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FIRST DIVISION

[G.R. No. L-38231. November 21, 1979]

PHILIPPINE TRUST CO., *petitioner*, *vs.* **WORKMEN'S COMPENSATION COMMISSION, CONCEPCION L. VDA. DE HANDINERO; in her own behalf and in behalf of her minor children namely; NAMELY; MARIA CORAZON, MARIA EDITA, PEDRO and SYLVIA, all surnamed HANDINERO, and PAMA SPECIAL WATCHMAN AGENCY**, *respondents*.

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; STATUTORY EMPLOYER MAY FILE A CLAIM FOR REIMBURSEMENT FROM THE DIRECT EMPLOYER FOR THE DEATH COMPENSATION IT PAID TO THE LATTER'S EMPLOYEE; CASE AT BAR.— The demand of Philippine Trust Co. by way of crossclaim against the PAMA Special Watchmen Agency for reimbursement of the various above amounts that it had been ordered to pay to the other private respondents as statutory employer of the deceased Jesus Handinero is, however, well taken. Under petitioner's contract for security guard service with said PAMA Special Watchmen Agency, the latter agency had contractually assumed sole responsibility for all liabilities under the labor laws, including the Workmen's Compensation Act, that may be claimed by the security guards assigned to petitioner. As the Court held in *Aboitiz & Co., Inc. vs. Workmen's Compensation Commission*, 70 SCRA 611-613 (1976), "(W)hile petitioner was statutorily liable for the death compensation for purposes of the Workmen's Compensation Act, still the security agency should be held ultimately liable as the direct employer who employed and furnished the security guard in pursuance of its business of providing business establishments with the services of security guards. Furthermore, as already indicated, the security agency was contractually liable to hold petitioner safe and harmless from any such claims by virtue of the agency's express contractual undertaking to assume sole and ultimate liability therefor."

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DECISION

FERNANDEZ, *J.*:

This is a petition to review the decision of the Workmen's Compensation Commission in RO4-WC Case No. 7690 (Jesus Handinero, Deceased), entitled "*Concepcion L. Vda. de Handinero, in her behalf and in behalf of her minor children Maria Corazon, Maria Edita, Pedro and Sylvia, all surnamed Handinero, Claimants, versus, Pama Special Watchman Agency and Philippine Trust Company, Respondents*," the dispositive part of which reads:

"WHEREFORE, premises duly considered, the decision appealed from is hereby AFFIRMED, with some modifications as to attorney's fees and costs, and the respondent PHILIPPINE TRUST COMPANY is hereby ordered:

1) To pay the claimants herein, CONCEPCION L. *VDA. DE* HANDINERO and her minor children named-above, through this Commission and in lump sum, the total amount of SIX THOUSAND PESOS (₱6,000.00) as death compensation benefits under Sections 8, 9, and 12 of the Act, as amended;

2) To pay to claimant CONCEPCION L. *VDA. DE* HANDINERO, also in lump sum and through this Commission the additional amount of TWO HUNDRED PESOS (₱200.00) as reimbursement for burial expenses incurred under Section 3 of the same Act;

3) To pay to claimants counsel of record Atty. Nicasio M. Helgado as his attorney's fees, the sum of SIX HUNDRED PESOS (₱600.00) or ten percent of the amount due the claimants under Section 31 of the said Act; and

4) To pay the Workmen's Compensation Fund of this Commission the total amount of SIXTY SIX PESOS (₱66.00) as administrative cost, pursuant to Section 65 of the same Act.

SO ORDERED.

Quezon City, June 11, 1973."[1]

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[1] *Rollo*. p. 77.

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The private respondent, Concepcion L. *Vda. de* Handinero, is the widow, and the other respondents, Maria Corazon, Maria Edita, Pedro and Sylvia, all surnamed Handinero, are the children of the deceased, Jesus Handinero, who died on May 7, 1968 while he was employed as watchman of the petitioner, Philippine Trust Company.

