COMMANDER REALTY, INC., PETITIONER, VS. FREDDIE FERNANDEZ, FRANCISCO BASA, SALVADOR BASA, EDUARDO EISMA, RUEL EISMA, LAMBERTO ENRIQUEZ, ANANIAS GABAS GABORNE, DENNIS GEA, JOHN G...

G.R. NO. 167945. July 14, 2006

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-167945/

CALLEJO, SR., J.:

Respondents Freddie Fernandez, Francisco Basa, Salvador Basa, Eduardo Eisma, Ruel Eisma, Lamberto Enriquez, Ananias Gabas Gaborne, Dennis Gea, John Gea, Marlon Gea, Noel Gea, Jonathan Gelladulla, Eusebio Gelonga, Salvador Jomocan, Rolando Marilag, Angelico Pasaporte, Ricardo Pasaporte, Rogelio Pasaporte, Roger Placer, Efren Raganas, Ruben Sandagon, Rene Saquital, Rudy Secugal, Ronnel Secugal, Ronny Secugal, Dandil Soledad, Pedro Suerte, Pio Tagcos, Rudy Tagcos, Elmo Vargas and Jimmy Villanueva filed an Amended Petition dated August 29, 2001, before the Social Security Commission (SSC), against petitioner Commander Realty, Inc. (CRI) and/or its president, Francisco M. Villanueva. They alleged, inter alia, that they were employees of petitioner, which had failed to register with the Social Security System (SSS) as a member-employer and remit the monthly SSS contributions of its employees, thereby depriving them of the benefits under Republic Act (R.A.) No. 1161, as amended by R.A. No. 8282. They claimed that they were dismissed from their employment when they made demands for petitioner to register with the SSS. Respondents appended to their petition copies of assorted documents to prove their claim that they were employees of petitioner CRI.

The Amended Petition contained the following prayer:

> 5. WHEREFORE, premises considered, petitioners respectfully prayed (sic) of this Honorable Commission, that after due notice and hearing, to require:
>
> - Respondent to register to the SSS as member-employer;
>
> - Respondent to remit to the SSS the SS contributions due for and in behalf of herein petitioners including the employer's and employees' shares;
>
> - Respondent to pay the penalty to the SSS for the later payment/remittance due herein petitioners.
>
> Petitioners pray such other reliefs and remedies just and equitable under the premises.[1]

In its Answer to the petition, petitioner CRI insisted that respondents were not its employees and narrated the factual antecedents that led to the filing of the case as follows:

> Commander Realty, Inc. is a corporation that was organized on October 4, 1971. The company was founded by Francisco Villanueva and the members of his immediate family.
>
> As the family patriarch, Francisco Villanueva was elected as the founding president of the corporation. On November 23, 1994, Francisco Villanueva died.

Attached hereto as Annex "1" and made as an integral portion hereof is a copy of the Certificate of Death of Francisco Villanueva.

At present, the company president is Wilhelmina V. Andrada.

In 1986, Wilhelmina V. Andrada needed to undertake major repairs on her residence located at 1122 K-6 Street, Kamias, Quezon City. For this purpose, she engaged the services of the Amboya and Abiera construction tandem. The arrangement was for the property owner to provide the materials requirements and for the contractor to provide the labor.

The property owner had no hand in the hiring of the workers who will collaborate in the repair works.

Later, the residential house located at 1122 K-6 Street, Kamias, Quezon City was sold.

Sometime in 1992, Wilhelmina Andrada wanted to construct a house intended for residential purposes. She entered into an agreement with Simplicio Abiera, who undertook the construction work on the property. Again, the property owner had no participation in the selection of the skilled workers who will render service on the different phases of the construction job. The house and lot were, likewise, sold.

In 1999, Wilhelmina Andrada decided to develop two (2) idle parcels of land which are situated in Quezon City. The first property is covered by Transfer Certificate of Title No. N-154876 of the Registry of Deeds for Quezon City and is located at No. 29 Marang Street, Project 2, Quezon City; while the other property is covered by Transfer Certificate of Title No. N-173207 of the Registry of Deeds for Quezon City and is situated at No. 13 Mapagkumbaba Street, Sikatuna Village, Quezon City. Both parcels of land are registered in the name of Wilhelmina Villanueva Andrada.

Attached hereto as Annexes "2" and "3" and made as integral portions hereof are a copy each (sic) of Transfer Certificates of Title Nos. N-154876 and N-173207, respectively.

