

**MANILA PEST CONTROL, INC., PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, ATANACIO A. MARDIO, AS CHIEF
HEARING OFFICER OF REGIONAL OFFICE 4 OF THE DEPARTMENT
OF LABOR, CITY S...**

G.R. No. L-27662. October 29, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

This Court, in a resolution of June 21, 1967, was persuaded, regrettably as it turned out, to give due course to a certiorari and prohibition proceeding with a plea for preliminary injunction, a restraining order being issued, in view of the rather vehement and earnest protestations of petitioner Manila Pest Control, Inc. that it was denied procedural due process. As will be more fully explained, such is not the case at all.

More specifically, it was alleged that on February 24, 1967, respondent Workmen's Compensation Commission through its referee, considered a complaint filed against it by the other respondent, Mario Abitria, for compensation, submitted for decision after he and a physician had testified, petitioner's counsel having failed to appear at the hearing of February 24, 1967.[1] Then came, according to the petition, a motion for reconsideration dated March 7, 1967, petitioner praying that he be allowed to present evidence on his behalf.[2] It was denied in an order of April 4, 1967, as a decision had already been rendered against petitioner, as employer, awarding respondent Abitria P6,000.00 as his disability compensation benefit. It was also pointed out in such order that there was no plea in such motion for reconsideration for such decision being set aside, as it was limited to seeking an opportunity to cross-examine the witnesses. It could not be granted as the matter was looked upon as "moot and academic." [3] It was then alleged in the petition that on April 11, 1967, a motion for reconsideration of the aforesaid order was filed with the averment that petitioner was not aware of any decision rendered in the case as no copy of the same had theretofore been furnished to its counsel.[4] After a denial of such motion for reconsideration on April 24, 1967, and a plea for execution on behalf of respondent Abitria, which was granted on June 14, 1967, the City Sheriff of Manila, likewise made a respondent, levied on petitioner's pro-perties on June 14, 1967, by virtue of the above writ of execution.[5]

It is petitioner's contention that in the light of the above alleged infringement of procedural due process, the actuation of respondent Commission was either in excess of its jurisdiction or with grave abuse of discretion. That was the basis for the relief sought, seeking a writ of preliminary injunction restraining City Sheriff of Manila, from proceeding with the sale at public auction of petitioner's properties and after hearing, annulling the aforesaid writ of execution and likewise all the proceedings in RO4-WC Case No. 5503, thereafter making the injunction permanent, and ordering respondent Abitria to pay petitioner the sum of P500.00 as attorney's fees. Thus was imparted more than just a semblance of plausibility to the petition, deceptive in character, as subsequent pleadings proved, but nonetheless insufficient to call for its summary dismissal.

On June 21, 1967, this Court issued a resolution to this effect: "The respondents in L-27662 (Manila Pest Control,

Inc. vs. Workmen's Compensation Commission, et al.) are required to file, within 10 days from notice hereof, an answer (not a motion to dismiss) to the petition for prohibition; let temporary restraining order issue, effective immediately and until further orders from this Court."

The answer of respondent Workmen's Compensation Commission of July 21, 1967 and the later pleadings, revealed quite a different story. It is now quite clear that instead of being the offended party suffering from a legitimate grievance, its right to due process having been summarily disregarded, petitioner was not above resorting to every technicality the law affords to evade the performance of an obligation, which under the law it must fulfill, namely, to compensate for the serious and debilitating ailment of tuberculosis acquired in the course of employment by respondent Abitria. Accordingly, the petition for certiorari and prohibition should be, as it is hereby, denied.

