

MANILA JOCKEY CLUB INC., PETITIONER, VS. N. BAENS DEL ROSARIO AS ASSOCIATE COMMISSIONER OF THE WORKMEN'S COMPENSATION COMMISSION, AND BERNARDO S. REYES, RESPONDENTS.

G.R. No. 15521. May 31, 1961

Ponente: PADILLA, J.

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PADILLA, J.:

On or about 8 August 1957 Bernardo S. Reyes filed an amended claim in the Regional Office in Manila of the Department of Labor against the Manila Jockey Club, Inc. for compensation under the provisions of the Workmen's Compensation Act, as amended. In support of his claim, he averred that he was a jockey and an employee of the petitioner; that on 31 March 1957, while riding a horse during the race called "Novato Championship Race," he fell and was injured; that he was treated by the physician of the petitioner, confined in the North General Hospital and Saint Anthony's Hospital and examined at the Orthopedic Hospital; that he has been disabled and is still under treatment; and that he has incurred expenses and has suffered damages, as follows: for medicine and hospitalization, P2,783.30, and for unearned wages or lost earnings, P13,000 (Annex A). The petitioner controverted the respondent's claim and denied that he was its employee because under the provisions of section 40 of the rules on horse racing, promulgated by the Games and Amusement Board, "a jockey is entitled, as his sole lawful compensation, to 20% of the prize awarded to his horse which amount shall be paid to him not by the Club, but by the horse owner." (Annex B) On 25 June 1958 the hearing officer rendered a decision holding that the respondent was an employee of the petitioner. The dispositive part of the decision provides, as follows:

Wherefore, respondent Manila Jockey Club, Inc. is hereby ordered:

- To pay claimant Bernardo Reyes, through this Office, the sum of TWO THOUSAND TWO HUNDRED FORTY (P2,240.00) PESOS as compensation for the period March 31, 1957 to June 25, 1958; and from June 26, 1958 to continue payment of P35.00 weekly compensation to claimant until discharged from the hospital as cured of his ailment; provided, however, that the total compensation shall not exceed P4,000.00 nor the period of disability be more than 208 weeks.
- To reimburse claimant the amount of P2,628.10 representing medical expenses incurred in connection with his injury;
- To continue providing claimant with medical and hospital expenses until discharged from the hospital;
- To pay this Office, the sum of P23.00 as fees pursuant to Sec. 55 of the Act as amended, and beginning June 26, 1958 P1.00 per P100.00 compensation to accrue to claimant until the full amount of P41.00 fees is paid to this Office pursuant to Sec. 55 of the Act (Annex C)

The petitioner filed a petition for review of the said decision by the Workmen's Compensation Commission. On 3 June 1959 an Associate Commissioner rendered a decision modifying the award made by the hearing officer, as

follows:

- To pay the claimant the total amount of P5,773.93, which should, however, be reduced to P4,000.00, the MAXIMUM AMOUNT allowed by law, as compensation pursuant to Sections 14 and 18 of the Act;
- To reimburse to the claimant the sum of P2,602.05 as medical expenses;
- To continue providing the claimant such medical, surgical and hospital expenses and supplies as the nature of the injury may require; and
- To pay the Workmen's Compensation Fund the sum of P41.00, pursuant to Section 55 of the Act and the additional amount of P5.00 as cost of this review. (Annex D)

The petitioner has by certiorari appealed to this Court from the decision of the Associate Commissioner.

On 30 June 1959 the respondent filed in this Court a motion to dismiss the petitioner's appeal on the ground that it "is premature and untimely" because it had not appealed the decision of the Associate Commissioner to the Commission en banc. On 3 July 1959 the petitioner filed an objection to the respondent's motion, claiming that in section 49 of the Workmen's Compensation Act, as amended providing for the procedure to be followed at the hearing and determination of cases under the provisions of the Act, no mention is made of a review by the Commission en banc of a decision rendered by one of the Commissioners before an aggrieved party could appeal to this Court. On 13 July 1959 this Court resolved to defer action on the respondent's motion to dismiss and the petitioners objection thereto.

In *National Shipyards and Steel Corporation vs. Arca*, G. R. No. L-12249, 6 May 1957 (minute resolution); *Madrigal Shipping Co., Inc. vs. del Rosario*, G. R. No. L-13130, 31 October 1959; and *Republic of the Philippines vs. Inciong*, 107 Phil., 1024, this Court held that an aggrieved party by the decision of a Commissioner should seek a reconsideration of the decision by the Commission en banc,[1] if the decision be adverse to him, then he could appeal to this Court.[2] An appeal brought to this Court without first seeking the remedy referred to would be premature. It appearing that the petitioner in the case at bar has not complied with this rule, his petition for review of the decision of the Associate Commissioner filed in this Court, without seeking a reconsideration of the decision by the Commission en banc, is premature.

The appeal interposed by the petitioner is dismissed, with costs against it.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

[1] Section 3, Rule 24, Rules of the Workmen's Compensation Commission.

[2] Section 1, Rule 25, Id.

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