

ADELO C. RIVERA, PLAINTIFF-APPELLANT, VS. SAN MIGUEL BREWERY CORPORATION, DEFENDANT-APPELLEE.*G.R. No. L-26197. August 30, 1968*

Ponente: CASTRO, J.

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Subject of this Resolution is the appellant's motion dated August 12, 1968 for reconsideration of our decision promulgated on July 20, 1968. It raises several points which we shall discuss in seriatim.

1. The appellant initially argues that the entire amount of P1,261.75 corresponding to his retirement benefit, partakes of the nature of a regular compensation for his loyalty and efficiency, citing *NWSA vs. NWSA Consolidated Unions et al.* (G.R. No. L-18938, Aug. 31, 1964), and *NDC vs. Unlicensed Crew Members of Three Doña Vessels (PMIU) and the CIR* (G.R. No. L-25390, June 27, 1968).

Worthy of note is the fact that the cited cases involved the matter of gratuity or bonus, whereas the case at bar concerns a private benefit plan by virtue of which the employer (appellee) provides sickness, disability, death and old age benefits for its employees (including the appellant). But even assuming that the appellant's position is correct, that is, that his retirement benefit is in the nature of a compensation, still this will not preclude the appellee from effecting the corresponding deduction. It is not denied that the amount of P1,261.75 is the whole contribution of the appellee company for appellant's benefit to its private plan. In deducting from the said amount its (employer's) contribution to the Social Security System in behalf of the said employee, the appellee company was merely exercising the right granted to it by section 9 of the Social Security Act.

Equally off-tangent is *PLDT Co. vs. Geturian et al.* (G.R. No. L-7756, July 30, 1955) because involved therein is the question of whether a company can disregard at will the pension plan which it has unilaterally set up. In the case at bar, the appellee company does not seek to disregard or discontinue its private plan. It merely asserts its right to deduct from the benefits accruing to the appellant under the said plan what the law says it may deduct, i.e., its contributions to the System in behalf of the said employee (appellant).

2. The appellant next argues that the appellee company's pension plan is a unilateral contract which bestowed on him a vested right to the entire amount of P1,261.75 as retirement benefit. This is not quite correct. Upon the happening of any contingency (sickness, disability, death or old age) provided for in the plan, what vests in an employee is merely the right to receive a retirement benefit, not in a specified sum, but in an amount computed in accord with the provisions and conditions of the whole contract.[1] Precisely, article XV of the private plan provides that:

"The benefits provided in these Rules shall be reduced by such amounts as would be sufficient to compensate the company for its (i.e., employer's) contribution for the account of each employee to the Social Security System. * * *"

Thus, his retirement benefit was accordingly reduced by P331.40 which is the sum total of the appellee company's contributions for his account to the System.

Besides, granting that the private plan assumed the proportions of a unilateral contract, then it is elementary that the pertinent provisions of the law should be read into it. One such provision is section 9 of the Social Security Act which commands the integration of private plans - existing and in force at the time of compulsory coverage - with the plan of the System "in such a way that where the employer's contributions to his private plan is [sic] more than that required of him in this Act, he shall pay to the System only the contribution required of him and he shall continue his contributions to such private plan less his contribution to the System so that the employer's total contribution to his private benefit plan and to the Social Security System shall be the same as his contribution to his private plan before the compulsory coverage; * * *"[2]

3. The appellant next contends that section 9 of the Social Security Act does not authorize the reduction of the retirement benefit upon retirement or at any time, but only and immediately upon the integration of the private plan with the System, because it mentions the word contribution no less than seven times.

A searching scrutiny of the aforementioned section fails to elicit any support for the appellant's contention. The section merely commands, inter alia, (1) the integration of private plans with the System's plan, and, (2) in case the employer's contributions to his private plan are more than those required of him under the Social Security Act, the payment by him to the System of the contributions required of him, and the continuation of the payment of his contributions to the private plan less his contributions to the System. There is no express or implied mention of the need to make an immediate deduction of his contribution to the System from his contributions to the private plan. It would seem that this right to effect deduction, granted by law to the employer, can be exercised by the latter at his leisure but before payment to the employee of what is due to the latter under the private plan.

