

DELGADO BROTHERS, INC., PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND GLORIA PALERO, RESPONDENTS.

G.R. No. L-42753. February 28, 1977

Ponente: MARTIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f200d5967fe1/>

MARTIN, J.:

Petition for review[1] of the decision of the respondent Workmen's Compensation Commission affirming the award of death compensation benefits made by the Acting Referee of the Workmen's Compensation Section, Regional Office No. 4, Department of Labor, in favor of private respondent.

Fernando Palero was employed by petitioner Delgado Brothers, Inc. as a "plant-in-charge" at the petitioner's compound in Mariveles, Bataan. As a "plant-in-charge" Palero had something to do with the care of and in some way in charge of the plant of the company for which reason he was given the privilege of living within the premises of the company. He received a salary of P58.00 a week.

On July 15, 1973, Fernando Palero and Benjamin Calupitan, another employee of petitioner, had a drinking spree near the house of the former. Being a Sunday, they did not have any work on that day. At about 6:00 P.M. of the same day, Fernando Palero conducted Benjamin Calupitan to his home as he was already drunk. When they were already near the house of Calupitan, Alfredo Moral, the officer-in-charge of the security guards who was then on duty, saw Fernando Palero and Benjamin Calupitan quarreling. Alfredo Moral approached the two and tried to pacify them. But Fernando Palero tried to meet Alfredo Moral and wrest his gun. While the latter and Fernando Palero were wrestling for the gun, the same went off hitting Fernando Palero. A few hours later, Fernando Palero expired as a result of the gunshot wounds he sustained.

On August 7, 1974, Gloria Palero, the widow of the deceased, for and in behalf of her four minor children filed a Notice of Death and Claim for Compensation with the Workmen's Compensation Section of Regional Office No. 4, Department of Labor (RO4-WCC Case No. 157334). On May 7, 1975, petitioner submitted to the Workmen's Compensation Section of the Department of Labor, Regional Office No. 4, the required Employer's Report of Accident or Sickness. In said report it controverted the claim of private respondent. Subsequently, private respondent was required to submit the affidavits of her witnesses and other documentary evidence to establish her claim. Upon his verbal request the Acting Referee issued an order allowing petitioner to submit counter-affidavits. Based on the affidavits and counter-affidavits submitted by the parties, the Acting Referee rendered a decision on September 30, 1975, the dispositive portion of which reads as follows:

"WHEREFORE, considering the above premises, judgment is hereby rendered in favor of the Claimant and minor children and order-ing the Respondent to pay the Claim-ant and minor children, through this Office, the following, to wit:

1. Total sum of Six Thousand Pesos (P6,000.00) as compensation for death benefits;

2. Total sum of Two Hundred Pesos (P200.00) as reimbursement for funeral expenses;
3. Total sum of Three Hundred Pesos (P300.00) as Attorney's fees payable to Atty. Pedro C. Ramos, pursuant to Section 31 of the Act, as amended;
4. Total sum of Sixty-One Pesos (P61.00) to the Workmen's Compensation Fund, as Decision and administrative fee, pursuant to Section 55 of the Act, as amended."

Petitioner moved for a reconsideration of the decision of the Acting Referee but the same was denied and so the entire records of the case were elevated to the Workmen's Compensation Commission for review. On January 21, 1976, the Workmen's Compensation Commission, en banc rendered a decision affirming the decision of the Acting Referee.

Not satisfied with the decision of the respondent Commission, petitioner has come to this Court on a petition for review, raising the following issues:

1. WHETHER THE DEATH OF THE DECEASED FERNADO PALERO IS COMPENSABLE UNDER THE WORKMEN'S COMPENSATION ACT, AS AMENDED, ALTHOUGH THE SAME IS DUE TO GUN-SHOT WOUND SUSTAINED BY HIM WHILE TRYING TO WREST FORCIBLY THE GUN OF A SECURITY OFFICER ON DUTY AT PETITIONER'S COMPOUND, AND ALTHOUGH HE WAS NOT AT WORK ON THE DAY HE SUSTAINED THE INJURY (GUNSHOT WOUND) WHICH CAUSED HIS DEATH, SAID DAY, BEING A SUNDAY.
2. WHETHER THE ORDER DIRECT-ING PETITIONER, AFTER THE LATTER FAILED TO SEASONABLY SUBMIT THE REQUIRED NOTICE OF CONTROVERSION ISSUED BY THE ACTING REFEREE AFTER PETITIONER REQUESTED IN OPEN COURT THAT IT BE ALLOWED TO SUBMIT COUNTER-AFFIDAVIT IN SUPPORT OF ITS DEFENSE, HAS THE EFFECT OF REINSTATING PETITIONER'S RIGHT TO CONTROVERT THE CLAIM.

