

## **SAMAR MINING CO., INC., PETITIONER AND APPELLANT, VS FRANCISCO P. ARNADO, POMPEYO V. TAN AND RUFINO ABUYEN, RESPONDENTS AND APPELLEES.**

*G. R. No. 17109. June 30, 1961*

Ponente: CONCEPCION, J.

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### **CONCEPCION, J.:**

Appeal by petitioner, Samar Mining Co., Inc., from an order of the Court of First Instance of Manila, dismissing this case, on motion of respondents, Francisco P. Arnado and Pompeyo V. Tan, upon the ground of wrong venue.

It would appear that respondent Rufino Abuyen had, on June 18, 1956, tiled with the Workmen's Compensation Commission, a Notice of Injury or Sickness and Claim for Compensation for a disease allegedly contracted while in the service of petitioner, Samar Mining Co., Inc. On April 23, 1958, the latter received from respondent Tan, Labor Attorney, a notice dated March 21, 1958, setting said claim—which had been docketed as WCC Case No. R-VI-217, Abuyen vs. Samar Mining Co., Inc.—for hearing on May 31, 1958 at Catbalogan, Samar. In a letter dated May 13, 1958, petitioner assailed the validity of said notice and the authority of respondent Tan to hold the aforementioned hearing, upon the ground that the authority therefor was vested by Reorganization Plan 20-A and Executive Order No. 218 of the President in Department of Labor Regional Office No. VI, located in Cebu City—of which respondents Arnado and Tan are Regional Administrator and Labor Attorney, respectively—and was beyond the Jurisdiction of respondent Tan, as such Labor Attorney. This notwithstanding, the hearing, at which petitioner did not appear, took place and, based upon the evidence then introduced on behalf of Abuyen, respondent Tan rendered a "decision" dated October 14, 1958, allegedly received by petitioner on June 29, 1959, finding that Abuyen had been employed as petitioner's capataz in Gen. Mac-Arthur, Samar, from August 8, 1949 to March 5, 1956, during which time he had been successively detailed to midnight labor; that he was not suffering from any disease prior to August 8, 1949, for he was then physically examined by petitioner's physician, who, likewise, examined Abuyen annually thereafter and found him physically fit from 1950 to 1954, inclusive; that on December 31, 1955, he was found to be suffering from pulmonary tuberculosis, for which reason he was confined and treated in petitioner's hospital from said date to March 5, 1956, when he was laid off, still suffering from said disease, in view of which he could not return to work; that he must have contracted said illness in 1955, while in petitioner's service; and that his midnight work must have led to the aggravation of the disease, and, accordingly, sentencing the petitioner to pay the corresponding compensation, plus costs. On July 3, 1959, petitioner filed with said Regional Office a motion for reconsideration and reopening of the case by said office, based upon the alleged lack of authority of respondent Tan to hear it. This motion was denied, by the latter in an order dated September 11, 1959, copy of which was received by petitioner on March 15, 1960.

Consequently, on March 24, 1960, petitioner instituted, in the Court of First Instance of Manila, the present action for certiorari and prohibition with preliminary injunction, against respondents Francisco P. Arnado Pompeyo V. Tan, and Rufino Abuyen, upon the ground that respondent Tan—in summoning the parties to a hearing, in receiving and passing upon the evidence introduced at the protested hearing on May 31, 1958, in rendering the

aforementioned decision, and in denying said motion to reopen—and respondent Arnado—in upholding said acts of respondent Tan—had acted without jurisdiction and/or with grave abuse of discretion. Petitioner prayed, there-for, that said respondents be enjoined from continuing further proceedings in the aforementioned case, during the pendency of this action, and that the proceedings above referred to be, in due course, annulled. Upon the filing and approval of a P500 bond, the lower court issued the writ of preliminary injunction prayed for.

The issue hinges on the interpretation of Rule 67, section 4, of the Rules of Court, on certiorari, prohibition and mandamus, which provides:

"The petition may be filed in the Supreme Court, or, if it re-lates to the acts or omissions of an inferior court, or of a corpora-tion, board, officer or person, in a Court of First Instance having jurisdiction thereof. It may also be filed in the Court of Appeals, if it is in aid of its appellate jurisdiction." (Italics ours.)