And this is as it should be -- for to compel the employer to make the deduction every time he pays the required premiums to the System, would be to constrain him to adopt and maintain a cumbersome accounting procedure. Surely, our lawmakers did not intend nor envision this possible inconvenience to the employer. Indeed, where a right is granted, whatever is necessary for the proper and effective exercise of said right is presumed to have been granted likewise. Else, the right becomes inutile.

Nor can we consider as a waiver the appellee's omission to effect immediate deduction. Waivers are not presumed, but must clearly and convincingly be shown, either by express stipulation or by acts admitting no other reasonable interpretation.[3]

4. The appellant insists nevertheless that there was no need for the appellee company to adopt and incorporate article XV into its private plan because there was no reduction of the monthly contribution or amortization for the private benefit plan - considering that exhibit A which is the statement of account of the retirement benefits of the appellant duly rendered by the appellee, does not show any such reduction, whereas section 9 of the Social Security Act provides, inter alia,

"* * * That any changes, adjustments, modifications, eliminations or improvements in the benefits to be available under the remaining private plan, which may be necessary to adopt by reason of the reduced contribution thereto as a result reduced of the integration, shall be subject to agreements between the employers and employees concerned. * * *" (emphasis supplied)

If the appellant had taken a long look, he would have noted that exhibit A mentioned the following:

"Less: Employer's Contribution to the

Social Security System P331.40."

The above amount of P331.40 is the sum total of the deductions effected by the appellee from its contributions to the private benefit plan. But the appellant tries to salvage his untenable position by saying that the reduction was

made too late. We have shown the emptiness of this argument in our discussion in no. 3 above.

5. The appellant's argument that, not being a party to the collective bargaining agreement, he cannot be bound by article XV of the Health, Welfare and Retirement Plan, was sufficiently re-futed in our decision of July 20, 1968.

6. The appellant differs with our view that he would be en-riched at the expense of the appellee company if he were allowed "to enjoy the full amount of retirement pay under the private plan and all the benefits due to him under the Social Security Act with-out spending any single centavo," and, conversely, if we were "to prohibit the Company from making the corresponding deduction from such benefits of its contributions to the Social Security Sys-tem, in behalf of the appellant."

Does not the appellant stand to gain two benefits -- his retirement, benefit under the company plan and that accruing to him under the System? Did not the appellee company make pos-sible his enjoyment of these two benefits - the first, by setting up unilaterally and maintaining single handedly its health, welfare and retirement Plan, and the second, by paying its employer's contributions to the System in behalf of the appellant?

The deduction of the amount of P331.40 in this case merely represents a writing-off of a superadded liability, inasmuch as payment of the System premiums would otherwise impose upon the appellee company a greater economic burden than that which it vo-luntarily assumed when it adopted the private plan. Otherwise stated, the Social Security Act grants the employer the right to deduct its contributions to the System in behalf of the employee in order to preclude the employer from shouldering a double burden.

7. The appellant tries another approach, and cites the fact that the appellee has provided in article XV of the private plan that -

"* * * However, beginning with the Compa-ny's contributions corresponding to the month of April, 1963 the Company's contribution to the So-cial Security System shall no longer be deducted from the benefits provided in these Rules,"

in support of his argument that the appellee included this provision because it realized the unfairness of the situation.

We disagree. That the appellee introduced this proviso in article XV is no admission, much less proof, that the arrange-ment before April 1963 was unfair. The appellant here commits the fallacy of non sequitur.

Besides, the law (Social Security Act, section 9) grants to the appellee the right to make the corresponding deduction. Whe-ther or not the appellee exercises said right is entirely up to it. That it decided to waive said right after April 1963 is a matter we cannot inquire into.

8. The appellant notes the "harsh discrimination where he now finds himself after all his years of loyalty, dedication and ef-ficiency, to the very end of his good health." He has not, however, offered proof that no deduction of the employer's contributions has been mad from the retirement benefits of other retirees similarly situated.

9. The appellant resorts to less than fair argument when he states that "Exhibit 'A' also shows that the amount of P331.40 includes even the period of April 1, 1963 to September 15, 1963, and that deduction was still made on September I, 1963, despite Article XV of the Health and Welfare Plan."

