

THIRD DIVISION

[G.R. No. 153810, August 12, 2015]

WINSTON R. GARCIA, IN HIS CAPACITY AS PRESIDENT AND GENERAL MANAGER OF THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), VS. ANGELITA TOLENTINO, EDELITO ZOLLO EDRALINDA, KATHLYN A. UMALI, VIVIAN ROSIELLE CERVANTES, EDITH MEDINA, ROMELO CABANGON, ET AL., RESPONDENTS.

[G.R. NO. 167297]

MELINA I. GARCIA, CECILIA V. LAS, NIMFA PENALOSA, ROSANA R. ZEPEDA, RACHELLE L. JACOB, MARIBEL B. TENA, AND EDUVIGIS S. ANGELES (IN LIEU OF ANGELITA TOLENTINO FOR THE NATIONAL FORESTATION DEVELOPMENT OFFICE-DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ET AL.), PETITIONERS, VS. WINSTON GARCIA, ET AL., RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:

Before us are consolidated cases originating from the *Decision*^[1] dated March 11, 2002 rendered by Branch 88 of the Regional Trial Court of Quezon City in Civil Case No. Q-99-39153 which annulled Joint Circular No. 99-3 for violating Republic Act No. 8291, otherwise known as "The Government Service Insurance System Act of 1997" (RA 8291).

Case Antecedents

Enacted by Congress on May 30, 1997, RA 8291 provided for, among others, the compulsory Government Service Insurance System (GSIS) coverage of all government employees, regardless of employment status.

Tolentino *et al.*, all contractual employees of the various projects and programs within and under the control and supervision of the Department of Environment and Natural Resources (DENR), wrote the GSIS to inquire about their standing, since, prior to RA 8291, they were not under compulsory GSIS coverage.

The GSIS, in a letter dated January 8, 1998 through its Senior Vice President for the Social Insurance Group Lourdes G. Patag ("SVP Patag"), advised that while casual and contractual employees paid from the regular lump-sum appropriation are covered under RA 8291, contractual employees who were hired co-terminus with projects and are receiving additional 20% pay were not.^[2] The GSIS communicated SVP Patag's view to the DENR in a letter dated January 12, 1998.^[3]

On April 30, 1999, the GSIS and the Department of Budget and Management (DBM) issued Joint Circular No. 99-3 ("JC No. 99-3") which set forth the guidelines in the payment of the government statutory expenditures on personal services of contractual employees.⁴ JC No. 99-3 provided:

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4.0 Guidelines

4.1 Effective January 1, 1999, the required government share of premiums on RLIP, ECIP, MEDICARE and PAG-IBIG of contractual personnel shall be paid out of the 20% premium given them pursuant to Section 44 of the 1999 GAA.

4.2 No additional funds shall be released by the DBM for the purpose. The premium pay to be received by a contractual employee shall be adjusted accordingly net of the government statutory expenditures on Personal Services consistent with Item 4.1 above.

4.3 It is understood that the employee's share for RLIP, MEDICARE and PAG-IBIG shall be paid by the individual contractual employees.

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(Emphasis supplied.)

The DENR, through a Memorandum dated September 16, 1999, accordingly informed its Project/Program Directors that deductions from the premium pay shall be "reflected in the payroll starting October 1999 to include arrearages for the months of January to September 1999."^[5] On October 4, 1999, Tolentino *et al.*, again, wrote to the GSIS^[6] and the DENR^[7] requesting the deferment of the deduction of the monthly GSIS contributions pending resolution of the issue regarding their membership coverage.

Before the concerned government agencies could act on their letters, Tolentino *et al.*, on October 28, 1999, filed a Petition for *Certiorari* and Prohibition with very Urgent Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction^[8] against then GSIS President and General Manager Frederico C. Pascual ("Pascual"), then Secretary of Budget and Management Benjamin E. Diokno ("Diokno") and then Secretary of Environment and Natural Resources Antonio H. Cerilles (Cerilles), among others. This case, entitled *Angelita Tolentino, et al., v. Frederico Pascual et al.*,^[9] was docketed as Civil Case No. Q-99-39153.

In their petition before the trial court, Tolentino *et al.* essentially argued that "the GSIS and the DBM committed grave abuse of discretion in ordering the government's share on GSIS contributions to be paid out of the 20% premium on the monthly salary of contractual employees."^[10]

In his *Answer*^[11] and *Motion to Dismiss*,^[12] Pascual pleaded that the trial court did

not have jurisdiction over the case because RA 8291 vests in the GSIS the original and exclusive jurisdiction to settle any dispute arising under the said Act.^[13] This motion was, however, denied by the RTC in an *Order* dated July 24, 2000.^[14] Meanwhile, the concerned DENR officials argued that they cannot be held to have acted with grave abuse of discretion because they merely implemented JC No. 99-3.^[15]

Ruling of the trial court

On August 29, 2000, the trial court issued a writ of preliminary injunction restraining the concerned government agencies from implementing JC No. 99-3.^[16] Subsequently, or on March 11, 2001, the trial court rendered a *Decision* making permanent the preliminary injunction it issued earlier. It ruled thus:

xxx the Court finds merit in the petitioners' contention **that indeed the joint circular runs afoul of the provisions of RA 8291.** xxx

Under this circular, the contractual personnel shall in effect be paying the government's share of the contributions inasmuch as no additional funds shall be appropriated for the purpose. This is a clear contravention of the very law it seeks to implement.

GSIS as an administrative agency vested with quasi legislative powers shall exercise such delegated legislative power with no discretion as to what the law shall be, but merely the authority to fix the details in the execution of enforcement of a policy set out in the law itself.

