

SOCIAL SECURITY COMMISSION, PETITIONER, VS. RIZAL POULTRY AND LIVESTOCK ASSOCIATION, INC., BSD AGRO INDUSTRIAL DEVELOPMENT CORPORATION AND BENJAMIN SAN DIEGO, RESPONDENTS.*G.R. No. 167050. June 01, 2011*

Ponente: PEREZ, J.

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This petition for certiorari challenges the Decision[1] dated 20 September 2004 and Resolution[2] dated 9 February 2005 of the Court of Appeals. The instant case stemmed from a petition filed by Alberto Angeles (Angeles) before the Social Security Commission (SSC) to compel respondents Rizal Poultry and Livestock Association, Inc. (Rizal Poultry) or BSD Agro Industrial Development Corporation (BSD Agro) to remit to the Social Security System (SSS) all contributions due for and in his behalf. Respondents countered with a Motion to Dismiss[3] citing rulings of the National Labor Relations Commission (NLRC) and Court of Appeals regarding the absence of employer-employee relationship between Angeles and the respondents.

As a brief background, Angeles had earlier filed a complaint for illegal dismissal against BSD Agro and/or its owner, Benjamin San Diego (San Diego). The Labor Arbiter initially found that Angeles was an employee and that he was illegally dismissed. On appeal, however, the NLRC reversed the Labor Arbiter's Decision and held that no employer-employee relationship existed between Angeles and respondents. The ruling was anchored on the finding that the duties performed by Angeles, such as carpentry, plumbing, painting and electrical works, were not independent and integral steps in the essential operations of the company, which is engaged in the poultry business.[4] Angeles elevated the case to the Court of Appeals via petition for certiorari. The appellate court affirmed the NLRC ruling and upheld the absence of employer-employee relationship.[5] Angeles moved for reconsideration but it was denied by the Court of Appeals.[6] No further appeal was undertaken, hence, an entry of judgment was made on 26 May 2001.[7]

At any rate, the SSC did not take into consideration the decision of the NLRC. It denied respondents' motion to dismiss in an Order dated 19 February 2002. The SSC ratiocinated, thus:

Decisions of the NLRC and other tribunals on the issue of existence of employer-employee relationship between parties are not binding on the Commission. At most, such finding has only a persuasive effect and does not constitute *res judicata* as a ground for dismissal of an action pending before Us. While it is true that the parties before the NLRC and in this case are the same, the issues and subject matter are entirely different. The labor case is for illegal dismissal with demand for backwages and other monetary claims, while the present action is for remittance of unpaid SS[S] contributions. In other words, although in both suits the respondents invoke lack of employer-employee relationship, the same does not proceed from identical causes of action as one is for violation of the Labor Code while the instant case is for violation of the SS[S] Law.

Moreover, the respondents' arguments raising the absence of employer-employee relationship as a defense already traverse the very issues of the case at bar, i.e., the petitioner's fact of employment and entitlement to

SS[S] coverage. Generally, factual matters should not weigh in resolving a motion to dismiss when it is based on the ground of failure to state a cause of action, but rather, merely the sufficiency or insufficiency of the allegations in the complaint. x x x. In this respect, it must be observed that the petitioner very categorically set forth in his Petition, that he was employed by the respondent(s) from 1985 to 1997.[8]

A subsequent motion for reconsideration filed by respondents was likewise denied on 11 June 2002. The SSC reiterated that the principle of res judicata does not apply in this case because of the "absence of the indispensable element of `identity of cause of action.'"[9]

Unfazed, respondents sought recourse before the Court of Appeals by way of a petition for certiorari. The Court of Appeals reversed the rulings of the SSC and held that there is a common issue between the cases before the SSC and in the NLRC; and it is whether there existed an employer-employee relationship between Angeles and respondents. Thus, the case falls squarely under the principle of res judicata, particularly under the rule on conclusiveness of judgment, as enunciated in *Smith Bell and Co. v. Court of Appeals*. [10]

The Court of Appeals disposed, thus:

WHEREFORE, the petition is GRANTED. The Order dated February 19, 2000 and the Resolution dated June 11, 2002 rendered by public respondent Social Security Commission in SSC Case No. 9-15225-01 are hereby REVERSED and SET ASIDE and the respondent commission is ordered to DISMISS Social Security Commission Case No. 9-15225-01.[11]

After the denial of their motion for reconsideration in a Resolution[12] dated 9 February 2005, petitioner filed the instant petition.

