

AGUEDO DEL ROSARIO, PETITIONER, VS. HON. N. BAENS DEL ROSARIO, ETC., ET AL., EUGENIO DRILON AND LUCIA DELORITOS, RESPONDENTS.*G.R. No. 18995-96. December 29, 1962*

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-18995-96/>**CONCEPCION, J.:**

This is an appeal from an order of the Workmen's Compensation Commission setting aside a decision in the above entitled two (2) cases of its Regional Office No. V and ordering the corresponding hearing officer to enter, after further proceedings, a new decision against Aguedo del Rosario the respondent therein and petitioner herein, awarding compensation to the claimants in said cases and herein respondents Lucia Deloritos and Eugenio Drilon.

The record shows that in January, 1958, the (10) men, including Eugenio Drilon and the now deceased Francisco Digdigan, were engaged by Del Rosario to do some excavation work in his fishpond in the barrio of Colong-Colong, municipality of Zarraga, province of Iloilo, on a piece work or "pakiao" basis, with the understanding that the workers were to provide themselves with their own tools and food during the period of the excavation, which was expected to last for about a month. The workers were picked up by a truck of Del Rosario in the municipality of Dumanga, Iloilo on January 7, 1958, at about 6:00 a.m., and brought to said fishpond that same morning, at about 9:00 o'clock. At noon time, they took their meal. After their work in the afternoon, they had their dinner consisting of rice brought by Drilon and fish caught from the fishpond by some members of the group. Soon later, all of them felt dizzy. As Drilon and Digdigan had convulsions, lost consciousness and appeared to be in a serious condition, they were brought to the Iloilo Provincial Hospital, where Digdigan died the next day. The other workers, including Drilon, recovered.

As a consequence, two (2) separate claims for compensation were filed, one by Drilon and another by Digdigan's mother, Lucia Deloritos. After a joint hearing of the (2) cases, in view of the common questions of fact and law therein involved, the hearing officer of said Regional Office No. V rendered a decision dismissing both claims. As adverted to above, said decision was, on appeal, set aside by an order of the Chairman of the Workmen's Compensation Commission. Del Rosario sought a reconsideration, which was denied by the Commission sitting en banc. Hence, this petition for review by certiorari.

Petitioner maintains that Drilon and Digdigan were not his employees, he having engaged their services on a "pakiao" or piece work system, through one Rufo Dimavildo, who, he contends, is an independent contractor. The Workmen's Compensation Commission rejected such pretense, upon the ground that:

"With respect to the first ground, it should be noted that the Hearing Officer of Regional Office V, Iloilo City, in rendering his decision on these cases, ruled that there existed employee-employer relation between the workmen involved and the respondent. However, the respondent did not object to this findings, and as a matter of fact, he never appealed from the decision, which contained this finding. It was the claimant alone who appealed from such decision. Hence, respondent is estopped from raising this issue before this Office. But even if we were to resolve the issue squarely, we will find that respondent's contention is not tenable. While the

respondent dwelt lengthily on the proposition that the work of the laborers involved was casual or temporary in nature, it never denied the fact that the work performed—the excavation of the high portions of the fishpond and the fixing of the dikes—was not only for the purpose of the business of the respondent as a fishpond owner, but also a necessary routine for the repair and maintenance of its operation. The allegation that the laborers were the employees of an independent contractor has no basis in fact, as the alleged contractor, Rufo Dimavildo, appears more to be of a foreman of the respondent. He acted as representative of the respondent and herded the workers for the latter. He had no capital of his own because he himself is a laborer."

This view is in accord with our decision in *Caro vs. Rilloroza* 102 Phil., 61. Moreover, in *Mansal vs. Goheco Lumber Co.*, (96 Phil., 941), we held:

"It will be noted that in order that an employer may not be responsible for an injury to a laborer it is necessary that the 'employment is purely casual and is not for the purposes of the occupation or business of the employer'. Casual means occasional, coming without regularity. The work is purely casual when it is not a part of the business in which the employer is engaged. The clause 'is not for the purposes of the occupation or business of the employer' complements and explains the term 'purely casual'. In a sawmill, for example, if a power unit running the mill gets out of order and a mechanic is contracted to fix the engine, the work of the mechanic would be considered as purely casual, because the reparation of the mill is not the actual work or business of the sawmill but the sawing of lumber. But the piling up of lumber is work directly connected with the business of a lumber yard. Lumber must be sorted and piled up in groups according to sizes to facilitate handling and sale. The piling up of lumber is, therefore, an ordinary part of the work in a lumber yard.

