

POBLETE CONSTRUCTION CO., PETITIONER, VS. JUDITH ASIAIN, SOCIAL SECURITY COMMISSION, AND BENITO MACRHON, IN HIS CAPACITY AS SHERIFF OF RIZAL, RESPONDENTS.*G.R. No. 21448. August 30, 1967*

Ponente: MAKALINTAL, J.

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Miguel Asiain was an employee of the Poblete Construction Company from 1956 until his death on November 22, 1959, with a monthly salary of P300. Upon his death his widow, Judith Asiain, for herself and her minor children, filed a petition before the Social Security Commission against the company and its manager, Domingo Poblete (Case No. 78), to recover the following sums: (1) P3,600.00 equivalent to one year's salary of the deceased; (2) P600.00 representing his unpaid salary for two months; (3) P288.00 "representing the cash received by respondents from their laborers as contribution to the family of the deceased;" and (4) P2,000.00 by way of attorney's fees.

The respondents below moved to dismiss the petition on the grounds that the Social Security Commission had no jurisdiction over the subject-matter and that the petitioner Judith Asiain had no capacity to sue. The Commission denied the motion to dismiss in its order of February 25, 1960 and ordered the respondents to file their answer. When no answer was forthcoming, the respondents were declared in default in an order dated March 9, 1960, and the petitioners were allowed to present their evidence.

In its resolution of September 15, 1960 the Commission declared itself without jurisdiction to entertain the claims in the petition except the one for the sum of P3,600, which it awarded on the basis of the evidence adduced at the hearing and pursuant to Section 24 of Republic Act No. 1161, as amended. A sub-sequent motion for reconsideration filed by the respondents was denied, and they elevated the case for review by the Court of Appeals, which upon proper application issued a writ of preliminary injunction to stop all further proceedings below, including execution of the award.

The case was afterwards certified to this Court for the reason that when the respondents below were declared in default they lost their standing before the Commission, and not having regained the same by a motion to set aside or petition for relief, they had no right to appeal from the default judgment; and that in any event no questions of fact are involved and hence, if at all appealable, the appeal should be directly to this Court.

The procedural issues, we believe, need not concern us. The main point raised here by the Poblete Construction Company, which it raised also in its motion to dismiss before the Commission, is that the said body had no jurisdiction to entertain the claim of P3,600, which should have been presented before the ordinary courts. This claim was filed under Section 24 of the Social Security Act (R.A. 1161, as amended), which provides:

"SEC. 24. Employment records and reports. (a) Each employer shall report immediately to the System the names, ages, civil status, occupations, salaries and dependents of all his employees who are in his employ and who are or may later be subject to compulsory coverage: Provided, That if an employee subject to

compulsory coverage should die or become sick or disabled without the System having previously received a report about him from his employer, the said employer shall pay to the employee or his legal heirs damages equivalent to the benefits to which said employee would have been entitled had his name been reported on time by the employer to the System."

It appears that although the deceased Miguel Asiain had been employed in the Poblete Construction Company since 1956 and had accomplished SSS Form E-1 (Employees' Date Record) and transmitted the same to the said company's Manila Office, it was never filed with the Social Security System for the reason, according to the company, that he refused to have his share of the corresponding monthly contributions deducted from his salary. Upon these facts the company maintains that the deceased was not a member of the System when he died and hence the adjudication of the claim for damages under Section 24, supra, does not pertain to the Commission but to the courts of justice.

We find the argument untenable. There is no question that the deceased Miguel Asiain was subject to compulsory coverage in the Social Security System.^[1] It was the duty of the employer to "report immediately to the System" his name, age, civil status, occupation, salary and dependents. Compliance with this duty did not depend upon the employee's willingness to give his share of the contribution. Section 24 is mandatory, to such an extent that if the employee should die or become sick or disabled without the report having been made by the employer, the latter is liable for an amount equivalent to the benefits to which the employee would have been entitled had such report been made. It is true that the provision uses the word "damages" in referring to the amount that may be claimed. But this fact alone does not mean that the Social Security Commission lacks jurisdiction to award the same. Section 5(a) of the Social Security Act provides that "the filing, determination and settlement of claims shall be governed by the rules and regulations promulgated by the Commission;" and the rules and regulations thus promulgated state that "the effectivity of membership in the System, as well as the final determination and settlement of claims, shall be vested in the Commission." The term "claims" is broad enough to include a claim for "damages" under Section 24. Otherwise an employer could nullify the jurisdiction of the Commission by the simple expedient of not making a report as required by said Section. The collection of the employee's share is a duty imposed by law, and his unwillingness to have it deducted from his salary does not excuse the employer's failure to make the report aforesaid. It is precisely in this situation that the employer is liable, and there is no question as to the amount of such liability in this case.

The decision of the Social Security Commission is affirmed, and the writ of preliminary injunction is dissolved, with costs against herein petitioner.

Concepcion, C.J., Reyes, Dizon, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] SEC. 9. Compulsory coverage. - Coverage in the System shall be compulsory upon all employees between the ages of sixteen and sixty years, inclusive, if they have been for at least six months in the service of an employer who is a member of the System. x x x"

SEC. 10(a) Compulsory coverage of any employee shall take effect on the first day of the calendar month following the month when his employer qualified as a member of the System, provided said employee has rendered at least six months' service.

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