

## SECOND DIVISION

[ G.R. No. 181154, August 22, 2018 ]

**RAMCHRISEN H. HAVERIA, PETITIONER, VS. SOCIAL SECURITY SYSTEM, CORAZON DE LA PAZ, AND LEONORA S. NUQUE, RESPONDENTS.**

### RESOLUTION

**CAGUIOA, J:**

Before the Court is a Petition for Review on Certiorari<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> of the Court of Appeals (CA) dated October 22, 2007 and Resolution<sup>[3]</sup> dated January 14, 2008 in CA-G.R. SP No. 98296 which affirmed the Resolution<sup>[4]</sup> and Order<sup>[5]</sup> of the Social Security Commission (SSC) in SSC Case No. 4-15695-04. Corazon de la Paz was the President and Chief Executive Officer at the time of filing of the case and Leonora S. Nuque was the officer-in-charge of the Social Security Services (SSS) at the time of suspension of payments of petitioner Ramchrisen H. Haveria's (Haveria) monthly pension.

#### Facts

Haveria was employed with the SSS from May 1958 to July 1984.<sup>[6]</sup> During his employment, he became a member of, and was elected as an officer/treasurer of the SSS Employees' Association (SSSEA). He was reported by the SSSEA as an employee for SSS coverage and Haveria's membership was approved. Thereafter, the SSSEA remitted his monthly contributions from May 1966 to December 1981.<sup>[7]</sup>

After his employment with the SSS, Haveria was employed with private entities, Stop Light Diners from July 1989 to December 1996 and then with First Ivory Pharma Trade from January to March 1997. He earned a total of 281 monthly contributions. Haveria reached retirement age (60 years old) on August 8, 1997. During his coverage under the SSS, Haveria was able to obtain salary loans, a housing loan in 1968, partial disability benefits in 1995, and retirement benefits from August 1997 until July 2002.<sup>[8]</sup>

In June 2002, Haveria received a letter<sup>[9]</sup> from the SSS which ordered the suspension of Haveria's retirement benefits. The letter cited a legal opinion in a separate claim for SSS benefits of Genaro Ledesma (Ledesma) and Filemon Pahuyo (Pahuyo) rendered by the SSS Legal and Collection Group. Similar to Haveria, Ledesma and Pahuyo were former employees of the SSS and officers of the SSSEA. The SSS had denied the claim of Ledesma and Pahuyo for their pension benefits. The SSS held that they were not entitled to any benefits under the Social Security Act of 1997 or Republic Act (R.A.) No. 8282<sup>[10]</sup> (SS Law) as there was no

employment relationship between the two and the SSSEA.<sup>[11]</sup>

This prompted Haveria to file a letter-petition<sup>[12]</sup> with the Social Security Commission (SSC) for the declaration of validity of his SSS membership and restoration of his monthly pension. He argued that his monthly contributions to the SSS were valid as he was an employee of the SSSEA. He also averred that the SSS had registered him as a member and accepted his monthly contributions. Assuming that his registration was erroneous, he held that he is entitled to retirement pension on grounds of equity and estoppel.

### *The SSC Resolution*

In a Resolution<sup>[13]</sup> dated December 7, 2005, the SSC held that Haveria's coverage under the SSS was erroneous. It pointed out that Haveria was not an employee of the SSSEA, but of the SSS, a government agency. It also held that there was no employment relationship between Haveria and the SSSEA and that labor unions or associations are not employers with respect to its officers or members. The SSC also said that Haveria cannot also claim coverage under the expanded coverage scheme of the SSS which allowed the inclusion of self-employed workers, precisely because he claimed coverage as an employee of the SSSEA. On the issue of estoppel, the SSC held that SSS' acceptance of Haveria's registration documents did not *ipso facto* result in his membership because he did not meet the qualifying conditions for membership in the first place.

The SSC found that Haveria had made a total of 281 monthly contributions, more than the minimum number of 120 monthly contributions for entitlement to a monthly pension. However, Haveria's actual coverage started only in July 1989 when he was employed by Stop Light Diners. While employed with Stop Light Diners, he remitted 90 monthly contributions and with First Ivory Pharma Trade Inc., three monthly contributions, for a total of 93 valid monthly contributions.

In the interest of justice, the SSC held that the contributions remitted by the SSSEA may be considered as voluntary contributions after March 1997, when last employer First Ivory Pharma Trade remitted its final contribution. Being voluntary, the SSS may credit only such number of monthly contributions to satisfy the required 120 monthly contributions minimum for eligibility to the monthly pension. The SSS was further ordered to refund any remaining premiums to Haveria. The pensions prematurely paid to Haveria were also to be offset with his future pensions. Thus, the dispositive portion of the SSC Resolution reads:

Accordingly, the Commission hereby orders the SSS:

1. To credit Ramchrisen Haveria's contributions remitted by SSSEA as voluntary contributions from April 1997 up to the time when said petitioner would have been credited the total of 120 monthly contributions, and to offset all the refundable contributions with the monthly pensions paid to him in advance;
2. To make a recomputation of all paid monthly pensions of Haveria and make an adjustment in the date of accrual of the same in

accordance with paragraph 1 hereof; and

3. To offset all pensions prematurely paid to petitioner to his future pensions.<sup>[14]</sup>

Haveria filed a motion for reconsideration (MR) which was denied by the SSC in its Order dated November 15, 2006. Thus, Haveria filed a petition for review on certiorari to the CA.

