

SECOND DIVISION

[G.R. No. 183478, February 10, 2020]

**SOCIAL SECURITY SYSTEM, PETITIONER, VS. MANUEL F. SENO, JR., GEMMA S. SENO, AND FERNANDO S. GORROSPE,*
RESPONDENTS.**

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*^[1] seeks to reverse and set aside the March 11, 2008 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 96627 which (a) granted the Amended Petition^[3] for *Certiorari* filed by herein respondents Manuel F. Seno, Jr. (Manuel), Fernando S. Gorrospe (Fernando), and Gemma S. Seno (Gemma, collectively respondents); (b) annulled and set aside the May 29, 2006^[4] and September 25, 2006^[5] Orders of the Regional Trial Court (RTC), Branch 206, Muntinlupa City, in Criminal Case No. 05-853; and (c) granted respondents' Motion to Withdraw Information^[6] filed in the said criminal case. Petitioner Social Security System (SSS) likewise assails the June 25, 2008 Resolution^[7] of the CA which denied its Motion for Reconsideration.^[8]

Factual Antecedents

Respondents are members of the Board of Directors of JMA Transport Services Corporation (JMA Transport), a domestic corporation and a duly covered member of SSS with Identification No. 03-9077846-6.^[9]

Sometime in 2000, SSS filed an Affidavit-Complaint^[10] against respondents together with Ruth De Leon (De Leon), Celso Librando (Librando), and Edgar Froyalde (Froyalde), in their capacities as JMA Transport's Board of Directors before the Prosecutor's Office of Muntinlupa City for failure to remit the social security (SS) contributions of their employees in violation of Section 22(a)^[11] in relation to Sections 22(d)^[12] and 28(e)^[13] and (f)^[14] of Republic Act (R.A.) No. 1161, as amended by R.A. No. 8282, otherwise known as the "Social Security Act of 1997."

In its complaint, SSS averred that after inspecting the account of JMA Transport, it discovered that the company was delinquent in its payment of contributions for the period September 1997 to July 1999. As of August 31, 1999, the amount due was P838,488.13 inclusive of the 3% penalty per month.^[15]

As a result thereof, a Letter of Introduction^[16] dated December 16, 1998 was served to JMA Transport to monitor its compliance with the Social Security Act of 1997 and to inspect its SSS records. This was followed by a Billing Letter^[17] dated August 25, 1999 and a Demand Letter^[18] dated September 16, 1999 informing the

company of its outstanding obligation and demanding to pay it within 10 days from receipt of the demand. However, JMA Transport failed to settle its obligations which prompted SSS to file the said Complaint before the Office of the City Prosecutor (OCP) of Muntinlupa City.

During the preliminary investigation, respondents proposed to pay in installment JMA Transport's outstanding obligation. Manuel issued 24 postdated checks in the total amount of P609,370.50 as payment of JMA Transport's obligation inclusive of the penalty charges. SSS, in turn, accepted the postdated checks. Thus, the Complaint was provisionally withdrawn in view of the settlement between the parties.

However, when two of the postdated checks were dishonored by the drawee-bank, SSS notified JMA Transport to replace the said checks and to pay its obligation. However, the company did not heed the demand.

Consequently, SSS filed another Complaint-Affidavit^[19] against respondents for violation of Section 22(a) in relation to Sections 22(d) and 28(e) of R.A. No. 1161, as amended by R.A. No. 8282. SSS alleged that JMA Transport had unpaid obligations in the aggregate amount of P4,903,267.52 which included the obligations subject of the first complaint plus delinquent SS contributions from August 1999 to June 2004 in the amount of P2,200,470.26 and penalty thereon in the amount of P2,702,797.26.

Manuel refuted SSS' claims and alleged that JMA Transport had already ceased operations in July 1999. Therefore, he and the other respondents should not be held liable for the SS contributions after July 1999. He further averred that the delinquent contributions as of July 1999 had been settled by the two postdated checks he issued to SSS and that the remaining obligation of the company pertained only to the penalty charges in the amount of P50,780.82. Furthermore, Manuel asserted that he should not have been held responsible for the dishonor of the checks as this was brought about by the drawee-bank's merger with another bank.