On February 8, 1999, Wilhelmina Andrada and Simplicio P. Abiera entered into a contract whereby the latter undertook to provide the labor for the various phases of the construction work at the agreed price of P1,200,000.00.

Attached hereto as Annex "4" and made as an integral part hereof is a copy of the February 8, 1999 Contract for the proposed two-storey house located at No. 29 Marang Street, Project 2, Quezon City.

On March 1, 1999, another contract was entered into between the same parties for the construction of a two-storey residential house located at No. 13 Mapagkumbaba Street, Sikatuna Village, Quezon City. This time, Wilhelmina Andrada was to pay the sum of P950,000.00 to the contractor for the labor segment of the construction project.

Attached hereto as Annex "5" and made as an integral portion hereof is a copy of the March 1, 1999 Contract for the proposed two-storey house located at No. 13 Mapagkumbaba Street, Sikatuna Village, Quezon City.

Each of the construction projects is covered by a building permit that was issued by the building official of Quezon City.

Attached hereto as Annexes "6" and "7" and made as integral portions hereof are a copy each of Building Permit No. 99-101939 dated June 11, 1999 for the construction at Marang Street, Quezon City; and, Building Permit No. 99-102753 dated December 22, 1999 for the construction at Mapagkumbaba Street, Sikatuna Village, Quezon City, respectively.

Complainants instituted this action claiming that they are employees of Respondent Commander Realty, Inc. These Complainants are claiming that they should have been given compulsory Social Security coverage.[2]

The case was docketed as SSC Case No. 2-14995-2000. The SSS intervened in the case and in its Position Paper

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

alleged that while petitioner CRI was not registered with it and did not make any monthly remittances, respondents for their part failed to submit proof that they were employees of petitioner CRI.

Respondents also filed complaints against petitioner CRI and Wilhelmina Andrada in the National Labor Relations Commission (NLRC) for illegal dismissal, non-payment of premium pay for holiday, rest day, and service incentive leave pay and 13th month pay. The complaints were docketed as NLRC Case Nos. 00-01-00322-2000, 00-01-00440-2000 and 00-03-01808-2000. Respondents alleged therein that they were employees of petitioner CRI. On October 25, 2000, Labor Arbiter Ermita Abrasaldo-Cuyuca rendered judgment in favor of petitioner CRI and ordered the complaints dismissed for respondents' failure to adduce proof of an employer-employee relationship. The Labor Arbiter declared that:

> Records show that the complainants performed work in the different construction projects which were owned by respondent Andrada. Let it be underscored that all the Certificate of Titles were owned by respondent Wilhelmina V. Andrada. As admitted, Wilhelmina Andrada is the President of Commander Realty, Inc. It is settled that a corporation is clothed with a personality separate and distinct from that of the person composing it. It may not generally be held liable for the personal indebtedness of its stockholders or those of the entities connected with it. Conversely, a stockholder cannot be made to answer for any of its financial obligations even if he should be its President (Laperal Development Corp. v. CA, 223 SCRA 261, citing Phil. Bank of Communication v. CA, 195 SCRA 567).
>
> Complainants insisted that they were employees of Commander Realty, Inc. by submitting list of projects around 37 of them done and/or constructed by them. Although these projects were admitted by Wilhelmina Andrada, she rebutted by saying that these were not projects of Commander Realty, Inc. Neither did she hired (sic) the complainants as her construction workers.
>
> Perusing the records, respondent Wilhelmina V. Andrada presented several contracts executed by Simplicio P. Abiera, Manuel Eva, Romy Yape and the Square Meter Co. and the latter as contractors for the construction, repairs, renovation or remodeling of residential units, apartments, etc. of the former.
>
> As previously mentioned, the power to control the employees' conduct is the most important element for the existence of employer-employee relationship.
>
> Record is bereft of any evidence that would tend to prove that such employer-employee relationship existed between the complainants and the herein respondents. This claim of the existence of employer-employee relationship is vehemently denied by the respondents. Moreover, while it is true that in this jurisdiction, the burden of proof lies in the party against whom the allegation lies. However, this doctrine does not apply in case the party (in the instant case, the respondents) denies such fact or allegation of employer-employee relationship. In the latter case, the burden of evidence is momentarily shifted to the complainants until they have shown sufficient facts establishing their allegation that they were employees of respondents.
>
> Complainants, in order to establish the fact that they were employees of the respondents, submitted payrolls (Annexes "S," "S-1," "S-2" and "S-3," Complainants' Position Paper). But these payrolls fail to prove that they were payrolls of the respondents. There is no iota of indication that the same were payrolls of the respondents, thus, it could not be given probative value.
>
> In like manner that complainant Ruel Eisma presented a Certificate of Employment issued by the respondent Commander Realty, Inc. However, this Certification of Employment was refuted by the respondents by saying that said Ruel Eisma pleaded that he be issued a Certificate for the purpose of presenting and submitting to the recruitment agency for employment abroad. Respondents argued that the issuance of such certificate was for accommodation only in order to help and assist a co-Filipino who was in need of employment overseas. This explanation of the respondents was never denied nor rebutted by the complainants, hence, the defense of respondents is given merit.