On June 25, 1968, the private respondents, as claimants, filed a complaint dated June 21, 1968 against the Pama Special Watchman Agency and Cirilo Pama seeking to recover death compensation benefits by reason of the death of Jesus Handinero during his employment with the respondent agency. The Acting Referee rendered a decision dated January 14, 1969 finding that the respondent agency was the employer of Jesus Handinero. However, on January 2, 1970, an amended claim was filed by the claimants including as respondent Philippine Trust Company.

On February 19, 1970, the Philippine Trust Company, now petitioner, filed its answer with crossclaim against respondent Pama Special Watchman Agency.[2]

The Acting Referee rendered a new decision dated October 11, 1971 absolving the respondent Pama Special Watchman Agency from any liability and holding the Philippine Trust Company, now petitioner, liable for the sums sought to be recovered in the amended complaint.[3]

The Philippine Trust Company appealed to the Workmen's Compensation Commission which affirmed with modifications the decision of the Acting Referee.

The facts, as found by the Workmen's Compensation Commission, are:

"It appears that Jesus Handinero was one of the numerous watchmen of respondent PAMA or AGENCY for short, since April of 1952. He was assigned as such watchman at the Philippine Trust Company at Plaza Goiti, Manila with a tour of duty from 8:00 in the

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[2] Exhibit "F", *Rollo*, pp. 45-49.

[3] Exhibit "G", *Rollo*, pp. 50-58.

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morning up to 6:00 in the afternoon and his last rate of salary was ₱250.00 a month. It goes without saying that when Handinero entered the employ of PAMA he was then in perfect health, free from any sickness or ailment. Then, gradually, or about 2 months before his death, Handinero had been complaining of some bodily manifestations, which he never had before, prompting him to engage the professional services of Dr. Marcial Canida of Paco, Manila.

Records further show that on May 6, 1968, Jesus Handinero at around 6:00 o'clock in the morning, reported for work, as usual. While he was thus working at about 11:00 o'clock in the morning of the same day, Handinero suffered a stroke and he was brought to the Philippine General Hospital. Cirilo Pama, the owner of the Agency, and Atty. Inocencio R. Seranilla went to Handinero's house and informed claimant herein, Concepcion L. *Vda. de* Handinero, about the matter. The two fetched the said widow and accompanied her to the hospital where the late watchman was still unconscious and could not move, so Concepcion was not able to talk to her husband anymore, while her husband was confined at the emergency ward of said hospital till evening, for later on, Handinero was transferred to the San Juan de Dios Hospital for further medication and he was attended by Dr. Conrado del Rosario. Despite, however, continuous medical care and treatment, Handinero never regained consciousness and died the next day, May 7, 1968 at about 7:00 o'clock in the evening due to cerebral hemorrhage. (Exhibit B) The sum of ₱680.00 was incurred for burial expenses paid to Funeraria Tres Amigos. (Exhibit C).

Jesus Handinero was survived by claimant-widow, Concepcion L. *Vda. de* Handinero, his legal wife (Exhibit A) and their five (5) children, namely Maria Gloria, who was already of age at the time her father died; Maria Edita (July 24, 1952 — Exhibit D-3); Pedro (March 1, 1954 — Exhibit D); Maria Corazon (November 23, 1956 — Exhibit D-1); and Sylvia (November 3, 1960 — Exhibit D-2), all surnamed Handinero and all living with and fully dependent upon the late watchman for support, during his lifetime and immediately before he died."[4]

The petitioner, Philippine Trust Company, contends that it is not the employer of the deceased Jesus Handinero because of its contract with the Pama Special Watchman Agency, the pertinent portions of which are;

[4] *Rollo*. pp. 73-75.

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"3. That the guard or guards assigned or to be assigned shall be the exclusive employees of the AGENCY, and in no case or way may the guard or guards be accommodated or considered by the COMPANY as its employees.

4. That the term of this contract shall be from month to month, and may be terminated by either of the parties upon thirty (30) days notice in writing made to the other party prior to the end of the month.

