

SOCIAL SECURITY SYSTEM, PETITIONER, VS. THE HON. COURT OF APPEALS AND CENTRAL AZUCARERA DE BAIS, RESPONDENTS.

G.R. No. L-25406. December 24, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

The novel question that this case presents is whether or not respondent Central Azucarera de Bais, hereinafter referred to as the Central, is exempt from the coverage of the Social Security Act by virtue of a contract, where the longshoremen performing for it arrastre or stevedoring work were stipulated to be in the employ of the other contracting party, the Luka Longshoremen's Union, to be hereinafter referred to as the Union, to be considered them as an independent contractor. Alert and sensitive to the various techniques that at times could lend themselves to the avoidance of the applicability of a law imposing financial obligation on management and thus determined to resist any inroad on the benefits conferred by social welfare legislation, petitioner Social Security System decided that the Central, not the Union, was the employer and therefore came within the operation of the Social Security Act.

The Central, insistent on the absence of an employer-employee relationship, elevated the matter to respondent Court of Appeals. Its contention carried the day, respondent Court of Appeals, with an inadequate appreciation of what for it were the decisive facts and a failure to take into consideration other clearly relevant provisions of the contract relied upon by the Central, reversed the conclusion reached by petitioner Social Security System. Such a reversal was in no small measure attributable to a Court of Industrial Relations decision,[1] holding that the Union, likewise a respondent in that case, was an independent contractor and that, therefore, there was no employer-employee relationship between the Central and the members of such Union. When such CIR ruling was challenged before us, we dismissed the petition for lack of merit,[2] a dismissal which, for respondent Court of Appeals, "is conclusive and binding upon similar questions presented for determination in this case." [3]

The attitude of the Court of Appeals in abiding by a controlling pronouncement of this Tribunal is both correct and commendable. Nonetheless, it did lose sight of the fact that the lack of merit of such petition elevated to us to review that particular holding of the Court of Industrial Relations was rather evident, the case being one for unfair labor practice, as found by it with support from the substantial evidence of record. That is all the legal significance that could be attached to our minute resolution of July 6, 1964.

Hence, in this petition for review, the question of whether or not the Central is exempt from the coverage of the Social Security Act, an affirmative answer to which would be due solely to a determination as to the alleged status of the Union as an independent contractor, is, as set forth at the outset, squarely before us for the first time. As will be more fully explained, we answer the question differently from that of respondent Court of Appeals. We sustain petitioner Social Security System.

How the case originated is set forth thus in the decision of respondent Court of Appeals now under review: "On August 31, 1960, the Social Security System filed with the Social Security Commission a petition against

respondent, Central Azucarera de Bais, to order the latter to report for coverage under the System the members of an organized union called 'Luka Longshoremen's Union', who loaded respondent's sugar into vessels which docked at the Luka wharf, on the ground that said members were its employees." [4]

It went on to state that a contract entered into on August 20, 1958 between the Central and the Union was attached to the petition. Reference was then made to Article I thereof, where the Union designated as contractor in such contract agreed and undertook "to perform faithfully for the [Central] all the arrastre and stevedoring work connected with the loading of sugar (both export and domestic) into vessels docking at the Luka wharf." [5] It was then provided that the Union was to be remunerated at the rate of eight and one-fourth centavo (P0.0825) per picul of sugar. [6]

Another provision of the contract, Article VII, was then considered. It was therein provided that the Union, as contractor, undertook "to employ for its own account" such longshoremen as it may deem necessary to carry out the work agreed upon, and to pay the latter in accordance with the Minimum Wage Law and such other applicable statutes. The Union had the obligation under the same Article to submit to the Central within five days after such payment was made, a statement to the effect that the longshoremen had received the wages due for all services rendered by them for which the Central had compensated the Union, and that the requirements of the Minimum Wage Law and other applicable labor statutes were complied with. [7] There was the express disclaimer in the next Article of such contract of any "employer-employee" relationship between the Union and the Longshoremen on the one hand, and the Central on the other. The Union, as contractor, was to have "entire charge, control and supervision of the work" agreed upon.

