

PHILIPPINE REFINING CO., INC., PETITIONER, VS. COURT OF APPEALS, SOCIAL SECURITY COMMISSION, SOCIAL SECURITY SYSTEM, BUKLOD NG MANGGAGAWA AND VICENTE GARCIA, RESPONDENTS.

G.R. No. L-29590. September 30, 1982

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the Court of Appeals affirming a resolution of the Social Security Commission which declared that respondent Vicente Garcia and 22 workers represented by respondent Buklod Ng Manggagawa are employees of the Philippine Refining Company for purposes of compulsory coverage under the Social Security Act, as amended.

The Philippine Refining Company is engaged in the business of extracting and refining oil from copra and using the refined oil in the manufacture of various products.

Respondent Vicente Garcia started working for the company in 1922 as a copra carrier. In 1931, he was promoted to foreman with 21 or 22 men working under him. By 1948, these men were employed under pakiao arrangements but the company paid the workers directly and the function of their foreman insofar as wages were concerned was to distribute the money. The pakiao workers unloaded copra from trucks or carriers, stored it in the company warehouses at Isaac Peral Street, now United Nations Avenue, Manila and delivered copra from the warehouses to the company's Mill Day Bin. In 1955, the pakiao arrangements were formalized in writing through a series of written agreements and Garcia, the former copra carrier and foreman, was given the authority to choose and hire the men to do the work assigned to him. Instead of the company paying the workers directly with Garcia merely distributing their wages, the work was compensated on a volume basis at so many centavos per metric ton handled by all of them in the various phases of the job - receipt, storage, and distribution of copra - with the money being given to Garcia.

The work of the 22 laborers represented by the respondent union is an essential, permanent, and indispensable process in the business of the petitioner company. It is not an incidental or one time operation such as constructing a company facility or repairing a plant or machinery where the workers' job ends upon completion of the project. Copra is the basic raw material in the manufacture of lard, cooking oil, soap, and various other products of the employer company and its handling, storage, and distribution are an integral part of company operations.

When the Social Security Act was implemented on September 1, 1957 and up to April 27, 1961 when the respondent labor union filed a petition for compulsory coverage with the Social Security Commission, the Philippine Refining Company took no steps to report the 22 workers to the SSS for coverage in the belief that Vicente Garcia was an independent contractor and the workers he employed pursuant to the pakiao agreement were his own employees for whom the company was not accountable in any manner.

The argument of the petitioner and the findings of the Social Security Commission are summarized by the Court of Appeals as follows:

"The Philippine Refining Company contends that the petitioners are not its laborers, because:

"1 . It did not select, much less hire them.

"2 . Vicente Garcia pays their wages.

"3 . Vicente Garcia has control and supervision over them.

"4 . They do not have any service record on file with the company.

"5 . They are not in the payrolls of the company.

"6 . They are not members of the union with whom the company had entered into a collective bargaining."

On the other hand, the Social Security Commission maintains that:

"1 . Vicente Garcia is not a bona fide contractor; he cannot carry on the burden of social security.

"2 . He is subject to the control of the company as to result.

"3 . He has no investment of his own; he assumes no risk of loss.

"4 . He merely sells his labor to the company.

"5 . The equipment used by the petitioners belong to the company.

"6 . He collects from the company the salary of petitioners.

"7 . The service rendered constitutes an integral part of the business operation of the company.

"8 . He services nobody but the company."

The grounds for this petition are:

First. -

"That the finding of the respondent Court of Appeals that an employer-employee relationship exists between the petitioner and Vicente Garcia and his workers, notwithstanding the intervention of said Vicente Garcia as an independent contractor is contrary to the law and the evidence;

Second. -

"That the finding of the respondent Court of Appeals that respondent Vicente Garcia cannot be considered an independent contractor for the purpose of Social Security coverage is contrary to the evidence and established jurisprudence;

Third. -

"That the finding of the respondent Court of Appeals that petitioner has reserved general control or supervision over the work of Vicente Garcia's workers is contrary to the evidence;

Fourth. -

"That the finding of the respondent Court of Appeals that the services rendered by Vicente Garcia's men constitute an integral part of the industrial operation of the company is contrary to the evidence;

Fifth. -

"That the respondent Court of Appeals acted contrary to the law in ordering Vicente Garcia and his men to be covered under the Social Security System."