For our consideration are the issues raised by petitioner, to wit:

WHETHER OR NOT THE DECISION OF THE NLRC AND THE COURT OF APPEALS, FINDING NO EMPLOYER-EMPLOYEE RELATIONSHIP, CONSTITUTES RES JUDICATA AS A RULE ON CONCLUSIVENESS OF JUDGMENT AS TO PRECLUDE THE RELITIGATION OF THE ISSUE OF EMPLOYER-EMPLOYEE RELATIONSHIP IN A SUBSEQUENT CASE FILED BEFORE THE PETITIONER.

WHETHER OR NOT RESPONDENT COURT OF APPEALS MAY ORDER OUTRIGHT THE DISMISSAL OF THE SSC CASE IN THE CERTIORARI PROCEEDINGS BEFORE IT.[13]

SSC maintains that the prior judgment rendered by the NLRC and Court of Appeals, that no employer-employee relationship existed between the parties, does not have the force of res judicata by prior judgment or as a rule on the conclusiveness of judgment. It contends that the labor dispute and the SSC claim do not proceed from the same cause of action in that the action before SSC is for non-remittance of SSS contributions while the NLRC case was for illegal dismissal. The element of identity of parties is likewise unavailing in this case, according to SSC. Aside from SSS intervening, another employer, Rizal Poultry, was added as respondent in the case lodged before the SSC. There is no showing that BSD Agro and Rizal Poultry refer to the same juridical entity. Thus, the finding of absence of employer-employee relationship between BSD Agro and Angeles could not automatically extend to Rizal Poultry. Consequently, SSC assails the order of dismissal of the case lodged before it.

SSC also claims that the evidence submitted in the SSC case is different from that adduced in the NLRC case. Rather than ordering the dismissal of the SSC case, the Court of Appeals should have allowed SSC to resolve the case on its merits by applying the Social Security Act of 1997.

Respondents assert that the findings of the NLRC are conclusive upon the SSC under the principle of res judicata and in line with the ruling in *Smith Bell v. Court of Appeals*. Respondents argue that there is substantially an

identity of parties in the NLRC and SSC cases because Angeles himself, in his Petition, treated Rizal Poultry, BSD Agro and San Diego as one and the same entity.

Respondents oppose the view proffered by SSC that the evidence to prove the existence of employer-employee relationship obtaining before the NLRC and SSC are entirely different. Respondents opine that the definition of an employee always proceeds from the existence of an employer-employee relationship.

In essence, the main issue to be resolved is whether *res judicata* applies so as to preclude the SSC from resolving anew the existence of employer-employee relationship, which issue was previously determined in the NLRC case.

Res judicata embraces two concepts: (1) bar by prior judgment as enunciated in Rule 39, Section 47(b) of the Rules of Civil Procedure; and (2) conclusiveness of judgment in Rule 39, Section 47(c).[14]

There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action.[15]

But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is the concept of *res judicata* known as "conclusiveness of judgment." Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies, whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[16]

Thus, if a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit. Identity of cause of action is not required but merely identity of issue.[17]

The elements of *res judicata* are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Should identity of parties, subject matter, and causes of action be shown in the two cases, then *res judicata* in its aspect as a "bar by prior judgment" would apply. If as between the two cases, only identity of parties can be shown, but not identical causes of action, then *res judicata* as "conclusiveness of judgment" applies.[18]

Verily, the principle of *res judicata* in the mode of "conclusiveness of judgment" applies in this case. The first element is present in this case. The NLRC ruling was affirmed by the Court of Appeals. It was a judicial affirmation through a decision duly promulgated and rendered final and executory when no appeal was undertaken within the reglementary period. The jurisdiction of the NLRC, which is a quasi-judicial body, was undisputed. Neither can the jurisdiction of the Court of Appeals over the NLRC decision be the subject of a dispute. The NLRC case was clearly decided on its merits; likewise on the merits was the affirmance of the NLRC by the Court of Appeals.

With respect to the fourth element of identity of parties, we hold that there is substantial compliance.

The parties in SSC and NLRC cases are not strictly identical. Rizal Poultry was impleaded as additional respondent in the SSC case. Jurisprudence however does not dictate absolute identity but only substantial

identity.[19] There is substantial identity of parties when there is a community of interest between a party in the first case and a party in the second case, even if the latter was not impleaded in the first case.[20]

BSD Agro, Rizal Poultry and San Diego were litigating under one and the same entity both before the NLRC and the SSC. Although Rizal Poultry is not a party in the NLRC case, there are numerous indications that all the while, Rizal Poultry was also an employer of Angeles together with BSD Agro and San Diego. Angeles admitted before the NLRC that he was employed by BSD Agro and San Diego from 1985 until 1997.[21] He made a similar claim in his Petition before the SSC including as employer Rizal Poultry as respondent.[22] Angeles presented as evidence before the SSC his Identification Card and a Job Order to prove his employment in Rizal Poultry. He clarified in his Opposition to the Motion to Dismiss[23] filed before SSC that he failed to adduce these as evidence before the NLRC even if it would have proven his employment with BSD Agro. Most significantly, the three respondents, BSD Agro, Rizal Poultry and San Diego, litigated as one entity before the SSC. They were represented by one counsel and they submitted their pleadings as such one entity. Certainly, and at the very least, a community of interest exists among them. We therefore rule that there is substantial if not actual identity of parties both in the NLRC and SSC cases.