"The case at bar is similar or parallel to that of stevedores unloading cargo from a ship. That fact that the stevedores work under the control of a contractor, who pays them, and that they may seek other work under different carriers, and their work covers a very short period of time as to each carrier, does not exempt the carrier who had employed them in the unloading of the cargo from paying compensation for death or injuries received by them because the unloading of the cargo is an ordinary part of the carrier's duty. To this effect is our decision in the case of *Flores vs. Cia, Maritima*, 57 Phil. 905, thus:

"There is not the least shadow of doubt that the deceased was a laborer in the legal sense. He had been recruited by order of the captain of the ship and he was engaged in the task of unloading the ship's cargo at the time of the accident. There can be no dispute that this kind of work is included in the business in which the appellee is engaged. That the deceased had been recruited or engaged by a contractor is of no moment because the latter, for purposes of the law, was an agent or representative of the ship's captain, who, in turn, represented the appellee."

which was, in effect, reiterated in *Bautista vs. Murillo*, L-13374 (January 31, 1962).

The main issue in this appeal is whether or not the accident which resulted in the death of Digdigan and the illness of Drilon were due to a cause arising out of or in the course of their employment. Petitioner maintains that the answer should be in the negative because respondents have failed to establish the specific cause of said accident and the same has, at best, taken place after working hours.

It appears that the rice consumed by the workers at luncheon, as well as at dinner time, had been brought by Drilon from Dumanga in the morning of January 7, 1958. It was inside a buri bag placed, in Del Rosario's truck, beside a can the nature of the contents of which is not known. It was surmised that it must have been endrin—an organic insecticide belonging to the group of chlorinated hydro-carbons—which must have leaked—owing to the bumpy and rough condition of part of the road leading to the fishpond—and then contaminated at least part of said rice, inasmuch as the health officer who made an autopsy of Digdigan's body, on January 8, 1958, opined that his death had been due to poisoning by endrin. However, a chemical-toxicological examination by the National Bureau of Investigation of specimens of the internal organs of Digdigan, did not confirm said conclusion.

In any event, it seem clear from the record that the accident in question was due to food poisoning in the evening of January 7, 1958, or after working hours, for which reason petitioner argues that it did not arise out of or in the course of the employment of Digdigan and Drilon. It should be noted, however, that the nature of their work and that of their co-workers was such that they were expected to remain in petitioner's premises or fishpond for about a month. In this connection, the order appealed from states:

"Under the personal doctrine, 'injuries occurring on the premises during a regular lunch hour arise in the course of employment, even though the interval is technically outside the regular hours of employment in the sense that the worker receives no pay for that time and is in no degree under the control of the employer, being free to go where he pleases.' (Larson's Workmen's Compensation Law, Vol. I, p. 298.) This principle is justified in part 'on a sort of presumption that as long as the employee is on the premises he is subject to all the environmental hazards associated with the employment, and also that although he may be free to go elsewhere during the interval, he is in some degree subject to the control of the employer if he actually chooses to remain on the premises, merely by virtue of being on the employer's property.' (Larson, op. cit., Vol. I, p. 300.)