#### *The CA Decision*

The CA affirmed the SSC's Resolution and Order. The CA held that Haveria was not an employee of the SSSEA. The CA pointed out that there was no employment relationship between the two; and that Haveria was merely an officer of the labor association. While an officer of the SSSEA, Haveria was a full-time employee of the SSS, a government agency. The CA said that a government employee cannot be an employee of a private entity at the same time. As such, the SSS contributions made by Haveria should be considered erroneous. On the issue of estoppel, the CA held that the SSS is a government agency and the principle of estoppel does not lie against the government. Lastly, the CA held that findings of administrative agencies, such as the SSC, on matters within their jurisdiction are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud, or error of law. Haveria's MR was likewise denied.

#### *The Petition*

In his Petition before the Court, Haveria maintains that he was an employee of the SSSEA and that his SSS membership was valid. The ruling of the CA, Haveria avers, was too simplistic and erroneous. He claims that there is no law prohibiting government employees from employment in private entities or from registration with the SSS. Even then, membership in the SSS is not predicated on the existence of an employment relationship as even voluntary membership is allowed.

Haveria further contends that the SSS is a government-owned or controlled corporation performing a proprietary function; as such, estoppel can be claimed against it. He claims that the SSS is a corporate body performing non-governmental functions, thus, it should be treated as any ordinary party.

Lastly, Haveria contends that as a social justice measure, the SS Law should be interpreted in favor of giving benefits to its members. In cases of doubt, he argues the ruling should be in favor of the claimant.

#### *The Comment*

The SSS filed its Comment<sup>[15]</sup> through the Office of the Solicitor General (OSG). The SSS maintains that Haveria's coverage from May 1966 until December 1981, supposedly during his employment with the SSSEA, was erroneous because there was no actual employment relationship between the two. The SSS covers three kinds of members: (1) regular members (employed members); (2) self-employed members; and (3) voluntary members who are separated employees and overseas

Filipino workers.

According to the SSS, Haveria anchors his coverage on the first kind, as a regular member since he claims that he was an employee of the SSSEA. However, the SSSEA cannot be considered an employer under the law. Article 219 of the Labor Code<sup>[16]</sup> specifically excludes labor organizations from the definition of an employer.

Neither does the SSSEA qualify as an employer under the SS Law or R.A. No. 8282:

Section 1. Republic Act No. 1161, as amended, otherwise known as the "Social Security Law," is hereby further amended to read as follows:

"x x x x

Section 8. x x x

x x x x

(c) *Employer* – Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking or activity of any kind and uses the services of another person who is under his orders as regards the employment, except the Government and any of its political subdivisions, branches or instrumentalities, including corporations owned or controlled by the Government: *Provided*, That a self-employed person shall be both employee and employer at the same time.

x x x x."

The SSS contends that the SSSEA is not an employer but a mere labor association within the SSS. It does not undertake any kind of business or service. It merely acts as representative of the members of the association. Furthermore, Haveria's relationship with the SSSEA did not pass the four-fold test.<sup>[17]</sup> He was not hired by SSSEA but merely elected by its members as an officer/treasurer. He was not receiving a salary but merely an honorarium. Moreover, Haveria was employed with the SSS. He could not have been an employee of the SSSEA at the same time as he was a full-time government employee.

Lastly, the SSS maintains that the principle of estoppel does not apply against the SSS. A government agency is not estopped by the mistakes of its agents, without prejudice to the said agents' administrative liability.

### **Issue**

Whether Haveria's inclusion as a compulsory member of the SSS was valid and consequently, whether he is entitled to receive monthly pensions.

## The Court's Ruling

The petition lacks merit.

R.A. No. 1161 or the Social Security Act of 1954<sup>[18]</sup> was enacted with the policy "to develop, establish gradually, and perfect a social security service which shall be suitable to the needs of the people throughout the Philippines, and shall provide protection against the hazards of unemployment, disability, sickness, old age and death."<sup>[19]</sup> R.A. No. 1161 was amended by R.A. No. 8282 in 1997. Haveria was registered with the SSS in May 1966 when R.A. No. 1161 was still effective.

Under R.A. No. 1161, there are two kinds of coverage: compulsory coverage and voluntary coverage. The Act provides:

### *C. Scope of the System*

#### SECTION 9.

(a) *Compulsory Coverage.* — x x x all employees between the ages of eighteen and sixty years, inclusive, if they have been for at least six months in the service of an employer who is a member of the System: *Provided,* That the Commission may not compel any employer to become a member of the System unless he shall have been in operation for at least three years and has, at the time of admission, two hundred employees: x x x.

x x x x

(b) *Voluntary Coverage.* — x x x **any employer not required to be a member of the System may become a member thereof and have his employees come under the provisions of this Act if the majority of his employees do not object; and any individual in the employ of the Government,** or of any of its political subdivisions, branches, or instrumentalities, including corporations owned or controlled by the Government, as well as **any individual employed by a private entity not subject to compulsory membership under this Act may join the System by paying twice the employee's contribution** prescribed in section nineteen. Any other individual may likewise join the System, subject to such rules and regulations as may be prescribed by the Commission. (Emphasis supplied)

Accordingly, under R.A. No. 1161, compulsory members are those employees in the private sector between the ages of 18 to 60 years old whose employer is required to register under the SSS. Voluntary coverage applies to employees of private employers who volunteer to be members although not required by the law, and employees of government agencies and corporations, and any individual employed by a private entity not subject to compulsory membership.

Voluntary coverage was expanded by R.A. No. 8282 to include spouses who devote full time to management of the household and overseas Filipino workers.<sup>[20]</sup>