

LUCIANO ESCOSURA, ET AL., PETITIONERS AND APPELLEES, VS. SAN MIGUEL BREWERY, INC., RESPONDENT AND APPELLANT.

G.R. Nos. 16696 and 16702. January 31, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

From the Resolution of the Social Security Commission (in SSC Cases Nos. 33, 37, 38, 39, 40, 41, and 42) directing the San Miguel Brewery, Inc. to pay the claims for sickness benefit allowances of Pionisio Asis, Primitivo Binalber, Procopio Cipriano, Florencio Hipolito, Cesar Villareal, Luciano Escosura, and Pablo R. Cruz, said company appealed to this Court under the provisions of Section 5 (c) of Republic Act 1161, as amended, there being no question of fact involved.

The facts of these cases, as found by the Commission and admitted by the parties, are as follows:

Petitioners-appellees are all employees of herein respondent-appellant San Miguel Brewery, Inc. who became compulsorily covered under the Social Security System (now Commission) in September, 1957. At various times during their employment, they fell ill and were confined in the hospital for treatment. For the duration of their confinement, they were given by the employer sick leave pay to the extent of 50% of their wages for the first 3 days and 75% of such pay thereafter, pursuant to its Health, Welfare and Retirement Plan. Such receipt of sick leave pay notwithstanding, the employee claimed for sickness benefit allowance under the Social Security Act for the respective period of their confinement, thus:

Name of Employee	Amount of Claim	Period of Confinement
1. Luciano Escosura	P 11.87	November 27, 1958 to June 1, 1959 or 187 days
2. Dionisio Asis	19.24	March 20, 1959 to April 12, 1959 or 23 days
3. Primitivo Binalber	15.05	February 2, 1959 to March 2, 1959 or 29 days
4. Procopio Cipriano	25.30	November 16, 1958 to December 28, 1958 or 43 days
5. Federico Hipolito	48.26	January 1, 1959 to February 8, 1959 or 39 days
6. Cesar Villareal	3.70	April 3, 1959 to April 12, 1959 or 10 days
7. Pablo R. Cruz		January 24, 1959 to March 1, 1959 or 36 days

They contend that under Section 14 (a) of Republic Act 1161, their receipt of sick-leave pay less than the full wage does not preclude them from claiming for the allowances provided in the law. The company, for its part, countered that having already received sick leave to pay (although not full pay) from their employer, the petitioners can not for the same period claim entitlement to the benefits under the Social Security Act as these are

exclusive to those not receiving any leave privileges at all from the employer.

Sustaining petitioning employees' contention that the phrase "all leaves of absence with pay" used in the law means leaves of absence with "full" pay, the Commission ordered the employer to advance the sickness allowances demanded by the employees and thereafter to file a claim for reimbursement to the extent of 70% thereof from the System, pursuant to Section 14 (b) of the law. The ruling was based on the grounds that (1) when a law or an agreement gives the employee the right of leave of absence with pay, without any modification or specification of the amount, it could mean nothing but that the law or agreement contemplates of the full compensation receivable by the employee for services rendered; if intended otherwise, some language to that effect must appear; (2) that the use by the legislature of the unqualified word "pay" is indicative of its intention to adopt a uniform basis or amount applicable to all; (3) that as commonly understood, the word "pay" refers to the full compensation for services rendered by the employee; (4) that it could not have referred to the sick leave pay agreed upon by the parties, because as used in the law, the term pay refers to all leaves of absence and not confined to sick leaves alone; (5) that the Social Security Act, having been enacted for the welfare of the employees, could not be given an interpretation that would defeat such purpose; and (6) even supposing that hypothetically a sick employee, under the petitioners theory, could actually receive more benefits than an able-bodied worker—which is not true in these cases—that fact does not make the provision in controversy unreasonable, because changes, adjustments, modifications, eliminations or improvements in the benefits under the remaining private plan may be agreed upon pursuant to Section 9 of the Act.

The issue as thus presented is the interpretation of the phrase "with pay" used in connection with leaves of absence granted to employees.

Section 14 (a) of the Social Security Act, applicable to the cases at bar and invoked by both parties, reads:

"SEC. 14. Sickness benefits.—(a) Under such rules and conditions as the Commission may prescribe, any covered employee under this Act who, after one year at least from the date of his coverage, on account of sickness or bodily injury is confined in a hospital, or elsewhere with the Commission's approval, shall, for each day of such confinement, be paid by his employer, or by the System if such person is a voluntary member, an allowance equivalent to twenty per centum of his daily rate of compensation, plus five per centum thereof for every dependent if he has any, but in no case shall the total amount of such daily allowance exceed six pesos, or sixty per centum of his daily rate of compensation, whichever is the smaller amount, nor paid for a period longer than ninety days in one calendar year: Provided, That he has paid the required premiums for at least six months immediately prior to his confinement: Provided, further, That the payment of such allowance shall begin only after the first seven days of confinement, except when such confinement is due to injury or to any acute disease; but in no case shall such payment begin before all leaves of absence with pay,[1] if any, to the credit of the employee shall have been exhausted: Provided, further, That any contribution which may become due and payable by the covered employee to the System during his sickness shall be deducted in installments from such allowances, issuing to him the corresponding official receipt upon complete payment of such contribution: Provided, finally, That the total amount of the daily allowances paid to the covered employees under this section shall be deducted from the death or disability benefit provided in section thirteen if he dies or becomes totally or permanently disabled within five years from the date on which the last of such allowances became due and payable." (Italics supplied.)

