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FIRST DIVISION

[G.R. No. L-42455. February 28, 1979]

ERNESTO CERCADO, *petitioner-appellant*, *vs.* **DE DIOS TRANSPORTATION COMPANY, INC.**, *respondent-appellee*.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; CLAIM FOR COMPENSATION; AGREEMENT ABSOLVING THE EMPLOYER FROM LIABILITY, NULL AND VOID.** — Sections 7 and 29 of the Workmen's Compensation Act lay down the clear and unmistakable expressions of public policy that any contract, regulation or device of any sort intended to exempt the employer from all or part of the liability created by this Act shall be null and void. Thus, where claimant is entitled to full disability compensation of ₱6,000, a Quitclaim which absolves respondent after payment of ₱800.00 and which has the effect of releasing the employer from its liability for the unpaid balance of the compensation due claimant, is violative of Section 7 and 29 of the Workmen's Compensation Act and therefore null and void.

2. **ID.; ID.; ID.; REQUISITES OF AGREEMENT SETTLING CLAIMS AMICABLY.** — Under Section 29 of the Workmen's Compensation Act, two requisites must be fulfilled for any agreement concerning compensation to be valid, namely: the amount agreed upon must be at least equal to that provided by the Act, and the agreement must be approved by the Workmen's Compensation Commissioner or his authorized representative. These limitations imposed by law on the right of the parties to settle amicably should be viewed in the light of the avowed policy of the Workmen's Compensation Act of securing the employee and his dependent from becoming objects of charity. The law frowns upon any agreement, scheme or device seeks to exempt the employer from any liability under the Act either partially or totally and condemns such as nullities.

3. **ID.; ID.; ID.; LAW SEEKS TO COMPENSATE IMPAIRED EARNING CAPACITY.** — Where it appears that the employee became afflicted with bronchial asthma in the course of his

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employment, but due to his need for earning a livelihood he continued working until the progress of his ailment was such that he could no longer cope with the physical demands of his work and had to leave his employment, there been as impairment of his earning capacity, which the law seeks to compensate.

4. ID.; ID.; DISABILITY BENEFITS; AMOUNT OF COMPENSATION. — Petitioner is entitled to ₱6,000.00 under Section 14 of the Workmen's Compensation Act. In addition, he is entitled to such services and supplies as the nature of his disability and progress of recovery may require under Section 13 of the same Act. However, the sum of ₱800.00 which petitioner's first counsel received from respondent should be deducted from the amount of P6,000.00 to which petitioner is entitled under the Act. Counsel would refund said amount to petitioner.

5. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; PETITION FILED BEYOND REGLEMENTARY PERIOD TO PERFECT APPEAL TREATED AS PETITION FOR RELIEF. — Where the petition for review on *certiorari* was filed with the Supreme Court twenty-seven (27) days late, said petition, may, in the interest of substantial justice and equity, particularly considering that the Supreme Court had declared the Quitclaim deed a nullity, and bearing in mind that the Rules are suppletory to the Workmen's Compensation Commission Rules (see Rule 28) be treated as a petition for relief under Rule 38 of the Rules of Court, which can be filed within sixty (60) days after petitioner learns of the order or proceeding to be set aside, and not more than six (6) months after such order was entered or such proceeding was taken; in which case, the petition shall have been filed well within said period.

6. ID.; ID.; PARTIES; FAILURE TO IMPLEAD WORKMEN'S COMPENSATION COMMISSION, NOT FATAL. — Although the Workmen's Compensation Commission had not been impleaded as a party respondent in a petition to review its decision, said Commission must be deemed impleaded in the spirit of Act No. 3428 which seeks to promote the expeditious disposal of workmen's compensation cases.

APPEARANCES OF COUNSEL

Bernardo M. Aquino for appellant.

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DECISION

MELENCIO-HERRERA, *J.*:

This is a Petition for Review[1] of the Decision of the Workmen's Compensation Commission dismissing petitioner's claim for compensation against respondent company.

The factual antecedents follow: petitioner started working as a driver of respondent bus company on February 29, 1961. According to petitioner, he used to work seven days a week at ₱18.00 a day. According to the employer, he was working on commission basis on an average of three days a week at ₱12.00 per day.

During his term of employment, petitioner began to suffer the effects of asthma and he received medical attention from Dr. Juan Barretto, a physician in the employ of respondent bus company.

Petitioner stopped working on February 24, 1973 and on April 11, 1973, he filed with Regional Office No. 1 (Dagupan City), Department of Labor, a "Notice of Injury or Sickness and Claim for Compensation" due to bronchial asthma allegedly incurred in the course of his employment as a driver of respondent. That claim was controverted as non-compensable by respondent on the ground that "the alleged 'bronchial asthma,' if true, is due to allergy, and not 'to prolonged and/or overtime work and other unknown factors.'" On March 26, 1974, petitioner, assisted by counsel, Atty. Arsenio Cabanting, executed a "Quitclaim with Motion to Dismiss" subscribed and sworn to before the Chief of the Workmen's Compensable Unit, Dagupan City, Atty. Pedro L. Fernandez, reading as follows:

"I, ERNESTO CERCADO, to this Honorable Commission respectfully states that:

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[1] Treated as a Special Civil Action in the Resolution of August 13, 1976.

