

STANLEY WINCH, PLAINTIFF AND APPELLANT VS. P. J. KIENER CO. LTD., DEFENDANT AND APPELLEE.*G. R. No. 11884. October 27, 1958*

Ponente: BAUTISTA ANGELO, J.

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On November 4, 1955, plaintiff filed a verified complaint against defendant with Regional Office No. 1 of the Department of Labor claiming the total amount of P20,000.00 as overtime, vacation, sick leave and separation pay. Defendant was notified by said office to appear at the hearing of said claim on November 8, 1955. On November 19, 1955, counsel for defendant filed a motion for a bill of particulars. On December 2, 1955, the investigator assigned to hear the claim required plaintiff to file the bill of particulars within 10 days which plaintiff complied with but in filing the new claim the amount demanded was increased to P55,600.00. On December 5, 1955, both parties were notified to be present at the hearing of the amended claim on December 12, 1955 but before said date arrived, defendant filed a motion to strike out the amended claim, and without waiting for any action on its motion, defendant filed its answer to the claim. Issues having been joined, the evidence of both parties was received on several days, namely, December 12, 1955, February 6, 1956, March 13, 1956, March 26, 1956, April 10, 1956 and April 17, 1956, when the reception of the evidence was apparently terminated. On May 31, 1956, plaintiff filed a written manifestation withdrawing his claim on the ground that he has decided to file a complaint directly in court. On June 21, 1956, counsel for defendant filed a motion to have the case decided on the merits, objecting to the withdrawal of the claim, and on July 3, 1956, the investigator issued an order dismissing the case with prejudice.

True to his manifestation, plaintiff on July 7, 1956, began the present action in the Court of First Instance of Manila against defendant claiming overtime compensation, separation pay with actual damages for unjustified dismissal, compensation for accrued vacation leave, and attorney's fees as well as exemplary and corrective damages. Defendant filed a motion to dismiss alleging as main ground that the causes of action of plaintiff are barred by a prior judgment referring to the order issued by the investigator of Regional Office No. 1 of the Wage Administration Service dismissing with prejudice the claim filed by plaintiff covering the same subject matter. This motion was upheld, the court dismissing the complaint with costs; and having failed to obtain the reconsideration of this order, plaintiff took the present appeal.

The order of the investigator of Regional Office No. 1 of the WAS which served as basis of the order of dismissal issued by the lower court reads:

"This is a claim filed last November 4, 1955 by Stanley Winch against P. J. Kiener Co., Ltd., for alleged overtime service and for separation pay. The case was investigated wherein both parties were represented by counsel, and on May 31, 1956, respondent completed the presentation of its evidence and the case was considered submitted for decision.

"However, on June 6, 1956, before any decision could be rendered in the above case, complainant Stanley Winch mailed a written manifestation to this office withdrawing his complaint.

"In view of said manifestation, the above-entitled case is hereby considered dismissed with prejudice."

And the court a quo in arriving at its conclusion that the above order of dismissal is a bar to the institution of the present action, gave the following reasons:

"In the light of the ruling just quoted, this Court is of the opinion, and so rules, that defendant's aforesaid contention is well taken, namely, that the order of dismissal dated July 3, 1956, issued by Regional Office No. 1 of the Department of Labor, is a bar to the institution of the present action. This is so because it is admitted on all sides that the parties in said Case No. C-4413 are the very same parties in the case at bar, and that the subject matter of the complaint in the former case is the very same subject matter of the latter case. It is likewise undisputed that the said Regional Office No. 1 of the Department of Labor like the WAS, in the *Brillantes vs. Castro* case, supra, is a quasi-judicial body and acted as such when it took cognizance of Case No. C-4413, tried and received the evidence of the parties therein, and thereafter issued the order complained of, hence its actuations in the said case are quasi-judicial proceedings conducted in accordance with law. It is finally a matter of law that the said order of dismissal is an adjudication upon the merits, pursuant to Section 3 of Rule 30 of the Rules of Court reading: 'Sec. 3. Failure to prosecute.-When plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by court.' No appeal having admittedly been taken from the order of dismissal in question, it had long become 'final and conclusive and served as a bar to another action between the same parties involving the same subject matter and cause of action and the same issues', to borrow again from the language of the *Brillantes vs. Castro* case, supra."

Evidently, the court a quo was persuaded to consider the order of dismissal of the investigator of Regional Office No. 1 of the WAS as a bar to the institution of the present action in view of the ruling laid down by this Court in *Brillantes vs. Castro*, 99 Phil., 497; 56 Off. Gaz.; (29) 4621, the pertinent portion of which reads:

"We fully agree with the trial court in its order dismissing the complaint on the ground that the action is barred, by prior judgment." There is no question that the complaint filed by plaintiff-appellant with the WAS may be regarded as a suit by one party against another to enforce a right; that the WAS in entertaining said suit, hearing the parties and deciding the case acted as a quasi-judicial body and the proceedings before it were quasi-judicial proceedings, and conducted in accordance with law and so was the decision rendered. Not only this, but the parties before the commencement of the proceedings signed an agreement whereby they submitted their case to the WAS, binding themselves; by whatever decision the WAS may render on the same, end that they recognized the decision to be final and conclusive. After signing that agreement or pledge, plaintiff-appellant may not now be heard to say that the decision rendered by the WAS has no legal effect on him. Besides, even assuming that despite the agreement the decision did not automatically become final, still plaintiff's failure to appeal therefrom to the Supreme Court as provided by the Minimum Wage Law (Rep. Act 602) rendered it final and conclusive and served as a bar to another action between the same parties involving the same subject matter and cause of action and the same issues."