Respondents contend, and the lower court held, that the venue in actions for certiorari and prohibition, like the one at bar, is referred by said Rule 67, section 4, to the "Court of First Instance having jurisdiction," over the "corporation, board, officer or person" whose acts are contested; that the Court of First Instance having jurisdiction over the proceedings complained of is that of Cebu, for Regional Office No. VI, to which respondents Arnado and Tan are assigned, is located in Cebu City, and, pursuant to section 44(h) of the Judiciary Act of 1948, courts of first instance "shall have power"—and, hence, jurisdiction—"to issue writs of injunctions, \* \* \* certiorari, prohibition \* \* \* in their respective provinces and districts, in the manner provided in the Rules of Court."

Upon the other hand, petitioner maintains that said section 4 of Rule 67 is a provision on jurisdiction, which merely refers to the class or category of the court that may entertain the case, and that, insofar as venue is concerned, the pertinent provisions are Rule 65, section 1, and Rule 5, section 1, reading:

"SECTION 1.—Preceding rules applicable in special civil actions.— She provisions cf the preceding rules shall apply in special actions for declaratory relief, certiorari, prohibition, mandamus, quo warranto, eminent domain, foreclosure of mortgage, partition of real estate, and forcible entry and detainer, which are not inconsistent

with or may serve to supplement the provisions of the rules relating to such special civil actions." (Rule 65.)

"SECTION 1.—General rule.—Civil action in Courts cf First Instance may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiffs resides at the election of the plaintiff." (Rule 5; Italics ours.)

and that, being established in Manila, petitioner was en-titled to bring the action in its court of first instance.

Petitioner's pretense is clearly untenable. To begin with, section 4, of Rule 67 is entitled "Where petition filed". It obviously contemplates venue, not jurisdiction, although it makes the former coterminous with, or dependent upon, the latter. Secondly, the jurisdiction therein alluded to is that over "the corporation, board, officer or person" whose acts are in question, not jurisdiction over the subject matter of the case. Thirdly, the rule-making-power of this Court is limited to matters of "pleading, practice, and procedure" and to the "admission to the practice of law" (Art. VIII, sec. 13, of the Constitution), whereas the power to "define, prescribe and apportion the jurisdiction of the various courts" is within the exclusive province of Congress (Art. VIII, sec. 2, of the Constitution), and petitioner's theory would, in effect, vest the Court of First Instance of Manila with juris-diction to issue writs of injunction, certiorari and prohibition affecting corporations, boards, officers or persons outside the City of Manila, which is denied to said court by the Judiciary Act of 1948, in accordance with the previous legislations thereon (Act No. 136, section 56, par. 7, and Act No. 190, section 163) and the decision of this Court in *Castano vs. Lobinger* (7 Phil., 91).

Petitioner inquires: "But, where is the Court having jurisdiction over an officer (referring to respondent Tan) who acts in Samar, is responsible to a Regional Office in Cebu, rules illegally on the rights of a corporation resident of Manila and of an individual residing in Samar?" If petitioner thus questions the authority of the Court of First Instance of Cebu to affect those who are outside the City and province of Cebu, then how could the Court of First Instance of Manila similarly bind those who are not within the city of Manila? In other words, in its attempt to show that the former is not the proper venue, it has merely succeeded in proving that the latter was right in holding that venue had been improperly laid, which is the only issue before us. At any rate, petitioner's aforementioned query overlooks the facts that the present action for certiorari, prohibition, and injunction is directed against given proceedings: that the, same is being under-taken by order and under the authority of Regional Office No. VI, which is located in Cebu City; and that respondents Arnado and Tan are mere incidents of said proceedings and agents of said office.

Wherefore, the order appealed from is hereby affirmed, with costs against petitioner-appellant, Samar Mining Co., Inc. It is so ordered.

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

Order affirmed.

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