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2. TO REIMBURSE TO PETITIONER THE MEDICAL AND HOSPITAL EXPENSES OF THE LATE CLAIMANT, DULY SUPPORTED BY RECEIPTS;

3. TO PAY COUNSEL OF PETITIONER ATTORNEY'S FEES EQUIVALENT TO 10% OF THE RECOVERABLE AMOUNT; AND

4. TO PAY ADMINISTRATIVE FEES.

SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero, De Castro, and *Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-43080. January 31, 1979]

DIONISIA VDA. DE LOS SANTOS, for herself and in behalf of her minor children, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and SAN MIGUEL CORPORATION,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; MUST PASS THE ISSUE OF WHETHER OR NOT THE FINDING OF NON-CONTROVERSION IS FACTUALLY AND/OR LEGALLY SUPPORTED.** — In proceeding to reverse the Award of the Acting Referee, without passing upon the decisive issue of whether or not the finding of non-controversion is factually and/or legally supported, the respondent Commission gravely abused its discretion. With the Acting Referee's finding of non-controversion undisturbed, respondent Commission was without jurisdiction to look into the substantial merits of the claim, especially its compensability.

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2. **ID.; WORKMEN'S COMPENSATION; CLAIM FOR COMPENSATION; CONTROVERSION; PURPOSE.** — In a case of a controverted claim, the employer is entitled to raise and present evidence on the issue of compensability; while in a non-controverted claim, the employer, unless its right to controvert is successfully reinstated, is barred from raising that issue as the same is deemed waived or renounced by its aforestated failure to controvert. Consequently, the respondent Commission had no authority and therefore exceeded its jurisdiction when it proceeded to favorably consider respondent employer's defense of non-compensability of the illness of claimant without *a priori* finding of a valid controversion. Controversion is the medium by which the employer must make known its position on the claim — whether it admits liability or disclaims any. It thus serves to join the issue of the compensation case. The controversion, to be exact, stands as the answer of the employer to a compensation claim filed by an employee, which corresponds to the complaint in an ordinary civil case. Thus, it has been said that the language of Section 45 of the Workmen's Compensation Act, as amended, on controversion, may appear very sweeping and perhaps arbitrary to those who do not get the idea behind it. The provision proceeds from the assumption that as the employer has all the facilities which enable him, better than the injured, to determine whether a claim against him would lie under the circumstances attending any accident or ailment befalling the worker, it is his obligation to appraise the Commission of his determination whether to contest or not the injured worker's right to receive the benefits of the Act. If he sleeps on his right, he cannot subsequently be heard to complain that the law is hard against him.

3. **ID.; ID.; ID.; ID.; HOW RIGHT TO CONTROVERT REINSTATED.** — Under the law, the employer's right to controvert, lost by non-compliance can be reinstated only upon a verified petition to that effect, specifying therein the reason for its failure to controvert the right to compensation and the grounds relied upon to defeat the claim if its right is restored (Sec. 45, Workmen's Compensation Act, as amended; Sec. 3, Rule 10, 1973 Rules of the WCC).

4. **ID.; ID.; PRESUMPTION OF COMPENSABILITY; APPLICATION.** — The presumption of compensability verily obtains in favor of claimant where it is undisputed that his illness supervened

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in the course of his employment with respondent employer. With this presumption, respondent is burdened with the duty to overcome the same by substantial evidence. Failure of respondent employers renders the presumption of compensability, rebuttable at its inception, conclusive.

5. **ID.; ID.; DEATH BENEFITS; WHEN MAY BE AWARDED.** — Under Section 8 of the Workmen's Compensation Act, as amended, death benefits may be awarded if the diseases contracted or injury received by the employee as provided by Section 2 causes his death within two years from the date of such injury or sickness (disability).

APPEARANCES OF COUNSEL

Romeo T. Saavedra for petitioner.
Jorge Contreras for private respondent.

