EN BANC

G.R. No. 236263 – OCEANMARINE RESOURCES CORPORATION v. JENNY ROSE G. NEDIC, on behalf of her minor son, JEROME NEDIC ELLAO

Promulgated:

July 19, 2022

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CONCURRENCE

LAZARO-JAVIER, *J.*:

The relevant provisions of law are Article 1711 of the *Civil Code* and Title II, Book IV of the *Labor Code*, specifically Article 172, Article 173(k), (l), (m), (n), and (o), and Article 179.

Article 1711 reads:

> Owners of enterprises and other employers are obliged to pay compensation for the **death of or injuries to their laborers, workmen, mechanics** or **other employees**, *even though the event may have been purely accidental or entirely due to a fortuitous cause*, **if the death or personal injury arose out of and in the course of the employment**. The employer is also liable for compensation if the employee contracts any **illness or disease caused by such employment** or **as the result of the nature of the employment**. If the mishap was due to the employee's own notorious negligence, or voluntary act, or drunkenness, the employer shall not be liable for compensation. When the employee's lack of due care contributed to his death or injury, the compensation shall be equitably reduced. (Emphases ours)

On the other hand, the relevant provisions in Title II, Book IV state:

> ARTICLE 172. Policy. — The State shall promote and develop a **tax-exempt employees' compensation program** whereby employees and their dependents, in the event of **work-connected disability or death**, may promptly secure adequate **income benefit**, and **medical or related benefits**. (Emphases ours)
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> ARTICLE 173. Definition of Terms. — As used in this Title, unless the context indicates otherwise:

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(k) **"Injury** means any harmful change in the human organism from any **accident arising out of and in the course of the employment.**

(l) **"Sickness"** means any illness definitely accepted as an **occupational disease** listed by the Commission, or any **illness caused by employment**, subject to proof that **the risk of contracting the same is increased by working conditions**. For this purpose, the Commission is empowered to **determine and approve occupational diseases and work-related illnesses** that may be considered compensable based on **peculiar hazards of employment**.

(m) **"Death"** means **loss of life resulting from injury or sickness**.

(n) **"Disability"** means **loss or impairment of a physical or mental function resulting from injury or sickness**.

(o) **"Compensation"** means **all payments made under this title** for income benefits, and medical or related benefits. (Emphases ours)

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ARTICLE 179. Extent of Liability. — Unless otherwise provided, **the liability of the State Insurance Fund** under this Title **shall be exclusive** and **in place of all other liabilities of the employer to the employee or his dependents** or anyone **otherwise entitled to recover damages** on behalf of the employee or his dependents. The payment of compensation under this Title shall not bar the recovery of benefits as provided for in Section 699 of the Revised Administrative Code, Republic Act numbered eleven hundred sixty-one, as amended, Republic Act numbered six hundred ten, as amended, Republic Act numbered forty-eight hundred sixty-four, as amended, and other laws whose benefits are administered by the System or by other agencies of the government. (Emphases ours)

Implied Repeal of Article 1711 by Title II, Book IV

The elements of a cause of action under Article 1711 are, as follows:

1. The aggrieved party is a laborer, [worker], mechanic or any other employee.
2. The nominal respondent is the owner of the enterprise or any other employer obliged to pay compensation; the actual respondent is the State Insurance Fund.
3. The claim is for illness, disease, injury or death.
4. The injury or death arose out of and in the course of the employment, or the illness or disease was caused by such employment or as the result of the nature of the employment, *that is*, an "occupational disease" as determined and listed by the Employees Compensation

Commission, or where the risk of contracting the illness is increased by working conditions.

5. The relief is compensation or "all payments made under [Title II] for income benefits, and medical or related benefits."