> The complainants, likewise, introduced several alleged payslips. Perusing the same documentary exhibits failed to show that the same were issued by the respondents. Thus, this Arbitration Branch cannot give credence to the said evidence.
>
> The Affidavit of Manuel Eva stating that he is a contractor who offered his services to various clients and one of whom was Wilhelmina Andrada who contracted his services to work on projects is appreciated and with probative value for failure of the complainants to deny. It was further agreed that he (Manuel Eva) will be the one to hire the workers for the projects and among those hired were Salvador Jomocan, Ricardo Pasaporte, Rogelio Pasaporte, Jonathan Gelladula, Ronnie Secugal, Salvador Basa, Pio Tacgos, Rudy Secugal and Francisco Basa. Affiant, likewise, said that as contractor, he was the one who engaged the services of the persons who will work on the project and he was the one who paid for the salaries of his workers and responsible in giving work assignments. Accordingly, the concern of the owner (Ms. Andrada) was when the project will be finished or completed, whether or not the building specifications were carried out. All these allegations of the respondent's witness were never denied by the complainants.
>
> Considering that there is no employer-employee relationship that existed between the parties, the subsequent issues become moot.[3]

Respondents appealed the decision of the Labor Arbiter to the NLRC.

In the meantime, on December 18, 2002, the SSC issued a Resolution in SSC Case No. 2-14995-2000 in favor of respondents, holding that petitioner CRI was their employer and, as such, was obliged to register as a member-employer. The fallo of the resolution reads:

> WHEREFORE, PREMISES CONSIDERED, this Commission hereby orders respondent Commander Realty, Inc. to pay to the SSS, within thirty (30) days from receipt of this Resolution, the unremitted SS contributions in favor of the petitioners (Mauricio Gea and Felix Jomocan excluded), in the amount of P1,249,278.00, plus the 3% per month penalty for late payment thereof in the amount of P2,985,985.16, computed as of November 15, 2002 plus the additional penalty accruing thereafter and damages in the amount of P134,160.00, pursuant to Section 24(a) of R.A. 1161, as amended, for failure to report petitioner Lamberto Enriquez for SS coverage prior to his retirement on April 16, 1996, it appearing from the records that the latter was born on April 16, 1936.
>
> The SSS, on the other hand, is ordered to pay petitioner Lamberto Enriquez the appropriate retirement pension benefit, subject to its existing rules and regulations, and to inform this Commission of its compliance herewith.
>
> SO ORDERED.[4]

Petitioner CRI moved to have the resolution reconsidered, but the SSC resolved to deny the motion in an Order dated June 4, 2003.

Thus, while the SSC ruled that petitioner CRI was the employer of respondents, the Labor Arbiter, on the other hand, ruled that no such employer-employee relationship existed between petitioner CRI and respondents.

Petitioner CRI filed a Petition for Review with the Court of Appeals (CA), seeking the reversal of the Resolution and Order of the SSC in SSC Case No. 2-14995-2000. The case was docketed as CA-G.R. SP No. 78298.

On January 21, 2004, the NLRC promulgated a decision in NLRC Case No. 00-01-00322-2000, 00-01-00440-2000, and 00-03-01808-2000, dismissing respondents' appeal. It affirmed the assailed ruling of the Labor Arbiter, that respondents were not employees of petitioner CRI.[5]

This time, respondents filed a Petition for Certiorari with the CA, docketed as CA-G.R. SP No. 83561, seeking the nullification of the NLRC decision. On May 18, 2004, the CA resolved to dismiss the petition on the following

grounds:

- The verification and certification of non-forum shopping attached to the petition does not fully comply with Sec. 4, Rule 7 of the Rules of Court because it failed to give the assurance that the allegations of the petition are true and correct based on authentic records.