As previously stated, an identity in the cause of action need not obtain in order to apply *res judicata* by "conclusiveness of judgment." An identity of issues would suffice.

The remittance of SSS contributions is mandated by Section 22(a) of the Social Security Act of 1997, viz:

SEC. 22. Remittance of Contributions. - (a) The contributions 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. x x x.

The mandatory coverage under the Social Security Act is premised on the existence of an employer-employee relationship.[24] This is evident from Section 9(a) which provides:

SEC. 9. Coverage. - (a) Coverage in the SSS shall be compulsory upon all employees not over sixty (60) years of age and their employers: Provided, That in the case of domestic helpers, their monthly income shall not be less than One thousand pesos (P1,000.00) a month x x x.

Section 8(d) of the same law defines an employee as any person who performs services for an employer in which either or both mental or physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship. The illegal dismissal case before the NLRC involved an inquiry into the existence or non-existence of an employer-employee relationship. The very same inquiry is needed in the SSC case. And there was no indication therein that there is an essential conceptual difference between the definition of "employee" under the Labor Code and the Social Security Act.

In the instant case, therefore, *res judicata* in the concept of "conclusiveness of judgment" applies. The judgment in the NLRC case pertaining to a finding of an absence of employer-employee relationship between Angeles and respondents is conclusive on the SSC case.

A case in point is *Smith Bell and Co. v. Court of Appeals*[25] which, contrary to SSC, is apt and proper reference. Smith Bell availed of the services of private respondents to transport cargoes from the pier to the company's warehouse. Cases were filed against Smith Bell, one for illegal dismissal before the NLRC and the other one with the SSC, to direct Smith Bell to report all private respondents to the SSS for coverage. While the SSC case was pending before the Court of Appeals, Smith Bell presented the resolution of the Supreme Court in G.R. No.

L-44620, which affirmed the NLRC, Secretary of Labor, and Court of Appeals' finding that no employer-employee relationship existed between the parties, to constitute as bar to the SSC case. We granted the petition of Smith Bell and ordered the dismissal of the case. We held that the controversy is squarely covered by the principle of *res judicata*, particularly under the rule on "conclusiveness of judgment." Therefore, the judgment in G.R. No. L-44620 bars the SSC case, 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 Smith Bell.

The fairly recent case of *Co v. People*,^[26] likewise applies to the present case. An information was filed against Co by private respondent spouses who claim to be employees of the former for violation of the Social Security Act, specifically for non-remittance of SSS contributions. Earlier, respondent spouses had filed a labor case for illegal dismissal. The NLRC finally ruled that there was no employer-employee relationship between her and respondent spouses. Co then 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, she cited the NLRC ruling. This Court applied *Smith Bell* and declared that the final and executory NLRC decision to the effect that respondent spouses were not the employees of petitioner is a ruling binding in the case for violation of the Social Security Act. The Court further stated that the doctrine of "conclusiveness of judgment" also applies in criminal cases.^[27]

Applying the rule on *res judicata* by "conclusiveness of judgment" in conjunction with the aforecited cases, the Court of Appeals aptly ruled, thus:

In SSC Case No. 9-15225-01, private respondent Angeles is seeking to compel herein petitioners to remit to the Social Security System (SSS) all contributions due for and in his behalf, whereas in NLRC NCR CA 018066-99 (NLRC RAB-IV-5-9028-97 RI) private respondent prayed for the declaration of his dismissal illegal. In SSC No. 9-15225-01, private respondent, in seeking to enforce his alleged right to compulsory SSS coverage, alleged that he had been an employee of petitioners; whereas to support his position in the labor case that he was illegally dismissed by petitioners BSD Agro and/or Benjamin San Diego, he asserted that there was an employer-employee relationship existing between him and petitioners at the time of his dismissal in 1997. Simply stated, the issue common to both cases is whether there existed an employer-employee relationship between private respondent and petitioners at the time of the acts complained of were committed both in SSC Case No. 9-15225-01 and NLRC NCR CA 018066-99 (NLRC RAB-IV-5-9028-977-RI).

The issue of employer-employee relationship was laid to rest in CA GR. SP. No. 55383, through this Court's Decision dated October 27, 2000 which has long attained finality. Our affirmation of the NLRC decision of May 18, 1999 was an adjudication on the merits of the case.

