

MANUEL H. SANTIAGO, ET AL., PETITIONERS, VS. COURT OF APPEALS AND THE SOCIAL SECURITY SYSTEM, RESPONDENTS.

G.R. No. L-39949. October 31, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition to review the Decision of the then Court of Appeals (in CA-G.R. No. SP-01897-R), which affirmed the Resolution of the Social Security Commission (in Case No. 1073-SSC), denying the petition of Manuel H. Santiago, et al., to credit in their favor the salary deductions, by way of premium contributions and salary loan installment payments, made by their former employer, I-Feng Enamelling Company (Phil.) Inc., (the Employer, for brevity), but which the latter failed to remit to the Social Security System (the System, for short).

There is no dispute as to the facts, as found by the then Court of Appeals.

"There is no dispute that petitioners were employees of I-Feng Enamelling Company (Phil.) Inc. for several years, some from 1950 up to the time the company closed its business on May 1, 1965, and that since the enactment of the Social Security Act, Republic Act No. 1161, as amended, said employees have been paying, through salary deductions, their personal contributions to the System. There is likewise no dispute that appellants, during their employment, also enjoyed salary loan benefits, their installment payments thereto were likewise deducted and collected by their employer, and that said employer failed to remit to the System not only the installment payments to their salary loans in the amount of P7,940.13 but also the back premiums in the amount of P137,187.90 as of July 1966, excluding of course the penalties therefor in the amount of P63,734.97 as of August 9, 1966 (Exhibit 'B').[1]

Petitioners sought to have the amounts credited in their favor but the Commission denied their petition, stating:

"WHEREFORE, in the light of the foregoing discussion, the stand taken by petitioners in this case is un-tenable, hence their petition is hereby dismissed. If it is the claim of petitioner that there are deductions made on their salaries which were not remitted to the System then petitioners should have proceeded against the I-Feng Enamelling Company (Phil.) Inc., their alleged employer.

The System is likewise directed to study and deter-mine what action to take under the premises in order to protect the interest of the System."

Petitioners appealed to the then Court of Appeals, which, in its Decision promulgated on December 23, 1974, upheld the findings of the Commission and affirmed the challenged Resolution. Petitioners are now before us assailing the foregoing Resolution and Decision on the following grounds:

I

"The Respondents erred in holding that there exists no contract of agency between the Social Security System and I-Feng Enamelling Company (Phil.) Inc. in the collection of the salary loan installment payments from the petitioners and, therefore, the said unremitted salary loan installment payments may not be credited to

petitioners.

II

"The Respondents likewise erred in holding that the collections of premium contributions by the I-Feng Enamelling Company (Phil.) Inc. is not a collection by the System and, therefore, such unremitted premium contributions collected thru salary deductions from the salaries of the petitioners by the I-Feng Enamelling Company (Phil.) Inc. and which the latter failed to remit to the System may not be credited to the petitioners."

The sole issue for consideration is whether or not the premium contributions and payments of salary loans by petitioners, which were deducted and collected from their salaries by their Employer, but not remitted to the System, should be credited in their favor by the System.

Petitioners argue that they are entitled to full credit for the unremitted premium contributions and salary loan installment payments deducted from their wages because, by law, a contract of agency exists between the SSS and the Employer in the collection of the salary loan installment payments, and therefore, as such agent, payment to the Employer is payment to the principal, which is the System.

On the matter of payments of salary loans, SSS Circular No. 52 provides:

"(2) In case the borrower is in active employment, payment shall be made thru his employer by means of salary deductions. For this purpose, he shall expressly authorize in the application form his employer and the subsequent employers to whom he may later on transfer to deduct from his salaries the installments due. The employer, in turn shall remit to the System these installments in accordance with the procedure laid down in heading VII hereof."

It should be noted from the above-quoted rule that it is the borrower who expressly authorizes his employer and subsequent employers to deduct from his salary the installments due on his salary loan. The employer then remits the installments due to the System in accordance with rules that the System has laid down. The employer, in so deducting the installment payments from the borrower, does so upon the latter's authorization. The employer is merely the conduit for remitting the premiums for reasons of administrative convenience and expediency in order that SSS members may be served efficiently and expeditiously. No contract of agency, in the legal sense, therefore may be said to exist between the employer and the System.

But petitioners also rely on the "Current Employer's Certification/Agreement" (Exhibits "N-1", "U-1", "V-1" and "W-1") providing that the employer is empowered:

"1. To deduct monthly from the salaries of said employee the installments due on the loan that may be granted by virtue of this application and to remit the same to the System not later than the 20th day of the month following the end of each calendar quarter, the employer being entitled to deduct from the total quarterly collections P.07 for every P10.00 thereof as his collection fee".

