

**“Y” SHIPPING CORPORATION, PETITIONER, VS.
MAXIMO ERISPE, AND JUDGE ARSENIO SANTOS, IN HIS CAPACITY AS
THE PRESIDING JUDGE OF CFI, MANILA, RESPONDENTS.**

G.R. No. 20627. May 04, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The facts of the case are substantially as follow:

On September 2, 1958, the Administrator of Regional Office No. 4 of the Department of Labor issued a Letter-Award (in W.C. Case No. R03) ordering the "Y" Shipping Corporation (hereinafter referred to as petitioner), to pay to respondent Maximo Erispe the sum of P380.27 plus his weekly compensation of P19.43 thereafter until his temporary total disability for labor ceases but not exceeding P4,000.00. Erispe's right to additional compensation is reserved should his injury result in any permanent physical disability.

On September 10, 1958, petitioner sent a letter or "Request for Reconsideration" seeking the setting aside of the Letter-Award of September 2. On October 6, 1958, 26 days after petitioner's aforesaid letter was sent, petitioner paid partially Erispe the sum of P420.00 in compliance with the letter-award. As a consequence of this partial payment, Erispe was made to sign an unsubscribed affidavit acknowledging such payment by petitioner, such affidavit apparently intended to waive all future claims of Erispe.

On account of the failure and refusal of petitioner to pay the weekly salaries of respondent Erispe in the sum of P19.43 per week as directed by the Letter-Award of September 2, the administrator of Regional Office No. 4 issued a Supplemental Letter-Award dated March 1, 1961 requiring petitioner to pay respondent Erispe the sum of P2,488.95, representing the balance of his accumulated weekly compensation, plus P189.00 as reimbursement of partial medical expenses. Copies of said supplemental letter-award were duly received by petitioner and its counsel.

On May 30, 1961, after both the Letter-Award and the Supplemental Letter-Award had become final, without any appeal being filed by petitioner, said Regional Administrator issued a writ of execution directing the Sheriff of Manila to satisfy the compensation claims of respondent Erispe.

On June 20, 1961, petitioner filed with the Court of First Instance of Manila (Civil Case No. 47329) a Petition for Certiorari and Prohibition with Preliminary Injunction, assailing the legality of the writ of execution issued by the Regional Administrator. On March 23, 1962, the writ of prohibition prayed for was granted by the Court, holding at the same time that the regional administrator cannot issue writs of execution for the reason that the issuance thereof properly belongs to the Courts.

Accordingly, respondent Erispe filed, on August 8, 1962, with the Court of First Instance of Manila a "Petition for Execution of Award Issued by Regional Office No. 4 of the Department of Labor". On November 2, 1962, a decision was rendered the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, the court hereby renders judgment in favor of the petitioner (Maximo Erispe) and against the respondent ("Y" Corporation) ordering the latter to pay the former the sum of P2,488.95 as balance of the compensation due the petitioner, plus the sum of P19.43 a week until his temporary total disability shall have ceased, and the costs of the suit. There being no appeal from this judgment, let a writ of execution immediately issue."

A motion for reconsideration of the above-mentioned decision having been denied, petitioner brought the case to this Court by Certiorari and Prohibition with Preliminary Injunction. On December 19, 1962, this Court issued the writ of preliminary injunction prayed for, restraining respondent judge from enforcing the aforesaid decision.

Reduced to its essentials, petitioner's position is anchored on two principal points: (1) that petitioner was denied due process because the questioned decision was rendered "without even setting said case for hearing on the merits or requiring the parties to present their respective evidence;" and (2) that the lower court lacks jurisdiction to order the issuance of a writ of execution on the ground that the accident subject of the complaint in W.C. No. R03 occurred in Cebu and not in Manila, and therefore, the writ of execution, if proper, should issue from the Court of First Instance of Cebu, not of Manila.

On the first point, it has been ruled that "the issuance of the writ of execution, upon finding of the finality of the award or decision of a referee or commissioner, is ministerial." (Tan Lim Te vs. Workmen's Compensation Commission, 104 Phil., 522; 55 Off. Gaz., 1570) This is as it should be, for "a formal complaint need not be filed with the Court of First Instance for the enforcement of a final award; all that is required is the filing of a certified copy of the award with said Court." (Cerbo vs. Montejo, G. R. No. L-19881, January 31, 1964)

