

BENITO LIWANAG AND MARIA LIWANAG REYES, PETITIONERS AND APPELLANTS, VS. WORKMEN'S COMPENSATION COMMISSION, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. 12164. May 22, 1959

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

Appellants Benito Liwanag and Maria Liwanag Reyes are co-owners of Liwanag Auto Supply, a commercial establishment located at 349 Dimasalang, Sampaloc, Manila. They employed Roque Balderama as security guard who, while in line of duty, was killed by criminal hands. His widow Ciriaca vda. de Balderama and minor children Genara, Carlos and Leogardo, all surnamed Balderama, in due time filed a claim for compensation with the Workmen's Compensation Commission, which was granted in an award worded as follows:

WHEREFORE, the order of the referee under consideration should be, as it is hereby, affirmed and respondents Benito Liwanag and Maria Liwanag Reyes, ordered:

"1. To pay jointly and severally the amount of Three Thousand Four Hundred Ninety-four and 40/100 (P3,494.40) Pesos to the claimants in lump sum; and

"To pay to the Workmen's Compensation Funds the sum of P4.00 (including P5.00 for this review) as fees, pursuant to Section 55 of the Act."

In appealing the case to this Tribunal, appellants do not question the right of appellees to compensation nor the amount awarded. They only claim that, under the Workmen's Compensation Act, the compensation is divisible, hence the Commission erred in ordering appellants to pay jointly and severally the amount awarded. They argue that there is nothing in the compensation Act which provides that the obligation of an employer arising from compensable injury or death of an employee should be solidary; that if the legislative intent in enacting the law is to impose solidary obligation, the same should have been specifically provided, and that, in the absence of such clear provision, the responsibility of appellants should not be solidary but merely joint.

At first blush, appellants' contention would seem to be well taken, for, ordinarily, the liability of the partners in a partnership is not solidary; but the law governing the liability of partners is not applicable to the case at bar wherein a claim for compensation by dependents of an employee who died in line of duty is involved. And although the Workmen's Compensation Act does not contain any provision expressly declaring solidary obligation of business partners like the herein appellants, there are other provisions of law from which it could be gathered that their liability must be solidary. Arts. 1711 and 1712 of the new Civil Code provide:

"ART. 1711. Owners of enterprises and other employers are obliged to pay compensation for the death of or injuries to their laborers, workmen, mechanics or other employees, even though the event may have been purely accidental or entirely due to a fortuitous cause, if the death or personal injury arose out of and in the course of the employment. * * *."

"Art. 1712. If the death or injury is due to the negligence of a fellow-worker, the latter and the employer shall be solidarity liable for compensation. * * *."

And Section 2 of the Workmen's Compensation Act, as amended, reads in part as follows:

"* * *. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party."

The provisions of the new Civil Code above quoted taken together with those of Section 2 of the Workmen's Compensation Act, reasonably indicate that in compensation cases, the liability of business partners, like appellants, should be solidary; otherwise, the right of the employee may be defeated, or at least crippled. If the responsibility of appellants were to be merely joint and not solidary, and one of them happens to be insolvent, the amount awarded to the appellees would only be partially satisfied, which is evidently contrary to the intent and purposes of the Act. In previous cases we have already held that the Workmen's Compensation Act should be construed fairly, reasonably and liberally in favor of and for the benefit of the employee and his dependents; that all doubts as to right of compensation resolved in his favor; and that it should be interpreted to promote its purpose. Accordingly, the present controversy should be decided in favor of the appellees.

Moreover, Art. 1207 of the new Civil Code provides:

"* * *. There is solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity."

Since the Workmen's Compensation Act was enacted to give full protection to the employee, reason demands that the nature of the obligation of the employers to pay compensation to the heirs of their employee who died in line of duty, should be solidary; otherwise, the purpose of the law could not be attained.

Wherefore, finding no error in the award appealed from, the same is hereby affirmed, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

DISSENTING

REYES, A., J. :

Whether the defendants herein be regarded as co-partners or as mere co-owners, their liability for the indemnity due their deceased employee would not be solidary but only pro rata (Arts. 485 and 1815, new Civil Code). The Workmen's Compensation Act does not change the nature of that liability either expressly or by intendment. To hold that it does, is to read into the Act something that is not there. For this Court, therefore, to declare that under the said Act the defendants herein are liable solidarily is to play the role of legislator.

The injustice of the rule sought to be established in the majority opinion may readily be made obvious with an example. Suppose that one of two co-partners or co-owners owns 99 percent of the business while his co-partner or co-owner owns only 1 percent. To hold that in such case the latter's liability may run up to 100 percent although his interest is only 1 per cent would not only be illogical but also inequitable.

For the foregoing reasons, I have no choice but to dissent.

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