

ENGRACIA ALARCON, PLAINTIFF AND APPELLANT, VS. JUAN ALARCON, DEFENDANT AND APPELLEE.

G.R. No. 15692. May 31, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from a decision of the Court of First Instance of Camarines Sur dismissing the complaint in this case. The record was certified to us by the Court of Appeals, the only question raised in the appeal being one of law.

The facts are set forth in said decision, from which we quote:

"On June 3, 1955 the defendant hired Urzino Azaña and his brother to dig a well on his land in Caramoan, Camarines Sur. After the day's work the two had dug a hole about five feet meters deep without striking water.

"On the next day Urzino resumed his work with one Generoso Zulueta as co-worker. Generoso was also hired by the defendant in place of Urzino's brother who did not return to work.

"Urzino and Generoso started their work early in the morning. Urzino was lowered into the hole with a rope to dig deeper. On reaching the bottom he quickly remarked that he was not feeling well. Generoso told him to get ready to be pulled up, but a moment later Urzino fainted and slumped helplessly into a sitting position.

"Generoso quickly called for help. A policeman and other persons immediately responded. After their arrival Generoso lowered a ladder and proceeded to descend into the hole. After having gone down about two meters, he felt a current of hot air with an obnoxious odor around him. He soon realized that he was not feeling well. Accordingly, he desisted from descending farther and instead he climbed up out of the hole. One of the men then volunteered to go down in his place, but he too could not reach the bottom for the same reason.

"Realizing that it was not safe to go into the hole, Generoso and others thought of another method to get out Urzino. With a rope tied into a loop on one end, they caught one of his legs and pulled up his body. They next put him on bed while someone summoned a doctor. In less than five minutes the municipal health officer arrived. He quickly attempted to revive Urzino, but his efforts proved unavailing because he was already dead. He certified that Urzino died of asphyxia (Exhibit A).

"On the day of his death Urzino was single, 20 years old, and living with his mother who is the plaintiff. She filed this action to recover compensation for her son's death under the provision of Art. 1711 of the Civil Code."

Apart from admitting in his answer some allegations of the complaint and denying other allegations thereof, defendant alleged, as special defense, that "plaintiff is in estoppel from filing this action * * * she having previously raised the same question with the Workmen's Compensation Commission", and set up a counterclaim for P3,000.00, as actual and moral damages.

In due course, the Court of First Instance of Camarines Sur rendered judgment dismissing the complaint upon the ground that, "not being owner of enterprises or employer of laborers in industry or business", defendant herein is

not liable under Article 1711 of the Civil Code of the Philippines to pay compensation for the death of Urzino Azaña, the same being purely accidental in nature. Hence, this appeal by plaintiff.

The only issue in this case is whether the defendant falls under the provisions of said Article 1711 reading:

"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. The employer is also liable for compensation if the employee contracts any illness or disease caused by such employment or as the result of the nature of the employment. If the mishap was due to the employee's own notorious negligence, or voluntary act, or drunkenness, the employer shall not be liable for compensation. When the employee's lack of due care contributed to his death or injury, the compensation shall be equitably reduced."

Defendant herein does not own any enterprise. He is merely a school teacher who needed a well. Neither does he fall under the category of "other employers" mentioned in said Article 1711. Under the principle of ejusdem generis, said "other employers" must be construed to refer to persons who belong to a class analogous to "owners of enterprises", such as those operating a business or engaged in a particular industry or trade, requiring its managers to contract the services of laborers, workers and/or employees.

Indeed, said Article 1711 is part of Section 2, Chapter 3, Title VIII of our Civil Code. Speaking about the purpose of said section 2, the Code Commission said:

"The Republic of the Philippines, through the people's constitutional mandate, is definitely committed to the present-day principle of social justice. In keeping with this fundamental policy, the Project of Civil Code, while on the one hand guaranteeing property rights, has on the other seen to it that the toiling masses are assured of a fair and just treatment by capital or management." (Report, p. 13.)

Referring particularly to Article 1707 of said Code, which is part of the aforementioned section 2, the Commission expressed itself as follows:

"By virtue of this new lien, the laborers who are not paid by an unscrupulous and irresponsible industrialist or manager may by legal means have the goods manufactured through the sweat of their brow, sold and out of the proceeds get their salary, returning the excess, if any. * * *". (Report, p. 14.)

As His Honor, the trial Judge had correctly observed, the terms "capital", "management", "industrialist", "manager" and "owners of enterprises", used to describe the employers alluded to in said section 2, indicate that they contemplate those engaged more or less in business or industry. In fact, the aforementioned Article 1711 merely states the philosophy underlying the Workmen's Compensation Act (Act No. 3428) and must be interpreted in relation thereto, for Article 2196 of the same Code provides that "compensation for workmen and other employees in case of death, injury or illness is regulated by special laws". Pursuant to section 39(b) of Act No. 3428, as amended:

"'Laborer' is used as a synonym of 'Employee' and means every person who has entered the employment of, or works under a service or apprenticeship contract for an employer. It does not include a person whose employment is purely casual and is not for the purposes of the occupation or business of the employer. * * *". (Italics supplied.)

Inasmuch as the employment of Urzino Azaña by defendant herein was "purely casual" and was not "for the purposes of the occupation or business" of said defendant, it is clear to us that Urzino Azaña is not covered by the provisions of the Workmen's Compensation Act. Neither may plaintiff herein avail of the benefits of the Employer's Liability Act (Act No. 1874), which she does not invoke, for it is not claimed that Urzino's death was

due to "a defect in the condition of the ways, works or machinery connected with or used in the business of the employer", or to "the negligence of a person in the service of the employer". Hence, there is no means by which defendant herein may be held liable for Azaña's death, due to an accidental cause or fortuitous event (Cerezo vs. Atlantic Gulf and Pacific Co., 33 Phil., 425).

Wherefore, the decision appealed from is hereby affirmed, without costs, considering that plaintiff-appellant is litigating as a pauper. It is so ordered.

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

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