

**FRANCISCO M. ORTEGA, COMPLAINANT AND APPELLEE, VS.
SAULOG TRANSIT, INC., RESPONDENT AND APPELLANT.***G.R. No. 12299. May 29, 1959*

Ponente: LABRADOR, J.

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Complainant Francisco M. Ortega was employed by the Saulog Transit, Inc., owned and operated by Eliseo Saulog, first as conductor (from September 1948 to July 8, 1951) and later as inspector (from July 10, 1951 to August 12, 1954). As conductor he received a salary of P4.50 a day from the time he started working up to October, 1948, when his salary was increased to P6.00 a day, until he became an inspector, when again it was increased to P7.00 a day. As a conductor he began working from 4:00 a.m. to 11:00 p.m. three times a week, and from 5:00 a.m. to 10:00 p.m. four times a week; as an inspector he had no fixed working schedule, but he actually-rendered at least twelve hours every day. (See Decision of the WAS, Department of Labor.) Believing himself entitled to over time pay, complainant filed, in April, 1953, a claim with the Wage Administration Service, Department of Labor, Regional Office No. I, for the payment of the overtime service he rendered to the company. After several continuances the case was again set for hearing on June 30, 1955, but neither of the parties appeared on said date; so the hearing was once more postponed to July 16, 1955, on which date only complainant appeared. After considering complainant's testimony, Felipe N. Aurea, Investigator of the WAS, rendered a decision, dated August 18, 1955, finding respondent company liable to complainant for overtime pay in the amount of P13,101.81, and requiring it to deposit said amount with the WAS. On August 22, 1955, both complainant and the respondent were furnished with copies of the decision, but respondent did not appeal therefrom within the reglamentary period.

In the meantime, complainant filed with the Court of First Instance of Cavite a complaint for overtime pay similar to that filed with the Wage Administration Service. Before the Court of First Instance of Cavite could hear the case, and on December 11, 1956, complainant filed with the Court of First Instance of Rizal a petition for the execution of the aforementioned decision of the WAS. Respondent filed an opposition thereto on the ground that the court is not empowered to enforce the decision of the regional office, as said decision is without authority of law.

The Court of First Instance of Rizal granted the petition for execution, and upon failure of respondent to secure an order to reconsider the order for execution, it appealed the case to this Court.

Appellant assigns five errors. However, the resolution of the third will dispose of the case.

Under the third assignment of error, it is alleged that the decision of the WAS, which was enforced by the lower court, and the writ of execution are both illegal, because the parties have not agreed to a mediation or arbitration in accordance with the "Code of Rules and Regulations to Implement the Minimum Wage Law," issued by the Secretary of Labor, or the Arbitration Law (Republic Act No. 876). The Code of Rules, promulgated On January 20, 1953 by the Secretary of Labor pursuant to Section 11 of Republic Act No. 602, seeks to implement the

provisions of Sections 15(D), 15(E) and 16(A) of Republic Act No. 602 (by outlining the procedure to be followed in case the Secretary of Labor chooses to bring an action in court for the recovery of wages or to restrain violations of the provisions of Republic Act No. 602. Under said Code, the claims investigator or attorney is required to endeavor to reconcile the parties or ask them if they are willing to arbitrate or submit their case to arbitration. In the event that mediation fails and the parties are not willing to arbitrate, the claims attorney shall find out if the claim is meritorious or not. (Sees. 6 & 7, Article 7, Code of Rules.) If meritorious, the attorney will prepare the corresponding complaint and petition for indigency for court action, as the case may be, within one week after receiving the case (Sec. 14, Id.).

In the case at bar, the respondent did not appear at the trial, so that no mediation or arbitration could be had to enable the claims attorney to convince the parties to come to an agreement. Despite the lack of such mediation or arbitration, the claims investigator went right ahead to hear the evidence of the complainant and rendered a decision on the merits. This action is irregular and does not conform to the procedure laid down by law. What the claims attorney should have done was to bring an action in court to recover payment for overtime service rendered, in behalf of the complainant.

In *Potente vs. Saulog Transit, Inc.*, 105 Phil., 525, we held that the Workmen's Compensation Commission has no authority to render a decision in the sense in which this term is used in legal parlance. If the claim is considered meritorious action may be brought before "any competent court" for the recovery of the sum of money it considers due to the claimant and Section 51 of Act No. 3428 does not authorize the issuance of a writ of execution of a decision of the Workmen's Compensation Commission. Similarly, the WAS has no power to render a decision that can be enforced in the courts of justice. It is only when an arbitration agreement or compromise is entered into between the parties that a judgment can be rendered by the WAS and enforced by the courts.

The order of the lower court of December 24, 1956, ordering the issuance of the writ of execution as well as the writ of execution of January 10, 1957, are declared null and void and hereby set aside. Without costs.

Paras, C J., Bengzon, Montemayor, Reyes, A., Bautista Angela, Concepcion, and Endencia, JJ., concur.

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