As stated, the contention of respondent-appellant San Miguel Brewery, Inc. is that the clause "before all leaves of absence with pay shall have been exhausted" precludes the employees from invoking the benefits of the law, since they have been paid their sick leave pay although not in full, arguing that if the intention of the law was to require full compensation, it would have used the word "full" to modify "pay". We do not think this to be tenable. On the contrary, the legislative practice seems to be that when the intention is to distinguish between full and partial

payment, the appropriate modifying term is used, as it appears in Commonwealth Act 647, governing maternity leave of married women in the service of the Government or any of its instrumentalities, where the law granted "maternity leave with full pay" to permanent and regular female employees who have rendered two or more continuous years of service; "half pay" in case of permanent and regular employees who have rendered less than two years of continuous service, and "maternity leave without pay" to temporary employees.

On the other hand, Republic Act 679 regulating the employment of women and children in commercial or industrial establishments or other place of labor, provides in its Section 8 that "the employer shall grant to any woman employed by him who may be pregnant vacation leave with pay for six weeks prior to the expected date of delivery and for another eight weeks after normal delivery or miscarriage at the rate of not less than 60% of her regular or average weekly wages."

Again, in Republic Act 843, Section 98 (a), granting vacation and sick leaves to judges of municipal courts and justices of the peace, the law simply said that they "shall be entitled annually to 15 days vacation and 15 days .sick leave with pay."

Finally, in Article 1695 of the new Civil Code, it is provided that "househelpers shall not be required to work more than 10 hours a day. Every househelper shall be allowed four days vacation each month with pay." In all these laws, it is not disputed that the phrase "leave with pay" used without any qualifying adjective, meant that the employee was entitled to full compensation during the period of his leave of absence.

Moreover, let it be noted that the present cases arose^[2] before the Social Security Act was amended by Republic Act 2668, whereby the phrase "before all leaves of absence with pay" was changed to "before all sick leaves of absence with pay." It is not denied that with respect to vacation leaves with pay, full payment is meant. It is only with respect to sick leaves that the employer gives compensation less than full. Inasmuch as the law applicable to the present cases did not distinguish between vacation and sick leaves it can not be successfully claimed that the law before the amendment, meant full pay for vacation leave and less than full pay with regard to sick leaves.

To uphold the theory of respondent-appellant that as long as the employee receives any amount as sick leave pay by virtue of a private benefit plan, the employee can not avail of the privileges under the Social Security Act, would be to enable the employer" to defeat the purposes. The leaves of absence for which the benefits of the law are invoked, took place in 1958 and 1959, and the amendatory act took effect on June 18, 1960. of the law. As pointed out by the Social Security Commission:

"An employer, by his unilateral act, could credit the employee with some sickness benefits and the employee's consent as to the amount thereof would be immaterial. If we were to follow the argument of counsel for respondent, an employer could give his employees an infinitesimally small amount of sick leave pay for an indefinite period and thus perpetually deny said employees sickness benefits under the Social Security Act. It is thus seen that without the required standards which would serve as a guide, an employer could forever frustrate the salutary purpose of the law. Thus, an employer may grant his employee sickness benefit of one centavo a day for as long as he may be ill and, under the interpretation of counsel for petitioner (should be respondent) this would constitute a bar to the employee's enjoyment of sickness benefits under the Social Security Act. We do not think that Congress intended to give such power to the employer as to make him capable of rendering a provision of the Act impotent and inoperative."

It is also contended for the respondent-employer that if the phrase in question be interpreted to mean full pay, an employee could receive more benefits when sick than when he is well and renders service, thereby imposing upon the employer an additional burden. Under the facts of the cases at bar, and the provisions of the law applicable thereto, the respondent Company would not be required to pay more than the employee's full wage. Under its private benefit plan, the most that it gives to a sick employee is 75% of the latter's full compensation. What it

would be required to pay under Section 14 (a) of the Social Security Act would be merely 30% of a maximum of 60% of the daily rate of compensation, or 18% of the daily wage. This is so, because under paragraph (b) of Section 14, the employer is entitled to the reimbursement by the System of 70% per centum of the daily benefits granted the employee under the law. Add this to the 75% payable under the private plan and it would give a total of only 93% of the daily rate of wage of the employee.

Besides, the employer is not without any remedy. Section 9 of the Social Security Act gives the employer and employee the right to agree on "any changes, adjustments, modifications, eliminations or improvements in the benefits to be available under the remaining private plan, which may be necessary to adopt by reason of the reduced contribution thereto as a result of the integration" of the benefits under the Act and those under the private benefit plan enforced by the company.

Finding no reason to disturb the resolution of the Social Security Commission appealed from, the same is hereby affirmed, with costs against the appellant. So ordered.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, and De Leon, JJ., concur.

[1] This phrase was amended by Rep. Act 2658 to "all sick leaves of absence with pay." However, this amendatory act was approved on June 18, 1960, a year after the petitioners herein and gone in sick leaves for which they claim the benefits provided in the law. Hence, the amendments is not applicable to the instant cases.

[2] The leaves of absence for which the benefits of the law are invoked, took place in 1958 and 1959, and the amendatory act took effect on June 18, 1960.

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