# NELY T. CO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, SOCIAL SECURITY SYSTEM, OFFICE OF THE SOLICITOR GENERAL AND SPOUSES JOSE AND MERCEDES LIM., RESPONDENTS.

*G.R. No. 160265. July 13, 2009*

Ponente: CORONA, J.

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**CORONA, J.:**

This is a petition for review on certiorari[1] of the May 15, 2003 and October 6, 2003 resolutions[2] of the Court of Appeals (CA) in CA-G.R. SP No. 69510.

On January 12, 2001, an Information charging petitioner Nely T. Co with violation of Section 22(d) in relation to Section 28(e) of RA[3] 1161, as amended by RA 8282 (the Social Security Law of 1997)[4] was filed in the Regional Trial Court (RTC), Quezon City, Branch 78, on the basis of the complaint of respondent spouses Jose and Mercedes Lim, who claimed to be petitioner's employees.[5] Petitioner was accused of failing to remit the compulsory contributions of respondent spouses to respondent Social Security System (SSS).[6]

On July 3, 2001, petitioner filed a motion to quash the Information, arguing that the facts alleged in the Information did not constitute an offense because respondent spouses were not her employees. In support of her motion, petitioner cited the ruling of the National Labor Relations Commission (NLRC) on the issue of whether petitioner and respondent spouses had an employer-employee relationship with her or her company.

Prior to this, on March 27, 2000 (before the filing of the Information), respondent spouses had filed a labor case for illegal dismissal and nonpayment of overtime pay, holiday pay, holiday premium pay, service incentive leave and 13[th] month pay against Ever-Ready Phils., Inc.[7] and its officers Joseph Thomas Co, William Co, Wilson Co and petitioner.[8]

On September 29, 2000, labor arbiter (LA) Ernesto S. Dinopol rendered a decision dismissing the complaint for lack of merit. He held that respondent spouses had voluntarily left the company as shown by the deeds of release and quitclaim they executed. They were also not entitled to their monetary claims under Article 82 of the Labor Code because they were field personnel of the company.[9]

Aggrieved, both parties appealed to the NLRC. In a resolution dated May 31, 2001, it affirmed the decision of the LA and ruled that the respondent spouses, as sales representatives, were independent contractors.[10] Therefore, there was no employer-employee relationship between the parties. This NLRC resolution attained finality on December 20, 2001.[11]

Notwithstanding the NLRC ruling on the lack of employer-employee relationship between petitioner and respondent spouses, Judge Percival Mandap Lopez of the RTC denied petitioner's motion to quash (the Information charging violation of the SSS law) in a resolution dated November 12, 2001.[12] On March 8, 2002, petitioner filed a petition for certiorari and prohibition against Judge Lopez in the CA seeking to set aside the November 12, 2001 RTC resolution denying her motion to quash.

In a resolution dated January 13, 2003, the CA required petitioner to implead the People of the Philippines, SSS, Office of the Solicitor General and respondent spouses.[13] For petitioner's failure to comply with this order, the CA dismissed the petition on May 15, 2003 and denied reconsideration on October 6, 2003. According to the CA, petitioner was bound by the negligence of her former counsel.

Hence, this petition.

For our resolution are the following issues: (1) whether petitioner's motion for reconsideration of the CA's dismissal of the petition was correctly denied and (2) whether petitioner's motion to quash should have been granted by the RTC.

On the first issue, petitioner argues that the CA should have granted her motion for reconsideration of the May 15, 2003 resolution. She asserts that under Rule 37, Section 1 (a) of the Rules of Court, the abandonment of her case by her former counsel[14] amounted to extrinsic fraud which was a meritorious ground.

Petitioner is incorrect. Extrinsic fraud is a valid ground in a motion for new trial, not a motion for reconsideration:

> SECTION 1. Grounds of and period for filing motion for new trial or reconsideration. â€- Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.
>
> Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. (Emphasis supplied)

Petitioner asserted no other ground aside from extrinsic fraud. Therefore, her motion was properly denied and we do not see the need to discuss the merits of such ground.

