

ROBERTO R. BENEDICTO, PETITIONER, VS. HON. QUIRINO D. ABAD SANTOS, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF NEGROS OCCIDENTAL, AND SOCIAL SECURITY ...

G.R. NO. 74689. March 21, 1990

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74689/>

FELICIANO, J.:

In this Petition for Prohibition and Mandamus with preliminary injunction, petitioner Roberto R. Benedicto seeks to set aside the Orders of respondent Judge dated 3 March 1986 and 21 April 1986 denying, respectively, petitioner's Motion to Quash Criminal Case No. 3863 and his related Motion for Reconsideration.

Petitioner Benedicto started a trucking business sometime in March 1971 in which business he employed the late Salvador Pillon as truck driver. Petitioner, however, did not report Pillon's employment to the Social Security System ("SSS") for compulsory coverage and did not pay the corresponding SSS contributions.

The above facts came to the knowledge of the SSS sometime in 1975. On 19 October 1975, after Pillon's death, Mr. Antonio Obillos, Jr., an investigator of the SSS Regional Office in Bacolod City, was deputized to conduct an enquiry in respect of Benedicto's alleged violations of the Social Security Act (Republic Act No. 1161, as amended). In his Field Investigation Report, dated 29 October 1975,[1] Obillos stated that Benedicto had admitted having failed to report and to register with the SSS Pillon's employment for the period from March 1971 up to the time of Pillon's death in 1974, and to pay the corresponding SSS contributions; that upon Obillos' suggestion, petitioner Benedicto had accomplished and submitted SSS Forms E-1 and R-IA reporting himself and Pillon for SSS compulsory coverage; that Benedicto and Pillon were assigned SSS Identification Nos. 07-17376-00 and 07-0687-312 effective 1 March 1971; that Benedicto was assessed SSS premiums in the total amount of P491.70 excluding penalties. Obillos recommended that his report be transmitted to the Legal Department of the SSS in Quezon City for appropriate action.

Approximately ten (10) years later, on 18 July 1985, upon complaint of the Legal Department of the SSS, the Assistant City Fiscal of Bacolod City filed an information charging petitioner Benedicto with violations of Section 24 (a) in relation to Section 28 (e) of the Social Security Act, as amended. The information read as follows:

"That during the period from March 1971 to March 1974, in the City of Bacolod, Philippines, and within the territorial jurisdiction of the Social Security System, Regional Office 07, situated in Bacolod City, Philippines and within the jurisdiction of this Honorable Court, the herein accused, with address at Punay Street, Silay City, did, then and there, willfully, unlawfully and feloniously fail and refuse, without lawful cause to report/register on time for SSS Coverage his employee, the late Salvador Pillon, thereby rendering him liable for damages in the amount of SIX THOUSAND THREE HUNDRED EIGHTY ONE PESOS AND 00/100 CENTAVOS (P6,381.00), Philippine Currency, the amount equivalent to the benefits the heirs of the late

Salvador Pillon would have been entitled to, had the name of the deceased member been reported/registered to the SSS on time which the accused failed and refused to pay despite demands in violation of the aforementioned law.

Not (sic) contrary to law."[2]

Before arraignment, petitioner Benedicto moved to quash the information asserting that his liability thereunder had already been extinguished by prescription. Upon the other hand, the complainant SSS opposed the Motion to Quash contending that the offense charged in the information had not yet prescribed since the applicable prescriptive period was twenty (20) years and since the information was filed within this 20-year period.

In an Order dated 3 March 1986, respondent Judge denied petitioner Benedicto's Motion to Quash stating, tersely, that:

"xxx x x x x x x

Paragraph B of Section 22 of the Republic Act 1161 as amended by Section 15 of the PD 1636 is quoted hereunder to wit:

'The right to institute the necessary action against the employer may be commenced within Twenty Years (20) from the time the Delinquency is known or the assessment is made by the SSS, or from the time the Benefit Accrues, as the case may be.'

In view of the foregoing, the motion to quash is denied for lack of merit.

SO ORDERED."

Petitioner moved for reconsideration of the above order, without success.

Hence the present Petition for Prohibition and Mandamus with preliminary injunction. The Court ordered the SSS impleaded as party respondent and to file a Comment on the Petition. The Solicitor General filed a Comment for the SSS.

The central issue here posed is whether or not the offense with which petitioner Benedicto is charged has prescribed.