Considering that there was no valid controversion of the claim of private respondents in this case, the Court feels that there would be no need of resolving the other issue as to whether the death of the deceased is compensable under the Workmen's Compensation Act as amended, although the same was due to a gunshot wound sustained by him while trying to wrest forcibly the gun of the Security Officer on duty at petitioner's compound and although he was not at work on the day he sustained the injury (gunshot wound) which caused his death said day, being a Sunday. There was no valid controversion of the claim of private respondent because the Employer's Report which embodies the notice of controversion was filed almost nine (9) months late. Under Sec. 45 of the Workmen's Compensation Act, as amended, in case the employer decided to controvert the right to compensation, he shall, either on or before the 14th day of disability or within 10 days after he has knowledge of the alleged accident, file a notice to the Commission that compensation is not being paid and the reason why it is not being paid. This is called the Notice of Controversion. It appears that the Notice of Death and Claim for Compensation was filed on August 7, 1974 but the Notice of Controversion was filed only on May 7, 1975. Not only that. The Notice of Controversion also failed to specify in clear terms the ground for controversion. It has been consistently held in a long line of cases that failure on the part of the employer to file a seasonable notice of controversion of the right of the employee to compensation as required by Section 45 of the Workmen's Compensation Act, as amended, constitutes a waiver by operation of law of his right to controvert the employee's claim for compensation on non-jurisdictional grounds and such legal effect does not violate the requirements of due process.[2] Failure of employer to controvert is a renunciation of the right to challenge the claim and a waiver of all non-jurisdictional defenses and there is nothing that the employer can legally prove in relation thereto[3] It is not therefore correct to say that respondent Commission committed grave abuse of discretion when it ruled that by laches the petitioner was barred from asserting any defense against the claim of respondent and that the

presumption of compensability prevails in their favor.

Petitioner, however, submits that although it has failed to seasonably submit the required notice of controversion, the Acting Referee upon request of petitioner ordered the latter to submit counter-affidavits within ten (10) days from receipt of private respondent's affidavits. This order requiring it to submit counter-affidavits, according to petitioner, amounts to a reinstatement of its right to controvert a claim pursuant to Section 3, Rule 8 of the Rules of the Commission.[4] A reading of the cited section will readily suggest that before an employer or insurance carrier who has failed to controvert the right to compensation within the period and in the manner prescribed by Section 45 of the Act may have such right reinstated, he must file a petition under oath with the Unit specifying therein the reasons for its failure to controvert the right to compensation and the grounds relied upon. The records do not show that the petitioner filed such a formal petition under oath with the Workmen's Compensation Unit hearing the case. All it did was to make an oral motion in open hearing requesting the Acting Referee that it be allowed to file its counter-affidavits and not to have its right to controvert reinstated. It did not give or specify the reasons why it failed to controvert as required by Section 3, Rule 8 of the Rules of the Commission. When the Acting Referee, therefore, allowed petitioner to file its counter-affidavits, such permission did not amount to a reinstatement of its right to controvert because it was not in accordance with the requirements of the law. In one case where the hearing officer even accepted the evidence presented by the petitioner, the Supreme Court held:

"Mere acceptance by the hearing officer of the evidence presented did not mean the right to controvert. The law itself provides that only the Commissioner may reinstate the right to controvert."[5]

Consequently, since the respondent company did not have the right to controvert because its right to do so had not been legally and validly reinstated, the counter-affidavits submitted by it cannot be given any credit.

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission is hereby affirmed. With costs against petitioner.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Treated as Special Civil Action by Resolution of this Court dated July 9, 1976.

[2] Carlos vs. De la Rosa, L-17939, May 30, 1962, 5 SCRA 262; Iloilo Dock & Engineering Co. vs. Workmen's Compensation Commission, L-17283, July 31, 1962, 5 SCRA 765; Republic vs. Workmen's Compensation Commission, L-17813, April 30, 1963, 7 SCRA 984; Manila Railroad Co. vs. Workmen's Compensation Commission, L-18388, June 28, 1963, 8 SCRA 293; Filipino Pipe & Foundry Corporation vs. Workmen's Compensation Commission, L-20381, December 24, 1963, 9 SCRA 721; La Mallorca vs. Workmen's Compensation Commission, L-29315, November 28, 1969, 30 SCRA 613; Republic vs. Workmen's Compensation Commission, L-26763, December 26, 1969, May 29, 1970, 33 SCRA 132; Pioneer Ceramics, Inc. vs. Samia L-28819, June 23, 1970, 33 SCRA 487; Guardian Security and Investigation Agency vs. Workmen's Compensation Commission, L-26875, July 31, 1970, 34 SCRA 29; Camotes Shipping Corporation vs. Otadoy, L-27699, October 24, 1970, 35 SCRA 456.

[3] Dinaro vs. WCC, 70 SCRA 292.

[4] "SEC. 3. - Reinstatement of right to Controvert. - An employer or carrier who has failed to controvert the right to compensation within the period and in the manner stated in the pre-ceding sections may file with the Unit before the award is rendered or before such award become final, a petition under oath specifying there-in the

reasons for his failure to controvert the right to compensation and the grounds relied upon, in which case the Unit may, upon reasonable grounds, reinstate the employer's right to controvert. Upon the rein-statement of the employer's right to controvert, he shall be required to file within five (5) days from notice the required employer's report, if he has not done so."

[5] Agustin vs. WCC, L-19957, Sept. 29, 1964.

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.