"In other words, it is based on the idea that employment hazards presumably continue for the workman who remains on the employer's premises. Consequently, any lunch-time injury which is traceable to a danger inherent in the environment and other circumstances surrounding the employment is compensable. However, the modern trend is to compensate accidents that occur during the lunch-time period which may be considered as 'arising out of the employment' even when no conspicuous employment hazards contributed to the injury. As Larson observes, 'if a particular item of horseplay would have been compensable during regular hours, it might well be held compensable during the lunch interval.' (Larsen, op. cit., Vol. I, p. 301.) We could even go one little step further, and say that if the modern courts are inclined to compensate a worker on the premises during working hours even from neutral sources of harm, we might as well compensate a workman who suffers a similar injury during the lunch hour. As a matter of fact, we could immediately dispose of the issue by the application of the principle adopted by the Supreme Court that 'once it is proved that the employee died in the course of the employment, the legal presumption in the absence of substantial evidence to the contrary, is that claim 'comes within the provisions of the compensation law' (Sec. 43); in other words, that the accident arose out of the workman's employmen.' (Batangas Transportation Co. vs. Rivera, et al., G. R. No. L-7658, May 8, 1956.) There is a close similarity of the situation which called for this ruling in the case at bar, because in the afore-mentioned case, the motive for the killing of the employee who was employed as a driver was not established; in this case the cause of poisoning of the workmen involved had likewise never been established altho circumstantial evidence point to the food taken thru the mouth. However, the facts of the present case do not require us to rely solely on a presumption in order to stretch the application of the 'arising out of the employment' concept. Here, we have a case of ten temple laborers bodily transported by the respondent from their house and brought to his fishpond several hours ride away. There, they were to work and stay about a month, away from the comforts and convenience which nearness to the home offers, and practically left to forage for themselves inasmuch as food was not to be supplied by the respondent. He assumed responsibility only for the payment of their wages upon completion of the work. It is therefore not as far-fetched as it seems to say that the nature and conditions of their employment deprived them of the usual accessibility to safe and clean food, or at least the necessary facilities for preparing such food. Otherwise stated, were it not for the conditions of their particular employment which took them far away from home for a protracted period of time, they could have secured their food cooked in a normal way either at home or at a nearby restaurant. But as a peculiar feature of their employment contract, they were deprived of the normal facilities of procuring their food and instead they were forced by necessity to bring along an ample supply of food to last for a period of time and to supplement it with whatever is available around, which in turn would give rise to the problem of its storage as well as the bother of its preparation at every mealtime. Consequently, if they happened to eat rice spoiled by storage or used a dirty pot in cooking it and were poisoned thereby, or if in supplementing their meal they caught fish in the fishpond which later turned out to be poisonous, could we not say that because of the employment, all these the workmen became the victims of food poisoning? In our opinion, we discern a

distinct link between the food poisoning and the conditions of employment, in the sense that it was a hazard associated with the employment to which the general public is not exposed. The safety of food taken by the laborers in an isolated place as a fishpond in this case is an important matter for the employer to concern himself with.

"We even find a close analogy of the cases of these workmen with employees who are required to live on the premises either by the contract of employment or by the nature of the employment. In such cases, compensation is usually awarded 'if the source of injury was a risk associated with the conditions under which the claimant lived because of the requirement of remaining on the premises.' (Larson, op. cit., Vol. 1, p. 372.) For this principles to operate, it is not necessary that residence on the premises be required by the employer, for even in the absence of a requirement in the employment, residence should be deemed 'required' whenever there is no reasonable alternative, in view of the distance of the work from residential facilities or the lack of availability of accommodation elsewhere.' (Larson, op. cit., Vol. I, p. 382.)

"However, there is even now a growing tendency in some jurisdictions to consider the resident employee with fixed working hours as no different from the resident employee who is continuously on call in the sense that any injury sustained by the latter type of employee on the employer's premises while engaged in some activity falling under the general personal comfort type is deemed as one arising out of the employment even if the harm came from a neutral source."

The foregoing view is in accord with law. In the language of Corpus Juris Secundum:

"* * * the determining factor in contruing the statute has been said to be whether the relationship of employer and employee may reasonably be said to have existed at the time of the accident, regardless of whether the occurrence happened during actual hours of employment, or in proximity therto."

* * * * *

"Where the statute by its terms embraces all injuries by accident arising out of or in the course of the employment, it is immaterial that the injury occurred outside of working hours." (99 C.J.S., 776-781.)

Indeed

"An injury is said to arise in the course of the employment when it takes place within the period of the employment, at a place where the employee reasonably may be, and while he is fulfilling his duties or engaged in doing something incidental thereto." (Larson's Workmen's Compensation Law, Vol. I, p. 193.) (Italics ours.)

"Employees who, within the time and space limits of their emploment, engage in acts which minister to personnel comfort do not thereby leave the course of employment, unless the extent of the departure is so great that an intent to abandon the job temporarily may be inferred, or unless, in some jurisdictions, the method chosen is so unusual and unreasonable that the conduct cannot be considered an incident of the employment." (Larson's Workmen's Compensation Law, Vol. I, p. 297.)

Thus in *Martha Lumber Mills, Inc. vs. Lagradante*, (99 Phil., 934; 52 Off. Gaz. 4230), this Court said:

"We cannot accept petitioner's argument that the death of Felicito Lagradante did not arise out of and in the course of his employment, having been murdered outside of office hours. It appears that the deceased was required to live and sleep in the quarters provided by the petitioner, and obviously by reason of the nature of his duties as a concession guard, with the result that, although he had to observe certain working hours, he nevertheless was compelled to stay in his quarters, thereby in effect making himself available, regardless of time, for the protection of the rights and interest of the petitioner in its concession."

Wherefore, the order and the resolution appealed from are hereby affirmed, with costs against the petitioner. It is so ordered.

Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.