

CMS ESTATE, INC., PETITIONER, VS. SOCIAL SECURITY SYSTEM AND SOCIAL SECURITY COMMISSION, RESPONDENTS.

G.R. No. L-26298. September 28, 1984

Ponente: CUEVAS, J.

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CUEVAS, J.:

This appeal by the CMS Estate, Inc. from the decision rendered by the Social Security Commission in its Case No. 12, entitled "CMS Estate, Inc. vs Social Security System", declaring CMS subject to compulsory coverage as of September 1, 1957 and "directing the Social Security System to effect such coverage of the petitioner's employees in its logging and real estate business conformably to the provision of Republic Act No. 1161, as amended", was certified to Us by the defunct Court of Appeals[1] for further disposition considering that purely questions of law are involved.

Petitioner is a domestic corporation organized primarily for the purpose of engaging in the real estate business. On December 1, 1952, it started doing business with only six (6) employees. Its Articles of Incorporation was amended on June 4, 1956 in order to engage in the logging business. The Securities and Exchange Commission issued the certificate of filing of said amended articles on June 18, 1956. Petitioner likewise obtained an ordinary license from the Bureau of Forestry to operate a forest concession of 13,000 hectares situated in the municipality of Baganga, Province of Davao.

On January 28, 1957, petitioner entered into a contract of management with one Eufracio D. Rojas for the operation and exploitation of the forest concession. The logging operation actually started on April 1, 1957 with four monthly salaried employees. As of September 1, 1957, petitioner had 89 employees and laborers in the logging operation. On December 26, 1957, petitioner revoked its contract of management with Mr. Rojas.

On August 1, 1958, petitioner became a member of the Social Security System with respect to its real estate business. On September 6, 1958, petitioner remitted to the System the sum of P203.13 representing the initial premium on the monthly salaries of the employees in its logging business. However, on October 9, 1958, petitioner demanded the refund of the said amount, claiming that it is not yet subject to compulsory coverage with respect to its logging business. The request was denied by respondent System on the ground that the logging business was a mere expansion of petitioner's activities and for purposes of the Social Security Act, petitioner should be considered a member of the System since December 1, 1952 when it commenced its real estate business.

On November 10, 1958, petitioner filed a petition with the Social Security Commission praying for the determination of the effectivity date of the compulsory coverage of petitioner's logging business.

After both parties have submitted their respective memoranda, the Commission issued on January 14, 1960, Resolution No. 91[2], the dispositive portion of which reads as follows:

"Premises considered, the instant petition is hereby denied and petitioner is hereby adjudged to be subject to

compulsory coverage as of Sept. 1, 1957 and the Social Security System is hereby directed to effect such coverage of petitioner's employees in its logging and real estate business conformably to the provisions of Rep. Act No. 1161, as amended.

"SO ORDERED."

Petitioner's motion for reconsideration was denied in Resolution No. 609 of the commission.

These two (2) resolutions are now the subject of petitioner's appeal. Petitioner submits that respondent Commission erred in holding -

(1) that the contributions required of employers and employees under our Social Security Act of 1954 are not in the nature of excise taxes because the said Act was allegedly enacted by congress in the exercise of the police power of the State, not of its taxing power;

(2) that no contractee-independent contractor relationship existed between petitioner and Eufracio D. Rojas during the time that he was operating its forest concession at Baganga, Davao;

(3) that a corporation which has been in operation for more than two years in one business is immediately covered with respect to any new and independent business it may subsequently engage in;

(4) that a corporation should be treated as a single employing unit for purposes of coverage under the Social Security Act, irrespective of its separate, un-related and independent businesses established and operated at different places and on different dates; and

(5) that Section 9 of the Social Security Act on the question of compulsory membership of employers should be given a liberal interpretation.

Respondent, on the other hand, advances the following propositions, inter alia:

(1) that the Social Security Act speaks of compulsory coverage of employers and not of businesses;

(2) that once an employer is initially covered under the Social Security Act, any other business undertaken or established by the same employer is likewise subject in spite of the fact that the latter has not been in operation for at least two years;

(3) that petitioner's logging business while actually of a different, distinct, separate and independent nature from its real estate business should be considered as an operation under the same management;

(4) that the amendment of petitioner's articles of incorporation, so as to enable it to engage in the logging business did not alter the juridical personality of petitioner; and

(5) that petitioner's logging operation is a mere expansion of its business activities.

The Social Security Law was enacted pursuant to the policy of the government "to develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people throughout the Philippines, and shall provide protection against the hazards of disability, sickness, old age and death". (Sec. 2, RA 1161, as amended) It is thus clear that said enactment implements the general welfare mandate of the Constitution and constitutes a legitimate exercise of the police power of the State. As held in the case of *Philippine Blooming Mills Co., Inc., et al vs S S S*[3] -

"Membership in the S S S is not a result of bilateral, consensual agreement where the rights and obligations of the parties are defined by and subject to their will. RA 1161 requires compulsory coverage of employees and employers under the System. It is actually a legal imposition on said employers and employees, designed to provide social security to the workingmen. Membership in the S S S is therefore, in compliance with the lawful

exercise of the police power of the State, to which the principle of non-impairment of the obligation of contract is not a proper defense."

