

**PHILIPPINE MANUFACTURING COMPANY, PETITIONER, VS.
ERLINDA SANTOS VDA. DE GERONIMO, AND REINALDO GERONIMO,
THE LATTER BEING REPRESENTED BY THE FORMER IN THESE
PROCEEDINGS, AND EL...**

G.R. No. L-6968. November 29, 1954

Ponente: REYES, A., J.

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REYES, A., J.:

On November 22, 1952, Arcadio Geronimo, a laborer, died as a result of a fall while painting an elevated water tank belonging to the herein petitioner, Philippine Manufacturing Company. The accident was, as required by the Workmen's Compensation Act, reported to the Workmen's Compensation Commission by the deceased's immediate employer, the respondent Eliano Garcia, who had by contract undertaken to do the job of painting the tank for a stipulated price. There was no question that compensation for the death of the laborer was in order; but there was controversy as to whether the compensation due for the death of the laborer was recoverable from the Philippine Manufacturing Company or from Garcia as an independent contractor.

The referee designated by the Commission to investigate the case decided in favor of the contractor and ordered the Philippine Manufacturing Company to pay the compensation due. Upon a petition for review, the decision was affirmed by the "Acting Commissioner and Deputy Commissioner", and reconsideration of this ruling having been denied, the company brought the case here on a petition for certiorari.

It should be stated at the outset that the authority of the Deputy Workmen's Compensation Commissioner to decide this case on appeal from the referee's decision can no longer be questioned in view of our ruling in the case of Blue Bar Coconut Company etc. et al. vs. Boo, G. R. No. L-6920, promulgated on September 28, 1954. The real question for determination is who was the statutory employer of the deceased laborer for the purposes of the Workmen's Compensation Act. Was it Eliano Garcia, who contracted to do the painting job and hired the deceased for that purpose, or the Philippine Manufacturing Company for whom the job was to be done?

The company contends that Eliano Garcia was an independent contractor and should, therefore, be considered as the employer of the deceased. This is contradicted by Garcia who on his part claims that the deceased should be considered "a hired employee of the company to perform a painting job which was incidental to and necessary for the carrying out of the business of the company."

The case was submitted to the referee mainly on the following stipulation:

"The parties in the above-entitled case, through their counsels, hereby stipulate on the following facts of said case:

"1. That the Philippine Manufacturing Company is a corporation duly organized under the laws of the Philippines engaged in the business of the manufacture of soap (laundry and toilet), vegetable lard, cooking oil and margarine, with factory at Velasquez, Tondo, Manila;

"2. That the Philippine Manufacturing Co. is the owner of the water tank where the deceased Arcadio Geronimo fell resulting in his death on November 22, 1952, said tank being within the factory compound;

"3. That the Philippine Manufacturing Co. engaged co-respondent Eliano Garcia for the painting of said tank in accordance with specifications and price stipulated in a purchase order, copy of which is attached and made part of this stipulation as Annex "A";

"4. That the deceased, Arcadio Geronimo, fell while painting inside the water tank directly through a shaft partly filled with water resulting in his death;

"5. That the tank was erected for the purpose of water storage for use in case of fire;

"6. That Eliano Garcia used to engage in painting contracts and engaged the services of the deceased in connection with the work stipulated in Annex "A";

"7. That the actual supervision of the work in Annex "A" was taken care of by Mr. Eliano Garcia; and

"8. That at the time of his death, the deceased Arcadio Geronimo, was receiving a daily wage of P5.00."

The Annex "A" attached to and made a part of the above stipulation describes the job to be performed by the contractor, fixes the price therefor and specifies who shall comply with the law and answer for indemnity claims,. It says:

"DESCRIPTION

PRICE

"For supplying labor, equipment and tools in the painting of the inside of the elevated water tank located at 1120 Velasquez, Tondo, Manila under the following specifications:

P590.00

- Wire brush inside surface to bare metal.
- Wipe off loose dirt and rust.
- Apply two coats of Kopper's Tank Solution.
- Clean job site broom clean.
- The Contractor agrees to comply with the provisions of Republic Act No. 602 and the local laws and regulations. The contractor shall also be responsible for indemnity, and save harmless the Philippine Manufacturing Company from and against any claims, losses, and/or damages arising out of, or in connection with the prosecution of the work herein mentioned."

It thus appears that Garcia, a painting contractor, had by contract undertaken to paint a water tank belonging to the company "in accordance with specifications and price stipulated," and with "the actual supervision of the work (being) taken care of by" himself. Clearly, this made Garcia an independent contractor, for while the company prescribed what should be done, the doing of it and the supervision thereof was left entirely to him, all of which meant that he was free to do the job according; to his own method without being subject to the control of the company except as to the result.