D E C I S I O N

MAKASIAR, *J.*:

This petition seeks to set aside the January 30, 1976 decision of the Workmen's Compensation Commission, hereinafter referred to as respondent Commission, which reversed the October 23, 1975 Award of the Acting Referee of Regional Office No. IV, Department of Labor, in RO4-WCC Case No. 139123, granting disability compensation benefits to claimant Dionisia *Vda.* de los Santos, herein petitioner.

In his lifetime, Aniceto de los Santos, husband of herein petitioner Dionisia Vda. de los Santos, was employed by San Miguel Corporation, hereinafter referred to as respondent employer. He started in 1940 as a laborer and subsequently became a forklift operator, which position he held up to July 9, 1970 when his services were terminated by respondent employer. He was then only over 50 years old.

On March 12, 1973, he filed a claim for disability benefits with the Workmen's Compensation Unit of the Department of Labor, Regional Office No. IV, claiming in substance that he

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suffered hypertension and other illnesses in December, 1964, which illnesses continued even until the filing of the compensation claim; and that he gave notice thereof to his manager, orally and in writing, also in December, 1964 (p. 66, WCC rec.), His SSS medical certificate dated December 18, 1972, which was made part of his compensation claim, revealed a final diagnostic finding of hypertensive cardio-vascular disease, congestive heart failure, prognosis — poor, and nature of disability as permanent total; and exact date of disability as July 9, 1970 (*id.*, pp. 66-67). The physician who prepared the aforesaid certificate described claimant's condition as "from bad to worse and needs complete rest and supplementary treatment" (*id.*, p. 66).

During the pendency of the compensation claim or specifically on June 1, 1974, claimant Aniceto de los Santos died. Accordingly, his widow, herein petitioner, moved to amend the claim so as to enable her and her dependent minor children — Cecilia, Aniceto II, Flordeliza, Marie Anne and Cleotilde — to claim both disability and death benefits in accordance with the doctrine laid down by the Court in *Vda. de Calado vs. WCC* (38 SCRA 567 [1971]) to the effect that sickness and death benefits are "distinct, separate and apart from each other" (WCC rec. p. 37). The Acting Referee allowed the amendment and accordingly ordered on December 11, 1974 the corresponding change in the title of the claim to read as "*Dionisia Vda. de los Santos, for herself and in behalf of her minor children claimants, vs. San Miguel Corporation, respondent*" (*id.*, p. 35).

On October 23, 1974, the Acting Referee, finding the claim not only uncontroverted, but also sufficiently established and substantiated by the evidence on record, ordered respondent employer to pay, among others, disability compensation benefits, but without death benefits, in the amount of Six Thousand (₱6,000.00) Pesos to claimant's surviving spouse and minor children. The Acting Referee did not order the payment of death benefits for the reason that the death of Aniceto de los Santos on June 1, 1974 was already more than two years after his disability on July 9, 1970. In so deciding, the Acting Referee declared:

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"The records show that the respondent was notified by registered mail on April 23, 1973 of the present claim, but has not controverted the same. To expedite this case, the parties were given the opportunity to settle and the respondent offered the sum of ₱2,000.00 as settlement which was refused by the claimant, hence, this Decision.

"Considering that there is no controversion in this case, an outright award may be given because the failure of the respondent to controvert the present claim resulted in the 'loss of all its non-jurisdictional defenses which include the admission of the compensability of the present claim, its reasonableness and validity' (*NDC vs. Esteban Galamgam*, L-29634, April 29, 1971, citing numerous cases earlier decided), and as such, claimant is entitled to 'disability benefits from date of sickness or forced resignation to the time of his death, where death took place after two years from date of sickness' (*Vda. de Calado vs. WCC*, L-26149, April 30, 1971).

