

SECOND DIVISION

[G.R. No. 138254, July 30, 2004]

**ANGELITO L. LAZARO, PROPRIETOR OF ROYAL STAR
MARKETING, PETITIONER, VS. SOCIAL SECURITY COMMISSION,
ROSALINA LAUDATO, SOCIAL SECURITY SYSTEM AND THE
HONORABLE COURT OF APPEALS, RESPONDENTS.**

D E C I S I O N

TINGA, J,:

Before us is a *Petition for Review* under Rule 45, assailing the *Decision*^[1] of the Court of Appeals Fifteenth Division^[2] in CA-G.R. Sp. No. 40956, promulgated on 20 November 1998, which affirmed two rulings of the Social Security Commission ("SSC") dated 8 November 1995 and 24 April 1996.

Private respondent Rosalina M. Laudato ("Laudato") filed a petition before the SSC for social security coverage and remittance of unpaid monthly social security contributions against her three (3) employers. Among the respondents was herein petitioner Angelito L. Lazaro ("Lazaro"), proprietor of Royal Star Marketing ("Royal Star"), which is engaged in the business of selling home appliances.^[3] Laudato alleged that despite her employment as sales supervisor of the sales agents for Royal Star from April of 1979 to March of 1986, Lazaro had failed during the said period, to report her to the SSC for compulsory coverage or remit Laudato's social security contributions.^[4]

Lazaro denied that Laudato was a sales supervisor of Royal Star, averring instead that she was a mere sales agent whom he paid purely on commission basis. Lazaro also maintained that Laudato was not subjected to definite hours and conditions of work. As such, Laudato could not be deemed an employee of Royal Star.^[5]

After the parties submitted their respective position papers, the SSC promulgated a *Resolution*^[6] dated 8 November 1995 ruling in favor of Laudato.^[7] Applying the "control test," it held that Laudato was an employee of Royal Star, and ordered Royal Star to pay the unremitted social security contributions of Laudato in the amount of Five Thousand Seven Pesos and Thirty Five Centavos (P5,007.35), together with the penalties totaling Twenty Two Thousand Two Hundred Eighteen Pesos and Fifty Four Centavos (P22,218.54). In addition, Royal Star was made liable to pay damages to the SSC in the amount of Fifteen Thousand Six Hundred Eighty Pesos and Seven Centavos (P15,680.07) for not reporting Laudato for social security coverage, pursuant to Section 24 of the Social Security Law.^[8]

After Lazaro's *Motion for Reconsideration* before the SSC was denied,^[9] Lazaro filed a *Petition for Review* with the Court of Appeals. Lazaro reiterated that Laudato was merely a sales agent who was paid purely on commission basis, not included in the

company payroll, and who neither observed regular working hours nor accomplished time cards.

In its assailed *Decision*, the Court of Appeals noted that Lazaro's arguments were a reprise of those already presented before the SSC.^[10] Moreover, Lazaro had not come forward with particulars and specifics in his petition to show that the Commission's ruling is not supported by substantial evidence.^[11] Thus, the appellate court affirmed the finding that Laudato was an employee of Royal Star, and hence entitled to coverage under the Social Security Law.

Before this Court, Lazaro again insists that Laudato was not qualified for social security coverage, as she was not an employee of Royal Star, her income dependent on a generation of sales and based on commissions.^[12] It is argued that Royal Star had no control over Laudato's activities, and that under the so-called "control test," Laudato could not be deemed an employee.^[13]

It is an accepted doctrine that for the purposes of coverage under the Social Security Act, the determination of employer-employee relationship warrants the application of the "control test," that is, whether the employer controls or has reserved the right to control the employee, not only as to the result of the work done, but also as to the means and methods by which the same is accomplished.^[14] The SSC, as sustained by the Court of Appeals, applying the control test found that Laudato was an employee of Royal Star. We find no reversible error.

Lazaro's arguments are nothing more but a mere reiteration of arguments unsuccessfully posed before two bodies: the SSC and the Court of Appeals. They likewise put to issue factual questions already passed upon twice below, rather than questions of law appropriate for review under a Rule 45 petition. The determination of an employer-employee relationship depends heavily on the particular factual circumstances attending the professional interaction of the parties. The Court is not a trier of facts^[15] and accords great weight to the factual findings of lower courts or agencies whose function is to resolve factual matters.^[16]

Lazaro's arguments may be dispensed with by applying precedents. Suffice it to say, the fact that Laudato was paid by way of commission does not preclude the establishment of an employer-employee relationship. In *Grepalife v. Judico*,^[17] the Court upheld the existence of an employer-employee relationship between the insurance company and its agents, despite the fact that the compensation that the agents on commission received was not paid by the company but by the investor or the person insured.^[18] The relevant factor remains, as stated earlier, whether the "employer" controls or has reserved the right to control the "employee" not only as to the result of the work to be done but also as to the means and methods by which the same is to be accomplished.^[19]

Neither does it follow that a person who does not observe normal hours of work cannot be deemed an employee. In *Cosmopolitan Funeral Homes, Inc. v. Maalat*,^[20] the employer similarly denied the existence of an employer-employee relationship, as the claimant according to it, was a "supervisor on commission basis" who did not observe normal hours of work. This Court declared that there was an employer-employee relationship, noting that "[the] supervisor, although