

TIMOTEO CRUZ, PLAINTIFF AND APPELLANT, VS. SEE YING, DOING BUSINESS UNDER THE NAME AND STYLE OF TIMES CANDY FACTORY, DEFENDANT AND APPELLEE.

G. R. No. 12046. October 29, 1959

Ponente: PADILLA, J.

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PADILLA, J.:

This is a pauper's appeal from an order of the Court of First Instance of Rizal dismissing the plaintiff's complaint in civil case No. 3568.

On 15 April 1955 the appellant brought an action in pauperis against the appellee in the said Court for collection of overtime and legal holiday wages from 20 December 1949 to 31 March 1954 amounting to P8,960.62, computed upon a minimum of six hours overtime and legal holiday service rendered daily, legal interest from the filing of the complaint, 10% of the amount to be awarded as attorney's fees and costs. He also prayed for other just and equitable relief.

On 4 May 1955 the appellee filed an answer denying the appellant's claim and interposing the defense that upon separation from the service, the appellant was paid P579 as a sort of material help; and that the same claim having been dismissed by the Wage Administration Service was already barred by prior judgment. The appellee filed a counterclaim for P2,500 for the services of an attorney engaged to defend a malicious and unfounded action, and P579 to be refunded by the appellant. He further prayed for other just and equitable relief.

On 12 May 1955, the appellant filed a reply to the appellee's answer and an answer to his counterclaim.

On 2 October 1956 the appellee filed a motion to dismiss the appellant's complaint on the ground that the same case already had been finally and conclusively decided by the Wage and Administration Service. He invoked the rule laid down in *Brillantes vs. Castro*, 99 Phil., 497; 56 Off. Gaz., (29) 4621.

On 5 October 1956 the appellant filed an opposition to the motion to dismiss.

On 9 October 1956 the Court, entered an order dismissing the appellant's complaint following the rule laid down in the cited case. Hence this appeal.

In the case of *Brillantes vs. Castro*, supra, invoked by the appellee to move for the dismissal of the complaint and relied upon by the trial court to dismiss it, the parties entered into a written agreement to submit their dispute to the Wage Administration Service for arbitration and agreed to abide by whatever decision it might render in the case.[1] In the case at bar, no such written agreement was entered into by the parties.[2] The fact that the appellant did not challenge the authority of the Wage Administration Service to hear and determine the case;"that after rendition of the "decision" he filed a motion for reconsideration; and that after the denial of his motion for reconsideration, he appealed to the Secretary of Labor, who affirmed the "decision", are of no moment. Even if the provisions of the Minimum Wage Law (Republic Act No. 602) were to be applied to the appellant's claim for overtime and legal holiday wages, section 15, paragraph (e), Republic Act No. 602 grants to any employee the

right to bring in a competent court an action to recover from the employer who underpaid him the amount of unpaid wages.

The alleged quit claim signed by the appellant in favor of the appellee renouncing "any and all kinds of claims against the said factory" (Annex I), cannot deprive the appellant of his right to collect overtime and legal holiday wages under the provisions of Commonwealth Act No. 444. Overtime pay cannot be waived. [3]

The order appealed from is set aside and the case remanded to the court of origin for further proceedings in accordance with law, without pronouncement as to costs.

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

[1] See also *Umbao vs. Yap*, 100 Phil., 1008; 55 Off. Gaz., (17) 3112 *Ortiz vs. Pacific Engineering Co.*, G.R. No. L-12086, 30 January 1959.

[2] *Cabrero vs. Talamán*, 103 Phil., 687; *Winch vs. Kienner*, 104

[3] Section 6, Commonwealth Act No. 444; *Manila Terminal Co., Inc. vs. Court of Industrial Relations*, 91 Phil., 625; 48 Off. Gaz., 2725; *Luzon Stevedoring Co. vs. Luzon Marine Department*, 101 Phil., 257.

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