

SAN BEDA COLLEGE, PETITIONER, VS. SOCIAL SECURITY SYSTEM, RESPONDENT.

G.R. No. L-27493. May 29, 1970

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petition filed by San Beda College for review of the resolution of the Social Security Commission (in SSC Case No. 475), dated 1 December 1966, finding herein petitioner subject to penalties for late remittances of the premium contributions corresponding to the period of from September, 1957 to August, 1962, and ordering it to pay to the Social Security System the said penalties in the amount of P120,785.45.

Insofar as may be pertinent to the controversy in this proceeding, the facts of the case, according to the Stipulation by the parties, may be stated as follows:

The Social Security System is a government agency created by Republic Act 1161, as amended, while San Beda College is a duly organized domestic corporation. On 30 August 1957, the lay faculty club of the San Beda College, together with the faculty club of the University of Sto. Tomas, filed a petition for declaratory relief in the Court of First Instance of Manila (Civil Case No. 33578)[1] to determine the applicability to them of the provisions of the Social Security Act on compulsory coverage of their Members. On the same day, 30 August 1957, the court issued a writ of preliminary injunction, enjoining the Social Security Commission, its representatives and agents from compelling the integration into the System of the private benefits plan of the San Beda College Lay Faculty Gratuity and retirement Fund. The Social Security Commission sought reconsideration of the injunction-order, and when it was denied the Commission came to this Court in an action for certiorari, questioning the propriety of the issuance of the said writ.[2] On 30 May 1962, judgment was rendered in the case in favor of the petitioning Commission, the writ of injunction issued by the lower court was dissolved, and the case was remanded to it for further proceedings.

San Beda College thereafter paid the unremitted premiums amounting to P121,111.07, on installments - on 2 October 1962 (P10,000.00), 21 February 1963 (P40,000.00), and 7 June 1961 (P71,111.07). On 2 November 1964, the Court of First Instance of Manila dismissed Case No. 33578 for lack of initiative of therein petitioners to prosecute the case.

On 13 August 1964, and again on 18 January 1965, the Social Security System demanded by letter from the San Beda College the payment of penalties for late remittance of the premiums corresponding to the period September, 1957 to August, 1962 in the sum of P120,785.45. And when San Beda College refused to comply with the demand, the System filed with the Social Security Commission a petition against San Beda for collection of the aforesaid amount (Case No. 475). Answering the petition, respondent college set up the defenses of alleged lack of jurisdiction of the Commission; laches or prescription; unconstitutionality of the provisions of Section 22 of the Social Security Act relied upon; anti waiver and abandonment of the petitioner's claim. On 1 December 1966, based on the parties' stipulation of facts, the Commission issued a resolution sustaining the demand of the Social

Security System and ordering San Beda College to pay to the former the sum of P120,785.45 as penalties, with provision that in case of respondent's failure to make such payment a warrant of distraint and levy shall be issued to the Sheriff of to satisfy the obligation. This is the resolution subject of the present petition for review.

Section 22 of Republic Act 1161,[3] applicable to the herein case, reads as follows:

"SEC. 22. Collection and payment of contributions. -- (a) The contributions imposed in the preceding sections[4] shall be collected and remitted to the System at the end of each calendar month under such rules and regulations as the System may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment, and if any contribution is not paid to the System within thirty day from its due date or the date prescribed for its remittance, he shall pay besides the contribution a penalty thereon of three per centum per month from the date the contribution falls due until paid. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: Provided, That upon separation of an employee, any premium so paid in advance but not due shall be credited or refunded to his employer.

(b) The contributions payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the System in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits of the coverage.

(c) Should any person, natural or juridical, default in any payment of contributions, the Commission may also collect the same in either of the following ways:

- (1) By an action in court, which shall hear and dispose of the case in preference to any other civil action, or
- (2) By issuing a warrant to the Sheriff of any province or city commanding him to levy upon and sell any real and personal property of the debtor. The Sheriff's sale by virtue of said warrant shall be governed by the same procedure prescribed for executions against property upon judgments by a court of record." (Underlining supplied.)