"x x x x"

The taxing power of the State is exercised for the purpose of raising revenues. However, under our Social Security Law, the emphasis is more on the promotion of the general welfare. The Act is not part of our Internal Revenue Code nor are the contributions and premiums therein dealt with and provided for, collectible by the Bureau of Internal Revenue. The funds contributed to the System belong to the members who will receive benefits, as a matter of right, whenever the hazards provided by the law occur.

"All that is required of appellant is to make monthly contributions to the System for covered employees in its employ. These contributions, contrary to appellant's contention, are not 'in the nature of taxes on employment.' Together with the contributions imposed upon employees and the Government, they are intended for the protection of said employees against the hazards of disability, sickness, old age and death in line with the constitutional mandate to promote social justice to insure the well-being and economic security of all the people." [4]

Because of the broad social purpose of the Social Security Act, all doubts in construing the Act should favor coverage rather than exemption.

Prior to its amendment, Sec. 9 of the Act provides that before an employer could be compelled to become a member of the System, he must have been in operation for at least two years and has at the time of admission at least six employees. It should be pointed out that it is the employer, either natural or juridical person, who is subject to compulsory coverage and not the business. If the intention of the legislature was to consider every venture of the employer as the basis of a separate coverage, an express provision to that effect could have been made. Unfortunately, however, none of that sort appeared provided for in the said law.

Should each business venture of the employer be considered as the basis of the coverage, an employer with more than one line of business but with less than six employees in each, would never be covered although he has in his employ a total of more than six employees which is sufficient to bring him within the ambit of compulsory coverage. This would frustrate rather than foster the policy of the Act. The legislative intent must be respected. In the absence of an express provision for a separate coverage for each kind of business, the reasonable interpretation is that once an employer is covered in a particular kind of business, he should be automatically covered with respect to any new line of business he may subsequently undertake even under a new name. Any interpretation which would defeat rather than promote the ends for which the Social Security Act was enacted should be eschewed. [5]

Petitioner contends that the Commission cannot indiscriminately combine for purposes of coverage two distinct and separate businesses when one has not yet been in operation for more than two years thus rendering nugatory the period of stabilization fixed by the Act. This contention lacks merit since the amendatory law, RA 2658, which was approved on June 18, 1960, eliminated the two-year stabilization period as employers now become automatically covered immediately upon the start of the business.

Sec. 10 (formerly Sec. 9) of RA 1161, as amended by RA 2658 now provides:

"Sec. 10. Effective date of coverage. - Compulsory coverage of the employer shall take effect on the first day of his operation, and that of the employee on the date of his employment." (Italics supplied)

As We have previously mentioned, it is the intention of the law to cover as many persons as possible so as to promote the constitutional objective of social justice. It is axiomatic that a later law prevails over a prior statute and moreover the legislative intent must be given effect. [6]

Petitioner further submits that Eufrazio Rojas is an independent contractor who engages in an independent business of his own consisting of the operation of the timber concession of the former. Rojas was appointed as operations manager of the logging concession;[7] he has no power to appoint or hire employees; as the term implies, he only manages the employees and it is petitioner who furnishes him the necessary equipment for use in the logging business; and he is not free from the control and direction of his employer in matters connected with the performance of his work. These factors clearly indicate that Rojas is not an independent contractor but merely an employee of petitioner; and should be entitled to the compulsory coverage of the Act.

The records indubitably show that petitioner started its real estate business on December 1, 1952 while its logging operation was actually commenced on April 1, 1957. Applying the provision of Sec. 10 of the Act, petitioner is subject to compulsory coverage as of December 1, 1952 with respect to the real estate business and as of April 1, 1957 with respect to its logging operation.

WHEREFORE, premises considered, the appeal is hereby DISMISSED. With costs against petitioner.

SO ORDERED.

Makasiar (Chairman), Aquino, Abad Santos, and Escolin, JJ., concur.

Concepcion, Jr., and Guerrero, JJ., on leave.

[1] C A Decision pp. 41-59, Rollo

[2] Page 17 of the Record on Appeal, p. 11, Rollo

[3] 17 SCRA 1077

[4] Roman Catholic Archbishop of Manila vs Social Security Commission, 1 SCRA 16.

[5] Franklin Baker of the Phil. vs S S S, 7 SCRA 840

[6] Lopez vs Commissioner of Customs, 37 SCRA 327

[7] Contract of Management, p. 47, Rollo

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