Considering the foregoing circumstances, the instant case falls squarely under the umbrage of *res judicata*, particularly, under the rule on conclusiveness of judgment. Following this rule, as enunciated in *Smith Bell and Co.* and *Carriaga, Jr.* cases, We hold that the relief sought in SSC Case No. 9-15225-01 is inextricably related to Our ruling in CA GR SP No. 55383 to the effect that private respondent was not an employee of petitioners.^[28]

The NLRC decision on the absence of employer-employee relationship being binding in the SSC case, we affirm the dismissal by Court of Appeals of the SSC case.

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals Decision dated 20 September 2004, as well as its Resolution dated 9 February 2005, is AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Peralta,[*] JJ., concur.

[*] Per Special Order No. 994, Associate Justice Diosdado M. Peralta is designated as Additional Member of the First Division in place of Associate Justice Mariano C. Del Castillo who is on official leave.

[1] Penned by Associate Justice Regalado E. Maambong with Associate Justices Eloy R. Bello, Jr. and Vicente Q. Roxas, concurring. Rollo, pp. 58-77.

[2] Penned by Associate Justice Regalado E. Maambong with Associate Justices Rodrigo V. Cosico and Lucenito N. Tagle, concurring. Id. at 79-80.

[3] Id. at 86-89.

[4] Decision of the National Labor Relations Commission, Second Division. Penned by Commissioner Victoriano R. Calaycay with Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan, concurring. Id. at 91-104.

[5] Id. at 105-110.

[6] Id. at 112.

[7] Id. at 113.

[8] Id. at 118.

[9] Id. at 126.

[10] G.R. No. 59692, 11 October 1990, 190 SCRA 362.

[11] Rollo, pp. 76-77.

[12] Id. at 79-80.

[13] Id. at 40.

[14] Rizal Commercial Banking Corporation v. Royal Cargo Corporation, G.R. No. 179756, 2 October 2009, 602 SCRA 545, 557.

[15] Antonio v. Sayman Vda. de Monje, G.R. No. 149624, 29 September 2010, 631 SCRA 471, 480 citing Agustin v. Delos Santos, G.R. No. 168139, 20 January 2009, 576 SCRA 576, 585; Hacienda Bigaa, Inc. v. Chavez, G.R. No. 174160, 20 April 2010, 618 SCRA 559, 576-577; Chris Garments Corporation v. Sto. Tomas, G.R. No. 167426, 12 January 2009, 576 SCRA 13, 21-22; Heirs of Rolando N. Abadilla v. Galarosa, G.R. No. 149041, 12 July 2006, 494 SCRA 675, 688-689.

[16] Antonio v. Sayman Vda. de Monje, id. at 480 citing Agustin v. Delos Santos, id. at 585-586.

[17] Noceda v. Arbizo-Directo, G.R. No. 178495, 26 July 2010, 625 SCRA 472, 479 citing Nabus v. Court of Appeals, G.R. No. 91670, 7 February 1991, 193 SCRA 732, 744-745.

[18] Oropeza Marketing Corporation v. Allied Banking Corporation, 441 Phil. 551, 564-565 (2002).

[19] Development Bank of the Philippines v. Court of Appeals, 409 Phil. 717, 731 (2001) citing Republic v. Court of Appeals, 381 Phil. 558, 566 (2000).

[20] Santos v. Heirs of Dominga Lustre, G.R. No. 151016, 6 August 2008, 561 SCRA 120, 129-130 citing Sendon v. Ruiz, 415 Phil. 376, 385 (2001); Layos v. Fil-Estate Golf and Development, Inc., G.R. No. 150470, 6 August 2008, 561 SCRA 75, 107; Balanay v. Paderanga, G.R. No. 136963, 28 August 2006, 499 SCRA 670, 675 citing Sempio v. Court of Appeals, G.R. No. 124326, 22 January 1998, 284 SCRA 580, 586-587 citing further Santos v. Court of Appeals, G.R. No. 101818, 21 September 1993, 226 SCRA 630, 636-637; Anticamara v. Ong, G.R. No. L-29689, 14 April 1978, 82 SCRA 337, 341-342; Suarez v. Municipality of Naujan, G.R. No. L-22282, 21 November 1966, 18 SCRA 682, 688.

[21] NLRC Decision dated 18 May 1999. Rollo, p. 93.

[22] Id. at 81.

[23] Id. at 114.

[24] Chua v. Court of Appeals, 483 Phil. 126, 136 (2004) citing Social Security System v. Court of Appeals, 401 Phil. 132, 141 (2000).

[25] Supra note 10.

[26] G.R. No. 160265, 13 July 2009, 592 SCRA 381.

[27] Id. at 390.

[28] Rollo, pp. 75-76.

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