

THE SOCIAL SECURITY COMMISSION, PETITIONER, VS. THE HON. JUDGE FROILAN BAYONA, ET AL., RESPONDENTS.

G. R. No. 13555. May 30, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On August 30, 1957, the Faculty Club of the University of Santo Tomas, Inc. and San Beda College Lay Faculty Club, Inc. filed a petition for declaratory relief with preliminary injunction before the Court of First Instance of Manila alleging in substance that they have existing agreements with their respective employers— the University of Santo Tomas and San Beda College— for the establishment of gratuity and retirement funds which have been in operation prior to September 1, 1957; that the Social Security Commission tried to compel them to integrate their private systems into the Social Security System on said date; that inasmuch as their private systems grant more benefits to the members than the Social Security System the integration of their private systems would deprive their members of property without due process of law, as well as would impair the obligation of their contract to the detriment of the members. Hence, they prayed for the issuance of preliminary injunction *ex parte* commanding the Social Security Commission to desist from compelling them to integrate during the pendency of the case on the ground that, unless said Commission is enjoined, it might enforce the penal provisions of the Social Security Act.

On August 30, 1957, the court *a quo*, Judge Froilan Bayona, presiding, issued *ex parte* a writ of preliminary injunction enjoining the Social Security Commission from compelling the integration sought for.

On September 7, 1957, the Social Security Commission moved to dissolve the preliminary injunction on the following grounds: (1) a statute is presumed constitutional; (2) there is no irreparable injury shown to justify the issuance of injunction; (3) injunction does not lie against laws for public welfare; (4) injunction does not lie against enforcement of penal laws; (5) injunction does not lie to stop the collection of contributions under the Social Security Law; and (6) the preliminary injunction was barred by laches.

The motion to dissolve was denied. A motion for reconsideration of the order having likewise been denied, the Social Security Commission filed the present petition for certiorari with preliminary injunction.

In charging respondent judge with having acted with grave abuse of discretion in issuing the writ of preliminary injunction *ex parte*, petitioner advances the following reasons:

- Respondent judge enjoined the enforcement of the Social Security Law for the benefit of an insignificant few who had manifested their defiance against its implementation. It is his sworn duty to enforce the law and not to tamper with it. The task of suspending the operation of a social legislation is a matter of extreme delicacy because it is an interference with the official acts not only of the duly elected representatives of the people but also of the highest magistrate of the land.
- The order of respondent judge in effect enjoined the enforcement of a penal statute which he has no power to do.

The rule is that equity will not intervene for the purpose of enjoining the enforcement of a penal statute even if the same is alleged to be unconstitutional since such invalidity should be interposed as a defense in a prosecution based on such statute.

- Respondent judge cannot enjoin the collection of contributions under the Social Security Law for the same have the category of taxes which are collectible under the National Internal Revenue Code.
- A writ of preliminary injunction should be issued only to prevent great and irreparable injury. The injury must be actual, positive, substantial and irreparable at law. Respondent corporations have not shown that they would suffer such injury if the injunction were not issued.
- The order of respondent judge places the government in a worse position than a private litigant for the latter may secure the lifting of an injunction by filing a counterbond. Such right cannot be exercised by the government for the latter is not by law required to file a bond.

Respondent corporations, on the other hand, advance the following arguments in refutation of those adduced by petitioner:

- It is erroneous to state that the writ of preliminary injunction has the effect of suspending the operation of the Social Security Law. That law, regardless of any injunction, continues to be in force except only with respect to those who have private plans of their own in existence at the time of the effectivity of the law.
- It is not also correct to state that courts have no power to enjoin the enforcement of penal statutes even if they are alleged to be unconstitutional, for there are cases in this jurisdiction which hold that, under penal statutes affecting persons and property rights, where their constitutionality is doubtful, courts may grant preliminary injunction.
- While under the law the contributions to the system shall be collected in the same manner as taxes under the National Revenue Code, the same may be enjoined if special circumstances exist having relation to the existence of irreparable injury.
- Petitioner is also in error when it states that respondent corporations have not shown that the non-issuance of the injunction would cause them irreparable injury. This injury consists of the following:

- (a) To lift the injunction would mean to take away the availability of the funds of respondent corporation from their members who may borrow them in case of necessity;
- (b) To dissolve the injunction would be to take away respondents' funds which they may never be able to get back taking note of Section 31 of the Social Security Act, as amended, which says that no person shall be deemed to be vested with any property or right by virtue of the enactment of said Act;
- (c) If respondent corporations refuse to join the Social Security System, criminal prosecution would ensue against their officers and members.