With the above provisions in mind, and with the character of conclusiveness and finality it attached to our resolution of July 6, 1964, dismissing for lack of merit a petition for review of the ruling of the Court of Industrial Relations previously mentioned, respondent Court of Appeals arrived at the decision now on review. It reversed the resolution of petitioner Social Security System that the Union was not "a bona fide independent contractor", the employer-employee relationship between the Central and the longshoremen being in existence both before and subsequent to such contract of August 20, 1958, thus subjecting the Central to compulsory coverage under the law.

In this petition to review such decision of respondent Court of Appeals, the Solicitor General as counsel for petitioner assigned as errors the holding that our resolution of July 6, 1964 was conclusive on respondent Court, the conclusion reached that under the contract entered into by the Union on behalf of its members, it is a bona fide independent contractor, resulting in the Central being exempt from the coverage of the Act and, consequently, the decision reached by respondent Court of Appeals. We find merit in the above assignment of errors.

1. It would appear obvious that if our minute resolution of July 6, 1964, in a petition for the review of a decision of the Court of Industrial Relations involving both the Central and the Union, as respondents in an action filed by another labor union, PLUM Federation of Industrial and Agrarian Workers, were conclusive as to the status of the Union as an independent contractor, then respondent Court of Appeals decided the matter correctly. As pointed out above, however, no such conclusiveness should attach to our minute resolution. In that petition for review, one of the grievances allegedly inflicted on petitioner PLUM Federation of Industrial and Agrarian Workers was that only the Union and not the Central was held guilty of unfair labor practice. Petitioner there would insist that the true employer was the Central rather than such Union, contrary to the finding made by the Court of Industrial Relations. From a perusal of its petition, however, there was nothing to rebut the conclusion reached by the Court of Industrial Relations as to which was the true employer outside of general assertions found in one paragraph. Under the circumstances, it was clearly lacking in the element of persuasiveness. That would account for our minute resolution dismissing the petition.

It does not follow, however, that with such a curt and summary pronouncement valid and justifiable under the circumstances, petitioner PLUM Federation of Industrial and Agrarian Workers, having dismally failed to assail the conclusion reached by the Court of Industrial Relations, even if on its face such a holding could have been impressed at the most with deceptive plausibility, we are forever precluded from considering such a question, when the matter is appropriately presented to us. Such is the situation now. We have to consider the force and effect of such a contract and to construe it in such a way as not to offend or emasculate any law, especially legislation favorable to labor, the evasion of which cannot be tolerated. While, therefore, respondent Court of Appeals did exhibit proper deference and respect for what this Tribunal says and does, the conclusion reached as to the finality of the resolution of July 6, 1964 is clearly erroneous.

2. We reach the merits then. Is the Union an independent contractor? Respondent Court of Appeals held that it is. We hold otherwise.

From the very opinion of respondent Court of Appeals, where reference was made to Articles VII and VIII of the contract of August 20, 1958, relied upon by the respondent Central to justify its plea that it is not an employer within the meaning of the Social Security Act, it would appear from the first of the above articles that the Union, as contractor, is confined to employing only such number of longshoremen as would suffice to perform the work required, "taking into consideration the amount to be paid by the [Central] to the [Union as contractor] for the work performed under this contract." [8] The next provision ought to have increased the skepticism that may legitimately be entertained as to the Union being a bona fide independent contractor. Thus: "Although it is understood and agreed between the parties hereto that the [Union as contractor] in the performance of its obligations hereunder, is subject to the control or direction of the [Central] merely as to the result to be accomplished by the work herein specified, and not as to the means and methods for accomplishing such results, the [Union as contractor] hereby warrants that it will perform the work in such manner as will be consistent with the achievement of the result herein contracted for." [9] It is rather neat and clever. The expert hand of a skillful conveyancer is apparent. Thereby, the respondent Central could plead without doing too great a violence to the literal language of the contract that since the means and methods for accomplishing the results would be left to the discretion of the Union, there would be some justification for its plea that it is not an employer.