Recently, then Senior Associate Justice (now retired) Estela M. Perlas-Bernabe explained the rationale for Title II, Book IV, especially Article 179 on the extent of liability of an employer to a worker who has been sickened or afflicted or injured or has died as a result or arising out, and in the course, of the employment:

> Anent the death compensation/benefits, the NLRC aptly noted that while Reynaldo was indeed employed by DMCI as a seafarer, it must nevertheless be pointed out that he was merely deployed in an inter-island vessel sailing domestic waters. This being the case, his employment was not covered by any POEA-Standard Employment Contract typical to employment contracts involving seafarers sailing in international waters — a contract which specifically contains provisions which make an employer liable should a seafarer perish while on duty. **Absent any specific provision in his employment contract** with DMCI, Reynaldo's **death on duty is governed by the Labor Code, particularly, Articles 174, 178, 179, and 200 (a) [formerly Articles 168, 172, 173, and 194 (a)]** thereof. In this regard, **case law instructs that "[t]he clear intent of the law is that the employer should be relieved of the obligation of directly paying his employees compensation for work-connected illness or injury on the theory that this is part of the cost of production or business activity; and that no longer would there be need for adversarial proceedings between an employer and his employee in which there were specific legal presumptions operating in favor of the employee and statutorily specified defenses available to an employer."** Hence, **"[o]nce the employer pays his share to the fund, all obligation on his part to his employees is ended."** Given the foregoing, the Labor Tribunals correctly ruled that DMCI is not liable for Reynaldo's death benefits as it is the State Insurance Fund, more particularly the SSS, which is liable therefor.
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> **Anent petitioner's claim for damages arising from DMCI's purported negligence which resulted in Reynaldo's death, the NLRC correctly ruled that petitioners' allegations** in their Position Paper before the LA **make out a cause of action for a tort, which is cognizable not by the labor tribunals, but by the regular courts.** On this note, **while the maintenance of a safe and healthy workplace is ordinarily a subject of labor cases, case law nevertheless clarifies that a claim specifically grounded on the employer's negligence to provide a safe, healthy and workable environment for its employees is no longer a labor issue, but rather, is a case for quasi-delict which is under the jurisdiction of the regular courts**, as in this case. Hence, **should petitioners wish to pursue this cause of action against DMCI, it should file the proper case therefor before the regular courts.**[1]

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[1] *The Heirs of Andag v. DMC Construction Equipment Resources Inc.*, G.R. No. 244361, July 13, 2020.

I agree with the the ruling in ***The Heirs of Reynaldo Andag***. Title II, Book IV of the *Labor Code* was enacted to **relieve** every employer contributing to the State Insurance Fund of the **obligation of directly paying its employees compensation** for **work-connected illness or injury**. The **theory** is that this **cost** is **part of the cost of production** or **business activity** that is **efficiently distributed** through the system of an insurance fund.

For this reason, I agree with the ponencia that Article 1711 of the *Civil Code* has been **impliedly repealed** by Title II, Book IV of the *Labor Code*. The latter has **occupied the whole field** which Article 1711 had originally covered – the whole subject matter of compensation for work-related injury or death of an employee and the system for which an injured or deceased worker is compensated.

I **cannot think** of any set of facts that would fall under Article 1711 that is **not** about work-related injury, illness, or death, which Title II, Book IV has saw fit to legislate about and impose a rule of exclusivity. Article 1711 speaks to **no other** cause of action but the ones laid down in the elements I have listed above. There is **no claim** under Article 1711 that would **not also be the ones compensable** under Title II, Book IV.

This opinion is consistent with then Associate Justice (now Senior Associate Justice) Leonen's astute observation in his concurrence in ***Unduran v. Aberasturi***[2] that Congress can transfer otherwise essentially judicial adjudicatory powers to administrative agencies:

> However, there is a trend towards the specialization of regular courts of justice. Today, we have specialized Family Courts, environmental salas, and commercial courts, among others. Recently, we authorized the designation of specialized cybercrime courts.
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> Furthermore, under the supervision of the Supreme Court, we have the Philippine Judicial Academy (PHILJA) that routinely holds courses on very specialized subjects. The requirements for taking the bar have been liberalized. Consequently, the basic training of judges is now different from what it was when this Court found the basis for quasi-judicial jurisdiction. Now, we have judges who are also trained engineers, molecular biologists, math majors, economists, and psychologists, apart from those who specialize in political science or philosophy. While administrative agencies with quasi-judicial powers were an initial modality to deal with modernity, they would not be the only exclusive approach.
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> In my view, **the power of the Judiciary to adjudicate remains vulnerable unless we shape the parameters for granting quasi-judicial jurisdiction to administrative agencies with greater clarity and precision**. The grant of judicial power to the Judiciary cannot be

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2 808 Phil. 795, 835-836 (2017).

undermined by Congressional action through the unbounded transfer of adjudicatory powers to quasi-judicial administrative agencies.

