

# FIRST DIVISION

[ G.R. No. 231298, October 07, 2020 ]

## ROBERTO A. ESTOCONING, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

### DECISION

#### LEONEN, J.:

It appears that the senior citizen, the offended party in this case, was fond of soft drinks. Even having been denied the senior citizen discount by the cooperative, and in spite of the other possible establishments where he could have been provided the discount, he returned to the same cooperative seven more times, each time asking for discount. After his eighth soft drink, he decided to sue.

Laws enjoy a presumption of legality. When different laws seem to be in conflict with each other, this Court is tasked to harmonize their provisions and interpret them in such a way that "would provide a complete, consistent[,] and intelligible system to secure the rights of all persons affected."<sup>[1]</sup>

This Court resolves a Petition for Review on Certiorari<sup>[2]</sup> assailing the Court of Appeals Decision<sup>[3]</sup> and Resolution,<sup>[4]</sup> which affirmed the Regional Trial Court Decision<sup>[5]</sup> convicting Roberto A. Estoconing (Estoconing) of violating Republic Act 7432, as amended by Republic Act No. 9994, or the Expanded Senior Citizens Act of 2010.

Estoconing is a professor at the Silliman University and the general manager of the Silliman University Cooperative.<sup>[6]</sup>

On January 9, 2012, an Information<sup>[7]</sup> was filed against Estoconing for violating the Expanded Senior Citizens Act. It reads:

That on or about the following dates:

- |                   |                       |
|-------------------|-----------------------|
| 1. March 30, 2011 | 5. July 7, 2011       |
| 2. April 30, 2011 | 6. July 16, 2011      |
| 3. May 16, 2011   | 7. July 18, 2011      |
| 4. June 14, 2011  | 8. September 22, 2011 |

in Dumaguete City, within the jurisdiction of the Honorable Court, the said accused ROBERTO A. ESTOCONING being the General Manager of the Silliman University Cooperative Canteen, did then and there willfully, unlawfully and criminally refuse to give discount to one MANUEL UTZURRUM, JR., a bonafide Senior Citizen of Dumaguete City with I.D. No. 1535115 of soft drinks he bought from said canteen, even after identifying himself as a senior citizen.

Contrary to law.<sup>[8]</sup>

Estoconing pleaded not guilty to the charge against him.<sup>[9]</sup>

Manuel Utzurum (Utzurum), the private complainant, testified that he was a member of the Silliman University Cooperative and that he regularly bought Mountain Dew soft drinks in the canteen managed by the cooperative. He identified himself and presented his Senior Citizen ID every time he bought his soft drink, but the cooperative refused to grant him a 20% senior citizen discount.<sup>[10]</sup>

Utzurum further testified that he wrote Estoconing, as Silliman University Cooperative's general manager, several letters in 2011 about the senior citizen discount, but Estoconing never responded. He then filed a complaint with the Office of the Senior Citizen Affairs in Dumaguete, but Estoconing still did not respond. Finally, on August 10, 2011, Utzurum filed a complaint with the barangay. He was able to talk to Estoconing, but they reached no settlement. The barangay instead issued a certificate to file action on October 8, 2011.<sup>[11]</sup>

In his defense, Estoconing testified that the Silliman University Cooperative, being a cooperative registered under the Cooperative Development Authority, was exempted by law from the coverage of the Expanded Senior Citizens Act. He also insisted that as a member-owner of the Silliman University Cooperative, Utzurum received the annual patronage refund, so he was disqualified from demanding the 20% senior citizen discount under the law's no double discount provision.<sup>[12]</sup>

Estoconing further claimed that the Silliman University Cooperative's Board of Directors also opined that it was tax-exempt and not subject to the senior citizen discount:

He points out two (2) legal basis for this: R.A. No. 9520, which provides for the exemption of cooperatives from taxes as well as the exemption from taxes on their transactions with members; and R.A. No. 9994 which specifies that the 20% senior citizen deduction can be charged as tax deduction of the entity. As the cooperative is already tax exempt, it cannot pass on the amount of discount for its tax exemption purposes. In the end, it is the cooperative that will bear that amount of discount which would lead to serious business losses.<sup>[13]</sup>

Finally, Estoconing insisted that the Expanded Senior Citizens Act should be read in conjunction with Republic Act No. 9520, or the Philippine Cooperative Code of 2008.<sup>[14]</sup>

On July 18, 2014, the Municipal Trial Court in Cities found<sup>[15]</sup> Estoconing guilty of the charge against him.