- The petition is not accompanied by copies of certain pleadings and documents relevant and pertinent thereto, i.e., complaint, private respondents' position paper and the decision rendered by the Labor Arbiter (Sec. 1, Rule 65, Rules of Court).

- Petitioners did not file a motion for reconsideration of the impugned decision and resolution. A motion for reconsideration is an equally speedy and adequate remedy and is a condition sine qua non to a petition for certiorari (Plaza v. Mencias, G.R. No. L-182152, Oct. 31, 1962; Uy Chu v. Impenal and Uy Du, 44 Phil. 27; Manila Post Publishing Company v. Sanchez, 81 Phil. 614; Alvarez v. Ibañez, 83 Phil. 104; Nicolas and San Jose v. Castillo, etc. and Nael, 97 Phil. 336; Ricafort v. Fernan, et al., 101 Phil. 575).[6]

Respondents filed a motion for reconsideration, which the appellate court denied on July 5, 2004.[7]

Respondents then filed a Petition for Review on Certiorari in the Supreme Court, assailing the CA resolution in CA-G.R. SP No. 83561. The same was docketed as G.R. No. 164399. On January 17, 2005, the Court resolved to deny due course to the petition on the following grounds:

> (a) insufficient or defective verification under Sec. 4, Rule 7, as amended; and
>
> (b) defective or insufficient certification against forum shopping in that it is not made by the principal parties or petitioners themselves, in violation of Sec. 5, Rule 7, as not all the petitioners signed the verification/certification of non-forum shopping.

In any event, petitioners failed to sufficiently show that the Court of Appeals committed any reversible error in the challenged resolutions as to warrant the exercise by this Court of its discretionary appellate jurisdiction in this case and for being frivolous, the same having been decided by three (3) other courts. (emphasis supplied)[8]

Respondents filed a motion for reconsideration of the said Resolution.

In the meantime, on January 28, 2005, the CA rendered judgment against petitioner CRI in CA-G.R. SP No. 78298, and affirmed the assailed SSC resolution holding that it (petitioner) was the employer of respondents.[9] Petitioner CRI filed a Motion for Reconsideration, alleging, inter alia, the following:

x x x x

> 8. That it may be added that the Respondents had instituted an action in the National Labor Relations Commission against Commander Realty, Incorporated and Wilhelmina V. Andrada. The complaint was dismissed by Hon. Ermita T. Abrasaldo-Cuyuca, Labor Arbiter, in a DECISION that was rendered on October 25, 2000. (Please see Annex "1" of Annex "O" of the Petition). Appeal was taken to the National Labor Relations Commission, which dismissed the appeal for being without merit in a DECISION that was promulgated on January 21, 2004.
>
> Attached hereto as Annex "1" and made as an integral part hereof is a copy of the January 21, 2004 DECISION of the National Labor Relations Commission.
>
> The herein Respondents elevated the controversy to this Honorable Court, which in a RESOLUTION that was promulgated by the Honorable Court's Special Fourteenth Division on May 18, 2004 dismissed the petition in CA-G.R. SP No. 83561 entitled SALVADOR JOMOCAN, FREDDIE FERNANDEZ, et al., Petitioners versus NATIONAL LABOR RELATIONS COMMISSION, COMMANDER REALTY, INC., et al., Respondents.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> Likewise, this Honorable Court (Former Special Fourteenth Division) had denied the herein Respondents' motion for reconsideration in a RESOLUTION that was promulgated on July 5, 2004.
>
> Attached hereto as Annexes "2" and "3" made, respectively, as integral parts hereof are a copy each of the May 18, 2004 RESOLUTION and the July 5, 2004 RESOLUTION of this Honorable Court.
>
> In the decisions by the labor tribunals, it was held that there was no employer-employee relationship that existed between the herein Petitioner and the herein Respondents. And, this Honorable Court dismissed the herein Respondents' petition for certiorari and, thereafter, denied the herein Respondents' motion for reconsideration for being time barred. Hence, the ruling that there was no employer-employee relationship that existed between Commander Realty, Inc. and the herein Respondents is final and immutable.[10]

Petitioner CRI also filed a motion in CA-G.R. SP No. 78298, on the following allegations:

> 9. That, in the event that the Honorable Supreme Court denies the herein Respondents' motion for reconsideration in G.R. No. 164399, then, the rulings of the Labor Arbiter and of the National Labor Relations Commission, as well as the dismissal by the Special Fourteenth Division of this Honorable Court of herein Respondents' petition for certiorari would be affirmed with finality. As a necessary consequence, the finding that there was no employer-employee relationship that existed between Commander Realty, Inc. and the herein Respondents would also become final and binding on the parties herein, thus constituting res judicata as between them;
>
> 10. That a final determination of the absence of employer-employee relationship between the parties herein would deprive the appealed ruling of the Social Security Commission of any legal support. Otherwise stated, the burden imposed by the Social Security Commission on Commander Realty, Inc., for the latter to remit social security contributions pertaining to the herein Respondents who were considered as employees of the Petitioner, in the sum P2,985,985.16, plus the 3% per month penalty for late payment thereof, computed as of November 15, 2002, would then be taken off Petitioner's back, so to speak, once the lack of employer-employee relationship between the herein parties is ruled upon with finality;
>
> 11. That, with due respect, a need to defer action on Petitioner's motion for reconsideration, arises, if only to avoid conflicting rulings on the issue of the existence of employer-employee relationship. It would be unwise to have a Supreme Court decision holding that there was absence of employer-employee relationship between the parties herein and a ruling of this Honorable Court upholding the Social Security Commission's decision which is founded and reliant on the existence or presence of such relationship.[11]

Petitioner CRI prayed that the action on its motion for reconsideration be held in abeyance until such time when the Court shall have resolved herein respondents' motion for reconsideration in G.R. No. 164399 entitled Salvador Jomocan, et al., Petitioners v. Commander Realty, Inc., et al., Respondents.[12]

On April 11, 2005, the Supreme Court issued a Resolution in G.R. No. 164399 denying, with finality, the motion for reconsideration of respondents.[13]

However, on April 25, 2005, the CA issued a Resolution in CA-G.R. SP No. 78298 denying for lack of merit petitioner CRI's motion for reconsideration of its decision, in effect ignoring petitioner CRI's motion to defer action thereon.[14]

Petitioner CRI thus filed the instant petition for review of the decision and resolution of the CA in CA-G.R. SP No. 78298. It alleges that in light of the decision of the CA in CA-G.R. SP No. 83561 dismissing the petition of respondents, as well as the resolution of the Supreme Court in G.R. No. 164399 affirming the decision of the Labor Arbiter and the NLRC, the CA erred in affirming the resolution and order of the SSC. It points out that the appellate court, in CA-G.R. SP No. 78298, held that there was no employer-employee relationship between it and respondents.

The issue is whether the CA erred in not holding in abeyance its resolution of the motion for reconsideration filed by petitioner of its decision until after the resolution of this Court in G.R. No. 164399 shall have become final and executory, and in not granting such motion on the ground of res judicata.

The petition is meritorious.

Decisive of the issue in this case is the ruling of this Court in Smith Bell & Co., Inc. v. Court of Appeals.[15] In that case, private respondents filed a complaint against Smith Bell & Co. with the SSC seeking to compel the corporation to report them for SSS coverage and remit in their behalf SSS contributions. Private respondents alleged that they were employees of the corporation. The SSS intervened. In a Decision dated December 17, 1975, the SSC found private respondents to be employees of Smith Bell & Co. The fallo of the decision reads:

> PREMISES CONSIDERED, this Commission finds and so hold respondent Smith Bell and Company, Inc. to be the employer of herein petitioners. Respondent is hereby directed to report all the petitioners to the SSS for coverage and to pay all SSS contributions due in their behalf, covering their respective periods of employment.
>
> Accordingly, the SSS is hereby directed to assess the respondent of its contribution and penalty liabilities within fifteen (15) days from receipt of a copy of this Resolution, and to send immediately the Notice of Assessment to the respondent, who is hereby ordered to pay its obligation to the SSS within thirty (30) days from receipt thereof.[16]

Private respondents therein had also filed a complaint with the NLRC Regional Office for illegal dismissal, and the arbitrator, on November 22, 1973, rendered judgment against the corporation declaring it to be the employer of complainants and ordered their reinstatement with monetary benefits. However, on appeal, the NLRC rendered judgment reversing the decision of the arbitrator, and declared that they were not employees of Smith Bell & Co., Inc. On appeal, the Secretary of Labor and Employment rendered judgment on July 25, 1975 affirming the decision of the NLRC. On a petition for certiorari docketed as G.R. No. L-44620, this Court resolved on January 26, 1977 to dismiss the petition and affirm the resolution of the Secretary of Labor and Employment.