The decision complained of, however, holds that Garcia was not an independent contractor because (1) he had no capital of his own, (2) he did not do the painting job according to his own method and without being subject to the control of the company, and (3) he put up no bond to answer for the fulfillment of his contract. The first ground is contrary to what appears in the record, for in the report of the accident filed by this contractor (Exhibit A) it is stated that his capital was less than P10,000.00, which is an admission that he had capital of his own although it is less than that amount. The second ground is without factual basis and is, moreover, contrary to what may be fairly inferred from the stipulated facts that the company was to pay for the work called for in the contract Annex A, the contract or to furnish labor, equipment and tools therefor, have the actual supervision of the work and be responsible for all claims for indemnity, the absence of a bond is some time taken into account together with other circumstances indicative of the capacity in which a person undertakes to do a piece of work for another. But it is not a controlling factor in determining whether that person is an independent contractor.

It is pointed out, however, that even granting that Garcia was an independent contractor, the company would still be liable under the Workmen's Compensation Act (Act No. 3426, as amended, section 39[a] and [b]), this on the theory that the deceased laborer, though working directly for the contractor may still be regarded as an employee of the company, for, though his employment may be said to be purely casual, still it was "for the purpose of the occupation or business of the employer."

As stipulated, the business of the company is to manufacture soap, vegetable lard, cooking oil, and margarine. It is hard to see how the employment of a painter could be said to be for the purposes of that business. In a similar case, this Court held that "when the Workmen's Compensation Act makes the owner of the factory the employer of the laborers employed therein notwithstanding the intervention of an independent contractor, it refers to laborers engaged in carrying on the usual business of the factory, and not to the laborers of an independent contractor doing work separate and distinct from the usual business of the owner of the factory." (*De los Santos vs. Javier*, 5S Phil, 32.) The following- is quoted from the decision in that case:

"It appears from the evidence that the defendant was going to buy and sell hogs and to establish a plant for curing hams, and that through Carmen Javier de la Rea he engaged a contractor by the name of Fructuoso Esquillo to construct a corral for hogs and an office for the person in charge of the corral. The price agreed upon was P500. The contractor was to furnish the labor. The work was to be finished within fifteen days. The deceased Bonifacio de los Santos was one of the workmen engaged by the contractor. He was paid by the contractor and was subject to the contractor's orders. The defendant had no direct intervention in the work. On June 15, 1931, while Bonifacio de los Santos was engaged in placing a beam, he fell from a scaffold and received injuries which caused his death the next day.

"Under these circumstances, we are constrained to hold that Bonifacio de los Santos was not an employee of the defendant. As already indicated, the business which defendant was going to establish was that of buying and selling hogs and curing hams. The defendant was not a building contractor, and it was not a part of his business, to construct buildings. If we refer again to the definition of employer, we shall see that it comprises the owner or lessee of a factory or establishment or place of work or any other person who is virtually the owner or manager of the business carried on in the establishment or place of work but who, for the reason that there is an independent contractor in the same, or for any other reason, is not the direct employer of laborers employed there. We take this to mean that although the owner of the factory is not the direct employer of the laborers employed therein because there is an independent contract in the factory, the owner of the factory is nevertheless to be considered for the purposes of the Workmen's Compensation Act as the employer of the laborers working under the independent contractor, but that is true only with respect to laborers doing work which is in the usual course of the owner's business. In the case at bar, for example, if the defendant had made a contract with Esquillo to take the hogs from the corral to the slaughterhouse, and the deceased as one of the employees of Esquillo had been fatally injured while engaged in that work, the defendant would have been

liable to the heirs of the deceased, although Esquillo was an independent contractor and the deceased his employee." (pp. 86-67)

It follows from the foregoing that the deceased cannot be regarded as the laborer or employee of the manufacturing company, for he was working for an independent contractor and met death while doing work which was not in the usual course of the company's business. Such being the case, the company is not the one called upon to pay the compensation due the dependents of the deceased. Responsibility for such payment rests upon his employer, Eliano Garcia. The latter may not deny that liability on the theory that, as he claims, his capital has not been proved to be not less than P10,000 and, under section 42 of the Workmen's Compensation Act, as amended, to be liable under the Act, the employer's capital must be not less than that amount. Section 43 of the Act provides that in any proceeding for the enforcement of the claim for compensation thereunder it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within its provisions. To show that he did not come within the Act, Garcia should have presented evidence that his capital was less than P10,000.00. But this he did not do, for he expressly waived the presentation of evidence on that point. The presumption, therefore, holds that the claim comes within the provision of the Act.

In view of the foregoing, the decision complained of is set aside and another should be rendered ordering Eliano Garcia to pay the compensation due the dependents of the deceased. With costs against the respondent Eliano Garcia.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Concepcion, and Reyes, J.B.L., JJ., concur.

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