

TAN LIM TE, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSIONER, SECRETARY OF THE COMMISSION, PROVINCIAL SHERIFF OF PAMPANGA, RUFINA REYES DE MENDIOLA, FOR HERSELF AND IN BEHALF...

G. R. No. L-12324. August 30, 1958

Ponente: FELIX, J.

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FELIX, J.:

Juan Mendiola was employed by Francisco Tan Lim Te as a truck driver in the latter's rice mill located at Angeles, Pampanga. On January 28, 1952, while Mendiola was sitting atop several sacks of palay loaded in a jeep-trailer belonging to his employer which, at the time, was being driven by another Chinaman, to prevent said sacks from falling, the vehicle happened to pass on a roadhole causing Mendiola to be forcibly thrown to the ground. A radiography of the victim taken on the day of the accident revealed that he sustained the following injuries: "Dislocation of the patella,[1]left; simple fracture pubis, left and right bones with slight overlapping on the right pubis bone".

Mendiola received medical treatment from a physician in Angeles, Pampanga, and, allegedly against the advice of the latter, he was brought by his employer to a Chinese masseur in Manila. A month thereafter he reported back for work, although he was said to have recurring fever ever since. On January 25, 1953, Mendiola succumbed to his ailment, diagnosed as "portal cirrhosis",[2] at the North General Hospital. The physician in the aforesaid hospital who last attended him declared that "the first stage of Portal Cirrhosis might have been present at the time of the injury and weakened resistance might have aggravated the condition". This statement appears to be substantiated by the fact that as of 1951, the deceased was already under treatment for "biliousness, chronic hepatitis[3] and mild icterus".[4]

On March 3, 1958, the widow and her 7 minor children filed a claim for compensation with the Workmen's Compensation Commission against Francisco Tan Lim Te for the death of Juan Mendiola (Case No. 25537). But notwithstanding the fact that the Commission had transmitted a copy of the claim together with W.C.C. Form No. 3, Employer's Report of Accident and Sickness, to the employer for accomplishment on September 18, 1958, the latter submitted the aforesaid report containing his opposition to the claim of the heirs of the deceased only on February 10, 1954. On September 7, 1955, the Workmen's Compensation Commissioner, finding that the injury sustained by the deceased which caused his death arose out of or in the course of his employment, awarded the widow and the 7 minors, all dependent upon said employee, the sum of P2,880.80 as compensation, plus the amount of P200.00 as burial expenses. The employer thus moved for a reconsideration of the award on the ground that he was not given opportunity to present evidence although he opposed the claim; that his failure to controvert said claim at an earlier date was due to his unfamiliarity with the law; and that the claim was likewise filed out of time and they could, therefore, be considered to be in part delicto. This motion was denied by the Commissioner in his order of February 23, 1956. The employer again filed a petition, this time for review and/or new hearing contending that if he would be allowed to present evidence, he would establish that the Commission had no

jurisdiction over the case; that the accident was through the fault, negligence and drunkenness of the deceased; and that the death of Mendiola was not caused by accident but due to his chronic alcoholism, which petition was denied on April 18, 1956, for lack of merit.

On March 29, 1957, the Secretary of the Workmen's Compensation Commission, invoking the provisions of Article III, paragraph 12 of the Reorganization Plan No. 20-A, issued a writ of execution ordering the Provincial Sheriff of Pampanga to satisfy, out of the properties of Francisco Tan Lim Te, the award in favor of claimants amounting to P2,802.85, plus the sum of P29 which will go to the Workmen's Compensation Fund, and the cost of execution thereof. Pursuant thereto, the Provincial Sheriff placed under distraint certain properties of Tan Lim Te and set the date for the sale thereof at public auction. The said employer, questioning its jurisdiction to issue an order of execution, filed with the Commission a motion to cancel said order, but as the public sale would take place on May 11, 1957, he filed the instant petition for certiorari seeking to nullify the proceeding and the award in W.C. Case No. 26537 without waiting for the ruling on the aforementioned motion. And as prayed, this Court issued a writ of preliminary injunction restraining the Provincial Sheriff from enforcing the writ of execution and proceeding with the public sale upon petitioner's filing a bond for P200.

The record of the case supports the Commissioner's finding that Tan Lim Te filed the Employer's Report of the accident involving the deceased Juan Mendiola only on February 10, 1954, despite the fact that he was informed thereof on January 28, 1952, and was furnished copy of the claim for compensation on September 18, 1953. In this connection, the Workmen's Compensation Law (Act No. 3428, as amended) provides:

"Sec. 44.—

* * * * *

In case the employer decides to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary" reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim.

