RAFAEL A. LO, PETITIONER VS. COURT OF APPEALS AND GREGORIO LUGUIBIS, RESPONDENTS.

G.R. No. 128667. December 17, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review by certiorari of the decision[1] of the Court of Appeals, dated January 31, 1996, affirming the resolution[2] of the Social Security Commission, dated May 3, 1994, the dispositive portion of which reads:

> WHEREFORE, PREMISES CONSIDERED, this Commission finds and so holds that petitioner Gregorio Luguibis had been employed from September, 1957 to September, 1970 with respondent Jose Lo and from January, 1981 to September, 1984 with respondent Rafael Lo Rice and Corn Mill.
>
> Accordingly, respondent Jose Lo is hereby directed to report the petitioner's name for SS coverage effective September, 1957 and to pay to the SSS within thirty (30) days from receipt hereof the amount of ONE THOUSAND THREE HUNDRED FORTY TWO PESOS (P1,342.00), representing the unpaid SS contributions in favor of petitioner covering the period from September, 1957 to September, 1970, plus the amount of THIRTEEN THOUSAND NINE HUNDRED SIXTY THREE PESOS AND NINETY EIGHT CENTAVOS (P13,963.98), representing the penalty liability for late payment computed as of December, 1993, and the damages amounting to TWELVE THOUSAND FIVE HUNDRED EIGHTY FIVE PESOS AND THREE CENTAVOS (P12,585.03), for failure to report petitioner for coverage prior to the contingency pursuant to Section 24(a) of the SS Law, as amended.
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> Likewise, respondent Rafael Lo as owner of Rafael Lo Rice and Corn Mill Factory is hereby directed to report the petitioner's name for SS coverage retroactive January, 1981; to pay to the SSS within thirty (30) days from receipt hereof the amount of TWO THOUSAND ONE HUNDRED THIRTY SEVEN PESOS AND TWENTY FIVE CENTAVOS (P2,137.25), representing the unpaid SS/Medicare/EC contributions in favor of petitioner covering the period from January, 1981 to September, 1984, plus the amount of NINE THOUSAND TWENTY FIVE PESOS AND TWENTY FOUR CENTAVOS (P9,025.24), representing the penalty liability for late payment computed as of December, 1993, and the damages amounting to SEVEN THOUSAND ONE HUNDRED EIGHTY SIX PESOS AND EIGHTY CENTAVOS (P7,186.80), for misrepresenting petitioner's true date of employment pursuant to Section 24(b) of the SS Law, as amended.
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> Meanwhile, the SSS is hereby ordered to pay to petitioner his monthly retirement pension benefit effective September, 1984, the date he was separated from employment, upon his filing of the proper claim supported by pertinent documents.

The facts are as follows:

On April 22, 1953, private respondent Gregorio Luguibis began working as a mechanic at the Polangui Rice Mill, Inc., owned by Jose Lo. Private respondent was paid P4.00 daily. In 1959, in addition to his work at the rice mill, he was asked to render services as a mechanic at the Polangui Bijon Factory also owned by Jose Lo. His wage

was later increased, and from 1964 to 1970, when he resigned due to illness, he was receiving a daily wage of P10.00.

It appears that the management of the rice mill and noodle factory, originally owned by Jose Lo, were transferred in 1978 to his son, petitioner Rafael Lo, and his sister, Leticia Lo. Petitioner took over the rice mill, which then became known as the Rafael Lo Rice and Corn Mill, while Leticia Lo became the operator and manager of the Polangui Bijon Factory.[3]

In 1981, private respondent was rehired by Jose Lo, as mechanic, with a daily wage of P34.00, plus allowance. While repairing one of the defective machines at the noodle factory on August 11, 1984, private respondent met an accident and suffered injuries which forced him to retire soon thereafter.

In 1985, private respondent filed his application for retirement benefits with the Social Security System (SSS). His application, however, was denied since per SSS records he became a member only in 1983, and contributions in his favor were remitted only from October 1983 to September 1984. As private respondent knew that SSS contributions of P3.50 have been deducted from his monthly salary since compulsory SSS coverage took effect in 1957, private respondent filed a petition with the Social Security Commission against petitioner Rafael Lo and Jose Lo. On May 3, 1994, the Commission upheld private respondent's claim and ordered petitioner and Jose Lo to remit to the SSS the unpaid contributions in favor of private respondent for the periods September 1957-September 1970, and January 1981-September 1984, including penalties and charges.