Fernando and Gemma, on the other hand, denied any participation in the alleged violation of the Social Security Act of 1997. They asserted that as directors of JMA Transport, they never handled matters relating to the SS contributions of the employees. They also corroborated the contentions of respondent Manuel with respect to the cessation of business operations of JMA Transport effective July 1999 as well as the payments of the delinquent contributions and penalty charges that were the subjects of the previous complaint.

SSS thereafter submitted its Reply^[20] maintaining that it assessed JMA Transport the additional SS contributions on the presumption that the company was still in operation since the records of the SSS did not show that it has ceased business operations.

After the preliminary investigation, the OCP, through Assistant City Prosecutor (ACP) Elisa Sarmiento-Flores, found probable cause against respondents, Librando and Froyalde, for the complained violations.^[21] As a result thereof, the corresponding Information^[22] was filed against them before the trial court and the case was docketed as Criminal Case No. 05-853.

On the other hand, the complaint against De Leon was dismissed because she was no longer in the employ of JMA Transport when it failed to remit the SS contributions.

Meantime, aggrieved with the OCP's findings, respondents promptly filed a Petition for Review^[23] before the Department of Justice (DOJ).

Ruling of the Department of Justice

In its January 31, 2006 Resolution,^[24] the DOJ reversed the findings of the investigating prosecutor and ordered the withdrawal of the Information. It held that JMA Transport could not be held liable for the SS contributions after July 1999 because it already had ceased its business operations as of said month. Furthermore, the company's unpaid delinquent SS contributions plus penalty charges in the amount of P609,370.50 had already been settled by Manuel who had issued postdated checks. The DOJ ruled that the dishonor by the drawee-bank of the checks due to its merger with another bank did not constitute breach of the agreement on the part of Manuel so as to warrant the revival of the complaint. The *fallo* of the DOJ Resolution reads:

WHEREFORE, the assailed resolution is REVERSED AND SET ASIDE. The City Prosecutor of Muntinlupa City is hereby directed to cause the withdrawal of the information for violation of the Social Security Law earlier filed against Manuel Seno, Jr., Celso Librando, Edgar Froyalde Fernando Gorrospe, and Gemma Seno and to report the action taken thereon within ten (10) days from receipt hereof.

SO ORDERED.^[25]

The SSS moved for reconsideration^[26] but it was denied by the DOJ in a Resolution^[27] promulgated on March 20, 2006.

Ruling of the Regional Trial Court

Meanwhile, on February 17, 2006, the prosecution filed a Motion to Withdraw Information^[28] with the trial court in accordance with the DOJ Resolution. During the hearing of the said motion, private prosecutor Atty. Henry L. Tendido manifested that SSS had a pending Motion for Reconsideration^[29] with the DOJ.

In its May 29, 2006 Order^[30] (May Order), the trial court denied the motion. It held that based on the three Franchise Verifications issued by the Land Transportation Franchising and Regulatory Board (LTFRB) that were attached to SSS' Reply-Affidavit^[31] dated December 8, 2004, JMA Transport was in active status either from August 13, 2003 or June 4, 2004 until March 31, 2006. It therefore showed that from July 1999 onwards, it was still in continuous business operation contrary to respondents' claim.

Respondents then filed a Motion for Reconsideration^[32] before the trial court. They argued that they did not refute the Franchise Verifications purportedly issued by the LTFRB as these were not attached to SSS' Reply Affidavit. The Reply-Affidavit likewise made no mention of the same evidence or, at the very least, as to whether JMA Transport remained in active status.

Furthermore, respondents averred that assuming JMA Transport violated the Social Security Act of 1997, it should be the corporate officers and not the members of the Board of Directors who should be indicted for the offenses charged. Also, the SS contributions had already been duly paid pursuant to the previous amicable settlement between SSS and JMA Transport. The only remaining unpaid obligation was the penalty charges based on the unpaid contributions.

