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FIRST DIVISION

[G.R. No. L-38056. October 9, 1979]

ABRAHAM F. MALIC, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES, (Department of Justice),** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; PRESUMPTION OF COMPENSABILITY; AN EMPLOYEE IS FREED FROM THE BURDEN OF PROVING THAT HIS AILMENT WAS CAUSED OR AGGRAVATED BY THE NATURE OF HIS WORK, AS LONG AS DEATH OR ILLNESS SUPERVENED IN THE COURSE OF EMPLOYMENT.— It is established in a long line of cases, that an employee is freed from the burden of proving that his ailment was caused or aggravated by the nature of his work, as long as death or illness supervened in the course of employment. It is not, therefore, necessary for the Court to inquire into the exact cause of petitioner's ailment, for what is important is that said ailment occurred or was aggravated in the course of employment. Thus, Justice Makasiar speaking for the Court, stated, "that it has applied with pedantic rigor the aforesaid legal presumption of compensability even in the absence of a definite finding or knowledge of the precise medical cause of claimant's illness as long as the illness and/or death supervened in the course of employment. For precisely, the vital function of legal presumption is to dispense with the need for proof."

APPEARANCES OF COUNSEL

Antonio C. Evangelista for petitioner.
Porfirio C. Villanueva for respondent Commission.
Office of the Solicitor General for respondent Republic.

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DECISION

DE CASTRO, *J.*:

Petition for review of the decision dated July 18, 1973 of the Workmen's Compensation Commission which reversed the award of the Regional Office No. VII, Workmen's Compensation Unit, Iloilo City, granting petitioner disability compensation benefits under Sections 13 and 14 of the Workmen's Compensation Act, as amended.

On August 14, 1972, petitioner, a Deputy Provincial Sheriff of Iloilo City, filed with the Regional Office, a claim for compensation by way of reimbursement of his medical and hospitalization expenses after having undergone an operation of an ulcerated newgrowth at the middle third of jejunum, second portion of the small intestine which resulted in his incapacity for work. The referee sent a copy of said claim to the Department of Justice which was received by the latter on September 1, 1972. The then Undersecretary of Justice Catalino Macaraig, Jr. sent a Letter of Controversion on September 8, 1972 to the Regional Office in Iloilo City opposing the claim on the ground that there is no causal connection between the illness of claimant and the nature of his employment. On September 14, 1972, the Solicitor General mailed to the Regional Office a second indorsement dated September 13, 1972 together with copies of the Employer's Report of Accident or Sickness controverting the claim on substantially the same ground. (p. 104, WCC, Original Records)

The referee, finding the Notice of Controversion by the Solicitor General as out of time, treated the claim as non-controverted and rendered an award on October 17, 1972, granting claimant a total amount of ₱3,261.41 representing disability compensation benefits and reimbursement of expenses for medical services, appliances and supplies, and ordering respondent employer to pay ₱33.00 as administration fees pursuant to Section 55 of the Act. The Solicitor General sent by registered mail on November 10, 1972 a "Motion to Set Aside Decision" on the

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following grounds: (1) that the claim was duly controverted by respondent; (2) that the decision (award) was not supported by substantial evidence; and (3) that claimant was not entitled to reimbursement of medical expenses for failure to comply with the penultimate paragraph of Section 13 of Act 3438, as amended. Said motion was denied and the records were elevated to the Workmen's Compensation Commission for review.

The respondent commission on July 18, 1973 reversed the award and absolved the Republic from whatever liability under the aforementioned statute. The claimant moved for a reconsideration of said decision but the motion was denied by the Commission. Hence, the instant petition for review.

