

FILIPINO PIPE & FOUNDRY CORPORATION, PETITIONER, VS. WORKMEN’S COMPENSATION COMMISSION, ET AL., RESPONDENTS.

G.R. No. 20381. December 24, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an original action for certiorari to annul an award made by respondent Workmen's Compensation Commission.

Petitioner Filipino Pipe & Foundry Corporation was admittedly the employer of respondent Guillermo Hiwatig, who on October 11, 1961 filed with Regional Office No. 4 of the Department of Labor in Manila a claim for compensation due to temporary total disability allegedly caused by an accident that took place in petitioner's premises on May 3, 1961, notice of which had been given to petitioner's company physician on this same date. On February 5, 1962, the Regional Commissioner of said office issued an award considering the claim uncontroverted, because of petitioner's failure to contest it within the reglementary period, and directing petitioner to pay to Hiwatig the sum of P269.90, as compensation, and a weekly compensation of P14.76, thereafter, until his temporary total disability for labor ceases, but not exceeding P4,000.00 plus P5.00 as costs, under section 55 of Act. No. 3428, without prejudice to Hiwatig's right to claim additional compensation should his injury result in any further disability.

On March 5, 1962, petitioner filed a "petition for new hearing", stating, that it was only upon receipt of copy of the award that petitioner learned of its failure to answer Hiwatig's claim within the statutory period and that on January 15, 1962, or two (2) days after petitioner's president had received from his secretary copy of said claim, petitioner contested the same, and praying that "in the interest of justice and a better elucidation of the facts of the case," the petitioner be "given the opportunity to cross-examine the claimant and his witnesses and to present its defenses." This petitioner was denied on June 6, 1962. Later on, or on July 11, 1962, petitioner filed a "petition for relief from judgment," which was denied in an order dated August 20, 1962.

Hence, the present original action for certiorari, which is predicated upon the theory that the aforementioned award had been made without notice and hearing, thereby denying due process to herein petitioner, and that the latter has no plain, speedy and adequate remedy in the ordinary course of law.

It is clear from the record that petitioner is not entitled to the relief prayed for, because:

- (1) It is not denied that petitioner's answer to Hiwatig's claim had not been filed within ten (10) days from notice of Hiwatig's claim. Pursuant to section 45 of Act No. 3428 petitioner is deemed, therefore, to have renounced its right to controvert said claim. In other words, the same was deemed admitted by petitioner, which, accordingly, had no more right to demand a day in court. This situation is not affected by the circumstance that it was all due to the fact that one Miss Villaluz, the secretary of petitioner's president, had not delivered to him copy of said claim until January 13, 1962. Petitioner must suffer the effects of the

omission or negligence of its own employee.

(2) Copy of the award of February 5, 1962 was served upon the petitioner on the 16th of the same month. Yet petitioner's "petition for new hearing" was not filed until March 5, 1962, or more than fifteen (15) days from notice of said award. The same was, therefore, final and executory at the time of the filing of said "petition for new hearing" (section 50, Act No. 3428).

(3) Said "petition for new hearing" partook of the nature of a motion for "relief from judgment", which motion was fatally defective, for no affidavit of merit was attached thereto (Rule 38, Section 3, Rules of Court).

(4) Petitioner's "petition for relief from judgment", could not possibly be entertained, it having been filed on June 16, 1962, more than sixty (60) days from notice of the aforementioned award (Rule 38, Section 3, Rules of Court).

(5) Petitioner could have appealed, not only from said award, but, also, from the order denying the "petition for new hearing", and the order denying the "petition for relief from judgment". In other words, it had a plain, speedy and adequate remedy in the ordinary course of law.

WHEREFORE, the petition herein must be, as it is hereby, denied, and the case dismissed, with costs against the petitioner.

SO ORDERED.

Bengzon, C.J., Padilla, Bautista Angelo, Parades, Regala and Makalintal, JJ., concur.

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