

JUANA YAP DAES ET AL., PETITIONERS, VS. WE KO (ALIAS KUA), RESPONDENT.

G.R. No. 48817. January 22, 1943

Ponente: BOCOBO, J.

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BOCOBO, J.:

The petitioners, who are respectively the widow and children of Pedro Basa, brought an action under Act No. 1874 for damages in the amount of P2,000 for death of said Basa while working for the respondent.

It appears that the respondent was having some repairs done on his house. He engaged Basa to take from the river to his residence four logs which were needed, at a compensation of P1.20 per log. The deceased engaged three persons to help him. They succeeded in loading three of the logs on carts furnished by the respondent, but as they were trying to load the fourth log, it slipped down, and hit Basa, Killing him.

The Court of First Instance of Zambales dismissed the action. The Court of Appeals held that Basa was not an "employee" of respondent within the purview of Act No. 1874, and dismissed the case. Basa had been engaged to do one particular thing and was not subject to respondent's direction, the Court of Appeals said. That Court also held it was immaterial that at other times Basa had performed odd jobs for respondent and that latter had loaned the deceased two carts on which to load the logs.

We believe the Court of Appeal erred. Act No. 1874 does not require that the work should be more or less permanent. It is enough that the laborer is engaged to do any job for another person. The temporary or occasional character of the work is immaterial, for two reason:

- Act No. 1874 uses the term "employee" without any distinction between occasional or permanent employees. Ubilex non distinguit, nec nos distinguere debemus. It is significant that while the Workmen's Compensation Act (No. 3428) specifically excludes purely casual employment, Act No. 1874 on the other hand does not. It is thus plain that Act No. 1874 which applies only to mishaps in small industries and other activities in which the gross annual income is less than P20,000, is intended to safeguard all laborers. regardless of the duration or character of their employment. Finespun distinctions would fritter away the salutary substance of this law.
- Act No. 1874 being remedial legislation, envisaged to protect laborers, its scope must not be so limited as to defeat this paramount objective, unless its terms clearly warrant such restrictive interpretation.

However, the Court of Appeals made no finding of facts on the proximate cause of the slipping of the log which killed Basa. Was the misfortune due to the defective condition of the carts furnished by the respondent? Was the respondent remiss in regard to Basa's safety? Was the deceased exercising due care at the time? Without a specific finding by the Court of Appeals on these points, we cannot decide on respondent's liability under Act No. 1874. It is true that Act No. 2473 raises a presumption of neglect on the part of the employer, but the scanty statement of facts in the decision of the Court of Appeals is hardly sufficient to create such presumption.

Therefore, the judgment of the Court of Appeals is hereby reversed, but the case shall be remanded to that court

which should make findings as above indicated, and render decision accordingly, without special pronouncement as to costs. So ordered.

Yulo, C.J., Moran, Ozaeta and Paras JJ., concur.

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