Nevertheless, in the interest of justice and to prevent undue delay in the disposition of this case, we tackle the next issue raised by petitioner despite the CA's proper dismissal of her petition.[15] This was a criminal case and the possibility of a person being deprived unjustly of her liberty due to the procedural lapse of counsel was a strong and compelling reason to warrant suspension of the Rules of Court.[16] For the rule-making power of this Court is coupled with the duty to protect and promote constitutional and substantive rights,[17] not to defeat them. Thus, the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, resulting in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.[18]

Petitioner maintains that the factual finding in the illegal dismissal case that respondent spouses were not her employees is binding in this case. There being no employer-employee relationship, respondent spouses were not entitled to coverage under RA 1161, as amended, and petitioner should not be penalized under said law. We agree.

Well-settled is the rule that the mandatory coverage of RA 1161, as amended, is premised on the existence of an employer-employee relationship.[19] Applicable here is Smith Bell & Co., Inc. v. Court of Appeals:[20]

> Based on the records of the case at bar and those of G.R. No. L-44620, it is clear that the resolution of this


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> Court dated 26 January 1977, rendered in G.R. No. L-44620 [illegal dismissal case], constitutes a bar to SSC Case No. 2453. We, therefore, find merit in the petition at bar.
>
> xxx xxx xxx
>
> It is true that in SSC Case No. 2453, private respondents sought to enforce their alleged right to compulsory coverage by the SSS on the main allegation that they are employees of petitioner company. On the other hand, in NLRC Case No. ROVII-153, private respondents, in order to support their position that they were illegally dismissed by petitioner company from their work, maintained that there was an employee-employer relationship existing between petitioner and private respondents at the time of such dismissal. In other words, the issue common to both cases is whether there existed an employee-employer relationship at the time of the occurrence of the acts complained of both in SSC Case No. 2453 and NLRC Case No. RO-VII-153.
>
> It is well to note that the said issue was adjudged with finality in G.R. No. L-44620, through this Court's resolutions dated 26 January 1977 and 14 March 1977. The dismissal of the petition of the herein private respondents in G.R. No. L-44620, though contained in a minute resolution, was an adjudication on the merits of the case.
>
> The present controversy, therefore, squarely falls under the umbrage of res judicata, particularly, under the rule on "conclusiveness of judgment." Following this rule, as stated in Bienvenida Machoca Arcadio vs. Carriaga, Jr., we hold that the judgment in G.R. No. L-44620 bars SSC Case No. 2453, as the relief sought in the latter case is inextricably related to the ruling in G.R. No. L-44620 to the effect that private respondents, are not employees of petitioner.[21] (Emphasis supplied)

The only difference is that the instant case is a criminal case whereas the case in Smith Bell was a civil case. However, the doctrine of conclusiveness of judgment also applies in criminal cases. As we declared in Constantino v. Sandiganbayan (First Division):[22]

> Although the instant case involves a criminal charge whereas Constantino involved an administrative charge, still the findings in the latter case are binding herein because the same set of facts are the subject of both cases. What is decisive is that the issues already litigated in a final and executory judgment preclude -- by the principle of bar by prior judgment, an aspect of the doctrine of res judicata, and even under the doctrine of "law of the case," -- the re-litigation of the same issue in another action. It is well established that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them. The dictum therein laid down became the law of the case and what was once irrevocably established as the controlling legal rule or decision continues to be binding between the same parties as long as the facts on which the decision was predicated continue to be the facts of the case before the court. Hence, the binding effect and enforceability of that dictum can no longer be resurrected anew since such issue had already been resolved and finally laid to rest, if not by the principle of res judicata, at least by conclusiveness of judgment.
>
> It may be true that the basis of administrative liability differs from criminal liability as the purpose of administrative proceedings on the one hand is mainly to protect the public service, based on the time-honored principle that a public office is a public trust. On the other hand, the purpose of the criminal prosecution is the punishment of crime. However, the dismissal by the Court of the administrative case against Constantino based on the same subject matter and after examining the same crucial evidence operates to dismiss the criminal case because of the precise finding that the act from which liability is anchored does not exist.
>
> It is likewise clear from the decision of the Court in Constantino that the level of proof required in administrative cases which is substantial evidence was not mustered therein. The same evidence is again before the Court in connection with the appeal in the criminal case. Ineluctably, the same evidence cannot with greater reason satisfy the higher standard in criminal cases such as the present case which is evidence beyond reasonable doubt.[23]

