

MARTINA LAMBINO, FOR HERSELF AND ON BEHALF OF HER CHILDREN, ERLINDA AND ALEJANDRA, BOTH SURNAMED MERCADO, PETITIONERS, VS. N. BAENS DEL ROSARIO, CHAIRMAN, WORKMEN'S COMPENSATION...

G.R. No. L-18434. December 29, 1962

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e5dde53a5fdf/>

BARRERA, J.:

This is a petition to review on certiorari the decision of respondent N. Baens del Rosario (as Chairman, Workmen's Compensation Commission), and affirmed by the Commission en banc, dismissing the compensation claim of petitioner Martina Lambino de Mercado (for herself and in behalf of her children Erlinda and Alejandra Mercado) against respondent City of Manila, for the death of her husband Juan Mercado, a laborer of said city.

The facts of the case, which are undisputed are succinctly stated in the decision of respondent WCC Chairman, to wit:

"It appears that deceased Juan Mercado was employed as laborer of the City of Manila, as early as 1919, interrupted by the World War of 1941, and resumed working in 1946, until he was bedridden in April, 1952 and died on May 7, 1953. It was alleged that sometime in November, 1952, deceased contracted rheumatism, which had worsened, due to his daily work as sweeper, for having been exposed to heat and cold in the open air. At the same time, he was assigned to work in the construction of the International Fair grounds, where he was often overtaken by rain, wetting him all over, and constantly exposed to the heat of the sun. In April, 1952, he fell ill, and was found to be afflicted with pulmonary tuberculosis, far advanced. On May 7, 1953, he died of tuberculosis, and a claim for death compensation was filed by Martina Lambino, widow of deceased Juan Mercado, which was denied for failure to present evidence to support said claim. Claimant moved for the reopening of the case and presented evidence, which was properly entertained, but found to be wanting by the Commission. Another motion for reconsideration was filed this time, based on alleged newly-discovered evidence, which again failed to satisfy the requirements for the establishment of her claim, as the alleged newly discovered evidences relied upon, where the same as those previously presented."

On the basis of these facts, respondent WCC Chairman rendered the decision above adverted to, stating as follows:

"The main issue in this case is whether or not the said claim falls under Section 2, Act No. 3428, as amended.

"A careful study of the records shows that the alleged newlydiscovered evidences of the claimant do not conform with the essential requirements of newly-discovered evidence, as contemplated in the Rules of Court * * *.

"The allegation that the illness was contracted in the course of his (deceased's) employment or aggravated by the nature of his work, cannot also be accepted, inasmuch as no strenuous or extraordinary force was exerted in the performance of deceased's work as laborer. Although it is of common knowledge the Filipinos are hosts of

tubercle bacilli in the dormant stage, it is highly inconceivable to believe that, without the attendant of other circumstances aside from his (deceased's) mental work, the said illness will flare up. If it were ever contracted, it was not due to his employment, but to circumstances foreign to his job. It was established that deceased's work was in the open air, which proves more healthful and has an invigorating effect on the health of the individual under normal conditions than in noisy and dusty sweat shops. It was also alleged that claimant fell ill and was taken home, but aside from this, no other extraordinary happening occurred to him, to support the theory that his illness was work-connected. His daily routine, did not present any urgency to compel him to continue working even under inclement weather. The nature of his work, did not require him to exert unusual force that may lead to a weakening of his body resistance. To hold respondent liable for the death of Juan Mercado due to tuberculosis, would mean making respondent the insurer of the life of its (his) employee. Nothing was mentioned concerning any injury for the setting in of said illness, nor the aggravation of the same, granting that deceased was really sick of tuberculosis.

* * * * *

"In view of the above premise, there is no established connection between the alleged tuberculosis of deceased (Juan Mercado) and that of the nature of his work. Neither can claimant contend that deceased was exposed to sudden changes in temperature, inasmuch as the nature of his work required him to stay in the open, as free as the birds of the air. He worked at will, without any close supervision and, as such, he could avoid rain or sunshine, by arranging his work hours."

Her motion for reconsideration of said decision, having been denied by resolution of the WCC en banc, petitioner filed with us the present petition for review.

It is not disputed that the deceased Juan Mercado was, since 1919 to the time of his death in 1953, (except during the past war) employed by the City of Manila as laborer (street cleaner or sweeper). In April, 1952, he became ill and was, on medical examination, found to be afflicted with pulmonary tuberculosis, far advanced. Laid off from his work, he was nevertheless on November 1, 1952, reinstated thereto and assigned to work at the construction of the International Fair Grounds, where "he was often overtaken by rain, wetting him all over, and constantly exposed to the heat of the sun". On May 7, 1953, he died of pulmonary tuberculosis.

In denying appellant's claim for compensation, the WCC concluded that the pulmonary tuberculosis which caused the deceased's death was neither contracted, in the course of his employment nor aggravated by the nature of his work, considering that he exerted "no strenuous or extraordinary force" in the performance of his work as laborer (street cleaner or sweeper); and his daily routine, did not present any urgency to compel him to continue working even under inclement weather. The WCC further observed that the deceased's work, which was in the open air, was healthful and had an invigorating effect on his health. In fine, the WCC was of the opinion that the deceased's illness was not service-connected, as to be compensable under Section 2 of Act No. 3428 (Workmen's Compensation Law).

We disagree with the conclusion of the WCC. It does not appear that when the deceased entered the employ of the City of Manila in 1919 as laborer he was already suffering from tuberculosis. The records, however, disclose that when he fell ill in April, 1952 during his employment and was medically examined, he was found to be suffering from advanced pulmonary tuberculosis. Despite said illness, however, he was reinstated to his work in November, 1952 and assigned to the construction of the International Fair Grounds.

As laborer (street cleaner or sweeper) from 1919 to 1952, (except the period 1941-1946) the deceased was naturally exposed to all kinds of dust and dirt on the city streets and to the elements. To conclude that because the deceased worked in the open air his employment was healthful and had invigorating effect on his health, without taking into account the particular job he was doing is, to say the least, unjustified. So also is the holding

unwarranted that there was no urgency in the performance of his duties as street sweeper or cleaner and therefore could have so arranged his work-hours to avoid exposing himself to rain or sunshine. This holding is unreasonably harsh on the laborer who conscientiously performs his duties, specially considering the undeniable fact that on occasions for days and sometimes weeks rain continuously falls in this city flooding the streets and accumulating thereon garbage, mud and filth which must be removed and disposed of by the street cleaners as the deceased. A situation and condition of work more conducive to pulmonary tuberculosis is hard to imagine. And finally the fact that the city reinstated the deceased in November, 1952, in spite of his advanced tuberculosis found upon his medical examination in April of the same year, and assigned him to the construction work at the International Fair Grounds wherein because of lack of shelter he was constantly exposed to rain and the heat of the sun, undoubtedly aggravated his ailment to such an extent that months later or on May 7, 1953, he finally succumbed and died.

In the circumstances, we are of the opinion and so hold that the deceased Mercado's illness (pulmonary tuberculosis) of which he died, was caused by the nature of his work as laborer-street cleaner or sweeper, or at least aggravated by it, and therefore, compensable under Section 2 of Act No. 3428. (See the case of Manila Railroad Company vs. Ferrer, et al., 109 Phil., 716; 60 Off. Gaz. 6590).

Wherefore, the decision and resolution of the WCC appealed from are hereby set aside. Respondent WCC Chairman is ordered to compute and award the compensation to which appellant is entitled under the provisions of Act No. 3428. Without costs. It is so ordered.

Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.