Instead of filing a notice of appeal, petitioner then filed a petition for review[4] with the Court of Appeals. The appellate court, nonetheless, took cognizance of the petition as an appeal and decided it on the merits.

On January 3, 1996, the Court of Appeals affirmed the decision of the Commission, except that it ordered petitioner to pay to the SSS the amount representing the unpaid contributions for the period January 1981 to September 1983, instead of the period January 1981 to September 1984.

When the appellate court denied his motion for reconsideration,[5] petitioner filed this petition for review, where he assigns the following errors:[6]

> I. THE FINDING THAT THE BULK OF THE CLAIMS HAS NOT PRESCRIBED IS NOT IN ACCORD WITH AND/OR CONTRARY TO THE APPLICABLE LAW AND DECISIONS OF THIS HONORABLE COURT.
>
> II. THE FINDINGS OF FACT THAT IMPELLED THE HONORABLE COURT OF APPEALS TO REJECT THE DEFENSE IS BASED ON A MISAPPREHENSION OF FACTS, IS UNSUPPORTED BY THE EVIDENCE, AND THERE IS GRAVE ABUSE OF DISCRETION.

First. Petitioner argues that the right of private respondent to file an action to claim his SSS benefits has already prescribed. He claims that the Court of Appeals should not have applied to this case the ruling in People v. Monteiro,[7] where it was held that the period of prescription for failure to register with the SSS commences on the day of the discovery of the violation. According to petitioner, Monteiro can only be applied to penal offenses, whereas the present case involves civil claims and should, therefore, be governed by the Civil Code provisions on prescription. Petitioner argues:

> Payment of SS premium, as stated in the Decision, is an obligation created by law hence, without need of demand, it becomes due on the date when such payment should be made. Hence, under Article 1150 [of the Civil Code], the right of action to recover unremitted SS premium accrues on the date it is payable and maybe brought beginning such date. If the period of non-remittance covers a certain period, say 10 years, such claim is divisible into as many parts as there are installments due, although for purposes of convenience and

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> avoidance of multiplicity of suits, such accumulated claims may be brought in a single case. However, for purposes of prescription the accumulated claims should be segregated to determine which have already prescribed. This is no different from a claim for backwages, underpayment and the like under the Labor Code which fall due periodically mostly on a weekly or even daily basis where all claims more than 3 years old reckoned from the date of the filing of the claim are segregated and considered prescribed. Which is unlike a claim for separation pay which is unitary or indivisible, the same being based on the length of service of an employee and accrues only on the date he is separated from the service.[8]

The argument is untenable.

Section 22(b), par. 2, of Republic Act No. 1161, or the SSS Law, as amended, states:

> The right to institute the necessary action against the employer may be commenced within twenty (20) years from the time the delinquency is known or the assessment is made by the SSS, or from the time the benefit accrues, as the case may be. (emphasis supplied)

The clear and explicit language of the statute leaves no room for doubt as to its application.[9] Indeed, in Benedicto v. Abad Santos,[10] we held that §22(b) of R.A. 1161 applies to administrative and civil actions against an employer for his failure to remit SSS contributions. Criminal actions for violations of the SSS law, on the other hand, prescribes in four years, as provided in Act No. 3326.[11]

Private respondent, in this case, discovered the delinquency of petitioner in remitting his SSS contributions only after his separation from employment on September 13, 1984. Prior thereto, private respondent could not have known that his SSS contributions were not being remitted by petitioner since deductions were made on his salary monthly. Thus, even if petitioner is correct in saying that the prescriptive period should be counted from the day on which the corresponding action could have been instituted, the action in this case could only be instituted when the delinquency was made known to the private respondent and not when the obligation to pay the premiums accrued.

Thus, even if the case of People v. Monteiro were not applied to the present case, R.A. 1161, §22(b) expressly provides that the period of prescription to file the necessary action against the employer should likewise commence on the day said violation was discovered.

Petitioner likewise contends that the 20-year prescriptive period does not apply to private respondent's claims prior to 1980 because Presidential Decree No. 1636, which amended R.A. 1161 to provide for such period, took effect on January 1, 1980. Hence, since R.A. 1161 did not originally provide for a prescriptive period prior to its amendment, the Civil Code provisions on prescription should govern.

The argument has no merit.

