Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HACIENDA CATAYWA/ MANUEL VILLANUEVA, owner, JOEMARIE VILLANUEVA, manager, MANCY AND SONS ENTERPRISES, INC.,
Petitioners,

- versus -

ROSARIO LOREZO,
Respondent.

G.R. No. 179640

Present:

VELASCO, JR., *J.*, *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

March 18, 2015

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D E C I S I O N

PERALTA, *J.*:

Before this Court is a petition for review on *certiorari* dated September 28, 2007 of petitioner Hacienda Cataywa, Manuel Villanueva, *et al.*, (*petitioners*) seeking to reverse and set aside the Resolutions, dated October 17, 2006[1] and August 10, 2007,[2] respectively, of the Court of Appeals (*CA*) and the Resolution and Order, dated October 12, 2005 and March 8, 2006, respectively, of the Social Security Commission, ordering petitioners to pay jointly and severally all delinquent contributions, 3% penalty per month of delayed payment and damages to respondent Rosario Lorezo.

The antecedent facts follow:

On October 22, 2002, respondent Rosario Lorezo received, upon inquiry, a letter from the Social Security System (*SSS*) Western Visayas

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[1] *Rollo*, p. 69.
[2] Penned by Associate Justice Antonio L. Villamor, with Associate Justices Isaias P. Dicdican and Stephen C. Cruz, concurring, *rollo*, pp. 183-186.

Group informing her that she cannot avail of their retirement benefits since per their record she has only paid 16 months. Such is 104 months short of the minimum requirement of 120 months payment to be entitled to the benefit. She was also informed that their investigation of her alleged employment under employer Hda. Cataywa could not be confirmed because Manuel Villanueva was permanently residing in Manila and Joemarie Villanueva denied having managed the farm. She was also advised of her options: continue paying contributions as voluntary member; request for refund; leave her contributions in-trust with the System, or file a petition before the Social Security Commission (*SSC*) so that liabilities, if any, of her employer may be determined.[3]

Aggrieved, respondent then filed her Amended Petition dated September 30, 2003, before the SSC. She alleged that she was employed as laborer in Hda. Cataywa managed by Jose Marie Villanueva in 1970 but was reported to the SSS only in 1978. She alleged that SSS contributions were deducted from her wages from 1970 to 1995, but not all were remitted to the SSS which, subsequently, caused the rejection of her claim. She also impleaded Talisay Farms, Inc. by virtue of its Investment Agreement with Mancy and Sons Enterprises. She also prayed that the veil of corporate fiction be pierced since she alleged that Mancy and Sons Enterprises and Manuel and Jose Marie Villanueva are one and the same.[4]

Petitioners Manuel and Jose Villanueva refuted in their answer, the allegation that not all contributions of respondent were remitted. Petitioners alleged that all farm workers of Hda. Cataywa were reported and their contributions were duly paid and remitted to SSS. It was the late Domingo Lizares, Jr. who managed and administered the hacienda.[5] While, Talisay Farms, Inc. filed a motion to dismiss on the ground of lack of cause of action in the absence of an allegation that there was an employer-employee relationship between Talisay Farms and respondent.[6]

Consequently, the SSC rendered its Resolution dated October 12, 2005, thus:

> WHEREFORE, PREMISES CONSIDERED, this Commission finds, and so holds, that Rosario M. Lorezo was a regular employee subject to compulsory coverage of Hda. Cataywa/Manuel Villanueva/ Mancy and Sons Enterprises, Inc. within the period of 1970 to February 25, 1990. In view thereof, the aforenamed respondents are hereby ordered to pay jointly and severally, within thirty (30) days from receipt hereof, all delinquent contributions within the proven employment

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3 *Rollo*, p. 83.
4 *Id*. at 77-81.
5 *Id*. at 85-87.
6 *Id*. at 102-105.

> period computed in accordance with the then prevailing minimum wage (at 11 months per year) in the amount of ₱8,293.90, the 3% per month penalty on the delayed payment of contributions in the amount of ₱59,786.10 (computed as of September 9, 2005), pursuant to Section 22 of the SS Law and the damages in the amount of ₱32,356.21 for misrepresentation of the real date of employment, pursuant to Section 24 (b) of the said statute.
>
> The SSS, on the other hand, is ordered to pay (subject to existing rules and regulations) petitioner Rosario M. Lorezo her retirement benefit, upon the filing of the claim therefor, and to inform this Commission of its compliance herewith.
>
> SO ORDERED.[7]

The SSC denied petitioners' Motion for Reconsideration. The petitioner, then, elevated the case before the CA where the case was dismissed outrightly due to technicalities, thus:

> The Court Resolved to DISMISS the instant petition on the basis of the following observations:
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> 1. Signatory to the Verification failed to attach his authority to sign for and [in] behalf of the other Petitioners.
> (Violation of Section 5, Rule 43 of the Rules of Court, in relation to Section 7, Rule 45 of the Rules of Court)
> 2. Certified true copies of pleadings and documents relevant and pertinent to the petition are incomplete, to wit:
> -Petitioner failed to attach the following:
> - Petition/Amended Petition filed before the SSS of Makati City
> - Respondents' Answer filed before the SSS of Makati City
> - Parties' respective position paper filed before the SSS of Makati City
> - Parties' respective memorandum of appeal filed before the Commission
>
> (Violation of Section 6, Rule 43 of the Rules of Court, in relation to Section 7, Rule 43 of the Rules of Court)[8]

Following the denial of petitioners' Motion for Reconsideration of the CA, petitioner filed with this Court the present petition stating the following grounds:

> 1) THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN STRICTLY AND RIGIDLY APPLYING THE TECHNICAL RULES OF PROCEDURE AND DISMISSING THE CASE ON TECHNICALITY WITHOUT EVALUATING THE MERITS OF THE CASE;

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7 *Id*. at 67.
8 *Id.* at 69.