The Municipal Trial Court in Cities ruled that since the Silliman University Cooperative sold meals, drinks, and provided tables and chairs to its customers, it is considered a restaurant under Rule III, Article 5 of the Expanded Senior Citizen Act's Implementing Rules and Regulations.<sup>[16]</sup>

The Municipal Trial Court in Cities also pointed out that the defense failed to substantiate its claim of exemption:

The defense persists and insists on its alleged exemption from the application of RA 9994 being a cooperative, yet it has not directly cited any provision of RA 9994 and even any provision of RA 9520, pointing to such exemption. On the contrary, Item No. No. 6 of the Terms and Conditions of the Certificate of Tax Exemption above-cited would support the non-exemption of SU Coop from the formulation of RA 9994 as it is clear that the tax exemption of a cooperative is not absolute by virtue of the fact that even as a cooperative, SU Coop can still be subject to **"taxes for which it is directly liable and not otherwise exempted by any law x x x."** Neither has the defense presented any proof that the operation by SU Coop of an establishment which engages in the selling of cooked food and short orders, coffee, beverages and drinks, and even in the catering services part of those covered by the Exemption from Income Tax on income from CDA-registered operations, or those covered by the Exemption from value-added tax on CDA-registered sales or transactions as provided for by the Tax Exemption Certificate.<sup>[17]</sup> (Emphasis in the original)

The dispositive portion of the Municipal Trial Court in Cities' Decision reads:

**WHEREFORE**, in view of the foregoing disquisition, the Court finds the accused GUILTY beyond reasonable doubt of the crime of Violation of RA 7432 as amended by RA 9994, and is hereby sentenced to suffer an indeterminate penalty of 2 years as minimum to 3 years as maximum, and a fine of P50,000.00.

**SO ORDERED.**<sup>[18]</sup> (Emphasis in the original)

Estoconing appealed<sup>[19]</sup> the adverse Decision against him.

On December 18, 2014, the Regional Trial Court denied<sup>[20]</sup>

Estoconing's appeal. The dispositive portion of its Decision reads:

WHEREFORE, the conviction of the accused by the court *a quo* is **affirmed in toto**, and to reiterate, accused-appellant is hereby sentenced to suffer an indeterminate penalty of two (2) years as minimum to three (3) years as maximum and a fine of Fifty Thousand Pesos (P50,000.00).

The cash bond put up by the accused for his temporary liberty is ordered cancelled and released in favor of the bondsman.

SO ORDERED.<sup>[21]</sup> (Emphasis in the original)

Estoconing then filed a Petition before the Court of Appeals, which gave it due course and granted his motion to put up a new bail bond pending appeal.<sup>[22]</sup>

On July 29, 2016, the Court of Appeals dismissed<sup>[23]</sup> the Petition. It ruled that the Expanded Senior Citizens Act is applicable to cooperatives:

A reading of the Expanded Senior Citizen Act of 2010 under R.A. No. 9994, which amended R.A. No. 7432, would reveal that there is no specific provision exempting a cooperative from the mandatory 20%

discount granted to a senior citizen. Neither is there any provision in the Cooperative Code of the Philippines which explicitly granted a cooperative to be exempt from the Senior Citizen Act. It is not for petitioner to rule on whether the Senior Citizen Act is applicable to Cooperatives. In the absence of a judicial decision declaring it to be so or a clarification from an authorized agency, petitioner should have presumed that the Senior Citizen Act is applicable to the SU Coop.<sup>[24]</sup>

The Court of Appeals then held that there was no violation of the double discount provision under the Expanded Senior Citizens Act. It pointed out that what was prohibited under that provision was the "senior citizen discount on top of a promotional discount and a senior citizen's discount on top of the PWD discount."<sup>[25]</sup> It explained that the double discount provision did not include patronage refund and interest on capital, which Utzurum enjoyed as a member of the Silliman University Cooperative, not as a senior citizen.<sup>[26]</sup>

The Court of Appeals also confirmed that despite its assertions to the contrary, the Silliman University Cooperative was a restaurant.<sup>[27]</sup>

The Court of Appeals then rejected Estoconing's claim that "[Department of Trade and Industry] Administrative Order No. 03-05 which exempts cooperatives from the scope of the 5% discount on basic necessities and prime commodities also includes an exemption of the 20% senior citizen discount."<sup>[28]</sup>

