

SOCIAL SECURITY SYSTEM, PETITIONER AND APPELLEE, VS. VALDERRAMA LUMBER MANUFACTURERS CO., INC., RESPONDENT AND APPELLANT.

G.R. No. L-25779. May 30, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Appeal from the Resolution of the Social Security Commission dated August 3, 1965, in its Case No. 422, ordering respondent-appellant to pay the sum of P32,944.53 as penalties for late premiums from January, 1960, to June, 1963, and providing for the conditions for the payment thereof.

Respondent-appellant filed its answer, denying the material allegations of the petition. Issues having been joined, the parties presented their respective evidence.

At the trial, herein respondent-appellant admitted the existence of its premium delinquency. It averred, - however, that it was due to the tremendous losses it incurred during the many floods and typhoons that visited its place of business. Respondent-appellant sought, therefore, exemption from the penalties for late payment of premiums and requested the Social Security Commission that it be allowed to liquidate its premium delinquency of P62,410.53 by a monthly remittance of P6,000.00 to the herein petitioner-appellee beginning January, 1965, until fully paid. The proposal was objected to by the SSS.

The SSS, in its opposition alleges that respondent-appellant's plan of payment covers only its premium delinquency of P62,410.53, without including the penalties thereon in the amount of P32,944.53 computed as of December 7, 1963. A counter-proposal was instead presented by the SSS under which respondent-appellant shall liquidate its premium delinquency of P62,410.53 and the penalties thereon computed in the amount of P32,944.53, or the total sum of P95,355.06 in ten (10) equal monthly installments to start from February of 1965. In addition, respondent-appellant shall have to put up a surety bond equivalent to its total obligation on or before February 28, 1965, and failure of the respondent-appellant to pay any of the installment payments shall make all remaining installments due and demandable, or shall serve as ground for the forfeiture of the bond, without any further notice. Further, the penalties falling due after December 7, 1963, shall have to be settled by the respondent-appellant within sixty (60) days after the payment of the last and final monthly installment.

With the foregoing uncontroverted facts and conditions, the Social Security Commission rendered its Resolution of August 3, 1965, declaring respondent-appellant Valderrama Lumber Manufacturers Co., Inc., indebted to petitioner-appellee SSS in the amount of P62,410.53 as unpaid premiums, plus P32,944.53 as the monthly 3% penalty for late payment of premiums (Sec. 22 (a), Social Security Act), computed as of December 7, 1963, or a total obligation of P95,355.06, and providing therein certain terms and conditions to insure faithful payment of the obligation, as follows:

“(1) That respondent (Valderrama Lumber Manufacturers Co., Inc.) shall liquidate its principal obligation and penalties in the total amount of P95,355.06 in twelve (12) equal monthly installments, exclusive of the current

premiums, the first installment to be paid within fifteen (15) days from its receipt hereof;

“(2) That within the same period of fifteen (15) days, respondent shall put up a surety bond to answer for the faithful compliance of its obligation from a Surety firm acceptable to the System (SSS), for an amount equivalent to its total obligations;

“(3) That failure of respondent to pay on time any of the installments due and demandable shall be a ground for the forfeiture - of the bond in favor of petitioner (SSS) without further notice;

“(4) That the corresponding SSS Forms R-3 and R-4 shall be submitted to the System for every installment made; and

“(5) That claims of respondent's employees arising by virtue of the law, as amended, shall be settled by said respondent within five (5) days from receipt of demand.”

Respondent-appellant's motion for reconsideration having been denied, the herein appeal was perfected, questioning that part of the Resolution which relates to the imposition of the penalties (in the amount of P32,944.53) and, the conditions for the payment of the principal obligation as well as the penalties imposed.

Respondent-appellant maintains that the Social Security Commission erred in declaring itself without power to condone penalties for late payment of premiums or premium delinquency even in admittedly meritorious cases.

The particular portion of the resolution of The Social Security Commission dated August 3, 1965, being questioned by respondent-appellant is the following:

“While this Commission is not unmindful of the plight of the respondent, it cannot condone the penalties due in the instant case in view of Resolution No. 536, series of 1964, wherein this Commission declared that henceforth there shall be no condonation of penalties for lack of any express authority therefor in the law. For this reason, respondent's request for the condonation of the penalties in the amount of P32,944.53 as of December 7, 1963, cannot be granted.”

There is no denying that there is no express authority to condone penalties in the Social Security Act of 1954; neither is there any express prohibition against condonation of penalties. However, respondent-appellant vigorously maintains that the Social Security Commission has the power to condone penalties and should have, in this particular case, condoned the penalties assessed in the amount of P32,944.53 because said penalties all accrued before the passage of Resolution No. 536 on April 1, 1964.