5. That the AGENCY shall comply strictly at its own expense, risk and responsibility with the provisions of the minimum wage law and the workmen's compensation law, and all other laws, orders or circulars relating to employees and/or laborers; and the bond to be furnished by the AGENCY shall also guarantee the payment of any sum that the COMPANY might pay by reason of non-compliance with, or violation of, said laws, orders, or circulars by the AGENCY; *provided*, that the working hours of the guard or guards furnished by the AGENCY shall be fixed by the COMPANY; *provided further*, that the payment for overtime work and compliance with the Eight Hour Labor Law shall be at the expense and responsibility of the AGENCY."[5]

It is argued that under Section 39 of the Workmen's Compensation Commission Act, as amended, Jesus Handinero was the employee of the Pama Special Watchman Agency.

It is a fact that the late Jesus Handinero was one of the several security guards of Pama Special Watchman Agency assigned to the petitioner's place of business. His tour of duty was from 8:00 o'clock in the morning up to 6:00 o'clock in the afternoon. It was Handinero's duty to guard the premises of the Philippine Trust Company and protect its main business.

Actually, therefore, the job of Jesus Handinero as watchman was a part of the petitioner's banking business. It was the duty of the watchman to keep peace and order within the premises of the bank and see to it that the lives of the bank officials and the bank's properties were fully protected. Hence, the Philippine Trust Company may properly he considered as the statutory employer of Jesus Handinero.

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[5] Exhibit "A", *Rollo*, pp. 27-30.

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In *Universal Corn Products, Inc. versus Workmen's Compensation Commission, et al.*,[6] this Court ruled:

"We sustain the award in favor of the private respondent. Notwithstanding the terms and conditions of the contract with the International Watchman Agency, the petitioner was the employer of the deceased Ricardo Ramos within the purview of Section 39 (a) of the Workmen's Compensation Act x x x."

"There is no question that 'the main business of the petitioner is the milling and manufacture of various corn products, while the security guards were furnished by the International Watchman Agency to guard and protect the petitioner's warehouses, materials, machineries, and buildings. Specifically, Hearing Referee made the following findings regarding the nature of work performed by the deceased Ricardo Ramos: 'As such security guard, the deceased's work consisted in guarding the premises of the respondent company, conducting inspections on outgoing and incoming trucks and persons. While in the performance of his work as such security guard, he was closely under the supervision of the proper authorities of the respondent company. The security guards were not provided with arms by respondent company; they, however, were provided with patches on their uniforms bearing the emblem of the company as well as that of the security agency. 'Furthermore, the respondent Commission found that the petitioner 'indispensably needed the services of the security guards, x x x, to protect its business interest.' Under the foregoing circumstances, it is evident that the work of the deceased was part of the usual business of the petitioner. Consequently, even if the petitioner was not the direct employer of the deceased Ricardo Ramos in view of the intervention of an independent contractor, it was still the statutory employer and therefore liable for the compensation claimed.'[7]

The demand of Philippine Trust Co. by way of crossclaim against the PAMA Special Watchmen Agency for reimbursement of the various above amounts that it had been ordered to pay to the other private respondents as statutory employer of the deceased Jesus Handinero is, however, well-taken. Under

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[6] 57 SCRA 51.

[7] 57 SCRA 54-55.

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petitioner's contract for security guard service with said PAMA Special Watchmen Agency, the latter agency had contractually assumed sole responsibility for all liabilities under the labor laws, including the Workmen's Compensation Act, that may be claimed by the security guards assigned to petitioner. As the Court held in *Aboitiz & Co., Inc. vs. Workmen's Compensation Commission*, 70 SCRA 611-613 (1976), "(W)hile petitioner was statutorily liable the death compensation for purposes of the Workmen's Compensation Act, still the security agency should be held ultimately liable as the direct employer who employed and furnished the security guard in pursuance of its business of providing business establishments with the services of security guards. Furthermore, as already indicated, the security agency was contractually liable to hold petitioner safe and harmless from any such claims by virtue of the agency's express contractual undertaking to assume sole and ultimate liability therefor."

WHEREFORE, the decision of the Workmen's Compensation Commission is hereby affirmed with the modification that judgment is also rendered, sentencing respondent PAMA Special Watchmen Agency to reimburse and pay petitioner Philippine Trust Co. all the amounts adjudged against said petitioner in respondent commission's appealed decision.

SO ORDERED.

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