Petitioner Benedicto does not dispute that he had not reported his employee Pillon to the SSS as required by the Social Security Act. He, however, argues that the 20-year prescriptive period established in Section 22 (b) of the Social Security Act relied upon by the respondent Judge, applies only in respect of administrative and civil actions involving delinquency in the remittance of contributions to the SSS, and not to a criminal action like that initiated in the case at bar. Section 22 (b) of the Social Security Act, as amended by P.D. No. 1636 provides that:

"SEC. 22. Remittance of Contributions. --

x x x x x x x x

(b) The contribution payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the SSS in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein penalized shall not prejudice the right of the covered employee to the benefits of the employee.

The right to institute the necessary action against the employer may be commenced within twenty (20) years from the time the delinquency is known or the assessment is made by the SSS, or from the time the benefit accrues, as the case may be." (Underscoring supplied)

Section 28 (e) of Republic Act No. 1161 as amended by P.D. No. 177 (promulgated 23 April 1973) prescribed the

penalty for the crime charged in the information:

"Sec. 28. Penal Clause -- x x x

x x x x x x x x

(e) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations promulgated by the Commission, shall be punished by a fine of not less than five hundred pesos nor more than five thousand pesos, or imprisonment for not less than six months nor more than one year, or both, at the discretion of the court: Provided, That, where the violation consists in failure or refusal to register employees, or to deduct contributions from employee's compensation and remit the same to the SSS, the penalty shall be a fine of not less than five hundred pesos nor more than five thousand pesos and imprisonment for not less than six months nor more than one year."

Upon the other hand, Act No. 3326, as amended by Act No. 3763 provides as follows:

"SECTION 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) after eight years for those punished by imprisonment for two years or more, but less than six years; and (d) after twelve years for any other offence punished by imprisonment for six years or more, x x x: Provided, however, That all offenses against any law or part of law administered by the Bureau of Internal Revenue shall prescribe after five years. Violations penalized by municipal ordinances shall prescribe after two months.

"Violations of the regulations or conditions of certificates of public convenience issued by the Public Service Commission, shall prescribe after two months." (Underscoring supplied)

Petitioner Benedicto argues that since the Social Security Act itself had not established a prescriptive period in respect of criminal liability for violations of the Social Security Act or the Rules and Regulations promulgated by the Social Security Commission concerning registration of employees and remittance of contributions to the SSS, the applicable statute of limitations was four (4) years under Act No. 3326, as amended, quoted above.

It was, however, argued by the SSS as complainant before the trial court, as it is argued by the Solicitor General in the Petition at bar, that Act No. 3326, as amended, was not applicable to the instant case for the reason that the Social Security Act itself had established a statute of limitations in Section 22 (b) of the Social Security Act as amended by P.D. No. 1636, quoted earlier. It appears to be the position of the SSS that the 20-year statute of limitations embodied in Section 22 (b) is applicable in respect of all kinds of actions against a delinquent employer, whether criminal or civil. We find it difficult to accept this view as correct.

We note, in the first place, that the 20-year prescriptive period is found in Section 22 of the Social Security Act which deals generally with the remittance of contributions to the SSS. Section 22 (b) does not deal with penal sanctions for violations of provisions of the Social Security Act nor of the rules and regulations promulgated by the Social Security Commission. The penal sanctions established by the Social Security Act are found in Section 28 which forms part of the final portion or chapter of the Act denominated as "G. Miscellaneous Provisions". In contrast, Section 22 is found in chapter E entitled "Sources of Funds - Employment Records and Reports". But an examination of Section 28 entitled "Penal Clauses" shows that none of the subsections thereof purports to establish a prescriptive period in respect of such criminal sanctions. If the 20-year period of prescription had been intended by the legislative authority to apply to the penal sanctions established by the statute, one would expect it either to be textually located in chapter G "Miscellaneous Provisions" and not in chapter E "Sources of Funds", or at the very least to refer to the sections on penal sanctions in chapter G. In other words, the context of Section 22

(b) indicates that it does not relate to criminal sanctions at all.

Secondly, close examination of Section 22 (b) will show that the "necessary action against the employer" referred to in the second paragraph thereof is an action that is brought against the employer for the collection of contributions payable under the Social Security Act which the employer has refused or neglected to pay.

Thirdly, a 20-year statute of limitation if made applicable in respect of criminal liability of an employer for failure to remit contributions to the SSS would constitute a disproportionately long statute of limitations if one compared it with either the applicable prescriptive periods in respect of crimes punishable under the Revised Penal Code or the prescriptive periods applicable to crimes punished by special statutes under Act No. 3326, as amended. Under Article 90 of the Revised Penal Code, only crimes punishable by death, reclusion perpetua or reclusion temporal prescribe in twenty (20) years; all other crimes prescribe in fifteen (15) years, ten (10) years, five (5) years, one (1) year, six (6) months or two (2) months. Similarly, under Article 92 of the Revised Penal Code, only the penalties of death and reclusion perpetua prescribe in twenty (20) years; all other penalties prescribe in lesser periods of time ranging from fifteen (15) years to one (1) year. The prescriptive periods for offenses penalized by special statutes established under Act No. 3326, as amended, quoted above, are comparable: they range from twelve (12) years (for offenses penalized with 6 years of imprisonment) to one (1) year (for offenses penalized with a fine only or with one month of imprisonment). We note also that under the National Internal Revenue Code (in the form it existed at the time of the commission of the acts here involved) to which Section 22 (b) of the Social Security Act refers, penal sanctions for violations of provisions of that Code prescribe in five (5) years^[3] and that the period of prescription applicable in respect of civil remedies for the collection of internal revenue taxes is also five (5) years.^[4]