Meantime, the corporation appealed the decision of the SSC to the CA, which rendered a decision affirming the SSC. On a petition for review in this Court, Smith Bell & Co. invoked the resolution of this Court in G.R. No. L-44620 and moved for the dismissal of the petition. The Court granted the petition and ruled that the motion of private respondents in the SSC was barred by the NLRC decision, which was affirmed by the Secretary of Labor and Employment and the Supreme Court. The pertinent portion of the decision follows:

> In the petition at bar, petitioner invokes the resolution dated 26 January 1977 of this Court in G.R. No. L-44620, which dismissed for lack of merit private respondents' petition therein.
>
> Because of petitioner's above argument, we examined the records in G.R. No. L-44620 and determined its impact on the present controversy. In G.R. No. L-44620 entitled, "Mamerto Besol, Vicente Jaloag, Antonio Besol, Hilarion Roga, Arsenio Besol, Jolito Alcain, Jose Alcain, Dino Evangelista, Manuel Penaverde, Jayme Alcain and Rodolfo Roga (petitioners) versus Honorable Blas Ople, Secretary of Labor, and Smith Bell and Co., Inc. (respondents)," petitioners therein (now all private respondents in the present petition) assailed the resolution dated 25 July 1975 and the Order dated 23 July 1976 both rendered by the then Secretary of Labor Hon. Blas F. Ople, in NLRC Case No. RO-VII-153, entitled "Mamerto Besol, et al. v. Smith Bell Company, Inc." Petitioners in G.R. No. L-44620 prayed therein as follows:
>
> "x x x it is most respectfully prayed of this Honorable Court that judgment be rendered declaring as NULL and VOID the Resolution of respondent Secretary of Labor, Blas Ople, dated July 25, 1975 (Annex "F") and his Order dated July 23, 1976 (Annex "H") affirming the Decision of the NLRC dated May 27, 1974 (Annex "D") and instead to declare herein petitioners employees of private respondent Smith Bell & Co., Inc., and as such entitled to full termination pay benefits as provided for in Sec. 9, Rule 1, Book VI, of the New Labor Code to

be computed up to the time such payment is to be made (not only up to the date of their illegal dismissal on April 16, 1973) with legal interests thereon. x x x"

The resolution and order of the Secretary of Labor assailed in G.R. No. L-44620 read in full as follows:

Resolution dated 25 July 1975:"RESOLUTION

After a review of the entire records of this case in relations (sic) to the grounds raised by the complainants in their appeal, we find no justification to alter/modify the Decision of the National Labor Relations Commission dated May 27, 1974, reversing the Decision of the Arbitrator and dismissing the instant case for lack of merit.

WHEREFORE, complainant's (sic) appeal should be, as it is hereby, Dismissed for lack of merit.

SO ORDERED.

July 25, 1975, Manila, Philippines.

ORIGINAL SIGNED
BLAS F. OPLE
Secretary"

Order dated 23 July 1976:"O R D E R

Complainants filed a motion seeking reconsideration of the Resolution of the Secretary of Labor dated July 25, 1975 affirming the NLRC decision of May 27, 1974, which declared the non-existence of employer-employee relationship between complainants and respondent.

After going over the record, we noted that the motion at bar raises the same issues which were already resolved earlier as stated. The arguments now advanced were the same arguments contained in complainants' original appeal. No new matter relevant to the facts projected and the issues decided has been added in complainants' motion to merit further consideration.

IN VIEW THEREOF, complainants' Motion for Reconsideration is hereby denied for lack of merit.

SO ORDERED.

July 23, 1976, Manila, Philippines.