The last portion of the Article, however, gives the scheme away. The Union had to warrant "that it will perform the work in such manner as will be consistent with the achievement of the result herein contracted for." Under the circumstances, a greater degree of sophistication ought to have been displayed by respondent Court of Appeals in the appraisal of such a stipulation. It could have arrived at a conclusion different from that reached with such certitude that the Union is an independent contractor.

The well-written brief for petitioner Social Security System stressed other relevant considerations which ought to have persuaded respondent Court of Appeals that the Union cannot be considered an independent contractor. Thus, it noted that the Union was registered as a legitimate labor organization with the right to act as representative of its members for the purpose of collective bargaining with employers. It was not engaged in any activity for profit. Nor was any such evidence produced to that effect. It constituted the juridical association composed of workers previously performing stevedoring and arrastre work at the Luka wharf of respondent Central. [10] As to why it entered into a contract, reference was made to a clause appearing therein as to the workers preferring to be paid on a piece-work instead of the former "actual-time-and-work" basis. As noted in the brief: "Their status as former employees of the respondent Central prior to August 20, 1958, a fact which is undisputed and we assume should be conceded, was not changed. It is only in the light of this desire to be compensated on piece-work basis, or to change the manner of compensation, that they are denominated in the contract [as employees of the Union] because, from regular employees, they have become 'pakiao' workers." [11]

Attention was likewise invited in the brief of petitioner Social Security System to the significant fact that the work given the longshoremen, for which they were to be paid on piece-work basis, had reference only to the "arrastre and stevedoring work connected with the loading of sugar (both export and domestic) into vessels docking at the Luke wharf * * *." [12] It is to be remembered that such was not the only arrastre and stevedoring work required of such longshoremen, members of the Union, it being provided in Article I of such contract that "arrastre and stevedoring work on all cargo or merchandise other than sugar is not within [its] [scope] * * * and that in respect thereto, the work shall as heretofore been undertaken by the [Central] and that [it] will continue to utilize the same men [members of the Union] at the same rates and under the same conditions existing prior" to such contract.

What other conclusion consistent with reason can there be than that the employer-employee relationship cannot be considered as non-existent? [13] As pertinently asked in such brief: "If the nature of their work never changed, why should their status be altered through the expedient of a contract so called?" [14]

The point was also therein made "that prior to the signing of the agreement, the longshoremen or workers doing the arrastre and stevedoring work at the respondent Central's Luka wharf were its employees and, therefore, they continue to be such employees even after the signing of the contract on August 20, 1958, with reference to the arrastre and stevedoring work 'on all cargo or merchandise other than sugar'. Consequently, the respondent Court of Appeals' dismissal of the Petition does not even find support in the very contract relied upon by said Court since the said petition did not limit its allegations to the loading of respondent Central's sugar by the longshoremen, but also 'other cargoes on the vessels which dock at the Luke wharf' of the respondent Central, which the respondent Central admittedly undertakes by itself." [15]

The doubt that thus legitimately arises as to whether the Union should be considered an independent contractor is intensified by reference to another article.

Thus: "Article IV gives to the longshoremen free breakfast, lunch, supper, bread and coffee, in addition to medical or hospitalization benefits free of charge. It occurs to us that if the respondent Central were really dealing with a bona fide independent contractor, it is strange that the respondent Central should give the workers free breakfast, lunch, supper, and bread and coffee, and likewise extend the hospital and medical facilities belonging to respondent Central. A similar situation cannot be found to exist, as indeed we are not aware of any. The evidence does not disclose any explanation for the inclusion of these privileges and benefits in favor of the longshoremen and we, therefore, hazard the guess that since from the three [whereas] clauses of the contract, it appears that all that the Union wanted was to change the manner of their compensation to that of 'piece--work basis,' there was no intention to give up all other benefits and privileges being enjoyed by them before, and which they continue to enjoy even after the contract was signed under the same status as employees of the respondent Central. This becomes even more clear if we consider Section 2 of Article IV where bonuses, night pay, overtime, Sunday and holiday pay, have been withdrawn. The withdrawal of these items, in the light of the manifest intention to change the manner of their compensation to that of 'piece-work basis,' is quite natural be-cause a worker who is compensated on piece-work basis cannot claim bonuses, night pay, overtime, Sunday and holiday pay, as these forms of extra or additional compensation are inconsistent with the manner by which they have elected to be compensated." [16]

