

EDUARDO ELCHICO, IN HIS CAPACITY AS HEIR OF THE LATE JOSE ELCHICO AND AS ADMINISTRATOR OF THE LATTER'S ESTATE, PETITIONER, VS, COURT OF INDUSTRIAL RELATIONS, PEDRO GABRIEL, PACI...

G.R. No. L-17285. July 31, 1963

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari taken by Eduardo Elchico, in his capacity as heir of the late Jose Elchico and as administrator of the latter's estate, from an order of the Court of Industrial Relations dated July 22, 1960 in Case No. 1108-V directing the New Angat-Manila Transportation and its manager, Florencio Elchico, to deposit, pending appeal, its award therein in the amount of P30,500.69 or to post a bond in a like sum.

It appears that in a petition filed with the Court of Industrial Relations on October 7, 1958 (Case No. 1108- V), respondents sought to recover overtime and separation pay from the New Angat-Manila Transportation and Florencio Elchico, its manager, in the total sum of P31,237.93. At that time the New Angat-Manila Transportation formed part of the estate of the late Jose Elchico in process of judicial settlement in the Court of First Instance of Rizal, with petitioner Eduardo Elchico as the duly appointed administrator. After trial, the Court of Industrial Relations rendered its decision of September 12, 1959 and its amended decision of September 21, of the same year, ordering the New Angat-Manila Transportation and Florencio Elchico to pay the overtime and separation pay claimed by the therein petitioners in the total sum of P30,500.69.

After their motion for reconsideration of the aforementioned decisions had been denied, the employer company and its manager filed the corresponding petition for review with Us (G.R. No. L-16283).

On January 20, 1960, the herein respondents filed a motion with the Court of Industrial Relations in Case No. 1108-V praying that the New Angat-Manila Transportation and/or Florencio Elchico be ordered to deposit the amount of P30,500.69 during the pendency of their appeal, and on July 22, 1960, the Court issued the appealed order.

Subsequently, or more specifically on December 27, 1960, We rendered our decision in 110 Phil., 318 mentioned above, the dispositive portion of which reads as follows:

"In the instant case, respondent-employees, who were dismissed from petitioners' employ in 1958, do not aspire for reinstatement to their former positions, but merely seek recovery of compensation allegedly still due and owing them; as a matter of fact, their petition specified that it was only for 'collection of overtime pay and termination pay'. Following the ruling laid down in the PRISCO case (supra), therefore, this case should properly be filed in the regular courts of probate court, as the case may be.

"With the above consideration, we find no necessity to pass upon the other errors assigned by the petitioners.

"WHEREFORE, the decision, as amended, rendered by the respondent Court, as well as its resolution en banc

appealed from are hereby set aside, without prejudice to the refiling of the appropriate action in the proper court. No pronouncement as to costs."

The award of overtime and separation pay having been set aside—without prejudice to litigating the matter in the competent regular court—it is obvious that the order appealed from can not stand, and is, therefore, hereby set aside. Without costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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