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1. That I received complete compensation from respondent the De Dios Transportation Company, Inc., as separation pay and full settlement of my claim;

2. That I no longer have any claim or cause of action whether for unpaid wages, overtime, workmen's compensation and other arising from my previous employment with said company.

WHEREFORE, it is most respectfully prayed of this Honorable Commission to dismiss the above-entitled case with prejudice.

Dagupan City, Philippines, March 26, 1974.

(SGD.) ERNESTO CERCADO
Claimant

ASSISTED BY COUNSEL:
(SGD.) ATTY. ARSENIO CABANTING
WITNESS
(SGD.) ILLEGIBLE

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1974.

(SGD.) ILLEGIBLE
Administering Officer"[2]

On the same date of March 26, 1974, petitioner also executed a Special Power of Attorney authorizing his counsel to receive the money or check in settlement of his claim against respondent and to sign the necessary papers for the release and discharge of the latter from any further liability.[3]

It appears that, on March 28, 1974, petitioner's counsel Atty. Arsenio Cabanting, received the sum of ₱800.00 from respondent in settlement of petitioner's claim against the latter.[4] On April 19, 1974, the "Quitclaim with Motion to Dismiss" was filed with the Regional Office.

On May 6, 1974, petitioner executed an Affidavit alleging that the "Quitclaim with Motion to Dismiss" was signed by

[2] p. 47, WCC Records.

[3] p. 46, WCC Records.

[4] p. 59, WCC Records.

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him upon the advice of his counsel who, however, did not translate nor explain the contents to him; that he did not appear before the Administering Officer before whom the document was subscribed; and that he did not receive any amount from respondent in settlement of his claim. At the hearing of the "Quitclaim with Motion to Dismiss" on July 11, 1974, petitioner, through another counsel, Atty. Bernardo Aquino, moved to withdraw said Motion.

In an Order dated August 19, 1974, Hearing Officer Adriano H. Pasaoa dismissed the case on the ground that petitioner had already received full settlement of his claim.[5] Petitioner's Motion for Reconsideration of said Order having been denied, the records of the case were elevated to the Workmen's Compensation Commission for review. On September 9, 1975, the Commission rendered a Decision affirming the Order of dismissal.

In this Petition, it is prayed that the Commission's Decision be set aside as the "Quitclaim with Motion to Dismiss," on which it is based, is contrary to Sections 7 and 29 of the Workmen's Compensation Act.

Were this an ordinary civil action, the admission by petitioner of satisfaction of his claim against respondent would be sufficient ground for the dismissal of the case. The rule is, however, different in workmen's compensation cases, for the law protects the workingman, his family and his dependents by providing safeguards with respect to agreements of this kind.

Sections 7 and 29 of the Workmen's Compensation Act, quoted hereunder, lay down clear and unmistakable expressions of public policy:

"Sec. 7. *Contract prohibited.* — Any contract, regulation or device of any sort intended to exempt the employer from all or part of the liability created by this Act shall be null and avoid."

"Sec. 29. *Agreement on compensation.* — In case the employer and the injured laborer or the dependents entitled to compensation

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[5] pp. 91-93. WCC Records.

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arrive at an agreement concerning the compensation provided for by this Act, such agreement in order to be valid, shall provide, at least, the same amount of compensation as that prescribed by this Act and must be approved by the Workmen's Compensation Commission, or any of his authorized representative; Provided, however, That the employer shall be exempt from all liability under this Act as soon as the compensation has been paid in accordance with this section, saving the provisions of section six of this Act. (As amended by Section 9 of Act No. 3812 and by Section 17 of Republic Act No. 772)"

Under the last cited section, two requisites must be fulfilled for any agreement concerning compensation to be valid, namely, the amount agreed upon must be at least equal to that provided by the Act, and the agreement must be approved by the Workmen's Compensation Commissioner or his authorized representative. As held in *National Mirror Factory vs. Vda. de Anure*, 27, SCRA 719 (March 28, 1969):

"x x x These limitations imposed by law on the right of the parties to settle amicably should be viewed in the light of the avowed policy of the Workmen's Compensation Act of securing the employee and his dependent from becoming objects of charity. The law frowns upon any agreement, scheme or device which seeks to exempt the employer from any liability under the Act either partially or totally and condemns such schemes as nullities."

Guided by the foregoing criteria, the question to resolve is whether or not the amount of ₱800.00 received by petitioner in full settlement of his claim against respondent is more or less equal to that provided for by the Workmen's Compensation Act.