In amending R.A. 1161, P.D. 1636 provided for a 20-year prescriptive period and, in effect, extended the 10-year period of prescription provided by the Civil Code. For cases, therefore, with rights arising prior to P.D. 1636, the 20-year prescriptive period shall take effect as long as the original prescriptive period has not expired.[12]

Even assuming that the prescriptive period has begun to run in this case prior to the discovery of the violation in 1985, it could have started only at the time the benefit accrued, i.e., in September 1970 when private respondent left his job due to illness. On January 1, 1980, when P.D. 1636 took effect, the 10-year prescriptive period has not expired and was, thus, deemed extended to 20 years.

In any case, as earlier stated, the provision of §22(b) of R.A. 1161 is clear that the period of prescription commences to run only upon the discovery of the violation, which in this case took place in 1985. When the complaint was filed on August 14, 1985, therefore, less than one year has passed since the discovery of the

delinquency. Nor do we find it necessary to discuss petitioner's contention that the Civil Code principles on divisible obligations and payments in installments should be applied, considering the clear and unmistakable language of R.A. 1161.

Second. Petitioner questions the finding of the Commission that private respondent was a regular employee of the rice mill and bijon factory when the compulsory SSS coverage took effect in 1957. He alleges that the Court of Appeals' findings are unsupported by evidence, and committed grave abuse of discretion in arriving at its decision.[13]

According to petitioner, the Court of Appeals itself found Leticia Lo's testimony "not very credible,"[14] since the reports she submitted did not contain all the names of the employees of the rice mill and noodle factory[15] which she mentioned in her testimony.

The contention has no merit. The appellate court did not just rely on the testimony of Leticia Lo but on the findings of the Social Security Commission, thus:

> The Commission did not err in finding that Gregorio Luguibis was a regular employee of Jose Lo from September 1957 to September 1970 and a regular employee of the Rafael Lo Rice and Corn Mill from January, 1981 to September 1984. Such conclusion was reached after a thorough consideration of all the evidence (sic) presented by the parties. Hearings were conducted where Gregorio Luguibis, Jesus Balingasa, Rafael Lo, Leticia Lo, and Bernard Redillas testified. Documentary evidence (sic) were also presented as correctly found by the Commission, the evidence (sic) of Luguibis were more convincing.
>
> The testimony of Gregorio Luguibis was explicit and clear. He named the exact dates of his actual employment at the rice mill, the nature of his work, and the amount of wages he was paid. Balingasa corroborated Lugubi's testimony with respect to the fact that the latter was indeed employed as mechanic at the rice mill.
>
> On the other hand, the evidence of the opposing party with respect to the issue of when Luguibis became an employee of the rice mill and bijon factory was inconsistent. Rafael Lo alleged in one pleading that Luguibis became an employee at the rice mill on October 10, 1983 while he testified on cross-examination that Luguibis was hired sometime in 1980. Rafael's sister Leticia testified upon being cross-examined that prior to 10 October 1983, Luguibis was never hired as regular employee at the rice mill.[16]

Time and again we have ruled that "in reviewing administrative decisions . . . the findings of fact made therein must be respected as long as they are supported by substantial evidence, even if not overwhelming or preponderant; that it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of the witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of the evidence; that the administrative decision in matters, within the executive jurisdiction, can only be set aside on proof of grave abuse of discretion, fraud, or error of law."[17]

Clearly, the Court of Appeals and the Commission had sufficient basis in concluding that private respondent was an employee of petitioner in 1957, when compulsory SSS coverage took effect.

WHEREFORE, the petition is DISMISSED and the decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Justice Buenaventura J. Guerrero, concurred in by Justices Minerva P. Gonzaga-Reyes (now Associate Justice of the Supreme Court) and Romeo A. Brawner.

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[2] Per Commissioner Raoul M. Inocentes.

[3] Rollo, p. 47.

[4] Id., p. 22.

[5] Id., p. 70.

[6] Id., p. 10.

[7] 192 SCRA 548 (1990).

[8] Petition, p. 5; Rollo, p. 13.

[9] Paat v. Court of Appeals, 266 SCRA 167 (1997).

[10] 183 SCRA 434 (1990).

[11] Id., at 440.

[12] See Pan Philippine Corp. v. Workman's Compensation Commission, 101 Phil. 66 (1957).

[13] Id., p. 16.

[14] CA Decision, p. 13.

[15] Rollo, p. 17.

[16] CA Decision, p. 13.

[17] Timbancaya vs. Vicente, 9 SCRA 852, 854 (1963).

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