The foregoing reiterates the proviso in SSS Circular No. 52, reading:

"V. Service and Collection Fee. - The System shall charge a service fee of P3.50 for every approved application deductible in advance from the proceeds of the loan.

"However, the employer shall be entitled to deduct from the total quarterly collections that he remits to the System a collection fee of seven centavos (P0.07) for every ten pesos (P10.00) or fraction thereof."

The entitlement to the collection fee by the employer neither makes the latter the agent of the System. The fee was devised to encourage employers to be prompt in the remittance of their collections to the System. As held by respondent Appellate Court:

"To us, this negligible collection fee is only an incentive granted to all employers throughout the country covered by the Social Security Act for their efforts in helping the System collect the necessary contributions and payments made to the latter by the innumerable individual members. This incentive is for administrative policy, efficiency and expediency with the end in view that the purposes for which the System has been created by law shall be effectively carried out. x x x "

To rule otherwise would be to open the door for unscrupulous employers to circumvent the law by not remitting their collections of salary loans installment payments from employees since, anyway, the System would credit them with what they had paid to the Employer even though the latter fails to remit them to the System.

There is a difference, however, in respect of premium contributions, by reason of the explicit provision of Section 22(b) of the Social Security Act, reading:

"(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."

Clearly, if the employer neglects to pay the premium contributions, the System may proceed with the collection in the same manner as the Bureau of Internal Revenue in case of unpaid taxes. Plainly, too, notwithstanding non-remittance by employers of the premium contributions, covered employees are entitled to the benefits of the coverage, such as death, sickness, retirement, and permanent disability benefits.[2] These benefits continue to be enjoyed by the employees by operation of law and not, as petitioners allege, because the premium contributions and salary loan installment payments have already become the money of the System upon payment by the employees to the employer. It should be remembered that funds contributed to the System by compulsion of law are funds belonging to the members, which are merely held in trust by the government.[3] The mentioned benefits, however, do not include the salary loan privileges that member-employees apply for. The System may or may not grant those loans pursuant to its rules and regulations. The salary loans are not covered by law but by contract between the System as lender, and the private employee, as borrower.

Contrary to petitioners' contention, the penalty of 3% per month imposed on the employer, if any premium contribution is not paid to the System, prescribed by Section 22 of the Act from the date the contribution falls due until paid, does not necessarily make the employer the agent of the System. The prescribed penalty is intended to exact compliance by the employer. It is evidently of a punitive character to assure that employers do not take lightly the State's exercise of the police power in the implementation of the Republic's declared policy to develop, establish gradually, and perfect a Social Security System which shall be suitable to the needs of the people throughout the Philippines and to provide protection to employees against the hazards of disability, sickness, old age, and death.[4]

WHEREFORE, the judgment under review is hereby modified in that only the premium contributions paid by petitioners to its employer, the I-Feng Enamelling Company (Phil.) Inc., shall be credited in petitioners' favor so that they may continue to enjoy the benefits of the coverage as provided by law. No costs.

SO ORDERED.

Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

Teehankee, (Chairman), J., concurs and joins with the separate concurring opinion of J. Plana; let copy of this decision be furnished to the Honorable Minister of Justice for the filing of appropriate criminal action against the employer company's officials who misappropriated the employees' premium contributions and salary loan

installment payments received in trust by them for remittance to the SSS.

Plana, J., see separate concurrence.

[1] Rollo, p. 40.

[2] Sections 12, 13, 14, Social Security Act.

[3] United Christian Missionary Society vs. SSS, 30 SCRA 982 (1969).

[4] United Christian Missionary Society, et al., vs. SSS, supra.

CONCURRING OPINION

PLANA, J.:

Who bears the loss of unremitted SSS premium contributions and salary loan repayments previously withheld from the salaries of employees in private enterprises in case the employer who has misappropriated the same fails to make restitution? This is the problem posed in this SSS case.

The solution explained in the written ponencia of Madame Justice Melencio-Herrera, with whom I concur, is in accordance with law. But the law as it stands seems inadequate to protect either the interest of the employees or the Social Security System. Thus, with respect to unremitted salary loan repayments, the employees have to shoulder the loss, if the employer is insolvent. On the other hand, as to premium contributions, the SSS and ultimately the members of the System must suffer the employer's misconduct and insolvency.

This situation underscores the danger of allowing private custodians of trust funds to commingle the same with private money, and indicates the necessity of requiring said persons/companies to keep trust funds segregated under separate accounts, which will make their fiscal officers fully aware of the nature of the funds they are disbursing - knowledge which will exert a powerful deterrent effect on diversion or misappropriation of trust funds.

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