We are mindful that in Republic v. Asiapro Cooperative,[24] we ruled that the question on the existence of an employer-employee relationship for the purpose of determining the coverage of the SSS law falls within the jurisdiction of the Social Security Commission (SSC) which is primarily charged with the duty of settling disputes under RA 1161, as amended.[25] In that case, the SSS filed a petition in the SSC praying that Asiapro Cooperative (Asiapro) be directed to register as an employer, to report its owners-members as covered employees under the compulsory coverage of SSS and to remit the necessary contributions in accordance with the law.[26] Asiapro sought the dismissal of the petition alleging that no employer-employee relationship existed between it and its owners-members, thus SSC had no jurisdiction over it. We held that, based on Section 5 of RA 8282,[27] SSC had jurisdiction over the petition.

Republic v. Asiapro Cooperative, however, is inapplicable here as this case does not concern the issue of jurisdiction of the SSC. Furthermore, the question of the existence of an employer-employee relationship was already disposed of with finality, albeit in the context of an illegal dismissal case in the NLRC. There was no need for the RTC to make an independent finding because the doctrine of conclusiveness of judgment had already set in.

> The reasons for establishing the principle of "conclusiveness of judgment" are founded on sound public policy, and to grant this petition would have the effect of unsettling this well-settled doctrine. It is allowable to reason back from a judgment to the basis on which it stands, upon the obvious principle that where a conclusion is indisputable, and could have been drawn only from certain premises, the premises are equally indisputable with the conclusion. When a fact has been once determined in the course of a judicial proceeding, and a final judgment has been rendered in accordance therewith, it cannot be again litigated between the same parties without virtually impeaching the correctness of the former decision, which, from motives of public policy, the law does not permit to be done.[28]
>
> Res judicata has two concepts. The first is bar by prior judgment under Rule 39, Section 47 (b), and the second is conclusiveness of judgment under Rule 39, Section 47 (c). Both concepts are founded on the principle of estoppel, and are based on the salutary public policy against unnecessary multiplicity of suits. Like the splitting of causes of action, res judicata is in pursuance of such policy. Matters settled by a Court's final judgment should not be litigated upon or invoked again. Relitigation of issues already settled merely burdens the Courts and the taxpayers, creates uneasiness and confusion, and wastes valuable time and energy that could be devoted to worthier cases.[29] (Emphasis supplied)

To sum up, the final and executory NLRC decision (to the effect that respondent spouses were not the employees of petitioner) was binding on this criminal case for violation of RA 1161, as amended. Accordingly, the RTC committed grave abuse of discretion when it refused to grant petitioner's motion to quash the Information. Simply said, any conviction for violation of the SSS law based on the erroneous premise of the existence of an employer-employee relationship would be a transgression of petitioner's constitutional rights.

WHEREFORE, the petition is hereby GRANTED. Criminal Case No. Q-01-97619 is ORDERED dismissed.

No costs.

**SO ORDERED.**

Puno, C.J., (Chairperson), Carpio, Leonardo-De Carpio, and Bersamin, JJ., concur.

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[*] The Court of Appeals and Regional Trial Court, Quezon City, Branch 78 were originally impleaded as public respondents. However, they were excluded pursuant to Rule 45, Section 4 of the Rules of Court.

[1] Under Rule 45 of the Rules of Court. Rollo, p. 3.

[2] Penned by Associate Justice Eloy R. Bello, Jr. (retired) and concurred in by then Presiding Justice Cancio C. Garcia (now retired Supreme Court Justice) and Associate Justice Mariano C. del Castillo of the First Division of the Court of Appeals. Id., pp. 23-24.

[3] Republic Act.

[4] Should be Section 22(a) and (b) in relation to Section 22(e):

Sec. 22. Remittance of Contributions. -- (a) The contribution imposed in the preceding section shall be remitted to the SSS within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment and if any contribution is not paid to the SSS as herein prescribed, he shall pay besides the contribution a penalty thereon of three percent (3%) per month from the date the contribution falls due until paid. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: Provided, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer.