We believe however that the trial court erred in following as a precedent our ruling in the *Brillantes* case for the reason that the facts involved therein are different from those involved in the case at bar. To begin with, it is important to determine the extent of the function of the WAS in connection with the claims which may be filed by an employee against an employer under the Minimum Wage Law (Republic Act 602) for only in so doing can we ascertain if its investigator has acted within his authority in the present case.

The Minimum Wage Law does not specify in precise terms the duties and functions of the Wage Administration Service for the same merely provides that it shall discharge the same functions formerly performed by the Wage Claim Division of the Bureau of Labor [Section 12, (b)], shall exercise any or all powers that may be delegated to

it by the Secretary of Labor [Section 12, (e)], and shall enforce the provisions of the Act and the orders and regulations that may be issued thereunder [Section 12, (f)], but because of the vagueness of the law in this regard, it deemed proper to confer on said Secretary broad powers to make and issue such rules and regulations as may be necessary to carry out the provisions of the Act (Section 11). This was done when the Secretary of Labor approved a Code of Rules and Regulations wherein he outlined the steps, procedure and manner in which the claim of an employee against an employer may be filed and enforced. Thus, in Chapter III, Article 7 of said Code we find provisions relative to how a claim should be filed and the different methods an employee may pursue to enforce the same. They postulate that, once a claim is filed, the same shall be assigned to an investigator whose function shall be to mediate and endeavor to induce the parties to settle the claim by amicable agreement. This function is called mediation. If an agreement is arrived at then the same becomes binding and must be complied with.

Another method refers to arbitration. This is resorted to if no amicable agreement is arrived at between the parties. The investigator shall ask the parties whether they are willing to submit the case to arbitration and if they do then they should subscribe to an agreement in writing which shall be signed by them, before the investigator. If they do agree to arbitration as stated, the decision of the arbitrator shall be binding, final and conclusive between them. But the rule requires that the agreement should be made in writing and signed by both parties before an investigator could arbitrate, otherwise no arbitration can take place.

Finally, the rule provides that in the event mediation fails and the parties are not willing to arbitrate, then the claim shall be assigned to a Claims Attorney who, if he finds the claim meritorious and the employee is indigent, shall prepare the corresponding complaint to be submitted to a competent court within one week after receiving the case.

There are therefore three steps that a claimant may pursue in the enforcement of his claim: mediation, arbitration and court action. As may be noted, the first step is purely administrative in character, the second is a quasi-judicial function, while the third is an auxiliary remedy extended to an employee who may not be financially able to get legal assistance in court.

In the present case, neither of the steps above outlined has been pursued by plaintiff except probably the first when he filed his claim with the WAS in an attempt to secure an amicable settlement of his claim, but far from his expectation, he was met by a vigorous opposition on the part of defendant. Apparently, the efforts of the investigator to bring about a conciliation or amicable settlement of plaintiff's claim proved futile for he had to go through the cumbersome procedure of hearing the claim and receiving the evidence of both parties. But before he could decide the case, the claim was withdrawn, and instead of recommending that the claim be assigned to a Claims Attorney for appropriate court action, he dismissed the case with prejudice, a function which he does not possess. He therefore acted without authority and so his actuation has no legal effect.

Obviously, the parties never agreed to submit their case to arbitration within the meaning of the rule laid down by the Secretary of Labor, for, in order that arbitration may take place, it is necessary that the parties submit an agreement in writing to be signed by them before the arbitrator wherein they should agree to consider his decision as binding, final and conclusive between them. No such step was taken by the parties. Indeed, in order that there may be arbitration, the following procedure should be complied with:

"SEC. 9. If no amicable agreement is arrived at between the parties on the whole or any part of the claim, the claims investigator or claims attorney shall immediately ask the parties whether they are willing to submit the case for arbitration by the Service with him or any other claims attorney or investigator acting as arbitrator, whose decision shall be binding, final and conclusive between them, the agreement to arbitrate shall be made in writing and signed by the parties before the claims investigator or claims attorney. In case of arbitration, the

hearing on the claim shall not exceed one week from the initiation thereof." (Section 9, Code of Rules and Regulations to Implement the Minimum Wage Law).

The Brillantes case differs from the present in that there the parties expressly submitted the case to the WAS for arbitration strictly in accordance with the rule and so the actuation of the investigator was there considered as one of a quasi-Judicial officer. And after the case was submitted and partially dismissed for lack of merit, the order of the investigator was deemed final and conclusive between the parties and considered as a bar to another action between them involving the same subject matter and issues. No such step was taken in the present case. Rather, plaintiff withdrew his claim precisely because he desired to bring the matter to a competent court. The Brillantes case cannot therefore be invoked as a precedent.

Wherefore, the order appealed from is set aside and the case is remanded to the lower court for further proceedings. No costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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