

SMITH BELL & CO., INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, SOCIAL SECURITY SYSTEM, MAMERTO BESOL, ANTONIO BESOL, ARSENIO BESOL, JOSE ALCAIN, MANUEL PENAVERDE, VICEN...

G.R. No. 59692. October 11, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

Assailed in this petition is the decision* dated 7 December 1981 and the “Kapasiyahan”¹ dated 1 February 1982, rendered by respondent Court of Appeals in CA-G.R. SP No. 05205-R, affirming in toto the Resolution² dated 17 December 1975 of the Social Security Commission (“SSC”, for brevity) rendered in Case No. 2453, entitled “Mamerto Besol, et al. (petitioners) versus Smith Bell & Co., Inc. (respondent), and Social Security System (Intervenor),” which found herein petitioner company to be the employer of private respondents, and directed petitioner to report all private respondents to the Social Security System (“SSS”, for short) for coverage.

The facts of the case are as follows:

1. That the nature of business of petitioner Smith Bell & Co., Inc. (a private corporation, doing business as mercantile establishment in the Philippines with a branch office at Iloilo City) is that, in connection with its business, the company receives stock of goods from other points of the Philippines by plane, railway and interisland vessels; that goods brought in by interisland vessels are unloaded and deposited in the shipping company's warehouse at Iloilo City; that to transport those cargoes from the pier to the company's warehouse, the latter availed itself of the services of one Mamerto Besol, (one of the private respondents herein) using the company's own trucks and equipment for the purpose; that the basis of private respondents' compensation is an agreed rate per hauling job according to the number, weight, value, size, and nature of article/items of cargo involved;³
2. That on 4 February 1974, private respondents Mamerto Besol, Antonio Besol, Arsenio Besol, Jose Alcaín, Manuel Penaverde, Vicente Jaloag, Dino Evangelista, Hilarion Roga, Jolito Alcaín, Jaime Alcaín, and Rodolfo Roga jointly filed with the Social Security Commission a petition to compel Smith Bell & Co. Inc. (‘Smith Bell’, for short) to report private respondents for SSS coverage and to remit in their behalf SSS contributions alleging, in substance, that they had been “pakiao” workers or employees of Smith Bell, having rendered and performed services for the said company continuously thru the use of their manual and physical efforts and receiving compensation from the latter for such services; x x x that despite said employment, Smith Bell failed to report and insure private respondents for SSS coverage and to remit SSS contributions in their behalf, which resulted in the failure of private respondents to receive the benefits due them from the System when the latter were illegally dismissed by Smith Bell on April 16, 1972;⁴
3. That on 22 February 1974 respondent SSS filed a petition for intervention stating, among other things, that ‘pursuant to Sections 18, 18 (sic), 22(a),⁵ and 24(a) of the SS Law, as amended, the employer is under obligation to report the names of his employees and to deduct from the employees' monthly compensation the corresponding premium contributions and the same be remitted, together with the employer's share, to the

System within the prescribed period';⁶

4. That on 17 December 1975, the SSC rendered in Case No. 2453 the resolution ruling thereunder that private respondents herein are temporary employees, and thus, employee-employer relationship existed between herein petitioner company and said respondents. The dispositive portion of which 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. x x x."⁷

5. On appeal to the Court of Appeals (docketed C.A. G.R. SP No. 05205-R), the appellate court in its Decision dated 7 December 1981 affirmed in toto the questioned resolution of the SSC. In "Kapasiyahan" dated 1 February 1982, the appellate court denied petitioner's motion for reconsideration of its decision.

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. vs. 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"⁸

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 1975:⁹

"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 or 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 1976:10

"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;¹¹ 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 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,¹² 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 back wages 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;¹³ 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;¹⁴ 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:¹⁵

"L-44620 (Mamerto Besol, et al. vs. 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;¹⁶

"L-44620 (Mamerto Besol, et al. vs. 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 1977.¹⁷

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 vs. Carriaga, Jr.*, G.R. Nos. 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. Effect 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:

xxx xxx

(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 aforementioned 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 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.¹⁸

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.*,¹⁹ 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.²⁰

WHEREFORE, the petition is GRANTED. The decision dated 7 December 1981 and the "Kapasiyahan" dated 1 February 1982 rendered by respondent Court of Appeals in CA-G.R. SP No. 05205-R are hereby REVERSED and SET ASIDE, and respondent court is ordered to DISMISS Social Security Commission Case No. 2453. Without costs.

SO ORDERED.

Melencio-Herrera, (Chairman), Sarmiento, and Regalado, JJ., concur.
Paras, J., on leave.

* Penned by Justice Onofre A. Villaluz, and concurred in by Justices B.S. De La Fuente and Jorge R. Coquia; Rollo, pp. 23-28

1 Rollo, pp. 30-31

2 Ibid., pp. 39-45

3 Per Resolution dated 17 December 1975 of the Social Security Commission, Rollo, p. 39

4 Decision dated 7 December 1981 of the Court of Appeals, Rollo, p. 25

5 "Section 18. Employee's contribution - (a) Beginning as of the last day of the calendar month when an employee's compulsory coverage takes effect and every month thereafter during his employment, the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings, the employee's contribution of an amount corresponding to his salary, wage, compensation, or earnings during the month in accordance with the following schedule x x x.

"Section 19. Employer's contributions - (a) Beginning as of the last day of the month when an employee's compulsory coverage takes effect and every month thereafter during his employment, his employer shall pay, with respect to such covered employee, the employer's contribution in accordance with the schedule indicated in Section eighteen of this Act. x x x."

"Section 22. Remittance of contributions - (a) contribution imposed in the preceding section shall be remitted to the SSS within the first seven days of the calendar month following the month for which they are applicable or within such time as the Commission are prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment x x x."

6 Decision of the Court of Appeals, dated 7 December 1981, Rollo, p. 25

7 Rollo, pp. 44-45

8 Rollo, G.R. No. L-44620, p. 15

9 Ibid., p. 44

10 Id., p. 48

11 Rollo, p. 11

12 Rollo, p. 7; G.R. No. L-44620, pp. 16, 20 and 27

13 Ibid., p. 31

14 Rollo, pp. 32 and 44

15 Rollo of G.R. No. L-44620, p. 165

16 Records of G.R. No. L-44620, p. 180

17 Id., Entry of Judgment

18 Sy vs. Tuvera, G.R. No. 76639, July 16, 1987, 152 SCRA 103

19 Supra.

20 Anticamara vs. Ong, G.R. No. L-29689, April 14, 1978, 82 SCRA 337

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