

SIMEON VERGARA, PLAINTIFF AND APPELLANT; VS. PAMPANGA BUS COMPANY, INC., DEFENDANT AND APPELLEE.*G. R. No. 44149. January 09, 1936*

Ponente: MALCOLM, J.

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This is an action begun in the Court of First Instance of Pampanga to secure the sum of P3,000 from the defendant under and by virtue of the Workmen's Compensation Act. Unsuccessful there, the plaintiff has taken an appeal.

The facts as disclosed by the evidence and as found by the trial judge can be summarized in the following manner: Simeon Vergara, the plaintiff, entered the services of the Pampanga Bus Company, Inc., the defendant, on November 7, 1933. He was a driver or driver-conductor according to the employment to which assigned. Usually he drove the private car of the assistant traffic manager, but he was also assigned to drive a station wagon. His daily hours of service appear to have been long and took him out early in the mornings.

Vergara did not have a robust constitution and was absent from duty because of illness on a number of occasions. Accordingly the management sent him to the company's physician for medical examination. Due to the report of the doctor, Vergara was first laid off to recuperate, but thereafter was sent for further consultation. The report of the physician at this time, it is claimed, was put in a sealed envelope and handed to Vergara to be delivered to the defendant company, but the documents never reached the company and he was dropped from the service.

Three physicians testified at the trial, one for the plaintiff and two for the defendant. They all agreed in substance that the plaintiff suffered from heart trouble and bad tonsils, and that the heart trouble was secondary and caused by the bad tonsils. The trial judge found, and we think his finding is supported by the evidence, that the illness of Vergara was not the necessary consequence of his labors, although exposure to the weather may have aggravated it.

The question then is if, under the Workmen's Compensation Act, as amended, an employee can recover for a disease, possibly occupational in nature, but not conclusively shown to be the result of the work done for the employer. The Workmen's Compensation Act of the Philippines is No. 3428, as amended by Act No. 3812. Section 2 of said amended law provides the grounds for compensation in the following language: "When any employee receives a personal injury from any accident due to and in the pursuance of the employment, or contracts any illness directly caused by such employment or the Result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified." From this provision of law, it naturally follows that compensation could be secured for (1) personal injury from an accident, or (2) illness directly caused by the employment or the result of the nature of such employment. However, while the first ground is fully covered by the remaining portions of the amended law, the second ground is only covered when the disease contracted causes death. We agree with counsel for the appellee that this result is anomalous, but it is the law and it is for the courts to interpret the law and not to make it.

The second ground for compensation being, therefore, of little value since plaintiff's disease did not cause death,

we have next to inquire if a disease can be held to be a personal injury from accident. Our researches disclose that disease may be an accidental injury within the meaning of the Workmen's Compensation Act. To be thus compensable the disease must come from, or be, an accident or injury arising from and in the course of employment. A general idiopathic disease is not within the compensatory provisions of the Workmen's Compensation Act. An idiopathic disease in the sense in which the term is used in the discussion of the cases is one which develops gradually or at least imperceptibly and, while it may be attributable to external conditions, is also dependent in part on conditions inherent in the individual. Disability resulting from pre-existing disease and not from an accident or injury and having only a casual connection between exposure and illness is not compensable. In the absence of a showing that the disease is an accident or injury or was caused by an accident or injury, compensation has been held not recoverable for such diseases as acute dilation of the heart, angina pectoris, and heart disease. To call the sequent heart disease of the plaintiff an accidental injury would be to distort the fair meaning of the statute and the underlying principle of compensation cases. (71 C. J., 584 et seq.; *Lerner vs. Rump Bros.* [1925], 241 N. Y., 153; 41 A. L. R., 1122; *Alday vs. City of Manila* [1933], No. 40036 [1])

We have heretofore given repeated evidence of our desire to see a spirit of liberality characterize the construction of the Workmen's Compensation Act. We have endeavored to interpret the Act to promote its purposes. We have even gone so far as to interpret it fairly in favor of the employee. But we cannot reconstruct the Act to fit particular cases, and in this particular case neither the facts nor the law are demonstrative of a meritorious claim on the part of the employee coming within the purview of the Workmen's Compensation Act.

While counsel for the plaintiff-appellant is to be commended for his diligence, yet after everything possible has been said on behalf of his client, it remains true that the judgment of the trial court is fundamentally sound and so should be, as it is hereby, affirmed, without special pronouncement as to the costs.

Villa-Real, Imperial, Butte, and Goddard, JJ., concur.

[1] Promulgated October 11, 1933 (58 Phil., 959).

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