

VALENTINA CATALLA, PLAINTIFF AND APPELLEE, VS. THE TAYABAS LUMBER CO., ETC., DEFENDANT AND APPELLANT.

G.R. No. 35733. February 13, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The Tayabas Lumber Company appeals from the judgment rendered by the Court of First Instance of Tayabas, the dispositive part of which reads as follows:

"Wherefore, the defendant is hereby sentenced to pay the plaintiff the sum of P3 a week from September 12, 1930, and for the period of 208 weeks, with costs. The defendant shall also pay the plaintiff the sum of P40 for the deceased's funeral expenses. The plaintiff is absolved from the counterclaim."

The action was filed by an old woman, Valentina Catalla, in accordance with the provisions of the Workmen's Compensation Act, to obtain from the defendant an indemnity for the accident which resulted in the sudden death of her son, Mariano Oriel.

On September 7, 1930, Lu Kang in his capacity as the defendant's entity's administrator, and Joaquin Martinez and Fabian Mercurio, entered into an agreement in writing (Spanish translation Exhibit 1-A) which, translated into English, reads as follows:

"Know all men by these presents:

"That we, Joaquin Martinez and Fabian Mercurio, both of age, married and residents of the barrio of Malicboy in the municipality of Pagbilao, as parties of the first part, and Lu Kang, as administrator of the Tayabas Lumber Company, as party of the second part, do hereby agree and stipulate the following:

"We, Joaquin Martinez and Fabian Mercurio, are actually in possession of two 'kaingins' situated in the sitio called 'Sapinit' traversed by an old trail or path over which timber from the mountains has been hauled, but said trail or path is impassable due to the density of brush that has overgrown it; that, by virtue of this contract, we have agreed with Mr. Lu Kang, manager of the Tayabas Lumber Company, to have said trail or path cleared and taken care of so as to facilitate the Tayabas Lumber Company in hauling its timber over it, for the use of which trail or path, the latter binds itself to pay us the sum of P50 per annum.

"We also agree with the said Mr. Lu Kang that he will pay us in advance the sum of P150 corresponding to the first three years' use of the said trail or path, and from this sum the expenses for the repair thereof shall be taken.

"I, Lu Kang, administrator of the Tayabas Lumber Company, give my conformity to this agreement.

"In witness whereof, we hereunto sign this agreement this 7th day of September, 1930, here in Pagbilao, Tayabas.

(Sgd.) "LU KANG

(Sgd.) "JOAQUIN MARTINEZ

"FABIAN MERCURIO

"Signed in the presence of:

(Sgd.)

"J. MONDES

"C. A. FELIPE"

In accordance with this agreement, Martinez and Mercurio employed Mariano Oriel, who had been working on the aforementioned trail, cutting trees and brush and clearing the undergrowth. Five days after the ratification of the contract Exhibit 1, that is, on September 12, 1930, while Oriel was working thereon, a big tree fell upon him and he died a few hours later as a result of the injuries he had received. The deceased was earning from P1 to P2 daily which was paid him directly by his employers, Martinez and Mercurio, without the intervention of the appellant corporation.

The appellant assigns the following errors in his brief:

"I. The lower court erred in holding that Mariano Oriel worked for the defendant one year before the accident took place, which resulted in his death.

"II. The lower court erred in holding that, even granting that Mariano Oriel was employed by contractors Joaquin Martinez and Fabian Mercurio, the defendant is still liable to pay compensation under the Workmen's Compensation Act. (Act No. 3428, as amended.)

"III. The lower court erred in holding that Mariano Oriel was working for the account and benefit of the defendant at the time of the accident and not for the account and benefit of Joaquin Martinez and Fabian Mercurio.

"IV. The lower court erred in ordering the defendant to pay the plaintiff the sum of P3 per week during the period of 208 weeks beginning September 12, 1930, and the sum of P40 as funeral expenses, instead of dismissing the complaint, with costs against the plaintiff."

Leaving aside the other questions raised in the appeal as unnecessary for the purposes of this decision, the only important point on which the case hinges is whether the deceased Oriel, at the time of the accident, was an employee of the appellant in the legal sense.

We regret to be compelled to decide the question against the appellee's claim. This case should be decided not from a sympathetic point of view which the working class well deserves, but in accordance with the proven facts and the law applicable thereto. In accordance with Exhibit 1 and its translation Exhibit 1-A, there is no doubt but that the deceased was not an employee or laborer of the appellant and that between them there was not even a contractual or juridical relation.

The trail belonged to Martinez and Mercurio because it was within the lands of which they were in possession. The contract executed between them and the appellant was entirely independent of the latter's business of cutting timber, and the wages earned by the deceased came directly from the owners of the lands. It is true that the appellant's timber had to pass over the trail which Martinez and Mercurio were to open, but the appellant had not the least intervention in the task of clearing it which the former undertook to do, except that of paying the annual rent of P50 which was stipulated as payment for the use of said trail. Employers should deserve before the law the

same consideration as workmen and they should not be held liable for accidents suffered by those who are not their laborers or employees. According to the evidence, the relation created was between the deceased, on the one hand, and Joaquin Martinez and Fabian Mercurio, on the other.

Having reached this conclusion, it is unnecessary to pass upon the other questions raised.

The counterclaim interposed by the appellant deserves no consideration due to the fact that no assignment of error was made in connection therewith and there is no sufficient evidence in support thereof.

The judgment appealed from is hereby reversed and the Tayabas Lumber Company absolved from the complaint, without special pronouncement as to costs for the reason that the plaintiff-appellee is poor. So ordered.

Villamor, Villa-Real, Hull, and Vickers, JJ., concur.

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