

THIRD DIVISION

[G.R. No. 172101, November 23, 2007]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE SOCIAL SECURITY COMMISSION AND SOCIAL SECURITY SYSTEM, PETITIONERS, VS. ASIAPRO COOPERATIVE, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the Decision^[1] and Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 87236, dated 5 January 2006 and 20 March 2006, respectively, which annulled and set aside the Orders of the Social Security Commission (SSC) in SSC Case No. 6-15507-03, dated 17 February 2004^[3] and 16 September 2004,^[4] respectively, thereby dismissing the petition-complaint dated 12 June 2003 filed by herein petitioner Social Security System (SSS) against herein respondent.

Herein petitioner Republic of the Philippines is represented by the SSC, a quasi-judicial body authorized by law to resolve disputes arising under Republic Act No. 1161, as amended by Republic Act No. 8282.^[5] Petitioner SSS is a government corporation created by virtue of Republic Act No. 1161, as amended. On the other hand, herein respondent Asiapro Cooperative (Asiapro) is a multi-purpose cooperative created pursuant to Republic Act No. 6938^[6] and duly registered with the Cooperative Development Authority (CDA) on 23 November 1999 with Registration Certificate No. 0-623-2460.^[7]

The antecedents of this case are as follows:

Respondent Asiapro, as a cooperative, is composed of owners-members. Under its by-laws, owners-members are of two categories, to wit: (1) regular member, who is entitled to all the rights and privileges of membership; and (2) associate member, who has no right to vote and be voted upon and shall be entitled only to such rights and privileges provided in its by-laws.^[8] Its primary objectives are to provide savings and credit facilities and to develop other livelihood services for its owners-members. In the discharge of the aforesaid primary objectives, respondent cooperative entered into several Service Contracts^[9] with Stanfilco - a division of DOLE Philippines, Inc. and a company based in Bukidnon. The owners-members do not receive compensation or wages from the respondent cooperative. Instead, they receive a share in the service surplus^[10] which the respondent cooperative earns from different areas of trade it engages in, such as the income derived from the said Service Contracts with Stanfilco. The owners-members get their income from the service surplus generated by the quality and amount of services they rendered, which is determined by the Board of Directors of the respondent cooperative.

In order to enjoy the benefits under the Social Security Law of 1997, the owners-members of the respondent cooperative, who were assigned to Stanfilco requested the services of the latter to register them with petitioner SSS as self-employed and to remit their contributions as such. Also, to comply with Section 19-A of Republic Act No. 1161, as amended by Republic Act No. 8282, the SSS contributions of the said owners-members were equal to the share of both the employer and the employee.

On 26 September 2002, however, petitioner SSS through its Vice-President for Mindanao Division, Atty. Eddie A. Jara, sent a letter^[11] to the respondent cooperative, addressed to its Chief Executive Officer (CEO) and General Manager Leo G. Parma, informing the latter that based on the Service Contracts it executed with Stanfilco, respondent cooperative is actually a manpower contractor supplying employees to Stanfilco and for that reason, it is an employer of its owners-members working with Stanfilco. Thus, respondent cooperative should register itself with petitioner SSS as an employer and make the corresponding report and remittance of premium contributions in accordance with the Social Security Law of 1997. On 9 October 2002,^[12] respondent cooperative, through its counsel, sent a reply to petitioner SSS's letter asserting that it is not an employer because its owners-members are the cooperative itself; hence, it cannot be its own employer. Again, on 21 October 2002,^[13] petitioner SSS sent a letter to respondent cooperative ordering the latter to register as an employer and report its owners-members as employees for compulsory coverage with the petitioner SSS. Respondent cooperative continuously ignored the demand of petitioner SSS.

