

SOCIAL SECURITY SYSTEM EMPLOYEES ASSOCIATION (PAFLU), PETITIONER, VS. THE HON. JUDGE E. SORIANO, ETC. ET AL., RESPONDENTS.

G. R. No. L-18081. April 30, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The Social Security System Employees Association (PAPLU), composed of employees of the Social Security Commission, transmitted on October 20, 1960' to the latter a set of demands containing terms and conditions of employment including a request for recognition as a collective bargaining agent. Instead of answering the demands, the Commission filed on December 14, 1960 before the Court of First Instance of Manila a petition for declaratory relief wherein it asked that the Social Security System which was created by Republic Act No. 1161 be declared as a governmental agency performing governmental functions so that its employees may be prohibited from joining labor unions and from compelling petitioner to enter into a collective bargaining agreement with them as well as from declaring strikes detrimental to the System.

The union answered the petition with a counter-prayer that the SSS be declared as an agency of the government exercising proprietary functions. In the meantime, a conference was held between the union and the SSC in connection with the demands submitted by the former and sensing that the Commission was not disposed to enter into a collective bargaining agreement with it, the union, filed before the Court of Industrial Relations a charge for unfair labor practice against said Commission pursuant to Section 14, paragraph (b), of Republic Act 875. Two days later, or on February 16, 1961, the union went on strike and picketed the premises of the Social Security Commission.

Without losing time, the Commission filed on the very same date before the Court of First Instance of Manila an urgent petition with preliminary injunction praying that an order be immediately issued requiring the union members to return to work and desist from, picketing the premises of the Commission. The Court, presided over by Judge B. Soriano, issued on the same date an ex parte preliminary injunction ordering the union members not only to desist from, picketing the above premises but also to refrain from, doing any act of violence. As a consequence, the union filed before this Court a petition for certiorari with preliminary injunction praying that respondent judge be restrained from enforcing his writ of preliminary injunction, on the ground that he had no jurisdiction to issue it ex parte. This Court issued the injunction prayed for. Respondents filed an urgent petition to dissolve the injunction, but the same was denied. After respondents had filed their answer, hearing was held, and later the case was submitted for decision.

The main issue to be determined is whether the SSS is a government agency exercising governmental functions, as claimed by the respondents, or whether it exercises proprietary functions, as contended by petitioner, on which issue will necessarily hinge whether respondent judge had acted in excess of his jurisdiction in issuing the ex parte writ of * preliminary injunction subject, of the present petition for certiorari.

In *Bacani vs. National Coconut Corporation*, 100 Phil., 468; 53 Off. Gaz., 2798, this Court said;

"* * * There are functions which our government is required to exercise to promote its objectives as expressed in our Constitution and which are exercised by it as an attribute of sovereignty, and those which it may exercise to promote merely the welfare, progress and prosperity of the people. To this latter class belongs the organization of these corporations owned, or controlled by the government to promote certain aspects of the economic life of our people such as the National Coconut Corporation. These are what we may call government-owned or controlled corporations which may take the form of private enterprise or one organized with powers and formal characteristics of a private corporation under the Corporation Law.

"The question that now arises is: Does the fact that these corporations perform certain functions of the government make of them a part of the Government of the Philippines?

"The answer is simple: they do not acquire that status for the simple reason that they do not come under the classification of municipal or public corporations. Take for instance the National Coconut Corporation. * * * it was given a corporate power separate and distinct from our government, for it was made subject to the provisions of our Corporation Law in so far as its corporate existence and the powers it may exercise are concerned (sections 2 and 4, Commonwealth Act No. 518). It may sue and be sued in the same manner as any other private corporations, and in this sense it is an entity different from our Government.

* * * *

"To recapitulate, we may mention that the term 'Government of the Republic of the Philippines' * * * refers only to that government entity through which the functions of the government are exercised as an attribute of sovereignty, and in these are included those arms through which political authority is made effective whether they be provincial, municipal or other form of local government. These are what we call municipal corporations. They do not include government entities which are given corporate personality separate and distinct from the government and which are governed by the Corporation Law. Their powers, duties and liabilities have to be determined in the light of that law and of their corporate charters."

It appears that the National Coconut Corporation was declared to be an entity separate from the government or not exercising governmental functions because (1) it is not a municipal corporation, (2) its powers are not exercised as an attribute of sovereignty, (3) it was given a separate personality and powers separate and distinct from the government, and (4) it may sue and be sued as any other private corporations. As evidence of its having been endowed with powers separate and distinct from those of the government is the fact that it is made subject to the provisions of the Corporation Law. But to enjoy such powers, it is not, however, necessary that it be declared expressly that it is subject to the provisions of the Corporation Law, because such may be inferred from the law creating it and its corporate charter.

It may now be asked: Do these reasons hold true with regard to the Social Security System?

To begin with, the System is not a municipal corporation. In its strict and proper sense, a municipal corporation is a body politic established by law partly as an agency of the state to assist in the civil government of the country, chiefly to regulate and administer the local and internal affairs of the city, town or district which is incorporated.^[1] The Social Security Commission does not regulate or administer the local affairs of a town, city, or district which is incorporated.

Again, the Social Security Commission or System has a personality of its own, by virtue of which it can sue and be sued. This is clearly inferred from Section 4(k) of Republic Act No. 1161, as amended. In fact, it is endowed with practically the same powers that are conferred by law upon any other private corporations. Hence, we may say that there is a substantial similarity between the Social Security Commission or System and the National Coconut Corporation.