The facts as found by respondent Workmen's Compensation Commission, which must be deemed conclusive, can yield no other conclusion but the undeniable liability for compensation to respondent Abitria on the part of petitioner. Thus: "From the recorded evidence, it appears that claimant was employed with the respondent since February 4, 1956, working six (6) days a week and receiving an average monthly wage of P180.00 as laborer for the respondent. He was assigned in the Research Division which conducted research on rat traps and other matters regard-ing extermination of pests, animals and insects. It was testified to by the claimant and his witnesses that in the place of his employment he was made to inhale dangerous fumes as the atmos-phere was polluted with poisonous chemical dusts. The working condition of his place of work was also warm and humid in view of the products being manufactured by the respondent. He was not extended any protective devise and he was also made to lift heavy objects in the painting and soldering. In his soldering work muriatic acid and soldering paste [were] used. Sometime on July, 1966 while the claimant was soldering, [he] began to experience symptoms of pulmonary tuberculosis. Because of his spitting of blood or hemoptysis, he went to consult Dr. Felix Tuazon of the Quezon Institute whose diagnosis was pulmonary tuberculosis, chronic, active, moderately advanced, right: minimal, left. He was confined at the Quezon Institute under the care of Dr. Felix Tuazon. According to the attending physician, he was admitted in the hospital ward as a hemoptic patient or one who is bleeding from the lungs. When he was admitted he was prescribed Vita K. ampules, bronocal, ablocid, duestrep injections and other anti-TB drugs. His clinical history showed that the claimant was diagnosed with severe coughing followed by expectoration of fresh blood amounting to two glassful [when] he was brought to the Philippine General Hospital and given injection and was X-rayed. From that hospital he was trans-ferred to the Quezon Institute where he was subsequently admitted. The attending physician testified further that the right lung had bronchogenous lesions in the upper lobe with honeycomb at 2nd and 3rd intercostal space, while the left lung had fibrotic lesion behind the anterior rib II. * * * He was discharged at the Quezon Institute on September 3, 1966, but the illness was not yet arrested although there was stopping of the hemoptysis. The doctor testified on cross examination that the nature of work of the claimant involving strenuous physical exertion and other factors of work such as the lowering of his resistance in view of the enormous inhalation of chemical fumes also brought about the aggravation of the claimant's present condition. According to the claimant the respondent was duly notified of his illness through the general manager and in view of the respondent's refusal to pay him disability compensation despite repeated demands, claimant filed this instant claim."[6]

The sole issue then, as accurately set forth in the above decision, was "to determine in this case * * *whether * * * there is sufficient or substantial evidence in support of the claim for disability compensation benefits under the Workmen's Compensation Law. The evidence on record is crystal clear that the claimant had already substantially proven his case and all indications point that the illness of moderately advanced, pulmonary tuberculosis was service connected in view of his work as laborer involving strenuous physical exertion which brought about the lowering of his resistance due to the massive inhalation of injurious chemical fumes to the extent that he was

made an easy prey to the contraction of TB bacilli. The fact that there was no evidence on record that claimant was sick upon entrance to his employment, it is presumed that he was normal in every respect during the first period of his employment and the disease of pulmonary tuberculosis showed only during the later part of his employment when he was assigned in the research division of the respondent. The attending physician himself stated that claimant's exposure to his work aggravated the illness and we believe that the respondent had failed to dispute the work connection as there is no showing that claimant's ailment was due to the lowering of his resistance by causes other than the nature of his work as laborer of the respondent."[7]

It must be a realization that no valid defenses could be inter-posed that prompted petitioner to rely on the alleged deprivation of due process, a contention, which as will now be shown, is without basis.

The petition was so worded that the employer's right to be heard appeared to have been disregarded. No further attention should be accorded such an alleged grievance. If it did not introduce any evidence, it had itself solely to blame. No fault could be attributed to respondent Workmen's Compensation Commission. There must be such a realization on the part of petitioner for its four-page memorandum submitted in lieu of oral argument did not bother to discuss such a matter at all. Accordingly, such a contention need not detain us further as it ought never to have been raised in the first place.

Petitioner would make much however of the allegation that, as shown in the answer of respondent Workmen's Compensation Commission,[8] the decision was sent to a certain Attorney Manuel Camacho but care of petitioner's counsel, Attorney Manuel Corpuz. Petitioner would emphasize that the one "officially furnished" with a copy of such decision was not its counsel, who was without any connection with the aforesaid Attorney Camacho. It would conclude, therefore, that it had not received a copy of a decision which could not thereafter reach the stage of finality calling for a writ of execution.

This contention was squarely met in the reply-memorandum of November 6, 1967 of the Workmen's Compensation Commission. Why it happened thus was explained in an affidavit of one of its employees, a certain Gerardo Guzman, included therein.[9] As set forth in such reply-memorandum: "As stated in the affidavit of Mr. Guzman, he went to the office of Atty. Corpuz, on March 10, 1967 to deliver a copy of the decision, * * *, but Atty. Corpuz refused to receive the said decision alleging that he was no longer handling the case. Atty. Corpuz, instead instructed Mr. Guzman to deliver the said decision to Atty. Camacho since it was already Atty. Camacho who was handling the case, and Atty. Camacho, according to Atty. Corpuz, even had the records of the case."[10] In view of such instruction, it was further noted, Guzman "went to the office of Atty. Camacho, but since Atty. Camacho was not around he handed the copy of the decision to the receiving clerk therein, who received it as evidenced by the stamp pad bearing the name of the Law Office of Camacho, Zapa, Andaya & Associates on the attached true copy of the Notice of Decision, * * *."[11]

