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FIRST DIVISION

[G.R. No. L-25756. January 24, 1975]

INSULAR LUMBER COMPANY, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION AND JOSE QUINTO,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; NOTICE OF INJURY; DELAY IN GIVING NOTICE OF INJURY TO EMPLOYER, WHEN EXCUSABLE.**— The claim was indeed filed beyond the two-month period prescribed by Section 24 of the Compensation Act, since the respondent's affliction was already known in July 1950 and the notice of sickness and claim for compensation was filed only on April 21, 1960. However, it has been held that delay does not constitute a bar to the proceeding if it is shown, as in this case, that the employer had knowledge of the injury, sickness or death for which the compensation is claimed, or that the employer did not suffer by such delay or failure.

2. **ID.; ID.; RIGHT OF CONTROVENSION; FAILURE OF THE EMPLOYER TO CONTROVERT THE EMPLOYEE'S RIGHT TO COMPENSATION WITHIN TEN (10) DAYS FROM THE DISCOVERY OF THE SICKNESS WAS HELD TO BE A WAIVER OF THE RIGHT.**— It was incumbent upon the petitioner to controvert the right to compensation on or before the fourteenth day of disability, or within ten (10) days from July 27, 1950, when the company physician discovered that the respondent was suffering from pulmonary tuberculosis. Its letter-controversion of July 20, 1960 was beyond the period fixed in Section 45 of the Compensation Act. Such failure has been held to be a waiver of the right of the controversion.

3. **ID.; ID.; RIGHT TO COMPENSATION; WAIVER OF EMPLOYEE'S RIGHT TO COMPENSATION WAS RENDERED INEFFECTUAL; CASE AT BAR.**— The petitioner next contends that the respondent waived or renounced his claim or right to compensation when he signed the cash voucher dated May 10,

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1952 wherein he declared that in consideration of the payment shown opposite his name, he had no more claims of whatsoever nature against the petitioner. Such waiver was of no effect, in the light of Section 7 of the Compensation Act, which states that "(A)ny 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."

APPEARANCES OF COUNSEL

Ramon U. Joseph for petitioner.
Rodolfo B. Garbanzos, Jr. for private respondent.

D E C I S I O N

MAKALINTAL, *C.J.:*

This is a petition for review of the decision dated December 14, 1965 of the Workmen's Compensation Commission as well as of its resolution *en banc* dated February 8, 1966 denying the petitioner's motion for reconsideration.

The respondent Jose Quinto was an employee of the petitioner Insular Lumber Company, working as a moulder in its foundry shop since 1925 until 1950, when he was promoted to *capataz*.

On July 27, 1950 a chest X-ray examination of the respondent showed that he was afflicted with a far-advanced pulmonary tuberculosis, for which he was hospitalized and treated by the company physician. He resumed working thereafter until May 10, 1952, when he was discharged from employment because subsequent X-ray examinations showed that he was still suffering from the same ailment.

On April 21, 1960 the respondent filed the required notice of injury or sickness and claim for compensation. The petitioner, in its letter-controversion dated July 20, 1960, denied the respondent's claim on the following grounds: (!) the respondent's illness was not directly caused by his employment; neither was it aggravated thereby nor did it result from the nature thereof;

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and (2) the claim was barred under Section 24 of the Compensation Act for having been filed out of time.

The claim was heard before Reuben Borres, hearing officer, who on June 24, 1964, rendered a decision ordering the petitioner to pay the respondent the amount of ₱4,000.00 as compensation benefits.

On review the Commission affirmed the decision of the hearing officer, but reduced the amount of the award to ₱3,000.00, the maximum allowed under the old Compensation Law which was in force at the time of the respondent's separation from employment.

The petitioner in this appeal does not assail the compensability of the respondent's illness. It maintains that the claim was filed out of time and that it has been renounced, waived or otherwise extinguished.

The claim was indeed filed beyond the two-month period prescribed by Section 24 of the Compensation Act, since the respondent's affliction was already known in July 1950 and the notice of sickness and claim for compensation was filed only on April 21, 1960. However, it has been held that delay does not constitute a bar to the proceeding if it is shown, as in this case, that the employer had knowledge of the injury, sickness or death for which the compensation is claimed, or that the employer did not suffer by such delay or failure.

"x x x The sole and only purpose in requiring early notice of injury and filing of a claim within the brief periods fixed in the Act, is to afford the employer the earliest opportunity to investigate the facts relating to the injury and to duly controvert or oppose the claim in connection therewith, thereby making it as hard as it is possible to do so for any false fabricated or excessive claim to be made and paid. Accordingly, where such opportunity appears to have been opened or afforded to the employer, it does not matter that the statutorily required notice has not been given by the injured party or the ones supposed to act for him. Thus, by express provision of the Act, 'failure to (give) or delay in giving notice shall not be a bar to the proceeding if it is shown that the employer, his agent or representative had knowledge of the accident or that the employer

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did not suffer by such delay or failure.' x x x." (*Vda. de Calado vs. Workmen's Compensation Commission,* April 30, 1971, 38 SCRA 567, 574-578).

Furthermore, it was incumbent upon the petitioner to controvert the right to compensation on or before the fourteenth day of disability, or within ten (10) days from July 27, 1950, when the company physician discovered that the respondent was suffering from pulmonary tuberculosis. Its letter-controversion of July 20, 1960 was beyond the period fixed in Section 45 of the Compensation Act. Such failure has been held to be a waiver of the right of controversion.[1]

The petitioner next contends that the respondent waived or renounced his claim or right to compensation when he signed the cash voucher dated May 10, 1952 (Exhibit 1) wherein he declared that in consideration of the payment shown opposite his name, he had no more claims of whatsoever nature against the petitioner. Such waiver was of no effect, in the light of Section 7 of the Compensation Act, which states that "(A)ny 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."

WHEREFORE, the decision appealed from is affirmed, with costs against the petitioner.

Castro, Teehankee, Makasiar, Esguerra, and *Muñoz Palma, JJ.,* concur.

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[1] *Pioneer Ceramics, Inc. vs. Eliseo O. Samia, et al.*, 33 SCRA 487, 491.