In my view, **controversies may be adjudicated by administrative agencies only when the resolution of conflicts among parties are necessary in order that the Executive department can implement a program mandated by law**. For instance, conflicting applications of two (2) applicants to the same bandwidth may be settled by an administrative body because it is necessary to comply with the **standards and procedures for allocating a scarce resource**. In the same manner, a controversy between two (2) mining companies over the same meridional blocks should be settled first by an administrative agency to allow the Executive to determine the company that **will assist in the enjoyment and exploitation of our mineral resources under a production sharing or joint venture arrangement** within the limitations provided by law. Conflicting claims between two (2) groups of farmers claiming tenancy rights or the status of agrarian reform beneficiaries must be settled by an administrative agency so that the owners of a Certificate of Land Ownership Award (CLOA) could be determined. This is **instrumental to achieve the objectives of the agrarian reform program** set by the Constitution and specified by law.

It is **not only that the resolution of a conflict requires specialized knowledge**. In order that adjudication can be **constitutionally carved out of the judicial sphere and initially put within administrative purview**, there **must also be a clear showing that the resolution of the conflict is necessary to pursue the implementation of a program provided by law**. (Emphases ours)

This precisely is the context of Title II, Book IV in relation to Article 1711. As already mentioned in ***The Heirs of Reynaldo Andag,*** Congress agreed to formulate a scheme that would be **fair and humane to workers** as well as **efficient and predictable to capitalists**. The transfer of jurisdiction from courts, as necessarily implied from the remedial scheme in Article 1711, to the Employees Compensation Commission, the Social Security System and the Government Service Insurance System under Title II, Book IV, was meant to address a joint executive-legislative program of rationalizing compensation mechanisms for work-related illnesses, injuries, or deaths.

Therefore, the ruling on the implied repeal of Article 1711 as now expressly determined is consistent with both statutory and case law. It is substantively correct, and as regards pleading practice, consistent with common sense. The *ponencia* is also correct when it held that the Court of Appeals erred on a question of law when it still recognized a cause of action under Article 1711 and awarded damages under this non-existent cause of action.

Cumulative Remedies for Tort and Work-Related Benefits

True, a claim for damages is merely alternative to a claim under Title II, Book IV of the *Labor Code*. The *ponencia* held –

> .... Injured workmen or employees, however, have the option to file an action for damages under the Civil Code against their employer instead of a claim for compensation under the Labor Code, subject to the consequence that **the choice of one remedy will exclude the other**, pursuant to *Floresca*. This is further subject to the exception that an injured worker or employee who has received compensation under the Labor Code may still file an action for damages under the Civil Code **if such worker or employee learns of the employer's negligence only after receiving compensation under the former remedy**....

To begin with, Article 1711 cannot co-exist with Title II, Book IV of the *Labor Code* by virtue of the latter's Article 179. As well, Article 1711 encompasses **no other cause of action** except work-related illnesses, injuries, or deaths that the pertinent provisions in the *Labor Code* now cover.

But as ***The Heirs of Reynaldo Andag*** has held, if the pleading pleads a **cause of action for tort**, say the tort of **negligence** or the tort of **human relations**, or **breach of contract**, the cause of action **survives** Title II, Book IV of the *Labor Code*. This means that the aggrieved employee can claim actual, moral, exemplary and other forms of damages **for this tort or breach**.

Note though that jurisdiction for these causes of action of **tort** or **contract breach** depends on a case-by-case basis. As observed in ***Gemudiano, Jr. v. Naess Shipping Philippines, Inc.***,[3] there are cases which hold that the **existence of an employer-employee relationship does not negate the civil jurisdiction** of the trial courts.[4] The test is whether the cause of action **has or has no reasonable connection with any of the claims provided for in Article 223**[5] of the *Labor Code*. If there is **no such reasonable connection**, jurisdiction over the action is with the **regular courts**.