From which it could make the apt observation. "It is indeed sad to note that after the Counsel for Petitioner refused to receive the copy of said decision, he is now impugning the delivery of said decision to Atty. Camacho and is denying knowledge of it when in fact and in truth the delivery of said decision to Atty. Camacho was made per his instruction to Mr. Guzman, as evidenced by the attached affidavit of Mr. Guzman."[12]

In view of the rather persuasive character of such an affidavit and the understandable reflection on the actuation of counsel for petitioner, there was, as could be expected submitted by petitioner's counsel a rejoinder, dated November 26, 1967. He would have this Court believe that the reply-memorandum is contradicted by what appeared in respondents' answer, where it was stated that a copy of the decision was received, not by him but by the law office of a certain Attorney Camacho. He would then ask why Guzman did not serve a copy of the decision to him. He would even assume, for argument sake, that there was a refusal on his part to accept a copy of

his decision, but he would argue why did not Guzman, who could be expected to know the duties of a service officer, fail "to state said refusal in his official return."

Which of the above conflicting versions is entitled to credence? That of respondent Workmen's Compensation Commission would appear to be more in accordance with the realities of the situation. It is entitled to belief.

This would not be the first time, in the first place, where out of excess of zeal and out of a desire to rely on every conceivable defense that could delay if not defeat the satisfaction of an obligation incumbent on one's client, counsel would attempt to put the most favorable light on a course of conduct which certainly cannot be given the stamp of approval. Not that it would clear counsel of any further responsibility. His conduct leaves much to be desired. His responsibility aside, it made evident why, to repeat the effort to evade liability by petitioner by invoking the due process guaranty must not be re-warded with success.

Under the above circumstances, no due process question arose. What was done satisfied such a constitutional requirement. An effort was made to serve petitioner with a copy of the decision; that such effort failed was attributable to the conduct of its own counsel. True, there was a denial; it is far from persuasive, as already noted. It does not have the ring of truth. There is no reason why the decision would have been served on some other counsel if there were no such misinformation, if there were no such attempt to mislead.

No benefit would have accrued to respondent Workmen's Compensation Commission. It was merely performing its official function. Certainly, it could be expected to see to it that the law's beneficiaries were not inconvenienced, much less frustrated, by its failure to follow the regular procedure prescribed. It was unlikely that the employee entrusted with serving a copy of the decision, in this particular case, and in this particular case alone, would depart so radically from what the law requires, if there were no such intervening cause that resulted in his going astray. How could petitioner escape responsibility?

Petitioner, and petitioner alone, could be expected to furnish such a cause. Who would benefit thereby? The answer cannot be in doubt. Through such a circumstance, whether intended or otherwise, a basis was laid for at least a delay of the fulfillment of a just claim. For it is to be noted that there is no, as there could not be any, valid ground for denying compensation to respondent Abitria on the facts as found. Considering how great and pressing the laborer's need for the compensation due him was and the consequent temptation to settle for less if in the meanwhile, the money he had the right to expect, was not forthcoming, petitioner, as the employer liable, had everything to gain and nothing to lose by such a turn of events. Even if it were an honest mistake, the consequences were still deplorable.

It is quite revealing that in not one of the pleadings filed by petitioner did it ever indicate how it could validly avoid its liability under the Workmen's Compensation Commission which disclosed that the ailment suffered by respondent Abitria while in its employment was indeed compensable. Neither in its memorandum submitted on October 19, 1967 and rejoinder of November 21, 1967, did it ever occur to petitioner to allege that if given the opportunity for hearing it could interpose a plausible, not to say a valid defense? It did not do so because it could not do so. Our decisions as to the undeniable liability of an employer similarly situated are impressive for their number and unanimity.[13]

It would thus be grimly ironic if the due process concept, in itself an assurance and a guaranty of justice and fairness, would be the very vehicle to visit on a hapless and impoverished litigant injustice and unfairness. The law itself would stand in disrepute, if such a gross perversion of its dictates were allowed. Any other view is unthinkable. Otherwise, there would be a stultification of all our efforts to promote social justice[14] and a mockery of the constitutional ideal of protection to labor.[15]

Considering the above, it is not enough that petitioner be required to pay forthwith the sum due respondent Abitria. The unseemly conduct, under the above circumstances disclosed, of petitioner's counsel, Attorney Manuel A. Corpuz, calls for words of reproof.

It is one thing to exert to the utmost one's ability to protect the interest of one's client. It is quite another thing, and this is to put it at its mildest, to take advantage of any unforeseen turn of events, if not to create one, to delay if not to defeat the recovery of what is justly due and demandable, especially so, when as in this case, the obligee is a necessitous and poverty-stricken man suffering from a dreaded disease, that unfortunately afflicts so many of our countrymen and even more unfortunately requires an outlay far beyond the means of our poverty-stricken masses.