"An examination of the records of this case and the evidence presented by claimant shows that even without lack of controversion in this case, the present claim is sufficiently proved, based on the following:

> "'Aniceto de los Santos worked with the SMC since 1940 as a laborer and on the date of his separation on July 9, 1970 due to his advanced sickness of hypertension and congestive heart disease, after a series of hospitalization at the company's hospitals at Makati Medical Hospital, Ocampo Clinic and St. Joseph's Clinic, he was a forklift operator earning ₱15.50 a day working six days a week. The respondent was required to produce the medical record of claimant but failed to do so. In any event, claimant's medical evidence (Exhibits B, C, D, D-1 & D-2) show that claimant is a 'known case of hypertension' (Exh. B); '*condition is of several years*, subject presently is in congestive heart failure manifested as dyspsea and leg edema. This after all may be the result of a sustained elevation of blood pressure for a *long, long time*' (Exh. C)'

which clearly shows that Aniceto was sick as claimed and which sickness supervened during the course of his employment with respondent and continued until his death (Exh. E). As held by our Supreme Court in the following cases where illness supervened during the course of employment, the claimant is relieved of the burden of

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proving causation, which is legally presumed and cannot be overcome by testimony of doctors to the contrary, to wit:

> "'It is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence. The mere opinion of its (employer) plant physician that there is no causal connection cannot prevail over said presumption' (*Maria Cristina Fertilizer Corp. v. WC*C, L-29998, Oct. 21, 1974; *Abana v. Quisumbing*, 22 SCRA 1278, 1282; *Magalona v. WCC*, L-21849, Dec. 11, 1967; *Justiniano v. WCC*, L-22774, Nov. 21, 1966; etc.).

"It being shown, however, that Aniceto died after two years from the date of his sickness, he is not entitled to death benefits under Sec. 8 of Act 3428, as amended, but is instead entitled to disability benefits from July 9, 1970 up to the time of his death on June 1,1974 (*Vda. de Calado v. WCC, supra*).

"x x x x x x x x x" (pp. 22-24, WCC rec.).

On November 28, 1975, respondent employer filed a motion for reconsideration, claiming that the claim was properly controverted and that there was lack of causal connection between the illness that caused claimant's death and his employment (pp. 7-21, WCC rec.). Petitioner filed her opposition to the aforesaid motion maintaining that the claim was compensable and uncontroverted (pp. 30-35, rec.).

Finding the motion without merit, the Acting Referee on December 3, 1975 denied the motion and ordered the records thereof elevated to the respondent Commission for review (p. 6, WCC rec.).

On January 30, 1976, the respondent Commission, treating *sub silentio* the issue of controversion reversed the aforesaid October 23, 1975 award and thereby absolved respondent employer from liability on the second issue raised — lack of causal connection between injury that caused claimant's death and his employment with respondent employer, thus:

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"Records show that the instant claim is anchored on the deceased's alleged sickness of hypertension and other illnesses allegedly acquired and/or either aggravated by or the result of the nature of the employment. The illness of hypertension is the transient elevation of blood pressure reading which is controllable by proper food and medication. It is the result of arteriosclerosis or the hardening of the blood vessel attributable to hereditary and ageing process. As to his sickness of heart disease, there is no competent medical evidence to show that an ECG examination was conducted on him prior to his death. There being no competent medical evidence to show that the deceased was suffering from any disabling illness which is traceable to his employment, this Commission, believes that this claim is not compensable under the law" (pp. 4-5, WCC rec.).

Hence, this petition.

The records patently show, and WE so rule, that the respondent Commission committed a grave abuse of discretion in reversing the award of the Acting Referee, which WE find in order as it is anchored on law and the controlling jurisprudence on workmen's compensation cases.

I

1. In proceeding to reverse the October 23, 1975 Award of the Acting Referee, without passing upon the decisive issue of whether or not the finding of non-controversion is factually and/or legally supported, the respondent Commission gravely abused its discretion. With the Acting Referee's finding of non-controversion undisturbed, respondent Commission was without jurisdiction to look into the substantial merits of the claim, especially its compensability. For it is basic that the decisive point of every compensation claim is its controversion or lack of it as the issues and defenses that can be raised or availed of by the employer in the proceedings are dependent on said controversion or non-controversion. In a case of a controverted claim, the employer is entitled to raise and present evidence on the issue of compensability; while in a non-controverted claim, the employer, unless its right to controvert is successfully reinstated, is barred from raising that issue as the same is deemed waived or renounced by its aforestated failure to controvert.

