of the hearing and the issuance of the writ there was a prejudicial question pending before Us would seem to have a merely academic value.

WHEREFORE, the petitions under consideration are hereby dismissed and the writs prayed for, therein denied, with costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, and Makalintal, JJ., concur.

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