

## SECOND DIVISION

[ G.R. No. 169136, July 14, 2006 ]

**ASIATIC DEVELOPMENT CORPORATION, PETITIONER, VS.  
SPOUSES WELLINGTON AND FLORDELIZA BROGADA,  
RESPONDENTS.**

### D E C I S I O N

**CORONA, J.:**

This petition for review on *certiorari* under Rule 45 of the Rules of Court assails the May 31, 2005 decision<sup>[1]</sup> and July 28, 2005 resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 84702 affirming the September 24, 2003 resolution<sup>[3]</sup> of the Social Security Commission (SSC) in SSC Case No. 6-14922-99.

Respondents Wellington and Flordeliza Brogada are the parents of Fermin B. Brogada who was allegedly employed by petitioner Asiatic Development Corporation<sup>[4]</sup> from July 1994 up to his death in November 14, 1996. Respondents filed with the SSC a petition for social security coverage and payment of contributions in order to avail of the benefits accruing from the death of Fermin. They alleged that Fermin worked as survey aide under Engr. Bienvenido Orense, petitioner's geodetic engineer. Fermin was working on a project with Engr. Orense for one of petitioner's clients when he was shot and killed.

Petitioner denied its liability. It argued that there was no employer-employee relationship between it and Fermin. It claimed that Fermin was the employee of Engr. Orense. Thus, it was not obliged to report Fermin for social security coverage.

The SSC rendered judgment in favor of respondents:

WHEREFORE, this Commission finds, and so holds, that the late Fermin Brogada was an employee[,] subject to [social security] compulsory coverage, of [petitioner] for the period July 1994 to November 14, 1996.

Accordingly, [petitioner] is hereby ordered to pay the [Social Security System], within thirty (30) days from receipt of this Resolution, the amount of PI 2,419.00 representing the unpaid [social security] contributions in favor of the late Fermin Brogada for the aforesated period of employment, the amount of P35,815.84 as 3% per month penalty for late payment computed as of October 31, 2003 without prejudice to the collection of additional penalty that may accrue thereafter until fully paid, and the amount of P32,000.00 as damages for failure to report Fermin Brogada for [social security] coverage prior to his