Respondent-appellant likewise maintains that the Social Security Commission erred in imposing conditions for payment which are not countenanced by the law and, therefore, unconstitutional, such as the putting up of a surety bond to answer for the faithful compliance of the total obligations; that the failure of respondent-appellant to pay on time any of the installments due and demandable shall be a ground for the forfeiture of the surety bond in favor of petitioner-appellee without further notice; and that claims of the employees of respondent-appellant shall be settled by said respondent-appellant within five(5) days from receipt of demand.

Petitioner-appellee, thru the Office of the Solicitor General, on the other hand, maintains that the Resolution of the Social Security Commission, dated August 3, 1965, denying respondent-appellant's prayer for condonation of the penalties imposed against it in the amount of P32,944.53, is anchored mainly on a point of law — for actually the Social Security Commission, either in the exercise of its quasi-judicial function or for that matter under its general powers to control the SSS and in the proper enforcement of the Social Security Act, does not really have the authority or jurisdiction under the Social Security Act, as amended, to condone penalties for late payment of premiums. Petitioner-appellee reasons out that the penalty of 3% a month under the provision of Sec. 22(a) of the Social Security Act automatically attaches to the late remittance of premium contributions without any exception.

The law has precisely termed it as penalty and it should be imposed as such to serve as a deterrent to covered employers, such as the herein respondent-appellant, not to fail in remitting on time their premium contributions. To hold otherwise is certainly untenable and absurd.

Petitioner-appellee, likewise, maintains that the terms and conditions imposed to guarantee the religious and faithful payment of the total obligation of the respondent-appellant are not only justified and reasonable under the law but are even favorably advantageous to the latter, for the Social Security Commission could have chosen to order the respondent-appellant to liquidate its obligations in one whole lump sum by issuing a warrant to the Sheriff of Davao City to levy upon and sell any real and personal property of said respondent-appellant as prayed for by petitioner-appellee. However, the Social Security Commission considering the plight and predicament of respondent-appellant allowed it to settle its obligations on installment basis under the terms and conditions under question.

The legal issue thus presented is whether or not the Social Security Commission is empowered to condone penalties for late payment of premium contributions to the Social Security System. This issue was resolved by this Court in *United Christian Missionary Society, et al., vs. Social Security Commission and Social Security System*, L-26712-16, December 27, 1969; 30 SCRA 982, 987, where it was held that the plain text and intent of the pertinent provisions of the Social Security Act clearly rules out petitioner's posture that the respondent Commission has discretionary authority to condone, waive or relinquish the 3% penalty per month for late remittances of premium payments.

However, mention must be made of Presidential Decree No. 24, amending certain sections of R.A. No. 1161 as amended, otherwise known as The Social Security Act of 1954. This decree, issued and promulgated on October 19, 1972, by the President, pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, provides, among others, for the condonation of penalties for late payment of SSS premiums under certain conditions.

The pertinent provision of Presidential Decree No. 24, amending Sec. 22 (e) of the Social Security Act, provides as follows:

"(e) For purpose of this section, any employer who is delinquent or has not remitted all the monthly contributions due and payable may within six (6) months from approval of this amendatory act remit said contributions to the SSS and submit the corresponding collection lists therefor without incurring the prescribed three per cent penalty. In case the employer fails to remit to the SSS the said contributions within the six months grace period, the penalty of three per cent shall be imposed from the time the contributions first became due as provided in paragraph (A) of this section."

Respondent-appellant having already paid to the SSS the total amount of P79,389.40 as of August 26, 1966, against its back premiums of P62,410.53, and a portion of the penalties thereon assessed and imposed ((Respondent-appellant's Reply to Comment dated January 12, 1973, pp. 48-50, Rollo), and having likewise filed the required SSS Forms, said respondent-appellant has more than met the required conditions under Presidential Decree No. 24.

ACCORDINGLY, any unpaid balance of the penalties for late payment of premiums in the amount of P32,944.53 as imposed in the appealed Resolution of August 3, 1965, must be deemed remitted and condoned, under and by virtue of the terms of Presidential Decree No. 24 above quoted. Since the total back premiums claimed by the petitioner-appellee have already been fully satisfied, and respondent-appellant has been relieved from paying the balance of the prescribed penalties for late payment thereof, the present case is hereby dismissed for having been rendered moot and academic. No costs.

SO ORDERED.

Castro, Chairman, Teehankee, Makasiar, Munoz Palma, and Martin, JJ., concur.

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