It is understandable why the petitioner company, in the early years of the social security program in the Philippines, should have seriously contended that the 22 affected workers are not its employees. There were apprehensions at the time that the Philippine economy was not strong enough to shoulder the burden of social insurance and that money diverted to social ends would have been more useful if channeled to production and investment. Among the devices adopted by some employers to avoid the financial obligations not only of social security that other social and labor legislations was the independent contractor technique.

However, all of the above is behind us now. All major employers have accepted the fact, if not the wisdom, of social security. Protection and compulsory coverage through successive amendments to the law, have become more and more universal while benefit payments have increased. The Constitution now mandates in Article II, Section 7 that "The State shall establish, maintain, and ensure adequate social services in the field of xxx social security to guarantee the enjoyment by the people of a decent standard of living."

There is a strong presumption in favor of greater coverage and protection. Consequently, We subject all assertions that an intervening entity is an independent contractor to intense and rigorous scrutiny.

As stated in *Social Security System v. Court of Appeals* (26 SCRA 458, 468):

"Only thus could there be fealty to the purpose and objective of the act. If it were otherwise, what is manifested is betrayal instead. That is not to comply with judicial duty, which in the construction of statutes is to foster the legislative intent, not to frustrate it. When as in the case of the Social Security Act, it is indisputable that the employer-employee relationship is, as is desirable, made to reflect the realities of the situation, any construction that would yield the opposite finds no justification.

"That such should be the case becomes more evident considering that the statute was undoubtedly enacted to promote social justice and protect labor. Whenever a question as to its applicability comes up then, the utmost care should be taken lest by inattention or insufficient aware-ness of the ways and methods of big business, undoubtedly prompted by what to it is legitimate defense against any governmental measure likely to curtail profits, the gains expected to be conferred on labor be diminished, if not entirely nullified."

At the same time, the possibility that a company may use bona fide independent contractors to undertake certain projects or to furnish certain requirements of its business is not entirely discounted. In ascertaining whether or not an intervening employer is a bona fide independent contractor who bears the obligation of registering his workers and paying the employer's share of the SSS premium contributions, We have applied the "control" test. (*Social Security System v. Court of Appeals*, 39 SCRA 629).

Under the control test, We ascertain whether the employer controls or has reserved the right to control the employee not only as to the result of the work to be done but also as to the means and methods by which the same is accomplished. (*Investment Planning Corporation v. Social Security System*, 21 SCRA 924; *Social Security System v. Court of Appeals*, 30 SCRA 210).

We affirm the factual findings of the Social Security Commission, sustained by the Court of Appeals.

Copra is the basic raw material of the petitioner-appellant's business. The company must have, and the facts show that it has, positive and direct control over the handling of copra immediately prior to its being fed into the manufacturing process. The conveyor is owned by the company. The load it may carry and the time and manner of its operation are controlled by the appellant. A company employee ordered the supposed independent contractor where to store copra, when to bring out copra, how much to load and where, and what class of copra to

handle. The appellant limited the number of workers which Mr. Garcia could hire to assure that statutory minimum wages were paid from the lump sum payments given for the " pakiao" work. Mr. Garcia had no office of his own. He had no independent funds to pay the men working under him. He could not work for any other company but was completely dependent on the appellant. Mr. Vicente Garcia denies that he is an independent contractor. The control test is more than satisfactorily met.

WHEREFORE, the petition is hereby dismissed for lack of merit. The September 12, 1968 decision of the Court of Appeals is affirmed with costs against the petitioner-appellant.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Relova, JJ.,concur.

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SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

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