

**CONSTANTINA DE AGRAVIADOR AND ALFREDO AGRAVIADOR,
PETITIONERS, VS. HON. COURT OF APPEALS, EUSTAQUIA PEÑALOSA
AND BERNABE GALO, RESPONDENTS.***G.R. No. L-26487. March 28, 1969*

Ponente: CONCEPCION, C.J.

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Appeal on certiorari from a decision of the Court of Appeals reversing that of the Court of First Instance of Negros Occidental and sentencing petitioners, Constantina and Alfredo Agraviador, to pay to respondents, Eustaquia Peñalosa and her husband Bernabe Galo, the sum of P2,676.87, and the costs.

It is not disputed that Eustaquia Peñalosa had worked as house-maid of the Agraviadors, in a hotel operated by the latter in San Carlos City, from November 15, 1949 to September 10, 1954. Soon thereafter, Eustaquia complained to the Chief of Police of said city about certain sums of money allegedly due to her from the Agraviadors, for personal Services rendered to the latter. The Chief of Police referred her to the Constabulary unit stationed in the locality, where Sgt. Quintin Sevilla advised her to see the public defender at Bacolod City, which she did. Having, however, failed to secure any action from the public defender, she wired then President Magsaysay, who, thereupon, sent therefor a hearing officer of the Bureau of Labor Standards to Bacolod City. After hearing Eustaquia's complaint, said officer rendered, on January 10, 1959, a decision in her favor and against the Agraviadors. The latter appealed to the Labor Standards Commission, which, on March 2, 1960, affirmed said decision. On further appeal taken by the Agraviadors to the Court of First Instance of Negros Occidental, in which the case was docketed as Civil Case No. 5722 thereof, said court dismissed the case, on July 14, 1961, upon the ground that the Labor Standards Commission had no jurisdiction over its subject-matter, the same being merely a monetary claim.[1]

Accordingly, on September 6, 1961, Eustaquia and her husband commenced Civil Case No. 6286 of the same court against the Agraviadors, to recover P1,150 as alleged accrued salaries, P2,425 for services said to have been rendered in excess of eight (8) hours a day, and P251.87 for work done on Sundays, aside from moral and exemplary damages, as well as attorneys fees. "In due course, said court rendered judgment dismissing the complaint therein, upon the ground that Eustaquia had failed to substantiate her claim for compensation and that the same is barred by the statute of limitations of action.

On appeal taken by Eustaquia and her husband, the Court of Appeals sustained the finding of the lower court as regards the failure of Eustaquia to establish the alleged non-payment of her regular monthly salary. Said appellate court, however, reversed the decision of the lower court insofar as the claim for overtime pay and for work done on Sundays, for which it rendered judgment in the aggregate sum of P2,676.87, in addition to the costs, as pointed out at the beginning of this decision. Hence, the present petition for review on certiorari by the Agraviadors, who maintain: (1) that there is no evidence that Eustaquia had ever demanded payment of compensation for work done in excess of eight (8) hours a day and on Sundays; (2) that her claim for such

compensation is barred by the statute of limitations; and (3) that, in awarding the aforementioned compensation, the Court of Appeals had passed upon an issue neither raised nor argued in Eustaquia's brief.

The first assignment of error is based upon the theory that Eustaquia had merely testified to having demanded payment of her wages, from which the Agraviadors deduce that she had made no demand for payment either for overtime or for work done on Sun-days. This theory assumes that, in using the term "wages", Eustaquia meant no more than her fixed regular monthly compensation, and did not include the remuneration for work performed in excess of eight (8) hours and during Sundays: This assumption is untenable. As a housemaid, with a limited schooling, Eustaquia evidently understood the word "wages" as embracing every amount due to her for services rendered to the Agraviadors, without distinction between regular work not exceeding eight (8) hours and that performed either in excess of that period and/or during Sundays.

The second assignment of error stresses the fact that more than six (6) years had elapsed, from September 10, 1954, when Eustaquia's services to the Agraviadors ended, to September 6, 1961, when the present action was commenced in the Court of First Instance. It should be noted, however, that in September 1954, Eustaquia went to the Chief of Police of San Carlos and complained about the alleged non-payment by the Agraviadors of the compensation due to her (Eustaquia); that the Chief of Police advised her to go to the Constabulary, a Sergeant of which counseled her to see the public defender; and that, having merited no attention from the latter official, she wired then President Magsaysay, who, forth-with, sent to Bacolod City a hearing officer, who heard Eustaquia's complaint and, on January 12, 1959, rendered the corresponding decision.

The records show that Eustaquia filed her claim with the Department of Labor¹ on August 6, 1956, or less than one (1) year and eleven (11) months since the termination of Eustaquia's services. Although said proceedings came to an end on July 14, 1961, when the Court of First Instance of Negros Occidental dismissed Civil Case No. 5722 thereof, for lack of jurisdiction of the Labor Standards Commission to hear and decide Eustaquia's claim, the filing thereof had the effect of tolling the running of the period of prescription.² Accordingly, when the present action was commenced on September 6, 1961, or less than two (2) months after the dismissal of said Civil Case No. 5722, the period of six (6) years prescribed in Art. 1145 of the Civil Code, for the prescription of such claim, had not expired as yet.

It is true that, pursuant to Sec. 7-A of Commonwealth Act No. 444, as amended by Republic Act No. 1993, claims for over-time and/or for work done on Sundays prescribe three (3) years from the accrual of the cause of action. It is clear, however, that Eustaquias' claim had been filed before the expiration of the said period, computed from September 10, 1954. Moreover, although said claim includes compensation for work done since November 15, 1949, the statute of limitations did not begin to run until September 10, 1954, when the Agraviadors rejected Eustaquia's demand for payment. Although she had made similar demands prior thereto, the Agraviadors did not turn down said demands. They merely told her that they would keep the money in trust for her, so that she may have a substantial savings at the conclusion of her employment. Then, again, said Sec. 7-A of Commonwealth Act No. 444 was inserted therein by Republic Act No. 1993, which took effect upon its approval on June 22, 1957, when Eustaquia's claim was already pending before the hearing officer adverted to above. Pursuant to the proviso contained in the aforementioned Section 7-A, "actions already commenced before the effective date" of said Republic Act No. 1993, "shall not be affected by the period" therein "prescribed."

The last assignment of error is merely a consequence of those already disposed of and, hence, no further discussion is necessary.

WHEREFORE, the decision of the Court of Appeals should be, as it is hereby affirmed, with costs against Constantina and Alfredo Agraviador.

IT IS SO ORDERED.

Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur. Fernando, J., did not take part.

[1] Citing *Corominas vs. Labor Standards Commission*, L-14837, June 30, 1961.

1 See the decision in civil case No. 5722 of the Court of First Instance of Negros Occidental.

2 *Tiberio v. Manila Pilots Association*, L-17661, Dec. 28, 1961; *Ammen Trans. v. Borja*, L-17750, Aug. 31, 1962; *Fernandez v. P. Cuerva & Co.*, L-21114, Nov. 28, 1967; *Luzon Stevedoring Corp. v. Celorio*, L-22542, July 31, 1968.

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