In its September 25, 2006 Order^[33] (September Order), and by way of action on the motion for reconsideration, the trial court did not order the grant or denial thereof; rather, it directed the public prosecutor to conduct a reinvestigation for the purpose of receiving respondents' controverting evidence with respect to the Franchise Verifications, in this wise:

It would appear that the issue here is not simply whether or not there is probable cause against the accused, but whether or not the accused were able to avail of the full opportunity to defend themselves during the preliminary investigation.

The Court is inclined to give the accused the benefit of the doubt. Considering the circumstance that prevented the accused from fully controverting the complaint against them, the Court believes that it would serve the greater interest of justice if the case would be reinvestigated to give the accused the chance to present evidence in avoidance of prosecution.

WHEREFORE, by way of action on the accused's Motion for Reconsideration, the Court deems it appropriate to direct the Public Prosecutor to conduct reinvestigation for the purpose of receiving the accused's controverting evidence on the matter of the Franchise Verifications, and to conclude the reinvestigation with dispatch.

SO ORDERED.^[34]

Ruling of the Court of Appeals

Respondents filed an Amended Petition^[35] for *Certiorari* with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction before the CA. They asserted that the trial court gravely abused its discretion when it issued the assailed May and September Orders denying the withdrawal of the Information filed against them and directing the conduct of reinvestigation, respectively.

Meantime, in its March 29, 2007 Resolution,^[36] the CA merely noted respondents' prayer for issuance of a TRO and/or preliminary injunction but directed the trial court to observe judicial courtesy.

On March 11, 2008, the CA rendered its Decision^[37] granting respondents' petition on the basis that the trial court gravely abused its discretion in issuing the assailed May and September Orders. It held that the trial court went beyond the records of the case when it based its May Order on Franchise Verifications that were not attached to or even mentioned in SSS' Reply-Affidavit. Anent the September Order, the CA ruled that the act of directing the public prosecution to conduct a

reinvestigation brushed aside respondents' arguments in their motion for reconsideration and infringed on their constitutional rights.

SSS moved for reconsideration.^[38] The CA, however, denied it in its Resolution^[39] dated June 25, 2008.

Hence, the instant Petition for Review on *Certiorari*.

Issue

The sole issue to be resolved in this petition is whether the CA committed a reversible error when it ruled that the RTC gravely abused its discretion in the issuance of the assailed May and September Orders.

Our Ruling

SSS maintains that the CA committed grave error in the apprehension of facts when it held that the RTC gravely abused its discretion in issuing the assailed May and September Orders. It points out that, contrary to the findings of the CA, the trial court did not go beyond the records of the case when it issued the May Order. The Franchise Verifications which would prove that JMA Transport was still in operation after the year 1999 were actually attached to its Reply-Affidavit and numbered accordingly. Anent the September Order, SSS posits the view that the RTC's order to conduct reinvestigation will not prejudice the rights of respondents.

On the other hand, respondents insist that the Franchise Verifications were not appended to SSS' Reply-Affidavit. In fact, their copy of the Reply-Affidavit contained no attachment of the Franchise Verifications. Thus, the trial court gravely abused its discretion when it issued the assailed May Order because it based its ruling on purported documents which were not presented as evidence. Respondents likewise aver that the RTC similarly acted in grave abuse of discretion in issuing the assailed September Order. Respondents claim that instead of resolving their motion for reconsideration, the trial court directed the conduct of reinvestigation which they did not pray for.

The Court finds the petition partly meritorious.

It is a settled rule that only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. This Court is not a trier of facts. Hence, it will not entertain questions of facts as it is bound by the findings of fact made by the CA when supported by substantial evidence.^[40]

There are, however, exceptions to the rule wherein the Court may pass upon and review the findings of fact by the CA. These instances are enumerated in *Medina v. Asistio, Jr.*,^[41] to wit:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) The findings of the Court of Appeals are contrary to those of the trial