* * * * *

It is clear from the foregoing that in the event of an accident which causes death or injury to an employee, the employer's right to contest or controvert any claim for compensation arises immediately upon the occurrence of such accident. But for an employer to invoke such right, the law requires him to submit a report of the accident within 14 days from the date of disability or within 10 days after he acquires knowledge thereof; otherwise, he shall be considered to have waived the right to question the validity or reasonableness of the injured employee's claim for compensation. An exception to this rule may be obtained where the employer's failure to comply with such requirement is justified or explained to the satisfaction of the Commissioner, who, in the exercise of his discretion, may allow the former to controvert or resist the claim. And as such power involves the use of discretion, this Court is prone not to disturb the same unless the exercise thereof is gravely abused. In the case at bar, we find that the Commissioner committed no grave abuse of discretion in awarding compensation to the claimants and in denying petitioner's motions to reconsider the same; hence, there exist no reason why said award should be altered or disturbed.

Petitioner, likewise, contests the power of the Workmen's Compensation Commission to issue a writ of execution

directing the Provincial Sheriff to execute the disputed award, asserting that such an award may only be enforced by filing in any court of record of the place where the accident occurred a certified copy of the decision from which no petition for review or appeal has been taken within the time allowed therefor; whereupon, the Court shall render a decree or judgment in accordance therewith and notify the parties accordingly (Sec. 51, Act No. 3428, as amended by Rep. Act No. 772). Respondents, however, contend that Rule 11 of the Rules of the Workmen's Compensation Commission promulgated pursuant to paragraph 12, Article III of the Reorganization Plan No. 20—A, as implemented by Executive Order No. 218, authorizes the Commission to issue a writ of execution. While it is true that Rule 11 of the aforesaid Rules provides that:

"RULE 11. EXECUTION OF DECISIONS, ORDERS, OR AWARDS.

SECTION 1. As soon as a decision, order or award has become final and executory, the Regional Administrator or Commission, as the case may be, shall, *motu proprio* or on motion of the interested party, issue a writ of execution requiring the sheriff or other proper officer to whom it is directed to execute said decision, order or award, pursuant to Rule 39 of the Rules of Court of the Philippines."

yet said rules, which were published in the April 15, 1957 issue of the Official Gazette, became effective only on April 30, 1957, or 15 days after their publication (Vol. 53, No. 7, Off. Gaz. p. 2112). Considering that the writ of execution was issued by the Commission on March 29, 1957, or a month and two days before the effectivity of said rules, there is no doubt that the execution of the award; should be governed by the provisions of Rule 51 of the Workmen's Compensation Act. Nevertheless, this fact cannot in any way affect the validity of the award, for it having become final, it becomes merely the court's (or commission's) ministerial duty to issue a writ of execution, and certainly, an erroneous or voided writ cannot work to divest said final order or judgment of its character of finality. Moreover, an erroneous or voided writ of execution will not preclude the issuance of another writ to carry out and satisfy a judgment or award, for the prevailing party who is entitled to such writ of execution shall not be prejudiced by the mistake or error of the court or body issuing the same.

Wherefore, the petition for certiorari now under consideration is dismissed and the writ of preliminary injunction issued herein is hereby lifted. However, the Workmen's Compensation Commission shall issue another writ of execution with which to substitute the one issued before the Rules of that Commission became effective. With costs against petitioner. It is so ordered.

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

[1]Patella—A thick, flat, lens-shaped, and movable bone forming the anterior point of the knee. The kneecap or kneecap—(Maloy, Medical Dictionary for Lawyers, 2nd Ed., p. 441).

[2]Cirrhosis—A disease of the liver in which it usually becomes more dense and fibrous and undergoes degeneration. It becomes yellowish in appearance due to coloring by bile pigments—(Maloy, Medical Dictionary for Lawyers, 2nd Ed., p. 134). "

[3]Chronic hepatitis—Cirrhosis of the liver—Ibid., p. 286.

[4]Icterus—Jaundice; a morbid condition marked by yellowness of the eyes, skin, and urine, constipation, and loss of appetite. It is due to coloring matter of the bile in the blood, as a result of obstruction of the biliary passages—Ibid, p. 310.

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