Thus, the law did not only make it the employer's obligation to remit to the System the corresponding employee and employee's premiums: it even prescribed a penalty in case he should find too so. The dispute here, however, revolves around the imposition of such penalties on San Beda College by the Social Security Commission upon petition of the Social Security System.

Justifying its order directing the San Beda College to pay penalties for the late Payment of the contributions for September, 1957 to August, 1962, the Social Security Commission points to Section 5 of the Social Security Act 83 source of its authority:

SEC. 5. (a) Settlement of claims. -- The filing, determination and settlement of claims shall be governed by the rules and regulations promulgated by the Commission. - - - - -.

(b) Appeal to the courts. -- Any decision of the Commission in the absence of an appeal therefrom as herein provided, shall become final fifteen days after the date of notification, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented by an attorney employed by the Commission, or when requested by the Commission, by the Solicitor General or any fiscal.

(c) Court review. -- The decision of Commission upon any disputed matter may be reviewed both upon the law and the facts by the Court of Appeals. For the purpose of such review the procedure concerning appeals

from the Court of First Instance shall be followed as far practicable and consistent with the purposes of this Act. Appeals from a decision of the Commission must be taken within fifteen days from notification of such decision. If the decision of the Commission involves only questions of law, the same shall be reviewed by Supreme Court. - - - - -."

Coming first to the question of petitioner's liability for payment of penalties, we find its disavowal of such liability to be meritorious.

The records show that on 30 August 1957, or before the period for payment of contributions or premiums by the employer had expired, the Court of First Instance of Manila (in Civil Case No. 33578), at the instance of the San Beda and Sto. Tomas Faculty Clubs, issued a res-training order enjoining the Social Security Commission, its representatives and agents from compelling the integration into the System of the private benefit plans of the San Beda College lay faculty Organization; and that after the injunction was ordered dissolved by this Court on 30 May 1962 (in G.R. No. L-13555) the employer school duly paid the outstanding unpaid premiums then amounting to P121,111.07.

In saddling San Beda College with the penalties for the delayed remittance of contributions corresponding to the period of from September, 1957 to August 1962, the Social Security System contend that the employer's obligation to remit the necessary premium to the System was not suspended by the issuance of the writ of injunction by the Manila Court of First Instance; that since the injunction order is directed only against the compulsory integration into the System of the private benefit plan of the San Beda College lay faculty club, the San Beda College itself was under no restraint to voluntarily make the remittances required by law. The flaw in this argument lies in its ignoring, that any kind of payment necessarily involves two parties - the payor and the payee. As respondent System admits that during the existence of the injunction it "could not validly collect or demand from herein petitioner (San Beda College) the payment of its premium contributions" (Answer, page 73, Record), how could it have received payment from petitioner? The act of collecting contributions is no different from the act of receiving said amounts. Furthermore, the employer can not know the exact amount to be paid if the System itself is prohibited from making any demand for payment of the contributions. Clearly, the delay in the remittance of premiums cannot be attributed to any fault or negligence on the part of the employer; it was brought about by the existence of the injunction order with which the employer had nothing to do at all. The imposition of penalties upon the employer for such delay consequently, unjustified and improper.

Likewise, respondent incorrectly maintains that the employer's liability for payment of penalties was already adjudged in the previous case of Social Security Commission vs. Bayona (G.R. No. L-13555), decided by this Court on 30 May 1962 (5 SCRA 126), and wherein we said:

"The same thing may not be said if the enforcement of the law is restrained, for then respondents would be more harassed and prejudiced in case the constitutionality of the law is upheld, since they will have to say all the back contributions from September 1957, including interests, up to the time the preliminary injunction is dissolved. Restoration would then be much more difficult in view of the contingencies that may arise with regard to the members of their private system. There are, to be sure, more weighty reasons favoring the lifting of the injunction issued by respondent judge." (Underlining supplied.)

