

FIRST DIVISION

[G.R. No. 224943, March 20, 2017]

**JORGE B. NAVARRA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated October 29, 2015 and the Resolution^[3] dated May 19, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 35855, which affirmed the Decision^[4] dated March 13, 2013 of the Regional Trial Court of Muntinlupa City, Branch 206 (RTC) in Crim. Case No. 01-303 finding petitioner Jorge B. Navarra (petitioner) guilty beyond reasonable doubt of the crime of violation of Section 22 (a), in relation to Section 28 (h) and (f), of Republic Act No. (RA) 8282.^[5]

The Facts

The instant case stemmed from an Information^[6] dated January 18, 2001 filed before the RTC charging, *inter alia*, petitioner of violation of Section 22 (a), in relation to Section 28 (h) and (f), of RA 8282, the accusatory portion of which states:

The undersigned Assistant City Prosecutor accuses JORGE B. NAVARRA, x x x of the crime of violation of Section 22 (a), in relation to Section 28 (h) and (f)[,] of R.A. 1161, as amended, by R.A. 8282, committed as follows:

That in or about and during the period comprised between July 1997 and June 2000, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being members of the board of directors of the Far East Network of Integrated Circuits Subcontractors (FENICS) Corporation, a covered member of the Social Security System (SSS), conspiring and confederating together and mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously fail and refuse to remit and pay to the SSS the SS/Medicare/EC contributions withheld by them from the salaries of the FENICS employees, the counterpart SSS/Medicare/EC contributions of FENICS, as well as the salary/calamity loan payments due to the SSS withheld by them, despite demands from them to remit and pay these obligations to the SSS.

Contrary to law.^[7]

Upon motion,^[8] the criminal case was dismissed as against petitioner's co-accused as it was found that they were no longer serving as members of FENICS's Board of Directors during the period when the aforesaid crime was allegedly committed.^[9] On the other hand, the case pushed through against petitioner who pleaded "not guilty" to the charge.^[10]

The prosecution alleged that from 1995 to 2000, petitioner served as the President and Chairman of the Board of Directors of Far East Network of Integrated Circuits Subcontractors Corporation (FENICS), an employer registered with the Social Security System (SSS) and with SSS ID No. 03-9020939-1.^[11] Sometime in the years 1999 to 2002, a total of eleven (11) employees of FENICS filed separate complaints before the SSS, Alabang Branch against FENICS for the latter's non-remittance of their SSS contributions, prompting Account Officer Felicula B. Argamosa (Argamosa) to investigate the matter. Upon verification, Argamosa discovered that FENICS indeed failed to remit the SSS contributions of its employees from July 1997 to June 2000 and, thus, determined that FENICS's total unpaid obligations amounted to P10,077,656.24,^[12] excluding the three percent (3%) monthly penalty mandated by law.^[13] Despite numerous demands, FENICS failed to pay its delinquencies, thus, constraining SSS to file an Affidavit-Complaint^[14] against petitioner and his co-accused for the aforesaid crime before the Office of the City Prosecutor of Muntinlupa City (OCP).^[15]

Meanwhile, pending preliminary investigation proceedings, petitioner sent a letter^[16] dated October 25, 2000 to the SSS, offering to pay in installments FENICS' delinquent remittances from July 1997 to September 2000, attaching thereto two (2) postdated checks in the amount of P500,000.00 each and payable to SSS as payment, and promising to pay the remaining balance *via* 48 equal monthly installments.^[17] While the first check was encashed, the second was dishonored for being drawn against a closed account. The SSS sent petitioner a notice of dishonor, but the latter ignored the same.^[18] In addition, petitioner failed to follow through with the monthly installments.^[19] Later on and while the case was pending trial, petitioner sent another letter^[20] dated April 25, 2003 to the SSS, proposing a restructuring of FENICS's account, but the SSS rejected such proposal.^[21]

In his defense, petitioner averred that while he is indeed the President and Chairman of the Board of Directors of FENICS, he never had custody of the employees' SSS contributions, as it was the Human Resources Department that was tasked to handle such matters. Further, he asserted that during the period when the alleged delinquencies were incurred, FENICS had already shut down. In this relation, petitioner narrated that: (a) from 1995-1996, FENICS diligently remitted the employees' SSS contributions; (b) beginning 1997, its business started to decline due to the pull-out of one of its biggest customers eventually leading to its shut down; and (c) since FENICS was already non-operational, its employees were unable to work, and naturally, there could have been no wages/salaries from which the SSS contributions could be sourced.^[22]

The RTC Ruling

In a Decision^[23] dated March 13, 2013, the RTC found petitioner guilty beyond

reasonable doubt of the crime charged and, accordingly, sentenced him to suffer the penalty of imprisonment for the indeterminate period of four (4) years and two (2) months of *prision correccional*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, and ordered him to pay the SSS the unpaid obligation of P9,577,656.24^[24] plus three percent (3%) monthly interest reckoned from July 1997 until fully paid.^[25]

In so ruling, the RTC did not give credence to petitioner's claim that the FENICS's operations had already shut down, considering that: (a) if this claim were indeed true, then it should have been raised from the moment the SSS sent its first demand letter to FENICS and before the filing of the case before the court; and (b) the same is inconsistent with the letters petitioner himself made in an attempt to amicably settle FENICS's SSS delinquencies. Further, the RTC took note of petitioner's letter dated April 25, 2003 wherein he proposed to settle FENICS's outstanding delinquencies with the SSS. In this regard, the RTC ratiocinated that since the said letter was made during the pendency of the instant criminal case, then the same should be considered as an implied admission of guilt on his part.^[26]

Aggrieved, petitioner appealed^[27] to the CA, arguing that: (a) the information against him was defective as it failed to properly charge him with a criminal offense; (b) he cannot be held liable for violation of Section 28 (h) of RA 8282 since under this provision, it is the employer, *i.e.*, FENICS, that should be charged with the same; (c) the prosecution failed to establish that the private complainants were indeed FENICS's employees; and (d) in any event, his criminal liability was already extinguished by his compromise agreement with the SSS.^[28]

The CA Ruling

In a Decision^[29] dated October 29, 2015, the CA affirmed petitioner's conviction *in toto*.^[30] It held that: (a) petitioner's failure to raise the issue of the validity or regularity of the Information prior to entering his plea was deemed a waiver of any defect in the same; (b) since FENICS is a corporation, its failure to remit the SSS contributions of its employees subjects its officers, such as petitioner, to liability, especially since FENICS had already been dissolved; (c) the prosecution's documentary evidence clearly show that the private complainants were FENICS's employees; (d) petitioner's letters dated October 25, 2000 and April 25, 2003 proposing to settle FENICS's delinquencies should be viewed as an admission of guilt on his part; and (e) there was no compromise as SSS did not assent thereto, and even assuming there was one, such cannot extinguish petitioner's criminal liability.^[31]

Undaunted, petitioner moved for reconsideration,^[32] which was, however, denied in a Resolution^[33] dated May 19, 2016; hence, this petition.

The Issue Before the Court

The sole issue raised for the Court's resolution is whether or not the CA correctly upheld petitioner's conviction for violation of Section 22 (a), in relation to Section 28 (h) and (f), of RA 8282.