Accordingly, petitioner SSS, on 12 June 2003, filed a Petition^[14] before petitioner SSC against the respondent cooperative and Stanfilco praying that the respondent cooperative or, in the alternative, Stanfilco be directed to register as an employer and to report respondent cooperative's owners-members as covered employees under the compulsory coverage of SSS and to remit the necessary contributions in accordance with the Social Security Law of 1997. The same was docketed as SSC Case No. 6-15507-03. Respondent cooperative filed its Answer with Motion to Dismiss alleging that no employer-employee relationship exists between it and its owners-members, thus, petitioner SSC has no jurisdiction over the respondent cooperative. Stanfilco, on the other hand, filed an Answer with Cross-claim against the respondent cooperative.

On 17 February 2004, petitioner SSC issued an Order denying the Motion to Dismiss filed by the respondent cooperative. The respondent cooperative moved for the reconsideration of the said Order, but it was likewise denied in another Order issued by the SSC dated 16 September 2004.

Intending to appeal the above Orders, respondent cooperative filed a Motion for Extension of Time to File a Petition for Review before the Court of Appeals. Subsequently, respondent cooperative filed a Manifestation stating that it was no longer filing a Petition for Review. In its place, respondent cooperative filed a Petition for *Certiorari* before the Court of Appeals, docketed as CA-G.R. SP No. 87236, with the following assignment of errors:

I. The Orders dated 17 February 2004 and 16 September 2004 of [herein petitioner] SSC were issued with grave abuse of discretion amounting to a (sic) lack or excess of jurisdiction in that:

- A. [Petitioner] SSC arbitrarily proceeded with the case as if it has jurisdiction over the petition *a quo*, considering that it failed to first resolve the issue of the existence of an employer-employee relationship between [respondent] cooperative and its owners-members.
- B. While indeed, the [petitioner] SSC has jurisdiction over all disputes arising under the SSS Law with respect to coverage, benefits, contributions, and related matters, it is respectfully submitted that [petitioner] SSC may only assume jurisdiction in cases where there is no dispute as to the existence of an employer-employee relationship.
- C. Contrary to the holding of the [petitioner] SSC, the legal issue of employer-employee relationship raised in [respondent's] Motion to Dismiss can be preliminarily resolved through summary hearings prior to the hearing on the merits. However, any inquiry beyond a preliminary determination, as what [petitioner SSC] wants to accomplish, would be to encroach on the jurisdiction of the National Labor Relations Commission [NLRC], which is the more competent body clothed with power to resolve issues relating to the existence of an employment relationship.

II. At any rate, the [petitioner] SSC **has no jurisdiction to take cognizance of the petition *a quo*.**

- A. [Respondent] is not an employer within the contemplation of the Labor Law but is a multi-purpose cooperative created pursuant to Republic Act No. 6938 and composed of owners-members, not employees.
- B. The rights and obligations of the owners-members of [respondent] cooperative are derived from their Membership Agreements, the Cooperatives By-Laws, and Republic Act No. 6938, and not from any contract of employment or from the Labor Laws. Moreover, said owners-members enjoy rights that are not consistent with being mere employees of a company, such as the right to participate and vote in decision-making for the cooperative.
- C. As found by the Bureau of Internal Revenue [BIR], the owners-members of [respondent] cooperative are not paid any compensation income.^[15] (Emphasis supplied.)

On 5 January 2006, the Court of Appeals rendered a Decision granting the petition filed by the respondent cooperative. The decretal portion of the Decision reads:

WHEREFORE, the petition is **GRANTED**. The assailed Orders dated [17 February 2004] and [16 September 2004], are **ANNULLED** and **SET ASIDE** and a new one is entered **DISMISSING** the petition-complaint dated [12 June 2003] of [herein petitioner] Social Security System.^[16]

Aggrieved by the aforesaid Decision, petitioner SSS moved for a reconsideration, but it was denied by the appellate court in its Resolution dated 20 March 2006.

Hence, this Petition.