The point is that **for these causes of action of tort of negligence, tort of human relations**, or **breach of contract, NOT** the cause of action

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3 G.R. No. 223825, January 20, 2020.

4 See *e.g.*, *Georg Grotjahn GMBH & Co. v. Isnani*, 305 Phil. 231 (1994); *Singapore Airlines Ltd. v. Paño*, 207 Phil. 585 (1983); *Philippine Commercial International Bank v. Gomez*, 773 Phil. 387 (2015).

5 The claim must have a reasonable connection with: (1) Unfair labor practice cases; (2) Termination disputes; (3) If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment; (4) Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations; (5) Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and (6) Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), regardless of whether or not accompanied with a claim for reinstatement.

under Article 1711, the aggrieved employee or the latter's heirs **may claim under both** Title II, Book IV ***and*** the *Civil Code* provisions whether in relation to or independent of Article 223 of the *Labor Code*. This is ***if*** the work-related injury involved negligence, breach of human relations, or breach of contract.

Here, the cause of action for the tort alleged by respondent was based **solely** on the fact that the deceased employee had been killed in the course of his employment – a claim for damages **simply arising** from the fact that *the deceased was an employee of the defendant employer*. This is clear from the facts narrated in the *ponencia*.

It appears therefore that the claim in this case **should have been commenced** pursuant to Title II, Book IV of the *Labor Code* with the Social Security System, **not under Article 1711** which no longer exists. The cause of action was **not** for the tort of negligence as there was even **no allegation of negligence** on the part of the deceased employee's employer. The claim was **purely and simply for a work-related death** that was compensable under Title II, Book IV and not for any other cause of action. The proper forum was not the trial court but the mechanisms for relief in the *Labor Code*. **If** the cause of action were for tort of negligence or tort of human relations, or breach of contract, the claim could have prospered independently of the work-related death of the employee. But this was **not** the case here.

Appropriate Relief for the Deceased Employee's Heirs

I believe that the proper administration of justice is to give effect to the **rule of law** as it existed prior to the present *ponencia*. Under this rule of law, the aggrieved employee or the latter's heirs may claim under Article 1711, *Civil Code* **or** Title II, Book IV, *Labor Code*.

The ***then existing*** **rule of law** was the ruling in ***Candano Shipping Lines, Inc. v. Sugata-on***[6] which the *ponencia* is **now expressly abandoning** to which I **absolutely agree**. In other words, when respondent sought the remedy of filing a civil case on the basis **solely** of Article 1711, the ***then prevailing law*** was ***Candano***, *then rightly* or *wrongly*, **but now definitely *erroneously***. Thus, respondent cannot be faulted for resorting to a remedy that the Court *then* offered to her.

To stress, I concur with the *ponencia* that this **faulty** ruling in ***Candano*** should no longer be the case. **From here on**, there should no longer be *that* choice between Article 1711 and Title II, Book IV. The legislative purpose of Article 1711 was not only to be fair and humane to the aggrieved worker

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6 547 Phil. 131 (2007).

but also to promote efficiency and predictability for the capitalists. This arose from the theory that work-related benefits to injured, deceased, or ill workers are part of the costs of production. We **cannot** accomplish this purpose if Article 1711 and Title II, Book IV would still stand side-by-side together and the choice given to the worker. We cannot blame the worker for wanting more benefits but this would be anathema to the legislative intent behind the compensation scheme.

To reiterate, in ***Floresca v. Philex Mining Company***,[7] the Court declared that **employees** may **invoke either** the ***Workmen's Compensation Act*** **or the provisions of the *Civil Code***, *subject to the consequence* that the **choice of one remedy will exclude the other** and that the **acceptance of the compensation under the remedy chosen will exclude the other remedy**. The exception is where the claimant who had already been paid under the Workmen's Compensation Act may still sue for damages under the Civil Code on the basis of supervening facts or developments occurring after he or she opted for the first remedy.