(ORIGINAL SIGNED))
(SGD) BLAS F. OPLE
Secretary'

In support of its argument as to the application of the principle of res judicata in the present controversy, petitioner contends as follows: that the parties in G.R. No. L-44620 (originating as NLRC Case No. RO-VII-153) are identical with the parties in SSC Case No. 2453, which gave rise to the present petition; that while in SSC Case No. 2453, private respondents sought to compel Smith Bell and Company, Inc. to report them to the Social Security Commission for coverage and to pay their SSS contributions, whereas, in NLRC Case No. RO-VII-153, private respondents had sought the declaration of their dismissal by the petitioner as illegal, the crucial issue in both proceedings was whether an employee-employer relationship existed between petitioner and private respondents; and that, the evidence presented by the parties in NLRC Case No. RO-VII-153 is the same evidence that was presented in SSC Case No. 2453.

It is also important to note that the records of this present petition and those of G.R. No. L-44620 disclose the following material facts:

1. That aside from filing Case No. 2453, private respondents also filed earlier before the NLRC Regional

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Office No. VII (Iloilo City) of the Department of Labor a complaint alleging therein that herein petitioner company illegally dismissed them from work on 16 April 1973; that, on 22 November 1973, the arbitrator acting on the said complaint rendered the decision against the petitioner company, to wit:

"WHEREFORE, it is hereby ordered that respondent shall immediately reinstate all the complainant pakiao workers to their former work and to pay the complainants the amount of P142.68 every month as their backwages from April 15, 1973 up to and until reinstated.

SO ORDERED."

2. That on appeal (docketed NLRC Case No. RO-VII-153) to the NLRC, the same, in ruling that no employee-employer relationship existed between parties therein, rendered the decision dated 27 May 1974 reversing the arbitrator's decision dated 22 November 1973, and thereby dismissing the appeal; that, subsequently, private respondents (complainants therein) appealed to the Office of the Secretary of Labor assailing the said NLRC decision, upon which appeal the Secretary of Labor acted by issuing the resolution dated 25 July 1975 dismissing the appeal for lack of merit; that the motion for reconsideration of the abovementioned resolution was also denied in resolution dated 23 July 1976 of the said Secretary; that, consequently, private respondents filed before the Supreme Court their petition for certiorari (docketed G.R. No. L-44620) questioning the said resolutions of the Secretary of Labor; that, in the resolution dated 26 January 1977, this Court dismissed the petition for lack of merit, to wit:

"L-44620 (Mamerto Besol, et al. v. Hon. Blas Ople, et al.). - Considering the allegations contained, the issues raised and the arguments adduced in the petition for certiorari, as well as the respective comments of private respondent and the Solicitor General on the said petition, the reply of petitioners to private respondent's comment, the rejoinder of private respondent to petitioners' reply and the reply by way of sur-rejoinder of petitioners to private respondent's rejoinder, the Court Resolved to DISMISS the petition for lack of merit, no abuse of discretion having been shown."

3. That in resolution dated 14 March 1977, this Court denied the motion for reconsideration of the resolution dated 26 January 1977, which reads:

"L-44620 (Mamerto Besol, et al. v. Hon. Blas Ople, et al.). - Considering the pleadings filed in this case, the Court Resolved. ... (b) to DENY the motion dated February 24, 1977 of counsel for petitioner for reconsideration of the resolution of January 26, 1977 for lack of merit."

4. That the resolution dated 26 January 1977 became final and executory as entry of judgment was made on 6 April 1977.

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 Court dated 26 January 1977, rendered in G.R. No. L-44620, constitutes a bar to SSC Case No. 2453. We, therefore, find merit in the petition at bar.

The doctrine of res judicata is well discussed in Bienvenida Machoca Arcadio v. Carriaga, Jr., G.R. No. 75109-10, 28 June 1989. We quote:

"The principle of res judicata in actions in personam is found in Section 49(b) and (c), Rule 39 of the Rules of Court which provides:

"Sec. 49. Effects of judgments. - The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x

(b) In other cases, the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their

successors-in-interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;

(c) In any other litigation between the same parties or their successors-in-interest, that only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.'

The doctrine of res judicata thus lays down two main rules which may be stated as follows: (1) The judgment or decree of a court of competent jurisdiction on the merits concludes the parties and their privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action either before the same or any other tribunal; and (2) Any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which a judgment or decree 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 or demand, purpose, or subject matter of the two suits is the same. These two main rules mark the distinction between the principles governing the two typical cases in which a judgment may operate as evidence. In speaking of these cases, the first general rule above stated, and which corresponds to the aforequoted paragraph (b) of Section 49, is referred to as "bar by former judgment,' while the second general rule, which is embodied in paragraph (c) of the same section, is known as "conclusiveness of judgment."