In this connection, it is interesting to note the nature of the functions that the government may exercise to accomplish its objectives. These functions are two-fold, constituent and ministrant: the former constitutes the very bonds of society and are compulsory in nature; the latter are those that are undertaken only by way of advancing the general interest of society, and are merely optional. President Wilson enumerated the constituent functions as follows:

"(1) The keeping of order and providing for the protection of persons and property from violence and robbery.

"(2) The fixing of the legal relations between man and wife and between parents and children.

"(3) The regulation of the holding, transmission, and interchange of property, and the determination of its liabilities for debt or crime. '

"(4) The determination of contract rights between individuals.

"(5) The definition and punishment of crimes.

"(6) The administration of justice in civil cases.

"(7) The determination of the political duties, privileges, and relations of citizens.

"(8) Dealings of the state with foreign powers; the preservation of the state from external danger or encroachment and the advancement of its international interests. (Malcolm, *The Government of the Philippine Islands*, p. 19)" (Bacani vs. National Coconut Corporation, *supra*)

The most important of the ministrant functions are: public works, public education, public charity, health and safety regulations, and regulations of trade and industry. The principles determining whether or not a government shall exercise certain of these optional functions are: (1) that a government should do for the public welfare those things which private capital would not naturally undertake, and (2) that a government should do those things which by their very nature it is better equipped to administer for the public welfare than is any private individual or group of individuals (Bacani vs. National Coconut Corporation, *supra*).

It is noteworthy to state that the main objective of the SSS is certainly not one of the constituent functions enumerated above but one which merely aims at advancing the general interest of society which is optional. In effect, its main aim is to provide social security to a large group of employees who are not in the government service because as a rule private capital cannot undertake it while the government by its very nature is better equipped to do so than any individual or group of individuals. It may be true that social security is generally handled by the government, but it does not follow that it cannot be exercised or performed by a private entity or individual, for, as a matter of fact, before the SSS was established there were already many private systems adopted by private entities thru insurance companies and mutual aid associations which served as forerunners of the SSS (International Labor Office, *Social Security*, p. 5).

It is without doubt that the state created the SSS in the exercise of its police power and that it was for a governmental purpose, or the promotion of social justice, but it does not follow that the System should necessarily be a government function or one in the exercise of its sovereign powers. In fact, the System is not so essential and indispensable that the government cannot exist without it. History shows that our government, has existed for a long time before the creation of the SSS. And this indicates that its creation is merely optional or a means of promoting the welfare and general interest of society.

It is true that the SSS is a creation of Congress (Republic Act No. 1161) and its existence and operation is financed by it. It is likewise true that under said Act the insurance is made compulsory in order that its coverage might be as universal as possible. We may even say that the Commission is given by law quasi-judicial powers in

order to have an expeditious adjudication of the benefits of social insurance. But these government functions are merely incidental in the sense that they are necessary to implement and carry out the objective of the law. The fact is that the main bulk of the operations of the SSS is proprietary in nature judging from its main functions of investment and insurance, which are essentially proprietary, without which its main objective cannot be carried out.

A factor that is noteworthy are the similarities between the Social Security System and the Government Service Insurance System. One is as to their powers and duties. The Social Security Act gives to the System the power to adopt, amend, and rescind such rules and regulations as may be necessary to carry out the provisions and purposes of the Act. The same power is given to the GSIS by the law of its creation (Commonwealth Act No. 186, Section 17(a)). The Commission has the power to enter into agreements for such services and aid as may be needed. The same power is given to the GSIS. The Commission has the power to establish branches whenever and wherever it may be necessary. Similar power is given to the GSIS. The Commission is given the power to adopt a budget of its expenditures, including the salaries of its personnel. Similar powers are given to the GSIS. The Commission has the power to acquire property, real or personal, that may be necessary for the attainment of its purpose. The GSIS may also exercise similar powers. The Commission can sue and be sued in court, so with the GSIS.

As to investments, the SSS is required to invest its funds (1) in interest-bearing bonds and securities of the Government of the Philippines or bonds or securities for the payment of the interest and principal of which the faith and credit of the Republic of the Philippines is pledged; (2) in interest-bearing deposits in any domestic bank doing business in the Philippines provided that said bank shall have been designated as a depository for this purpose by the President; (3) in loans or advances to the national government for the construction of permanent toll bridges in accordance with law; (4) in housing loans to members up to a maximum of 60% of the appraised value of the properties; (5) in loans to members, and (6) in other projects and investments subject to approval by the Insurance Commissioner. Similar powers are given by law to the GSIS.

The appointment of the members of the governing bodies in both the SSC and the GSIS are the same: they are appointed by the President of the Philippines, with the consent of the Commission on Appointments. Their tenure is the same-three years. Their compensation is also the same-a per diem of P25.00 for each day actually attended by them.

Finally, the funds of the SSS are treated as special funds in the same manner as those of the GSIS. They are distinct and separate from those of the government such that the government cannot dispose of them in any manner.

To recapitulate, all the above similarities as found in the charters of both entities cannot but point to one significant fact: that it was the intention of Congress to pattern the SSS after that of the GSIS. Consequently, the two entities must exercise functions of the same nature. These functions are proprietary as declared by this Court with regard to the GSIS.[2]

Wherefore, petition is granted. The writ of preliminary injunction issued ex parte by respondent judge is hereby set aside. The writ issued by this Court is made permanent. No costs.

Bengzon, C. J., Labrador, Concepcion, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

[1] Dellon, *Municipal Corporations*, 5th Ed., Section 31.

[2] *Abad Santos vs. Auditor General*, 79 Phil., 176; *G.S.I.S. vs. Modesto Castillo, et al.*, 98 Phil., 876; 52 Off. Gaz., 4269.

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