Stated differently, save for the recognized exception, **an employee cannot pursue both remedies simultaneously but has the option to proceed by interposing one remedy and waiving his right over the other.** This doctrinal rule is rooted on the theory that the basis of the compensation under the ***Workmen's Compensation Act*** is separate and distinct from the award of damages under the ***Civil Code***, thus:

> The rationale in awarding compensation under the Workmen's Compensation Act differs from that in giving damages under the Civil Code. The compensation acts are based on a theory of compensation distinct from the existing theories of damages, payments under the acts being made as compensation and not as damages (99 C.J.S. 53). Compensation is given to mitigate harshness and insecurity of industrial life for the workman and his family. Hence, an employer is liable whether negligence exists or not since liability is created by law. Recovery under the Act is not based on any theory of actionable wrong on the part of the employer (99 D.J.S. 36).
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> In other words, under compensation acts, the employer is liable to pay compensation benefits for loss of income, as long as the death, sickness or injury is work-connected or work-aggravated, even if the death or injury is not due to the fault of the employer (*Murillo v. Mendoza*, 66 Phil. 689). On the other hand, damages are awarded to one as a vindication of the wrongful invasion of his rights. It is the indemnity recoverable by a person who has sustained injury either in his person, property or relative rights, through the act or default of another (25 C.J.S. 452).

Ysmael Maritime Corporation v. Avelino,[8] too, emphasized that once the claimant had already exercised his or her choice to pursue his or her right

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7 220 Phil. 533 (1985).
8 235 Phil. 324, 330 (1987).

under one remedy, he or she is barred from proceeding with an alternative remedy. As eloquently laid down by Chief Justice Marcelo Fernan:

> It is therefore clear that respondents had not only opted to recover under the Act but they had also been duly paid. At the very least, a sense of fair play would demand that if a person entitled to a choice of remedies made a first election and accepted the benefits thereof, he should no longer be allowed to exercise the second option. **"Having staked his fortunes on a particular remedy, (he) is precluded from pursuing the alternate course, at least until the prior claim is rejected by the Compensation Commission."** (Emphasis ours)

Based on the foregoing, simultaneous resort to both remedies is improper. An employee, however, may either pursue his or her claim for compensation before the labor tribunal under Title II, Book IV or court of general jurisdiction under Article 1711, provided two (2) requisites concur: ***one***, the claim is proper, and ***two***, he or she had not received compensation yet.

In other words, a claimant is only precluded from availing of the other remedy after he or she had already availed of one **and** had in fact received compensation. After all, to allow one to recover from both constitutes double recovery which is not sanctioned by law.

But as regards the present case, since respondent was *then* given the choice to pursue the remedy under Article 1711, pursuant to ***Candano***, which was *then* her right to do so, with all the vagaries of the litigation she had to go through, which she went through courageously, it would **not** be proper to deny her on behalf of the deceased employee's heirs the beneficial judgment of the Court of Appeals. To put it bluntly, she deserves the proceeds of her legal victory. She played by the rules. She won honestly, fairly, and honorably. This Court cannot now deny her on behalf of the deceased employee's heirs the fruits of her hard-earned victory.

We **cannot retroactively apply** what we now believe to be the correct interpretation of Title II, Book IV *vis-à-vis* Article 1711. Thus: "... when a prior ruling of this Court finds itself later overruled, and a different view is adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith in accordance therewith under the familiar rule of '*lex prospicit, non respicit.*'"[9]

The Court of Appeals correctly resolved the appeal ***though on the basis of Candano that we now categorically and expressly declare to be a wrong ruling***. As worded, Article 1711 does not require proof of

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[9] *Henson, Jr. v. UCPB General Insurance Co., Inc.*, G.R. No. 223134, August 14, 2019.

negligence to be able to claim damages. Respondent proved each of the elements (as above-mentioned) of the cause of action under this provision. Hence, there is no other recourse but to affirm the appellate court's decision in full since it was based on the then precedent, the ***Candano*** ruling.

ACCORDINGLY, I concur with the ponencia to affirm with modification the Decision dated December 19, 2017 of the Court of Appeals in CA-G.R. CV No. 103881.

AMY C. LAZARO-JAVIER
Associate Justice

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