

## NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND POTENCIANO PERALTA, RESPONDENTS.

*G.R. No. 21796. August 29, 1966*

Ponente: SANCHEZ, J.

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### SANCHEZ, J.:

In 1947, Potenciano Peralta was first hired as benchman by the National Development Company. [1] In 1952, he suffered a hypertensive stroke "on account of his working near a boiler". Because of this, at his request, he was made a field salesman. On July 1, 1957, he became Assistant Chief, Sales and Market Division, in charge of the retail store. In this last-named job, he had to perform daily overtime services from 5 p.m. to 8 p.m. to prepare daily sales reports. On March 30, 1958, he collapsed while helping lift a 500-lb. bale of cloth in the store. First confined at the Family Clinic, he was, on April 6, 1958, transferred to the Far Eastern University Hospital. His ailment was there diagnosed as: "Cerebral thrombosis, secondary to arteriosclerosis". He left the hospital on April 14, 1958. One-half of his bill (P300.00 charged by the hospital) was shouldered by Nadeco. Unable to continue in his job because of this ailment - cerebral thrombosis - he was retired from the service on November 30, 1958.

Respondent Peralta lodged a claim [2] dated May 29, 1961 to compel Nadeco to pay him disability benefits. The judgment of the Workmen's Compensation Commission ordered Nadeco to pay said petitioner: P4,000.00 as disability benefit; P450.00 as reimbursement for medical, and P150.00 for hospital, expenses; and P300.00 as counsel fees. Further, Nadeco was directed to pay the Commission P41.00 as administration fee. [3] The case is now before us on certiorari to review this decision.

1. Petitioner avers that notice of injury and claim for compensation were not made within the statutory period. [4]

Here, however, petitioner had actual knowledge of Peralta's ailment. Precisely, petitioner transferred him to another department because of that illness. Peralta's collapse was also known to petitioner. When he underwent hospitalization, half of his bill was paid by petitioner. To cap it all, the company retired him because of his sickness. In this factual environment, notice of injury or sickness is superfluous. Such notice would be but an act of supererogation. [5] What petitioner knew, it need not be informed.

The claim for compensation, too, need not be made within the 2-month period. Petitioner paid one-half of the hospital bill. This amounts to partial payment of a pecuniary liability of the employer. [6] That partial payment rendered a formal claim dispensable. Petitioner is deemed to have waived its right to contest compensability. [7]

2. With the preliminary problem out of the way, we go to the core of the case. Is respondent Peralta entitled to compensation? The controlling legal provision is Section 2 of the Workmen's Compensation Act, which reads:

"SEC. 2 Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay

compensation in the sums and to the persons herein specified. x x x" [8]

Petitioner's position is that hypertension is not accident or injury arising out of or in the course of employment.

There is no quarrel as to the fact that respondent suffered from hypertension. His disability was paralysis of half of his body. Medical opinion has it that hypertension may happen to anyone. As valid, however, is that said ailment may be aggravated by the nature of one's employment. On the question of aggravation, there is the testimony of Dr. Petrona Domingo-Noblejas that "claimant's hypertensive ailment has been aggravated by the nature of his work with respondent [Nadeco], as evidenced by the fact that during his first stroke in 1952, he was working in a hot place near a boiler and in 1957 said ailment began to assert itself as a result of his continuous overtime services and exerting strenuous efforts and worse, performing said duties in a hot place thereby culminating to his second stroke on March 29, 1958 while helping lift a 500-lb. bale of cloth." [9] This clinches the case for respondent Peralta. [10]

3. The award for attorneys' fees is here challenged by petitioner. The theory advanced is that the Workmen's Compensation Commission is without authority to grant attorneys' fees. This is not untrodden ground. Judicial decisions have already planed out this segment of our jurisprudence. It is now clear that the Commission has such power. [11] And not without statutory basis. Article 2208 (8) of the Civil Code allows a grant of attorneys' fees "In actions for indemnity under workmen's compensation and employer's liability laws".

The judgment under review is factually and legally correct. In consequence, it is affirmed. Costs against petitioner.

### **SO ORDERED.**

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, JP, Zaldivar, and Ruiz Castro, JJ., concur.

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[1] Hereinafter referred to as NADECO.

[2] With Regional Office No. 4, Department of Labor.

[3] Section 55, par. 2, Workmen's Compensation Act, as amended.

[4] Section 24, Workmen's Compensation Act, reads: "Notice of the injury and claim for compensation. - No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, xxx. In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary." Underscoring supplied.

[5] On two provisions of law, notice here is unnecessary.

Section 27, Workmen's Compensation Act, provides in part that: "Failure to or delay in giving notice shall not be a bar to the proceeding herein provided for, if it is shown that the employer, his agent or representative had knowledge of the accident or that the employer did not suffer by such delay or failure."

Section 24, supra, dispenses with said notice "In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, x x x".

[6]Section 13, Workmen's Compensation Act.

[7] Cf. *Luzon Stevedoring Co., Inc. vs. Workmen's Compensation Commission, et al.*, L-19742, January 31, 1964. In this case, the president of the union to which the deceased belonged merely requested for financial aid to the family of the deceased employee, and this Court held that this can be considered "as advance filing of claim in contemplation of law."

And, in *Philippine Engineering Corporation vs. Florentino, et al.*, L-16569, May 30, 1964, amounts given as "advance salaries" or "advance compensation for sickness" were held to be "voluntarily made compensation payments".

[8] Emphasis supplied.

[9] As summarized by the Hearing Officer, Record on Appeal, p. 25; emphasis supplied.

[10] Section 2, Workmen's Compensation Act, *supra*.

[11] *Batangas Transportation Co. vs. Valenzuela, et al.*, L-18532, August 31, 1963; *Jueco vs. Flores*, L-19325, February 28, 1964; *National Development Co. vs. Workmen's Compensation Commission, et al.*, L-19863, April 29, 1964; *Manila Railroad Co. vs. Manalang, et al.*, L-20845, November 29, 1965; *Caltex (Phil.) Inc. vs. Derpo, et al.*, L-19698, January 31, 1966.

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