Upon the other hand, the criminal penalties prescribed by the Social Security Act itself for violations of its provisions and of rules and regulations promulgated by the Social Security Commission, are significantly lighter than reclusion perpetua or reclusion temporal. The most severe penalty imposed by the Social Security Act itself does not exceed five (5) years. Of course, certain provisions of Section 28 of the Social Security Act, as amended, refer to penalties provided for in certain articles of the Revised Penal Code. Thus, Section 28 (a) refers to penalties established in Article 172 of the Revised Penal Code (falsification of public and commercial documents and use thereof by private individual); Section 28 (g) refers to Article 217 of the Revised Penal Code (malversation of public funds and property); and Section 28 (h) refers to penalties established under Article 315 of the Revised Penal Code (swindling and estafa). It thus appears to us that to apply a single, uniform 20-year prescriptive period to both civil actions for collection of unremitted SSS premiums and to criminal prosecutions for violations of provisions of the Social Security Act and of rules and regulations promulgated by the Social Security Commission, would be both grossly disproportional and too simplistic. Such a result cannot lightly be assumed to have been intended by the legislative authority in enacting Section 22 (b), second paragraph, of the Social Security Act.

In the case at bar, the information was filed against petitioner Benedicto ten (10) years after the alleged violations had been discovered by the SSS. We hold that the statutory crime here charged had prescribed by then, the prescriptive period here applicable being four (4) years.

The foregoing, however, is concerned only with the extinguishment of the criminal liability for the offense charged in the information. The general rule is, of course, that extinction of the penal action does not carry with it the extinction of the civil action to enforce civil liability arising from the offense charged, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist.^[5] In the case at bar, no final judgment had been rendered by the trial court since the criminal case was in effect aborted by the Motion to Quash. Thus, the extinction of the criminal liability of petitioner by reason of prescription has

had no impact upon the related civil action for enforcement of the civil liability of petitioner. Said civil action, in accordance with the provisions of Section 22 (b), second paragraph quoted above of the Social Security Act, may be brought within twenty (20) years from the time the employer's delinquency was discovered. Since at the time of the institution of the criminal proceedings against petitioner Benedicto, so far as the record shows, no reservation had been made for institution of a separate civil action for recovery of the civil liability arising from the criminal acts charged, such civil action must be deemed to have been instituted simultaneously with the commencement of the criminal proceedings. Such civil action may proceed notwithstanding the extinction of the criminal action against petitioner Benedicto.

It remains only to note that the information against petitioner Benedicto itself specified the amount of the civil liability -- P6,381.00, being the amount equivalent to the benefits which the heirs of the deceased Salvador Pillon would have been entitled to had Pillon been reported and registered with the SSS on time and the necessary contributions remitted to the SSS. That amount will, upon collection, be payable to Salvador Pillon's heirs.

WHEREFORE, the Petition for Prohibition and Mandamus with preliminary injunction is hereby GRANTED insofar as prosecution of the criminal action against petitioner Benedicto is concerned. The same Petition is hereby DISMISSED insofar as the civil action for the enforcement of the civil liability arising from the offense charged, is concerned, and the case REMANDED to the trial court for continuation of such civil action. The Temporary Restraining Order issued by the Court on 11 June 1986 is hereby made PERMANENT insofar as Criminal Case No. 3863 is concerned and LIFTED insofar as the related civil action is concerned. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, Annex "C" of Petition, pp. 17-18.

[2] Id., Annex "A" of Petition, p. 10.

[3] Section 340, National Internal Revenue Code of 1977, as amended. The relevant provision is now found in Section 280 of the present National Internal Revenue Code.

[4] Section 318, National Internal Revenue Code of 1977, as amended. The current law establishes a 3-year period of limitation upon assessment and collection of internal revenue taxes, Section 203; except where fraud is shown in which case the period of limitation of assessment and collection of taxes is lengthened to ten (10) years after discovery of the fraud, Section 223.

[5] Section 2 (b), Rule III of the 1985 Rules on Criminal Procedure.

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.