Earlier, reference was made to Article VIII of the contract cited in the opinion of the decision of respondent Court of Appeals, the last paragraph of which obliges the contractor to "perform the work in such manner" as will be consistent with the achievement of the result herein contracted. Such a clause was rightfully looked upon by petitioner Social Security System as demonstrating the control and supervision of respondent Central not only as to the result, but also as to the means by which the work is to be per-formed. We had occasion earlier to find such assumption far from arbitrary or groundless.

What is the law on the matter? In the leading case of *Investment Planning v. Social Security System*,^[17] the opinion being penned by Justice Makalintal, after noting that prior to such decision, the specific question of when there is an employer-employee relationship for purposes of the Social Security Act having as yet not been settled and a review of analogous holdings as to the applicability of the Workmen's Compensation Act defeating the attempts of some employees to free themselves from such obligation by resorting to the device of an independent contractor, arrived at the conclusion that the control test should prove decisive. Where the employer therefore "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 it could be performed, then the relationship should be considered as existing. The facts of this case as could be gleaned from the contract, if subjected to an analysis much more careful than that made by respondent Court of Appeals, misled no doubt by its mistaken belief that our minute resolution in denying the PLUM Federation petition, was conclusive argue against the finding that the Central should not be considered an employer. The status of independent contractor ought not to have been attached to the Union; instead the existence of the employer-employee relationship between the Central and the Longshoremen members of the Union, as found by petitioner Social Security System, ought to have been affirmed.

3. To recapitulate: It would not seem at all far-fetched that freed from the compulsion of according deference to what respondent Court of Appeals mistakenly believed was the binding effect of our resolution in the PLUM petition, it would have arrived at a similar conclusion reached by us. For undoubtedly respondent Court would have subjected the contract relied upon by the Central to show that the Union was an independent contractor to a more intense and rigorous scrutiny. Such a process would yield a finding not of acceptance but of rejection of the contention that such a contract sufficed to place the Central outside the coverage of the Social Security Act.

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 them, the utmost care should be taken lest by inattention or insufficient awareness 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.

WHEREFORE, the Decision of respondent Court of Appeals dated September 22, 1965 is reversed and the Resolution No. 944 of petitioner Social Security System, Series of 1963, rendered on May 20, 1963, finding that the members of the Luka Longshoremen's Union are employees of respondent Central Azucarera de Bais, sustained. With costs against respondent Central Azucarera de Bais.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, and Teehankee, JJ., concur.

Barredo, J., did not take part.

[1] PLUM Federation of Industrial and Agrarian Workers v. Central Azucarera de Bais, CIR Case No. 2887-ULP.

[2] PLUM Federation of Industrial and Agrarian Workers v. Central Azucarera de Bais, L-22741, July 6, 1964.

[3] Decision of the Court of Appeals, Social Security System v. Central Azucarera de Bais, CA-G.R. No.

32895-R, p. 7.

[4] Decision of September 22, 1965, p. 1.

[5] Ibid, p. 2.

[6] Ibid.

[7] Ibid, pp. 2 and 3.

[8] Ibid, Article VII, p. 2.

[9] Ibid, Article VIII, pp. 3 to 4.

[10] Brief for Petitioner Social Security System, pp. 23 to 24.

[11] Ibid, p. 25.

[12] Ibid, citing Article I of the Contract, p. 25.

[13] Ibid, pp. 25 to 26.

[14] Ibid, p. 26.

[15] Ibid, p. 28.

[16] Ibid, pp. 28 to 29.

[17] L-19124, November 18, 1967.

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