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Consequently, the respondent Commission had no authority and therefore exceeded its jurisdiction when it proceeded to favorably consider respondent employer's defense of non-compensability of the illness of claimant without *a priori* finding of a valid controversion.

The records reveal that the respondent employer failed to timely, properly and effectively controvert claimant's right to compensation. And the Acting Referee made an express finding on this matter, which on review by the respondent Commission was not disturbed, as it passed upon it *sub silentio* despite the fact that the respondent employer squarely raised said question as it claimed that it had controverted the claimant's right to compensation.

In its comment before this Court, the respondent employer had reiterated its claim that it controverted the claimant's right to compensation. In its memorandum submitted pursuant to the resolution of this Court, however, it did not pursue the matter. Instead, it posited the ingenious theory that since the respondent Commission had found that the claimant did not suffer from any compensable illness or disease while in the course of his employment with respondent employer, it was obvious that the Workmen's Compensation Commission felt it unnecessary to discuss whether the claim has been duly controverted or not since in any compensation claim, the decisive factor is the existence of some illness or disability on the part of the employee. Reduced simply, what respondent employer's counsel is saying is that controversion or lack of it is material or important only when there is some compensable illness or disability. Respondent employer's counsel is patently wrong. For precisely, that controversion is the medium by which the employer must make known its position on the claim — whether it admits liability or disclaims any. It thus serves to join the issue of the compensation case. The controversion, to be exact, stands as the answer of the employer to a compensation claim filed by an employee, which corresponds to the complaint in an ordinary civil case. Thus, it has been said that the language of Section 45 of the Workmen's Compensation Act, as amended, on controversion,

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may appear very sweeping and perhaps arbitrary to those who do not get the idea behind it. The provision proceeds from the assumption that as the employer has all the facilities which enable him, better than the injured, to determine whether a claim against him would lie under the circumstances attending any accident or ailment befalling the worker, it is his obligation to apprise the Commission of his determination whether to contest or not the injured worker's right to receive the benefits of the Act. If he sleeps on his right, he cannot subsequently be heard to complain that the law is hard against him (Morable and Inton, The Workmen's Compensation Act, p. 194).

Furthermore, the argument of counsel for respondent employer smacks of absurdity. For to follow his theory is to permit an incongruous situation whereby an employer, suffering from the predicament of non-controversion, is allowed to cleanse himself thereof, by the simple expedient of permitting him to prove a defense which in the first place had been foreclosed by his failure to controvert. As previously stated, the failure to controvert results in the renunciation of defenses available to the employer, including the defense that the illness subject matter of the claim is not compensable.

Moreover, the theory posed by counsel for respondent employer will have the effect of relieving the defaulting employer of the effects and consequences of non-controversion without complying with the strict requirements of the Act on the matter. Under the law, the employer's right to controvert, lost by non-compliance, can be reinstated only upon a verified petition to that effect, specifying therein the reason for its failure to controvert the right to compensation and the grounds relied upon to defeat the claim if its right is restored (Sec. 45, Workmen's Compensation Act, as amended; Sec. 3, Rule 10, 1973 Rules of the WCC). The records of the instant case do not show any petition to that effect. Neither does the respondent Commission refer to any; nor does the respondent employer claim that it had successfully filed one. Consequently, the respondent employer's right of controversion cannot be *motu proprio* reinstated or assumed by the respondent Commission absent

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any motion for reinstatement; nor can it look into the question of compensability of the illness of claimant without *a priori* determination that the Acting Hearing Officer's finding that the claim for compensation was uncontroverted is erroneous. As long as the claim is uncontroverted, the issue of compensability is barred. The issue of compensability cannot be revived unless and until the right to controvert is reinstated and exercised.