In its Memorandum, petitioners raise the issue of **whether or not the Court of Appeals erred in not finding that the SSC has jurisdiction over the subject matter and it has a valid basis in denying respondent's Motion to Dismiss**. The said issue is supported by the following arguments:

- I. The [petitioner SSC] has jurisdiction over the petition-complaint filed before it by the [petitioner SSS] under R.A. No. 8282.**
- II. Respondent [cooperative] is estopped from questioning the jurisdiction of petitioner SSC after invoking its jurisdiction by filing an [A]nswer with [M]otion to [D]ismiss before it.**
- III. The [petitioner SSC] did not act with grave abuse of discretion in denying respondent [cooperative's] [M]otion to [D]ismiss.**
- IV. The existence of an employer-employee relationship is a question of fact where presentation of evidence is necessary.**
- V. There is an employer-employee relationship between [respondent cooperative] and its [owners-members].**

Petitioners claim that SSC has jurisdiction over the petition-complaint filed before it by petitioner SSS as it involved an issue of whether or not a worker is entitled to compulsory coverage under the SSS Law. Petitioners avow that Section 5 of Republic Act No. 1161, as amended by Republic Act No. 8282, expressly confers upon petitioner SSC the power to settle disputes on compulsory coverage, benefits, contributions and penalties thereon or any other matter related thereto. Likewise, Section 9 of the same law clearly provides that SSS coverage is compulsory upon all employees. Thus, when petitioner SSS filed a petition-complaint against the respondent cooperative and Stanfilco before the petitioner SSC for the compulsory coverage of respondent cooperative's owners-members as well as for collection of unpaid SSS contributions, it was very obvious that the subject matter of the aforesaid petition-complaint was within the expertise and jurisdiction of the SSC.

Petitioners similarly assert that *granting arguendo* that there is a prior need to determine the existence of an employer-employee relationship between the respondent cooperative and its owners-members, said issue does not preclude petitioner SSC from taking cognizance of the aforesaid petition-complaint. Considering that the principal relief sought in the said petition-complaint has to be

resolved by reference to the Social Security Law and not to the Labor Code or other labor relations statutes, therefore, jurisdiction over the same solely belongs to petitioner SSC.

Petitioners further claim that the denial of the respondent cooperative's Motion to Dismiss grounded on the alleged lack of employer-employee relationship does not constitute grave abuse of discretion on the part of petitioner SSC because the latter has the authority and power to deny the same. Moreover, the existence of an employer-employee relationship is a question of fact where presentation of evidence is necessary. Petitioners also maintain that the respondent cooperative is already estopped from assailing the jurisdiction of the petitioner SSC because it has already filed its Answer before it, thus, respondent cooperative has already submitted itself to the jurisdiction of the petitioner SSC.

Finally, petitioners contend that there is an employer-employee relationship between the respondent cooperative and its owners-members. The respondent cooperative is the employer of its owners-members considering that it undertook to provide services to Stanfilco, the performance of which is under the full and sole control of the respondent cooperative.

On the other hand, respondent cooperative alleges that its owners-members own the cooperative, thus, no employer-employee relationship can arise between them. The persons of the employer and the employee are merged in the owners-members themselves. Likewise, respondent cooperative's owners-members even requested the respondent cooperative to register them with the petitioner SSS as self-employed individuals. Hence, petitioner SSC has no jurisdiction over the petition-complaint filed before it by petitioner SSS.

Respondent cooperative further avers that the Court of Appeals correctly ruled that petitioner SSC acted with grave abuse of discretion when it assumed jurisdiction over the petition-complaint without determining first if there was an employer-employee relationship between the respondent cooperative and its owners-members. Respondent cooperative claims that the question of whether an employer-employee relationship exists between it and its owners-members is a legal and not a factual issue as the facts are undisputed and need only to be interpreted by the applicable law and jurisprudence.

Lastly, respondent cooperative asserts that it cannot be considered estopped from assailing the jurisdiction of petitioner SSC simply because it filed an Answer with Motion to Dismiss, especially where the issue of jurisdiction is raised at the very first instance and where the only relief being sought is the dismissal of the petition-complaint for lack of jurisdiction.

From the foregoing arguments of the parties, the issues may be summarized into:

I. Whether the petitioner SSC has jurisdiction over the petition-complaint filed before it by petitioner SSS against the respondent cooperative.

II. Whether the respondent cooperative is estopped from assailing the jurisdiction of petitioner SSC since it had