This statement is clearly false because the stipulation of facts entered into by the parties states

"* * * That the amount of P311.40 representing the Defendant's [appellee company] contribution to the Social Security System during the period from September 1957 to March 1963 was deducted from Plaintiff's [appellant] retirement benefits in accordance with Article 15 * * * of the Defendant's [appellee] Health,

Welfare and Retirement Plan * * *." (emphasis supplied)

Well-settled is the rule that where parties to an action submit a case upon stipulated facts, and there is no other evidence introduced, they are bound by the facts so stipulated.[4] The facts agreed upon cannot be contradicted, unless it is shown that the admission was made through a palpable mistake.[5] Here, the appellant does not allege - much less prove - that a palpable mistake has led him into agreeing to the stipulation of facts. He may not therefore repudiate the stipulation of facts without the consent of the appellee or without leave of court on justifiable reasons.[6]

10. The appellant finally rehashes his argument that deduction of the amount of P331.40 from his retirement benefit is a violation of section 19 of the Social Security Act which provides, in part, that -

"* * * Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of his employees covered by the System or otherwise recover from them the employer's contribution with respect to such employees,"

because - he maintains - the word "otherwise" in this particular section should be interpreted in its broadest sense. Meaning, stated otherwise, that any recovery from the employees of the employer's contribution to the System with respect to such employees, would be illegal.

The appellant's interpretation of the abovequoted provision of section 19 would create a conflict between said section and section 9 of the same Act, which states, inter alia, that

"* * * [W]here the employer's contributions to his private plan is [sic] more than that required of him in this Act, he shall pay to the System only the contribution required of him and he shall continue his contributions to such private plan less his contribution to the System so that the employer's total contribution to his private benefit plan and to the Social Security System shall be the same as his contribution to his private plan before the compulsory coverage. * * *"(emphasis supplied)

For, whereas section 9 allows the employer to deduct his contributions to the System with respect to his employees from his contributions to his private plan, section 19 - according to the appellant's interpretation - prohibits this deduction because it would "otherwise" be a recovery from the employees of the employer's contributions to the System.

We cannot subscribe to appellant's interpretation because it will create - where there is clearly none - a conflict between section 19 and section 9. It is not the function of courts to impute conflicting intentions to the legislature, unless such conflicting intentions are shown by, clear and positive contradictory language.[7] Hence, where two constructions of a statute are possible, one of which harmonizes the provisions of the entire act, the other creating discord between different provisions, the former should be adopted.[8]

In fine, we still hold that section 19 prohibits any employer's scheme to make his employees shoulder his burden of paying to the System the employer's contributions required by the Social Security Act, but it does not prohibit the employer from effecting the proper deduction from his contributions to his private benefit plan.

ACCORDINGLY, the appellant's motion for reconsideration dated August 12, 1968 is hereby denied.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Angeles and Fernando, JJ., concur.

[1] Hurd vs. Illinois Bell Tel. Co., 136 F. Supp. 125. affirmed 234 F. 2d 942, certiorari denied; Seybold vs. Western Elec. Co., 77 S.Ct. 216, 352 U.S. 918, 1 L. Ed. 2d 124, rehearing denied 77 S.Ct. 352, 352 U.S. 977, 1 L. Ed. 2d 329.

[2] See p. 4, Decision.

[3] Ramirez vs. CA, 52 O.G. 779; Arrieta vs. National Rice and Corn Corp., G.R. No. L-15645, Jan. 31, 1964; Jocson vs. Capitol Subdivision, Inc., G.R. No. L-6573, Feb. 28, 1963; Fernandez vs. Subido, et al., 70 Phil. 151, 159; Toledo vs. Saulog Tran-sit Corp., 59 O.G. No. 52, 8941, 8946.

[4] Steveson & Co. vs. Collector of Internal Revenue, 51 Phil. 178-183.

[5] Irlanda vs. Pitargue, 22 Phil. 383.

[6] Ortua vs. Rodriguez, 63 Phil. 809.

[7] Medeiros vs. Soares, 61 P. 2d., p. 501.

[8] People vs. Rapini, 134 A. L. R., p. 545.

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