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Clearly, the joint circular had been issued with grave abuse of discretion amounting to lack or excess of jurisdiction for being violative of the letter of the law it seeks to implement. "Indeed, administrative regulations must not override, but must remain consistent with the law they seek to apply and implement. They are intended to carry out, not to supplant nor to modify the law." (Commissioner of Internal Revenue vs. Court of Appeals, 240 SCRA 149)

Finally, respondents assail the jurisdiction of this Court citing Sec. 30 of RA 8291 and Sec. 14.1 and 14.3 of the Implementing Rules. **Granting *arguendo* that the GSIS has primary jurisdiction over the instant case as it appears that petitioners did not avail nor exhaust the administrative remedies by not moving for the reconsideration of their coverage under RA 8291, the Court, however, deemed it just and equitable under the circumstances to give due course to the instant petition because the petitioners had no other speedy and adequate remedy available to them in view of the impending implementation of the questioned circular.**

Moreover, the Court's act to take cognizance of the instant case finds justification in the provisions of the (sic) par. 2, Sec. 1, Article II of the

1987 Constitution which provides:

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WHEREFORE, premises considered, the GSIS-DBM Joint Circular No. 99-3 is hereby annulled for being contrary to law. The preliminary injunction previously issued is hereby made permanent.

SO ORDERED.^[17]

(Emphasis and underscoring supplied.)

The DBM and the GSIS each filed their respective Motions for Reconsideration^[18] but these were denied by the RTC in an *Order* dated May 27, 2002.^[19] The DBM filed a Notice of Appeal^[20] of the trial court's *Decision*. Its appeal was docketed with the Court of Appeals as CA-G.R. SP No. 72089. The GSIS, on the other hand, filed a Petition for Review on *Certiorari*, docketed as G.R.No. 153810, before this Court.^[21] In a *Resolution* dated November 10, 2003,^[22] we referred G.R. No. 153810 to the Court of Appeals for consolidation with CA-G.R. SP No. 72089.

Proceedings before the Court of Appeals

On February 7, 2003, the Court of Appeals issued a Resolution directing the Office of the Solicitor General (OSG) to comment on whether the DBM's appeal may be given due course.^[23]

The OSG, in its *Manifestation and Motion (In Lieu of Comment)* dated July 1, 2003,^[24] argued that the trial court exceeded its jurisdiction in taking cognizance of Tolentino *et al.*'s petition "considering the subject matter thereof pertains to the original and exclusive jurisdiction of the GSIS."^[25] Moreover, the OSG asserted that even assuming arguendo that the trial court had jurisdiction over the subject matter of Tolentino *et al.*'s petition, the government could legally "rechannel" the funds provided for said purpose in the 1999 General Appropriations Act (GAA) "to answer the government share of the GSIS contributions for that same year."^[26]

On February 10, 2004, the Court of Appeals rendered its *Decision*^[27] reversing that of the trial court. The decretal portion of its *Decision* reads:

WHEREFORE, the assailed Decision dated March 11, 2002, and the Order dated May 27, 2002 denying the Motion for Reconsideration of the said Decision, in Civil Case No. Q-99-39153 of Branch 88 of the Regional Trial Court of Quezon City are hereby ANNULLED and SET ASIDE, and a new one is entered DISMISSING the petition for lack of merit, prematurity and lack of cause of action.

SO ORDERED.^[28]

Tolentino *et al.* sought reconsideration,^[29] but their motion was denied by the Court of Appeals in its *Resolution*^[30] dated February 23, 2005. Hence, G.R. No. 167297^[31] was filed before this Court seeking the review, on *certiorari*, of the Court of Appeals' *Decision* and *Resolution*.

Issues

The issues, as raised in the pleadings, are as follows:

1. Whether or not the GSIS is guilty of forum-shopping;^[32]
2. Whether or not the trial court had jurisdiction to resolve the petition filed by Tolentino *et al.* in Civil Case No. Q-99-39153;^[33] and
3. Whether or not JC No. 99-3 is valid (assuming the trial court has jurisdiction to hear Tolentino *et al.*'s petition).^[34]

Ruling of the Court

The GSIS committed forum shopping in this case

In their comment on the GSIS's Petition for Review, Tolentino *et al.* argued that GSIS committed forum shopping in this case.^[35] At the time GSIS filed its petition on July 23, 2002, it already had knowledge that a co-party (DBM) had already filed an appeal^[36] (docketed as CA GR No. 720894) before the Court of Appeals. Despite this knowledge, the GSIS filed G.R. No. 153810;^[37] more, contrary to its undertaking in its certification against forum-shopping, the GSIS did not inform this Honorable Court of the pending case before the Court of Appeals.^[38]

The GSIS vehemently denied that there is forum shopping. It argued that while the GSIS has already decided that it will be filing a Petition for Review before the Supreme Court as early as June 20, 2002,^[39] its counsel only received a copy of the DBM's Notice of Appeal on June 21, 2002.^[40]

This argument fails to persuade.

Applying the logic and analysis used in *Chemphil v. CA*,^[41] it is clear that the GSIS committed forum shopping in this case. In *Chemphil*, a bank consortium (which includes PCIB) on the one hand, and CEIC on the other, vied for the ownership of the disputed shares of stock of the Chemical Industries of the Philippines. The Regional Trial Court ruled in favor of the bank consortium, but dismissed their counter-claims against CEIC. Thus, the bank consortium, with the exception of PCIB, appealed, via a Notice of Appeal, the dismissal before the Court of Appeals. PCIB separately filed with the Court of Appeals a petition for *certiorari*, prohibition and *mandamus* with a prayer for the issuance of a writ of preliminary injunction. The two separate actions assailed the very same orders of the Regional Trial Court. In