2. Likewise on claimant's side is the presumption of compensability which verily obtains in his favor as it is undisputed that his illness supervened in the course of his employment with respondent employer. The award of the Acting Referee has adverted to this, laying as well the applicable law and jurisprudence on the matter which, however, was conveniently overlooked by the respondent Commission. With this presumption, respondent is burden with the duty to overcome the same by substantial evidence which it failed to do. This failure of respondent employer rendered the presumption of compensability, rebuttable at its inception, conclusive (*Parian vs. WCC*, G.R. No. L-42433, August 23, 1978; *Cañonero vs. WCC*, 3 PHILAJUR, 236; 81 SCRA 712 [1978]; *Gonzales vs. WCC*, 3 PHILAJUR 229; 81 SCRA 703 [1978]; *Santos vs. WCC*, 75 SCRA 365, 370 [1977]).

Moreover, the disability of the late Aniceto de los Santos and its linkage to his employment are demonstrated by the evidence which was never rebutted by respondent employer.

The late Aniceto de los Santos was hired as a laborer in August, 1940 by respondent employer, presumably in good health as he was then only over 20 years old. Later, he became a forklift operator. Over twenty-four years thereafter, or in December, 1964, he got sick of hypertension; despite which he persisted working so as to feed his family, although intermittently he went on sick leave, by reason of which his condition became worse as his illness was finally diagnosed as hypertension cardio-vascular disease, causing him to go on extended leave of absence until he consumed all his sick leave. Finally, the respondent employer terminated his services at age 50 on July 9, 1970, because he was no longer capable of pursuing

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his work as forklift operator as he was already a total wreck. This fact is clear even from the respondent employer's letter of termination to Aniceto, thus: "x x x You have already exhausted all your accrued sick leave credits having taken a total of 438 days of sick leave during the period of your employment. In view thereof and pursuant to Article VII of our Health, Welfare and Retirement Plan, we are constrained to retire you from the service effective July 9, 1970 x x x" (p. 27, WCC rec.). In the same letter, respondent employer likewise expressed its "x x x appreciation for the loyal and satisfactory service x x x" of Aniceto de los Santos, who on July 28, 1970 received from respondent employer the total amount of Twelve Thousand Seven Hundred Eighty Seven and 50/100 Pesos (₱12,787.50) "x x x *in full and complete payment of all my retirement benefits*" (p. 28, WCC, rec.; *italics* supplied).

As a laborer and forklift operator, the late Aniceto de los Santos was always exposed not only to the elements — dust, heat and rain — but also to the gas from the forklift engine as well as to the heat emanating therefrom. Thus, as described by his surviving spouse in her affidavit: "x x x 4. *Na bilang* forklift operator, *siya ay palaging nakabilad at nauulanan, nalalanghap niya ang usok ng* forklift motor; *palaging basa ang likod at pagod dahilan sa maraming trabaho sa opisina hanggang sa siya'y magkasakit ng* hypertension; 5. *Bagaman may sakit na si Aniceto siya ay nagpatuloy pa rin sa trabaho dahilan siya lamang ang naghahanaphubay sa pamilya at noong* 1968 *siya ay inatake habang nasa* forklift *nagmamaneho at nasobsob na lamang at dinala ng* San Miguel *sa* Makati Medical Center *at ipinagamot, at nagmula noong siya mayat-mayat nagkakasakit at nagpapahospital sa* Makati Medical Center, *sa* Ocampo Clinic, St. Joseph's Clinic, *hanggang sa siya's alisin sa trabaho dahilan sa siya'y wala ng leave of absence at nagleleave dahilan sa kanyang sakit na* hypertension; 6. *Na noong magkasakit sa puso*, hypertension *at naospital, ang San Miguel ang nagbayad noon sa* Makati Medical Center and Ocampo Clinic *ngunit nang alisin siya sa trabaho noong Hulyo 9, 1970, siya ay hindi binigyan ng tulong at bagkos lumala ng lumala ang kanyang sakit,*