The first issue raised is whether the claim was properly controverted or not, notice of controversion by the Solicitor General having been admittedly filed beyond the reglementary period, although the Undersecretary of Justice sent a letter of controversion within the said statutory period. Under the ruling of *Republic vs. Hernando*[1] it would seem that the Solicitor General is the proper official to file the controversion, he being the one called upon to "act for and represent the Government, its officers and agents in any official investigation, proceedings or matter requiring the services of a lawyer." However, in *Lizardo vs. Republic*,[2] it was said that the duty to controvert the claim for compensation devolves upon the employer, or the heads of the departments, bureaus and offices concerned, not their counsel.

Whether ruling in the earlier case of *Republic vs. Hernando* has been superseded by the recent case of *Lizardo vs. Republic*, on the question of who can effectively controvert a claim for compensation, as between the employer or the counsel, is a question We need not now pass upon squarely, it appearing that the present petition is of sufficient merit on the basis of the presumption of compensability which has not been rebutted.

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[1] 99 Phil. 687.

[2] G. R. No. L-42995, March 14, 1979.

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In reversing the referee's award, the Commission ruled that contrary to petitioner's belief, his ailment is not peptic ulcer but some kind of a new growth of the small intestine and that his case does not fall within the protective mantle of the Act. It was stressed that there is yet no clear medical proof of petitioner's ailment so much so that whether he worked or not, the new growth would have progressed, and that the theory of presumption cannot apply in this case, considering that the nature of work of petitioner as Deputy Sheriff cannot even remotely contribute to the causation and/or aggravation of a new growth inside the abdominal cavity. (See Decision, p. 29, *Rollo*). Section 44 of the Act expressly provides that in the absence of substantial evidence to the contrary, it is presumed that the claim comes within the provisions of this Act. It is established in a long line of cases, that an employee is freed from the burden of proving that his ailment was caused or aggravated by the nature of his work, as long as death or illness supervened in the course of employment. It is not, therefore, necessary for the Court to inquire into the exact cause of petitioner's ailment, for what is important is that said ailment occurred or was aggravated in the course of employment.[3] Thus, Justice Makasiar speaking for the Court, stated, "that it has applied with pedantic rigor the aforesaid legal presumption of compensability even in the absence of a definite finding or knowledge of the precise medical cause of claimant's illness as long as the illness and/or death supervened in the course of employment. For precisely, the vital function of legal presumption is to dispense with the need for proof."[4]

Failing as it did to overturn this legal presumption of compensability by adducing clear and convincing evidence that petitioner's ailment was not attributable to the nature of his

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[3] G. B. *Francisco, Inc. vs. Workmen's Compensation Commission, et al.*, L-42565, November 21, 1978; *Aguirre vs. Workmen's Compensation Commission, et al.*, L-44115, November 17, 1978; *Sison vs. Workmen's Compensation Commission, et al.*, L-42817, November 29, 1978.

[4] *Mulingtapang vs. Workmen's Compensation Commission, et al.*, 80 SCRA 610, 615.

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employment, respondent employer may not be absolved from its liability to pay the compensation sought by the petitioner.

WHEREFORE, the decision dated July 18, 1973 of the Workmen's Compensation Commission is hereby set aside, and the Award dated October 17, 1972 of the referee is hereby reinstated *in toto*. No costs.

SO ORDERED.

Teehankee, Acting C.J., (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-27843. October 11, 1979]

CLARA TORELA AND SILVERIANA TORELA, *appellants-petitioners, vs.* **FELIMON TORELA, MARCIANA GEPANAGO AND MARCOS MAHILUM AND THE COURT OF APPEALS,** *appellees-respondents.*

SYLLABUS

1. **CIVIL LAW; CIVIL CODE OF THE PHILIPPINES; MARRIAGE; PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE; CONJUGAL PARTNERSHIP OF GAINS; PROOF THAT THE PROPERTY WAS ACQUIRED DURING THE MARRIAGE IS A CONDITION *SINE QUA NON* FOR THE APPLICATION OF THE PRESUMPTION.**— While it is true that all property of the marriage is presumed to be conjugal, as above stated, nonetheless the party who invokes the presumption must first prove that the property was acquired during the marriage. This