Petitioner contends that the award of September 2, 1958 had not yet become final when the writ of execution was issued inasmuch as it filed a "Request for Reconsideration," which has not yet been acted upon. Two circumstances militate against this contention. First, on October 6, 1958, 26 days after filing said request for reconsideration, petitioner partially paid respondent Erispe the sum of P420.00 in compliance with the Letter-Award. Apparently petitioner's request for reconsideration had no other purpose than to gain time to settle the case for much less than what had been actually awarded to Erispe, as shown by the fact that the latter, in acknowledging the payment, was made to waive all further claims for compensation. If the request for reconsideration were not merely pro-forma, if it were really intended to have the award re-examined, no payment would have been made at all until after the request for reconsideration was resolved. In the second place, the supplemental letter-award of March 1, 1961 amounted to a virtual denial of the "Request for Reconsideration," and assumed the character of finality when petitioner failed to appeal within fifteen (15) days after its promulgation. The proceeding in court for the issuance of a writ of execution was therefore in order.

Section 51 of the Workmen's Compensation Act provides:

"SEC. 51. ENFORCEMENT OF AWARD. - Any party in interest may file in any court of record in the jurisdiction of which the accident occurred a certified copy of a decision of any referee or the Commissioner, from which no petition for review or appeal has been taken within the time allowed therefore, as the case maybe, or a certified copy of a memorandum of agreement duly approved by the Commissioner, whereupon the Court shall render a decree or judgment in accordance therewith and notify the parties thereof.

"The decree or judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the decree or judgment had been rendered in a suit duly heard and tried by the court, except that there shall be no appeal therefrom.

"The Commissioner shall, upon application by the proper party or the court before which such action is instituted, issue a certification that no petition for review or appeal within the time prescribed by section forty-nine thereof has been taken by the respondent."

In the case of Cerbo vs. Montejo, supra, this Court said:

"In other words, all that the law requires is the filing in the proper court of a certified copy of the decision or award with a certification that no appeal has been taken therefrom and is therefore final and executory. No other pleading, much less a formal complaint is necessary. Upon the filing of this certified copy of the decision or award with the court, (it) shall thereupon 'render a decree or judgment, in accordance therewith and notify the parties thereof.' The decree or judgment shall then have the same effect, and all proceedings in relation thereto shall thereafter be the same as though the decree or judgment had been rendered in a suit heard and tried by the court, except that there shall be no appeal."

On the issue of jurisdiction raised by petitioner, this Court has ruled, also in the case of Cerbo vs. Montejo, that the word "jurisdiction" used in Section 51 of the Workmen's Compensation Act really relates to venue. Thus: "With reference to the contention that the respondent Court of First Instance of Zamboanga City before which the petition was filed has no jurisdiction to take cognizance of the matter as the accident resulting in the death of the employee occurred in Basilan City where another court is sitting, it need only be considered that the law refers to 'any court of record in the jurisdiction of which the accident occurred.' It is clear from the language of the law that the word jurisdiction" is here used to refer to the place where the proceedings should be instituted. Consequently, it does not affect jurisdiction as such, but only venue. (emphasis supplied) And since the question of wrong venue has not been raised below, the same cannot be raised at this instance." (Cerbo vs. Montejo, supra)

In its answer to the petition for execution before the Court of First Instance of Manila, petitioner "Y" Shipping Corporation never questioned the "jurisdiction" of the Court nor the venue of the petition. All that it alleged was the fact that the letter-award, subject-matter of the petition for execution, had not assumed finality "on the ground that no hearing was held prior to its issuance which amounted to deprivation of due process." It raised the question of "jurisdiction" only in its motion for reconsideration of the order granting the writ of execution prayed for. Considering that what petitioner claims to be a question of "jurisdiction" is in fact merely a question of venue, the objection was made out of time, for after all, "when improper venue is not objected to in a motion to dismiss it is deemed waived" (Rule 4, Sec. 4 of the Rules of Court).

With respect, further, to the alleged denial of due process because petitioner was not heard before the letter-award was rendered, suffice it to say that in the petition for certiorari, prohibition and injunction filed before the Court of First Instance of Manila by the corporation itself to contest the validity of the writ of execution erroneously issued by the Labor Administrator to enforce the letter-award (Civil Case No. 47329), the aforesaid court clearly stated: "It also appears that the petitioner ("Y" Shipping Corporation) had full opportunity to appear before the respondent regarding the claim, but petitioner did not do so, notwithstanding various communications sent to it. It did so only after the award in favor of the claimant became final". There is no reason now to take issue with this finding of fact, which shows that there was no denial of due process at all.

WHEREFORE, the decision appealed from is affirmed. The writ of preliminary injunction previously issued by this Court is hereby dissolved. Costs against petitioner.

Concepcion, C.J., Dizon, Regala, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

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