

DELFIN REALICA, PETITIONER, VS. REGINO ANDAMO AND COMMISSIONERS, WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. 14256. January 30, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition for certiorari to review the decision of the Workmen's Compensation Commission, affirming the decision of Referee Marcos Plomantes and ordering Delfin Realica, owner of the Binakayan Bakery, to pay to Regino Andamo certain sums in the way of compensation under the provisions of the Workmen's Compensation Act, as amended.

After carefully studying the case, we feel that the decision appealed from has failed to consider certain facts and circumstances which are pertinent and material to the case, and that certain evidence which could not be presented during the hearing for the reason that they were then not available, but which evidence petitioner herein wanted to make part of the record of the case by introducing them at a rehearing or new trial sought by him, which might affect the result or determination of this case, should be received.

For the guidance of the Workmen's Compensation Commission and to facilitate and help it in its determination of this case, it may be stated that the incident in the Binakayan Bakery way back in 1947 when a sack of flour supposedly fell on Andamo's shoulder, may be eliminated and disregarded for the reason that it apparently caused no ill effects on him, for the reason that thereafter, he was able to continue his work in said bakery, transfer to the San Andres Bakery in Manila, in 1948, transfer to the Imus Bakery in Cavite in 1949 where he worked until the year 1953, when he returned to the Binakayan Bakery where he worked up to the Binakayan Bakery where he worked up to January 1, 1955.

In our opinion, the important things to consider are Andamo's claim that on January 1, 1955, while working in the Binakayan Bakery owned by petitioner Delfin Realica, he spat blood. According to his own testimony, however, he did not notify the owner of the said incident, but contented himself with informing his companions thereof.

Another important point is the nature and cause of his separation from the Binakayan Bakery the following day, January 2, 1955. Andamo's theory is that he was dismissed by Realica because of his having spat blood. There is evidence, however, that he and some fellow workers in the bakery voluntarily left their work because they refused to comply with Realica's order for them to sign the payroll and the time records and also because Realica supposedly occasionally scolded them when they were found engaging in horseplay during working hours and sometimes for over-baking the bread.

The Commission also apparently overlooked and so failed to consider that fact that after leaving the services of Realica, Andamo and his companions filed with the Wage Administration Service their claim for separation pay and for overtime work, and that their claim was dismissed by the Wage Administration Service through its investigator, Hector C. Regino, who after the hearing held by him, found that Andamo and his companions were

not dismissed from the Binakayan Bakery but that they left it voluntarily; also, that Realica, owner of the Binakayan Bakery expressed his willingness to admit them in his employ at any time if they still wanted to continue working for him.

Another important point is the alleged illness of Andamo on the basis of which he filed his claim for compensation. Dr. Gorospe, the very physician in the employ of the Workmen's Compensation Commission, found that Andamo was not suffering from tuberculosis, but only from bronchiectasis. The Commission held that this illness was either acquired by Andamo in the course of his employment with the Binakayan Bakery or that his work there aggravated the said illness. It would appear, however, that Dr. Gorospe, testifying as a physician of the Workmen's Compensation Commission, said that his illness was not caused, neither was it aggravated, by the nature of his employment and that a person suffering from this illness can still continue with his ordinary work. And it is a fact that after leaving the service of the Binakayan Bakery, Andamo was employed by the Esperanza Bakery, owned by Leonardo Ilano, where he had been working from 1955 to 1958, earning a salary of P5.00 a day (Certificate by Ilano, dated July 31, 1958). If this is true, then Andamo could not be or have been suffering from any disability for which compensation may be made.

For the foregoing reasons, this case is remanded to the Workmen's Compensation Commission for a rehearing and reception of further evidence from both parties, after which the Commission will render decision on the basis of all the evidence, that already in the record as well as evidence which the parties may present at the rehearing.

Petition for certiorari is hereby granted, and the decisions of the Workmen's Compensation Commission and of the Referee are set aside.

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

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