The Court of Appeals ruled that the Department of Trade and Industry's Administrative Order, which originated from Section 4 of the Expanded Senior Citizens Act, only applied to prime commodities and retailers who sell consumer products, while Utzurum's claim for discount related to his purchase from the Silliman University Cooperative operating as a canteen or restaurant, not as a retailer. The Court of Appeals ruled that when there is a discrepancy between the law and an interpretative or administrative ruling, the law prevails.<sup>[29]</sup>

The Court of Appeals also rejected Estoconing's argument that the Silliman University Cooperative's tax-exempt status meant that it would not be able to avail of the tax deduction offered to retail establishments as an incentive. It reiterated the Metropolitan Trial Court in Cities' ruling that Estoconing failed to substantiate his claim that the cooperative was exempt from complying with the law. It also noted that the issue of its inability to take advantage of the tax deduction, being a tax-exempt entity, should be threshed out in a case before the Bureau of Internal Revenue. "The benefits granted to the senior citizens" under the law, the trial court added, "should not be held hostage to this alleged problem without violating the plain and categorical mandate of the law."<sup>[30]</sup>

The dispositive portion of the Court of Appeals Decision reads:

**WHEREFORE**, the instant petition is **DISMISSED**. The Decision dated December 18, 2014 rendered by the Regional Trial court, Branch 32 of Dumaguete City convicting the petitioner for violating the Expanded Senior Citizens Act of 2010 is **AFFIRMED in toto**. The cash bond put up by the petitioner for his temporary liberty is ordered CANCELLED. Let a warrant for petitioner's arrest be issued.

SO ORDERED.<sup>[31]</sup> (Emphasis in the original)

In his Petition,<sup>[32]</sup> petitioner Estoconing emphasizes that cooperatives registered with the Cooperative Development Authority and the Bureau of Internal Revenue were exempt from paying taxes. He then submits that the Silliman University Cooperative was exempted from extending a 20% senior citizen discount to its members, as the discount was ultimately chargeable to the government, not the business establishment, in the form of tax deductions. Thus, he posits that if the cooperative were forced to extend senior citizen discounts, it would have to shoulder the burden with no way to avail of the tax deductions, leading to financial losses and possible bankruptcy.<sup>[33]</sup>

Petitioner then points out that the intention to exclude cooperatives from extending senior citizen discounts was apparent in the Expanded Senior Citizens Act's Implementing Rules and Regulations, which incorporated a Department and Trade and Industry order granting a 5% discount to senior citizens for the purchase of basic necessities and prime commodities, but exempted cooperative stores from its coverage.<sup>[34]</sup> He insists that if a cooperative was exempted for basic necessities and prime commodities, then with more reason should it be exempted from issuing a discount for luxurious items like soft drinks.<sup>[35]</sup>

Petitioner then opines that the prohibition on double discount in the Expanded Senior Citizens Act applies to its member-owners who are senior citizens, because they already enjoy annual patronage refund and interest on capital, and are entitled to purchase goods on credit.<sup>[36]</sup>

In its Comment,<sup>[37]</sup> respondent asserts that petitioner primarily raises questions of fact in his Rule 45 petition and failed to provide any ground for this Court to recalibrate the lower courts' factual findings.<sup>[38]</sup>

Nonetheless, respondent insists that the lower courts did not err in convicting petitioner of violating the Expanded Senior Citizens Act as the law did not provide any exceptions for cooperatives.<sup>[39]</sup> Additionally, it maintains that Silliman University Cooperative was rightfully classified as a restaurant by the lower courts, obligated to extend a 20% senior citizen discount.<sup>[40]</sup>

Respondent also points out that the prohibition against double discount does not apply to the availment of the senior citizen discount and receiving patronage refund and interest on capital, which are privileges of a cooperative member.<sup>[41]</sup>

This Court directed petitioner to file a reply.<sup>[42]</sup> However, he manifested<sup>[43]</sup> that he would not be filing one and instead asked this Court to accept the May 24, 2019 opinion<sup>[44]</sup> submitted by the Cooperative Development Authority.

The sole issue for this Court's resolution is whether or not a cooperative selling hot meals and snacks is required to issue a 20% senior citizen discount to its member.

## I

This Court's action on appeals filed before it is discretionary, as such review is "not a matter of right, but of sound judicial discretion[.]"<sup>[45]</sup> Additionally, under the Rules of Court, only questions of law should be raised in a Rule 45 petition, as this Court is