A careful evaluation of the foregoing arguments provide us with some observations.

A law is presumed constitutional until otherwise declared by judicial interpretation. The task of suspending the operation of a law even if alleged to be unconstitutional is a matter of extreme delicacy because it is an interference with the official acts not only of the duly elected representatives of the people but also of the highest magistrate of the land. This notwithstanding, respondent corporations resisted the integration of their private systems into the system established by the Social Security Act, and in order to avoid being recreant to their duty which may result in their prosecution, they filed the present petition seeking a judicial declaration on its

constitutionality. But pending such action, they sought the restraining hand of the court on the plea that unless the enforcement of the law is restrained, they would suffer an irreparable injury.

At this stage of the proceeding, it is not the task of the Court to pass on the question of constitutionality of the law. This concerns the merits of the case. We shall confine our inquiry into the propriety of the issuance of the writ which is the main issue raised in this petition. The foremost inquiry regarding this issue is the existence or non-existence of irreparable injury which seems to be the main basis of the issuance of the writ.

Damages are irreparable within the meaning of the rule relative to the issuance of injunction where there is no standard by which their amount can be measured with reasonable accuracy (Crouch vs. Central Labor Council, 83 ALR, 193). "An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing kind which produce hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement" Phipps vs. Rogue River Valley Canal Co., 7 ALR, 741). An irreparable injury to authorize an injunction consists of "a serious charge of, or is destructive to, the property it affects, either physically or in the character in which it has been held and enjoined, or when the property has some peculiar quality or use, so that its pecuniary value will not fairly recompense the owner of the loss thereof" (Dunker vs. Field and Tub Club, 92 P., 502).

Respondent corporations made a lengthy discourse. On the matter of irreparable injury they may suffer if the injunction were not issued, but the array of figures they have laid out merely succeeded in proving that the damage, if any they may suffer, is susceptible of mathematical computation. It is not then irreparable. As already stated, this term has a definite meaning in law. It does not have reference to the amount of damages that may be caused but rather to the difficulty of measuring the damages inflicted. If full compensation can be obtained, by way of damages, equity will not apply the remedy of injunction (28 Am. Jur., 244; 43 C.J.S., 427, 446).

Neither can respondent corporations contend that their integration would mean the destruction of their existing private systems. The most that can happen would be a diminution of benefits in proportion to the reduction of the contributions to their private systems. But while they may suffer such reduction in benefits they also stand to benefit under the government system. Bear in mind that the integration does not mean the discontinuance of the private system for under the law three alternatives are open to respondents in effecting the integration.^[1] In other words, respondents may continue with whatever private may have at present as a complement to the benefits afforded to them under the government system without prejudice to their integration into the government security system.

It may be conceded that, if the injunction be lifted, the possible damages respondents may suffer are their contributions and those of their employers to the government security system. But restoration of said contributions had been assured by petitioner should the provision under consideration be declared unconstitutional and invalid. There can always be an appropriate arrangement to provide for refund in the event of such circumstance. Surely, the millions of pesos available to the Social Security System would be more than sufficient to compensate respondents for the contributions they have made.

The same thing may not be said if the enforcement of the law is restrained, for then respondents would be more harassed and prejudiced in case the constitutionality of the law is upheld, since they will have to pay all the back contributions from September, 1957, including interests, up to the time the preliminary injunction is dissolved. Restoration would then be much more difficult in view of the contingencies that may arise with regard to the members of their private systems. There are, to be sure, more weighty reasons favoring the lifting of the injunction issued by respondent judge.

Premises considered, petition is granted. The writ of preliminary injunction issued by respondent judge is hereby

lifted. No costs.

Padilla, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

[1] (a) To abandon totally their private systems and be integrated into the government system; (b) to integrate into the government system so much of their contributions as required by law and continue with thier systems with respect to the excess of thier contributions; and (c) to be covered by the government system and continue in full force thier private systems (Section 9, Republic Act 1161).

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