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FIRST DIVISION

[G.R. No. L-43235. December 18, 1979]

PATERNO VILLAREAL, *petitioner, vs.* **THE WORKMEN'S COMPENSATION COMMISSION and CITY OF CALOOCAN (HEALTH DEPARTMENT),** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; EFFECT OF FAILURE TO CONTROVERT THE CLAIM; EXCEPTION.**— By failing to controvert the claim, the respondent, City of Caloocan (Health Department), waived all defenses, except lack of jurisdiction, available to it.

2. **ID.; ID.; WHEN THE ILLNESS SUPERVENED DURING ONE'S EMPLOYMENT, THE DISPUTABLE PRESUMPTION OF COMPENSABILITY ARISES; EFFECT.**— The pulmonary tuberculosis of Paterno Villareal supervened during his employment with the City of Caloocan (Health Department). Hence, there is a disputable presumption that the claim is compensable. The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. The burden of proof is shifted to the employer to show that the sickness is not compensable.

APPEARANCES OF COUNSEL

Juan R. Moreno for petitioner.
Amado B. Criscini, Jr. for respondent City of Caloocan.

D E C I S I O N

FERNANDEZ, *J.*:

This is a petition for review of the decision of the Workmen's Compensation Commission in R04-WC Case No. 126196 entitled "*Paterno Villareal, Claimant, versus, City of Caloocan,*

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Respondent" affirming the order of the Acting Referee of Workmen's Compensation Unit, Regional Office No. 4, Manila, dismissing the claim and absolving the City of Caloocan (Health Department) from any liability.[1]

On August 2, 1971 Paterno Villareal filed with Regional Office No. 4, of the Department of Labor, Manila, a Notice of Injury or Sickness and Claim for Compensation based on his work-connected disease of pulmonary tuberculosis which allegedly incapacited him for labor against the City of Caloocan (Health Department).[2]

The respondent, City of Caloocan (Health Department), did not controvert the claim within the reglementary period.[3]

After hearing, the Acting Referee of Regional Office No. 4 dismissed the claim for insufficiency of evidence.

The claimant, Paterno Villareal, filed a motion for reconsideration dated January 2, 1976.[4] Said motion was denied and the case was elevated to the Workmen's Compensation Commission which affirmed the decision of the Acting Referee and absolved the City of Caloocan (Health Department) from any liability.[5]

The only issue is whether or not the illness of Paterno Villareal of pulmonary tuberculosis is compensable.

The record shows that Paterno Villareal retired as laborer from the City of Caloocan (Health Department) on July 5, 1970 because of illness. According to the Notice of Injury or Sickness and Claim for Compensation, his illness of pulmonary tuberculosis supervened on January 18, 1969 during the employment of

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[1] Annex "D-1", *Rollo*, pp. 18-19.

[2] Annex "A", *Rollo*, p. 15.

[3] Annex "C", *Rollo*, pp. 15-16.

[4] *Ibid.*

[5] Annex "D-1", *Rollo*, pp. 18-19.

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Paterno Villareal in the City of Caloocan (Health Department). Therefore, the contention that the claim for compensation was filed out of time is not meritorious because:

"Private respondent's stance that petitioner's claim has prescribed is without merit. In *Romero v. Workmen's Compensation and Republic of the Philippines (Bureau of Public Schools)*, No. L-42617, June 30, 1977, 77 SCRA 482, 487, We ruled as without merit the Solicitor General's contention that the filing by claimant of notice for compensation beyond the reglementary period of two months as provided by Section 24 of the Workmen's Compensation Act, as amended, was fatal to the success of the claim; that said defense is not jurisdictional; and that the statutory right to compensation prescribes in ten (10) years. Citing the Romero case, We reiterated in *Cañonero vs. Workmen's Compensation Commission and Republic of the Philippines (Bureau of Public Schools)*, No. L-43880, February 28, 1978, 81 SCRA 713, 720, that the contention of respondent employer that the filing of the claim for compensation only after the lapse of more than seven (7) years from the time of disability or illness in violation of Section 24 of the Workmen's Compensation Act, as amended, was fatal to its success is, likewise, without merit. It must be underscored that pursuant to Article 1144 (2) of the Civil Code, the compensation under the Workmen's Compensation Act is a liability vested by statute which prescribes in 10 years.

"When does the 10-year statutory period to file a compensation claim under the Workmen's Compensation Act commence? This question was resolved in *Superior Concrete Products, Inc. v. WCC and Carmelito Benoza*, No. L-42020, March 31, 1978, 82 SCRA 270, 278, wherein We ruled that the ten-year prescriptive period for compensation cases commences from the time the employee is disabled to pursue his occupation by reason of illness. Thus, We enunciated:

'The claim for compensation benefits filed by private respondent Benoza has not prescribed. Petitioner asserts that inasmuch as the claimant alleges that he became sick with pulmonary tuberculosis in February of 1963, the claim for compensation has long prescribed and the employee is guilty of laches since the latter filed the claim for the first time only in April of 1971.

'Although the herein claimant became ill in February of 1963, however, it was only in March of 1967 when he became disabled from work, and inasmuch as it is the employee's disability to pursue

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his occupation by reason of illness which entitles him to compensation, Benoza's cause of action accrued only in March of 1967, consequently, the filing of his claim in April of 1961, was well within the ten-year prescriptive period for compensation cases of this nature.'"[6]

The allegation of the respondent, City of Caloocan (Health Department), that there was no showing that the claimant was suffering from pulmonary tuberculosis when he was separated from the service is flimsy and weak. Tuberculosis is not an instantaneous disease. It is an imperceptible disease that is breathed in and feeds on the lungs. Its incipient stage may not readily be discovered. Exposure to dust and dirt is a predisposing cause of tuberculosis and tends to produce fibrosis of the lungs which weakens the resistance to any latent tuberculosis infection. The causal connection between the claimant's ailment and the nature of his employment as laborer is easily discernible. It is apparent that his illness supervened in the course of such employment and was directly caused or either aggravated by or was the result of such employment.

By failing to controvert the claim, the respondent, City of Caloocan (Health Department), waived all defenses, except lack of jurisdiction, available to it.[7]

Moreover, the pulmonary tuberculosis of Paterno Villareal supervened during his employment with the City of Caloocan (Health Department). Hence, there is a disputable presumption that the claim is compensable.[8] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. The burden of proof is shifted to the employer to show that the sickness is not compensable.[9]

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[6] *Leonardo vs. Workmen's Compensation Commission*, 88 SCRA 58, 63-64.

[7] *Consolacion Bautista vs. Workmen's Compensation Commission, et al.*, 88 SCRA 121.

[8] Section 44. *Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission*, 18 SCRA 677.

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It appears that Paterno Villareal died on August 12, 1974. The cause of death was "Cardio Resp. Failure, PTB Emaciation."[10]

In view of the nature of the illness of Paterno Villareal, his heirs are entitled to the maximum disability benefit of ₱6,000.00.

WHEREFORE, the decision of the Workmen's Compensation Commission sought to be reviewed is hereby set aside and the City of Caloocan (Health Department) is ordered:

1) To pay the heirs of Paterno Villareal the amount of Six Thousand Pesos (₱6,000.00) as disability benefit;

2) To pay the heirs of Paterno Villareal the sum of Six Hundred Pesos (₱600.00) as attorney's fees; and

3) To pay the successor of the Workmen's Compensation Commission the amount of Sixty-one Pesos (₱61.00) as administrative fee.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

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[9] *Balanga vs. Workmen's Compensation Commission, et al.*, 83 SCRA 721.

[10] Annex "B", *Rollo*, p. 14.