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ng siya'y tanggalin sa trabaho ng walang tulong na ibinigay; 7. *Na ang kanyang sakit na* hypertension *ay lumala ng lumala at nagpaospital siya sa PGH ng kung saan napatunayang siya ay 'known case of hypertension' at madaling mapagod, napaparelitico at ang kanyang puso ay masamang-masama na* (Exhibit B); *na pinatunayan ni* Dr. C. Y. Santiago *ng* Phil. General Hospital; 8. *Na pinatunayan din ni* Dr. Marcial Cenido *na si* Aniceto *ay isang casong* hypertensive cardio-vascular disease *at* congestive heart failure, with manifest dyspsea and leg edema; *na ang kaso niya ay pagrabe nang pagrabe* (Exhibit C); 9. *Na ng siya'y maospital sa* Phil. General Hospital, *siya ay binigyan ng* clinical records *doon na nagpapatunay sa kanyang sakit at mga gamot na ibinibigay* (Exhibit D, D-1 & D-2); x x x" (Exhibit I, pp. 58-59, WCC rec.).

Verily, the nature of Aniceto's work as well as the pressure and the environmental circumstances of his work caused the weakening of his body until he developed hypertension and cardio-vascular disease that led to his separation from the service by reason of disability and ultimately to his death.

3. It is not true as declared by the respondent Commission that there was no competent medical evidence to show that the deceased was suffering from any disabling illness which is traceable to his employment. Claimant's medical evidence was even mentioned by the Acting Referee in his award as Exhibits B, C, D, C-1 & D-2 (pp. 23, 24, 42-47, WCC rec.), upon which he relied as respondent employer failed to produce claimant's medical record in the possession of the company's hospitals.

Parenthetically, this Court hereby expresses its displeasure over the unexplained failure of respondent employer to produce the medical record of the late Aniceto de los Santos, despite the request of the Acting Referee (Decision of the Acting Referee, p. 23, WCC rec.; pp. 12, 24 and 61, rec.). Counsel for petitioner charged in his pleadings before the respondent Commission that Aniceto de los Santos' "x x x medical records at the company hospitals or Makati Medical Center, Ocampo Clinic and St. Joseph's Clinic cannot be released or certified to claimant because of instructions from respondent x x x"

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(p. 31, rec.; p. 40, WCC rec.). No denial of this charge came from respondent employer and its counsel. While this matter was not brought out squarely before US, WE noted it in passing to impress upon employers and their lawyers that such actuations, if true, serve to aggravate the said plight of the lowly workers as well as to hamper the prompt disposition of compensation claims, demanded by the social justice guarantee enjoined by the supreme law of the land.

4. The Acting Referee denied the additional claim for death benefits for the reason that the death of the late Aniceto de los Santos on *June 1, 1974* took place more than two years after his disability on June 9, 1970. Under Section 8 of the Workmen's Compensation Act, as amended, death benefits may be awarded if the disease contracted or injury received by the employee as provided by Section 2 causes his death within two years from the date of such injury or sickness (disability). His heirs, herein petitioners, were however granted disability benefits from his disability on June 9, 1970 up to the time of his death on June 1, 1974. Petitioner did not dispute the award as aforestated.

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY REVERSED AND SET ASIDE AND THE RESPONDENT SAN MIGUEL CORPORATION IS HEREBY ORDERED.

A. TO PAY PETITIONER THE SUM OF SIX THOUSAND (₱6,000.00) PESOS AS DISABILITY BENEFITS;

B. TO REIMBURSE PETITIONER THE MEDICAL AND HOSPITAL EXPENSES INCURRED BY THE DECEASED CLAIMANT, DULY SUPPORTED BY PROPER RECEIPTS;

C. TO PAY ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF THE RECOVERABLE AMOUNT; AND

D. TO PAY THE SUCCESSOR OF THE DEFUNCT RESPONDENT COMMISSION ADMINISTRATIVE FEES.

SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero, De Castro, and *Herrera, JJ.*, concur.