The ancient and learned profession of the law stresses fair-ness and honor; that must ever be kept in mind by everyone who is enrolled in its ranks and who expects to remain a member in good standing. This Tribunal is rightfully entrusted with the serious responsibility of seeing to it that no deviation from such a norm should be countenanced. If what occurred here would not be characterized for the shocking thing it was, then it could be said that the law is less than fair and far from honorable. What happens then to the ideal that only he is fit to belong to such a profession who remains a faithful votary at the altar of justice? Such an ideal may be difficult to approximate. That is true, but let it not be said that when such a notorious breach of its lofty standard took place, as unfortunately it did in this case, this Court exhibited magnificent unconcern.

WHEREFORE, this petition for certiorari and prohibition with preliminary injunction is denied. With treble costs against petitioner to be paid by his counsel, Attorney Manuel A. Corpuz.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

[1] Petition, pars. 3 to 5.

[2] Ibid, par. 6.

[3] Ibid, Annex D.

[4] Ibid, par. 8.

[5] Ibid, pars. 9 to 11.

[6] Answer of Respondent Workmen's Compensation Commission, Decision, Annex C.

[7] Ibid.

[8] Ibid, Annex C.

[9] Reply Memorandum of Respondent Workmen's Compensation Commission, Annex A.

[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] Cf. *Blue Bar Coconut Co. v. Boo*, 95 Phil. 867 (1954); *Quezon Institute v. Velasco*, 97 Phil. 905 (1955); *NASSCO v. Asuncion*, 103 Phil. 67 (1958); *Gutierrez v. Bachrach Motor Co.*, 105 Phil. 9 (1959); *Blue Bar Coconut Co. v. Lugod*, 105 Phil. 513 (1959); *Central Azucarrera Don Pedro v. de Leon*, 105 Phil. 1141 (1959); *Sereno v. PLDT*, L-11184, May 29, 1959; *International Oil Factory v. Martinez vda. de Doria*, L-13426, Sept. 30,

1960; MRR v. Ferrer, L-15454, Sept. 30, 1960; Plywood Industries Inc. v. WCC, L-18165, May 30, 1962; Rebodos v. WCC, L-18737, Nov. 29, 1962; Lambino v. Baens del Rosario, L-18434, Dec. 29, 1962; MRR v. WCC, L-18388, June 28, 1963; Pantranco v. WCC, L-16490, June 29, 1963; Itogon-Suyoc Mines Inc. v. Dulay, L-18974, Sept. 30, 1963; NDC v. WCC, L-19854, Dec. 27, 1963; Pantranco v. WCC, L-16490, Jan. 30, 1964; Cepoc v. WCC, L-19164, Feb. 29, 1964; Phil. Engr. Corp. v. Florentino, L-16569, May 30, 1964; MRR v. WCC, L-19773, May 30, 1964; Peter Paul (Phil) Corp. v. WCC, L-19612, July 30, 1964; BT Co. v. Perez, L-19522, Aug. 31, 1964; Agustin v. WCC, L-19957, Sept. 29, 1964; MRR v. Chavez, L-20103, Sept. 30, 1964; Vda. de Acosta v. WCC, L-19772, Oct. 21, 1964; Central Azucarrera Don Pedro v. Agno, L-20424, Oct. 22, 1964; Koppel (Phil) Inc. v. Javellana, L-19926, April 30, 1965; Hernandez v. WCC, L-20202, May 31, 1965; MRR v. Perez, L-21071, June 29, 1965; Caltex (Phil) Inc. v. Derpo, L-19698, Jan. 31, 1966; NDC v. WCC, L-21724, April 27, 1967; NDC v. Ayson, L-23450, May 24, 1967; MRR v. WCC, L-21902, Aug. 10, 1967; NDC v. WCC, L-21963, Aug. 30, 1967; MRR v. WCC, L-21504, Sept. 15, 1967; Victorias Milling Co. v. WCC, L-25640, March 21, 1968; Rebar Buildings Inc. v. WCC, L-27486, April 30, 1968; MRR v. WCC, L-23021, May 29, 1968; Central Azucarrera Don Pedro v. WCC, L-24987, July 31, 1968; Juan Isberto v. Republic, L-22769, Aug. 30, 1968; C.A. Chiong Shipping Co. v. WCC, L-24202, September 23, 1968.

[14] Section 5, Art. II, Constitution.

[15] Section 6, Art. XIV, Constitution.

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