The statement relied upon was only an obiter pronouncement which was unnecessary to the resolution of the controversy in the case cited, that revolved on the question whether petitioner faculty clubs, in the Court of First Instance, were threatened with irreparable damages justifying the issuance of a writ of preliminary injunction. Not only this, but under the established rule on injunctions, the penalties accruing by reason of the delay in the payment of contributions caused by the issuance of the writ should have been demanded, ascertained and adjudged as damages against the injunction bond or the plaintiff that procured its issuance before the finality of

the decree dissolving the writ. By permitting the judgment in the Bayona case to be finally entered without praying for ascertainment of the damages flowing from the issuance of the preliminary injunction, the Social Security System and Commission are now precluded from recovering them from the party who obtained the writ.[5]

"The defendant failed to file its application for damages against the bond prior to the termination of the case against it. It is barred to do so now." (Jao vs. Royal Financing Corp., G.R. No. L-13716, 28 April 1962)

And if the Social Security System is barred from recovering such damages from the faculty clubs which obtained the injunction, a fortiori system may not now recover the same damages from the San Beda College, which was not the one that procured the writ.

Turning now to the issue of jurisdiction of the respondent Social Security Commission to take cognizance of the claim of the System against petitioner San Beda College for penalties allegedly accruing from the delayed remittance of its contributions, suffice it to say that the conclusion we have previously reached that petitioner San Beda College is not liable for penalties in failing to remit its contributions prior to 1962 makes it unnecessary for us to examine this issue. This is especially true in view of the enactment in 1966 of Act No. 4857, amending the original Section 5 of Republic Act No. 1161 (Social Security Act) to read as follows:

"SEC. 5. Settlement of Claims. -- (a) Any dispute arising under this Act with respect to coverage, entitlement to benefits, collection and settlement of premium contributions and penalties thereon, or any other matter related thereto, shall be cognizable by the commission, and any case filed with the Commission with respect thereto shall be heard by the Commission, or any of its members, or by hearing officers duly authorized by the Commission, and decided within twenty days after submission of the case. The filing, determination and merit of claims shall be governed by the rules and regulations promulgated by the Commission." (As amended by Republic Act 4857). (Emphasis supplied)

The amendment thus practically renders obsolete the prescription of Section 22, paragraph (c), subparagraph (1), of the Social Security Law, providing for collection of defaulted contributions -

"(1) By an action in court, which shall hear and dispose of the case in preference to any other civil action; "

and removes all doubts that the merits of the System's claims for contributions and penalties should be first passed upon by the Commission, subject to the judicial review provided in paragraph of Section 5 of the Social Security Act.

The foregoing rulings render it unnecessary to pass upon the other issues posed by petitioner-appellant.

WHEREFORE, the resolution of the Social Security Commission under consideration is hereby set aside. The temporary restraining order against the collection of the amount involved herein by distraint and levy, heretofore issued, is made permanent. No costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, and Villamor, JJ., concur.
Castro, J., on leave.

Barredo, J., did not take part.

[1] The action was filed before the gratuity and retirement plan of the San Beda College faculty club could be integrated into the Social Security System, pursuant to Republic Act 1792, amending the Social Security Act.

[2] Social Security Commission vs. Bayona, G. R. No. L-13555.

[3] After its amendment by Republic Act 1792, on 21 June 1957, and by Republic Act 2658, on 18 June 1960.

[4] Sections 19 and 20, on employee's and employer's contributions.

[5] Japco vs. City of Manila, 48 Phil. 851; Abelow vs. De la Riva, 105 Phil. 159; Del Rosario vs. Nava, 95 Phil. 542; Jao vs. Royal Financing Corporation, G.R. No. L-46716, 28 April 1962, 4 SCRA 1210; Sy, et al. vs. Ceniza, G.R. No. L-16961, 29 June 1962, 5 SORA 401. See Ed. Note, 17 SCRA 404-406.

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