

JUANA T. VDA. DE RACHO, PLAINTIFF-APPELLEE, VS. MUNICIPALITY OF ILAGAN, DEFENDANT-APPELLANT.*G.R. No. L-23542. January 02, 1968*

Ponente: BENGZON, J.P., J.

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Plaintiff Juana T. Vda. de Racho and the decedent, Manuel Racho, were spouses and had five minor children. On July 1, 1954 the decedent was appointed as market clean-er in the Municipality of Ilagan, Isabela, at the rate of P660.00 per annum (P55.00 monthly) which amount he received up to June 30, 1958. On July 1, 1958, decedent's salary was increased to P720.00 per annum (P60.00 monthly) by virtue of a promotional appointment extended to him by the Municipal Mayor. He received this amount until January 6, 1960 when he tendered his resignation effective July 7, 1960. Decedent was then paid the money value of his accumulated leaves from January 7, 1960 to May 23, 1960 at the rate of P60.00 a month.

On October 5, 1960, decedent died intestate at Ilagan. Plaintiff then filed on December 9, 1960 a claim for salary differentials with the Regional Office of the Department of Labor which dropped the case later on for lack of jurisdiction.

Based on the foregoing facts, the Court of First Instance of Isabela, in an action brought on December 5, 1961, by plaintiff, in her own behalf and as guardian ad litem of her minor children, ruled that defendant Municipality of Ilagan must pay P1,766.00 to plaintiff representing the wage differentials and adjusted terminal leave of the decedent from December 9, 1957[1] to May 23, 1960, based on the monthly wage rate of P120.00 pursuant to the Minimum Wage Law.

Defendant municipality immediately appealed the case to Us on the sole submission that its shortage and lack of available funds and expected revenue validly exempted it from complying with the Minimum Wage Law.

The appeal must be dismissed. We have already answered the question posed in *Rivera vs. Colago*, L-12323, February 24, 1961, wherein We ruled that lack of funds of a municipality does not excuse it from paying the statutory minimum wages to its employees, which, after all, is a mandatory statutory obligation of the municipality. To uphold such defense of lack of available funds would render the Minimum Wage Law futile and defeat its purpose. This also disposes of the implication appellant is trying to make that its duty to pay minimum wages is not a statutory obligation which would command preference in the municipal budget and appropriation ordinance.[2]

Moreover, We cannot sanction appellant's proposition that it would eventually and gradually implement the Minimum Wage Law, "if and when its revenues can afford." The law - insofar as it affects government employees - took effect in 1952.[3] It should have been implemented - or at least steps to implement it should have been taken - right then. To excuse the defendant municipality now would be to permit it to benefit from its nonfeasance. It would also make the effectivity of the law dependent upon the will and initiative of said municipality without statutory sanction. Defendant's remedy, therefore, is not to seek an excuse from

implementing the law but, as the lower court suggested, to upgrade and improve its tax collection machinery with a view towards realizing more revenues. Or, it could for the present forego all non-essential expenditures.

WHEREFORE, the appealed judgment is, as it is hereby, affirmed. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] The cause of action for underpayments prior to this date was already barred by the three-year limitation under the Minimum Wage Law.

[2] See: Secs. 2295 & 2296, Revised Administrative Code.

[3] Sec. 3(c), Republic Act 602.

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