Stated otherwise, when we speak of res judicata in its concept as a "bar by former judgment," the judgment rendered in the first case is an absolute bar to the subsequent action since said judgment is conclusive not only as to the matters offered and received to sustain that judgment but also as to any other matter which might have been offered for that purpose and which could have been adjudged therein. x x x

On the other hand, the less familiar concept or less terminological usage of res judicata as a rule on conclusiveness of judgment refers to the situation where the judgment in the prior action operates as an estoppel only as to the matters actually determined therein or which were necessarily included therein. x x x

At bottom, the other elements being virtually the same, the fundamental difference between the rule of res judicata as a bar by former judgment and as merely a rule on the conclusiveness of judgment is that, in the first, there is an identity in the cause of action in both cases involved whereas, in the second, the cause of action in the first case is different from that in the second case."

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. RO-VII-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 resolution 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 v. 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.

> It is to be further observed that in SSC Case No. 2453, in addition to herein petitioner and private respondents being parties therein, the Social Security System was included as a party-intervenor, whereas, in the earlier NLRC Case No. RO-VII-153, only herein private respondents and petitioner company were the parties. However, this fact does not preclude the application of the doctrine of res judicata in the instant case, as it is a well settled rule that the principle does not require absolute identity but only substantial identity of parties, subject matter and issues.[17]

In this case, the barefaced fact that the SSS was not a party before the Labor Arbiter, and that Wilhelmina Andrada was a party before the Labor Arbiter but was not before the SSC, does not proscribe the application of the principle of res judicata. Respondents impleaded Wilhelmina Andrada before the Labor Arbiter as party-respondent in her capacity as the president of petitioner CRI upon the demise of Francisco Villanueva.

While the action of respondents in the SSC differs in form and relief sought from that brought before the Labor Arbiter, there is identity of the central issue in the two cases; that is, whether respondents were the employees of petitioner CRI. A change in the form of action or in the relief sought does not remove a proper case from the application of res judicata. The courts are not concerned so much with the form of the action or with its substance. Despite a difference in the form of action, nevertheless, the doctrine of res judicata would be applied where the parties in the two suits are litigating the same thing.[18]

The Labor Arbiter had ruled in NLRC Case Nos. 00-01-00322-2000, 00-01-00440-2000 and 00-03-01808-2000 that there was no employer-employee relationship between petitioner CRI, on the one hand, and respondents, on the other. The decision of the Labor Arbiter was affirmed by the NLRC. The CA dismissed the petition of respondents in CA-G.R. SP No. 83561, and, when brought to this Court, was likewise dismissed on two grounds: for failure to sufficiently show that the CA committed a reversible error in the assailed resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction; and for filing a frivolous appeal, the issues having been resolved uniformly by the Labor Arbiter, the NLRC and the CA. The Court thus resolved with finality that, after all, petitioner CRI was not the employer of respondents.

It bears stressing that petitioner CRI in its motion for reconsideration in CA-G.R. SP No. 78298 apprised the appellate court that the Labor Arbiter had ruled that it was not the employer of respondents; that the NLRC and the CA had affirmed the ruling of the Labor Arbiter; and that this Court had already dismissed the petition for review of respondents in G.R. No. 164399. It thus behooved the CA in the said case to defer resolving the motion for reconsideration until after this Court shall have resolved the pending motion for reconsideration of respondents in G.R. No. 164399. By the time the CA denied the motion on April 25, 2005, the Court had likewise already denied respondents' motion in G.R. No. 164399 with finality. It is the resolution of this Court in G.R. No. 164399 which should prevail over the resolution and order of the SSC and the decision and resolution of the CA in CA-G.R. SP No. 78298.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 78298 are REVERSED AND SET ASIDE.

SO ORDERED.

Panganiban, C.J., (Chairman), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

---

[1] Rollo, p. 145.

[2] Id. at 228-231.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[3] Id. at 301-305.

[4] Id. at 136.

[5] Id. at 370-380.

[6] Id. at 381-382.

[7] Id. at 383.

[8] Id. at 391.

[9] Id. at 69-82.

[10] Id. at 367-368.

[11] Id. at 388-389.

[12] Id. at 389.

[13] Id. at 423.

[14] Id. at 77.

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

[16] Id. at 365-366.

[17] Id. at 366-372.

[18] Medija v. Patcho, G.R. No. L-30310, October 23, 1984, 132 SCRA 540.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.