(b) The contributions payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the SSS 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.

xxx xxx xxx

Sec. 28. Penal Clause. -- xxx

(e) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations promulgated by the Commission, shall be punished by a fine of not less than Five thousand pesos (P5,000) nor more than Twenty thousand pesos (P20,000), or imprisonment for not less than six (6) years and one (1) day nor more than twelve (12) years or both, at the discretion of the court: Provided, That where the violation consists in failure or refusal to register employees or himself, in case of the covered self-employed, or to deduct contributions from the employees' compensation and remit the same to the SSS, the penalty shall be a fine of not less than Five thousand pesos (P5,000) nor more than Twenty thousand pesos (P20,000) and imprisonment for not less than six (6) years and one (1) day nor more than twelve (12) years.

[5] Docketed as Criminal Case No. Q-01-97619. The information read:

The undersigned accuses [petitioner] of Violation of Sec. 22(d), in relation to Section 28(e) of Republic Act No. 1161, as amended, committed as follows:

That on or about and during the period from September 1997 to March 2000 in Quezon City, Philippines, the above-named accused, being then the owner of Ever Ready Marketing, with address located at No. 37 Sibuyan St., this City, a compulsorily covered employer under the Social Security Law, as amended, did then and there [willfully] and unlawfully fail, neglect and refuse and still fails, neglects and refuses to remit to the Social Security System (SSS) at East Avenue, Diliman, this City, contributions for SSS Medicare and Employees Compensation (EC) for its covered employees in the amount of P173,393.00, Philippine Currency, and the 3% penalty imposed thereon in the amount of P164,843.03 computed as of April 28, 2000 as well as the additional 3% penalty that have accrued from such date until said contributions is paid, despite demand made upon said


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accused to comply therewith.

CONTRARY TO LAW. (Rollo, p. 80.)

[6] Id., p. 234.

[7] Formerly Richie's Commercial/Ever-Ready Marketing.

[8] Docketed as NLRC-NCR-Case No. 00-03-01826-2000.

[9] Rollo, pp. 63-64.

[10] Third Division. Penned by Commissioner Ireneo B. Bernardo and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo. Id., pp. 66-70.

[11] Id., p. 72.

[12] Id., pp. 54-55. Petitioner did not file a motion for reconsideration of the November 12, 2001 resolution of the RTC. She argued in her petition in the CA that the question raised was purely one of law. Id., p. 75.

[13] Id., p. 130.

[14] Atty. Ateneones S. Bacale.

[15] See Bunao v. Social Security System, G.R. No. 15906, 13 December 2005, 477 SCRA 564, 570-571.

[16] De Guzman v. People, G.R. No. 167492, 22 March 2007, 518 SCRA 767, 772, citing Alonzo v. Villamor, et al., 16 Phil. 315 (1910).

[17] See Section 5(5), Article VIII, Constitution.

[18] De Guzman v. Sandiganbayan, G.R. No. 103276, 11 April 1996, 256 SCRA 171, 179.

[19] Chua v. Court of Appeals, 483 Phil. 126, 136 (2004), citing Security System v. Court of Appeals, G.R. No. 100388, 14 December 2000, 348 SCRA 1, 10-11.

[20] G.R. No. 59692, 11 October 1990, 190 SCRA 362. This ruling was reiterated in Commander Realty, Inc. v. Fernandez, G.R. No. 167945, 14 July 2006, 495 SCRA 146, 157-164.

[21] Id., pp. 370-372, citation omitted.

[22] G.R. No. 140656, 13 September 2007, 533 SCRA 205.

[23] Id., pp. 228-230, citations omitted.

[24] G.R. No. 172101, 23 November 2007, 538 SCRA 659.

[25] Id., p. 672.

[26] Id., p. 664.

[27] Sec. 5. Settlement of Disputes. - (a) Any dispute arising under this Act with respect to coverage, benefits, contributions and penalties thereon or any other matter related thereto, shall be cognizable by [SSC], xxxx

[28] Rasdas v. Estenor, G.R. No. 157605, 13 December 2005, 477 SCRA 538, 550, citing Kidpalos v. Baguio Gold Mining Co., 122 Phil. 249 (1965) and National Housing Authority v. Baello, G.R. No. 143230, 20 August 2004, 437 SCRA 86.

[29] Camara v. Court of Appeals, 369 Phil. 858, 865 (1999).


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