In his "Notice of Injury or Sickness and Claim for Compensation," petitioner claimed that the illness incurred by him in the course of his employment, that is, bronchial asthma, caused him disability for labor. We uphold this view. Petitioner became afflicted with bronchial asthma sometime in January, 1969 in the course of his employment as driver of respondent bus company. Due to his need for earning a livelihood, however, he continued working until February 24, 1973 when the progress

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of his ailment was such that he could no longer cope with the physical demands of his work and had to leave his employment. Thus, there had been an impairment of his earning capacity, which is what is being compensated.

Respondent's position that asthma, being what it termed an "allergic disease" is not compensable, is without merit. Thus, in *Pillsbury Mindanao Flour Milling Co. vs. Murillo*,[6] we upheld the award of disability compensation for claimant's ailment brought about by repeated attacks of bronchial asthma, which caused his separation from work. And in *Hortizuela vs. Workmen's Compensation Commission*,[7] we reinstated the award of the referee of disability compensation for bronchial asthma, as a result of which claimant obtained optional retirement, thereby recognizing her physical incapacity to render further efficient service. Indeed, the life and limb of passengers would be seriously endangered should an asthmatic driver of a passenger bus suffer an attack of his illness on the road and lose control of the bus.

Under the circumstances, petitioner is entitled to the maximum disability compensation of ₱6,000.00 under Section 14 of the Workmen's Compensation Act.[8] In addition, he is entitled to such services and supplies as the nature of his disability and process of recovery may require under Section 13 of the same Act.[9] Inasmuch as under the Quitclaim deed petitioner received only the amount of ₱800.00 in full settlement of his claim against respondent, that deed must be declared a nullity under Sections 7 and 29 of the Workmen's Compensation Act as it has the effect of releasing respondent from its liability for the unpaid balance of the compensation due petitioner. However, the sum of ₱800.00 which petitioner's first counsel, Atty. Cabanting, received from respondent should be deducted from the amount

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[6] L-32300, January 31, 1978, 81 SCRA 306.

[7] L-43211, January 31, 1978, 81 SCRA 306.

[8] *Bello vs. Workmen's Compensation Commission*, 80 SCRA 153 (1977).

[9] *Ibid.*

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of ₱6,000.00 to which petitioner is entitled under the Act. Atty. Cabanting should refund said amount to petitioner.

In its Comment to this Petition, respondent insinuates that said Petition has not been seasonably filed. The records show that the Petition for Review was filed with this Court only on February 4, 1976 or twenty-seven (27) days late, as his last day within which to perfect an appeal was January 8, 1976, considering his Motion for Extension of ten (10) days from December 29, 1975 within which to do so, and which we granted in a Resolution dated January 16, 1976.

Be that as it may, in the interest of substantial justice and equity, particularly considering that we have declared the Quitclaim deed a nullity, and bearing in mind that the Rules of Court are suppletory to the Workmen's Compensation Commission Rules (see Rule 28), we are treating this as a petition for relief under Rule 38 of the Rules of Court, which can be filed within sixty (60) days after petitioner learns of the order or proceeding to be set aside, and not more than six (6) months after such order was entered, or such proceedings was taken; in which case, this Petition shall have been filed well within said period.

We also note that the Workmen's Compensation Commission has not been impleaded herein as a party respondent. In the spirit of Act No. 3428, however, which seeks to promote the expeditious disposal of workmen's compensation cases, said Commission must be deemed impleaded, at the same time that we hereby fix the compensation to which petitioner is entitled without remanding the case for hearing on the merits.

WHEREFORE, the Decision of the Workmen's Compensation Commission dismissing petitioner's claim for compensation is hereby set aside and respondent is hereby ordered: 1) to pay petitioner (a) Five Thousand Two Hundred Pesos (₱5,200.00) as disability benefits; (b) expenses, if any, incurred for medical and hospital services in connection with his illness, duly supported by receipts; and (c) attorney's fees of Six Hundred Pesos (₱600.00) for Atty. Bernardo Aquino;

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2) to provide petitioner continuous medical and hospital services and supplies as the nature of the ailment may require should the illness still subsist; and 3) to pay the Workmen's Compensation Commission Sixty One Pesos (₱61.00) as administrative fees.

Attorney Arsenio Cabanting shall refund the amount of ₱800.00 to petitioner, if he has not done so.

No costs.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. L-42774. February 28, 1979]

MANILA TIMES PUBLISHING CO., INC., *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and NITTO P. ITONA,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; CLAIM UNDER THE UNFAIR LABOR PRACTICE DISTINCT FROM CLAIM UNDER THE WORKMEN'S COMPENSATION ACT.** — The fact that upon the dismissal of an unfair labor practice case filed by the employee against the employer, the employee received the amount of ₱8,000 representing the employee's increase in salary, bonus and living allowance, the receipt of such amount does not preclude the employee from claiming compensation under the Workmen's Compensation Act for disability resulting from illness.

2. **ID.; EMPLOYER-EMPLOYEE RELATIONSHIP; NOT TERMINATED WHERE EMPLOYER CONTINUED ITS**