> 2) THE [SSC] COMMITTED REVERSIBLE ERROR IN MAKING CONCLUSIONS FOUNDED ON SPECULATIONS AND SURMISES NOT CONFORMING TO EVIDENCE ON RECORD, MAKING MANIFESTLY MISTAKEN INFERENCES, AND RENDERING JUDGMENT BASED ON MISAPPREHENSION OF FACTS AND MISAPPLICATION OF THE LAW, RULING AND RENDERING JUDGMENT THAT:
>
> a) RESPONDENT WORKED FROM 1970 TO FEBRUARY 25, 1990
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> b) PETITIONERS ARE LIABLE FOR DELINQUENT CONTRIBUTIONS
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> c) PETITIONERS ARE LIABLE FOR 3% PER MONTH PENALTY
>
> d) PETITIONERS ARE LIABLE FOR DAMAGES DUE TO MISREPRESENTATION
>
> e) MANCY & SONS ENTERPRISES, INC. AND MANUEL VILLANUEVA ARE ONE AND THE SAME.[9]

The petition is partially meritorious.

Petitioners argues that the CA has been too rigid in the application of the rules of procedure in dismissing the appeal without evaluation of the merits.

This Court has emphasized that procedural rules should be treated with utmost respect and due regard, since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. However, this Court has recognized exceptions to the Rules, but only for the most compelling reasons where stubborn obedience to the Rules would defeat rather than serve the ends of justice.[10]

As in the case of *Obut v. Court of Appeals*,[11] this Court held that "judicial orders are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint of defense rather than for him to lose life, liberty, honor or property on technicalities."[12]

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9 *Id*. at 21-22.

10 *CMTC International Marketing Corporation v. BHAGIS International Trading Corporation*, G.R. No. 170488, December 10, 2012, 687 SCRA 469, 474, citing *Osmeña v. Commission on Audit*, G.R. No. 188818, May 31, 2011, 649 SCRA 654, 660.

11 162 Phil. 731 (1976).

12 *Obut v. Court of Appeals, supra*, at 744.

When the CA dismisses a petition outright and the petitioner files a motion for the reconsideration of such dismissal, appending thereto the requisite pleadings, documents or order/resolution, this would constitute substantial compliance with the Revised Rules of Court.[13] Thus, in the present case, there was substantial compliance when in their Motion for Reconsideration, they attached a secretary certificate giving Joemarie's authority to sign on behalf of the corporation. Petitioners also included the necessary attachment.[14]

At the outset, it is settled that this Court is not a trier of facts and will not weigh evidence all over again.[15] However, considering the issues raised which can be resolved on the basis of the pleadings and documents filed, and the fact that respondent herself has asked this Court for early resolution, this Court deems it more practical and in the greater interest of justice not to remand the case to the CA but, instead, to resolve the controversy once and for all.

Petitioners are of the opinion that the SSC committed reversible error in making conclusions founded on speculations and surmises that respondent worked from 1970 to February 25, 1990. Petitioners argue that the SSC did not give credence nor weight at all to the existing SSS Form R-1A and farm bookkeeper Wilfredo Ibalobor. Petitioners insist that after thirty long years, all the records of the farm were already destroyed by termites and elements, thus, they relied on the SSS Form R-1A as the only remaining source of information available. Petitioners also alleged that respondent was a very casual worker.

This Court disagrees.

It was settled that there is no particular form of evidence required to prove the existence of the employer-employee relationship. Any competent and relevant evidence to prove such relationship may be admitted. This may entirely be testimonial.[16] If only documentary evidence would be required to demonstrate the relationship, no scheming employer would be brought before the bar of justice.[17] Petitioners erred in insisting that, due to passage of time, SSS Form R-1A is the only remaining source of information available to prove when respondent started working for them. However, such form merely reflected the time in which the petitioners reported the respondent for coverage of the SSS benefit. They failed to substantiate their claim that it was only in 1978 that respondent reported for work.

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13 *Garcia v. Philippine Airlines, Inc.*, 498 Phil. 808, 821 (2005).
14 *Rollo*, pp. 222-223.
15 *Gapayao v. Fulo, SSS and SSC*, G.R. No. 193493, June 13, 2013, 698 SCRA 485, 497.
16 *Martinez v. NLRC et al.*, 339 Phil. 176, 183 (1997).
17 *Vinoya v. NLRC et al.*, 381 Phil. 460, 479 (2000).

The records are bereft of any showing that Demetria Denaga and Susano Jugue harbored any ill will against the petitioners prompting them to execute false affidavit. There lies no reason for this Court not to afford full faith and credit to their testimonies. Denaga, in her Joint Affidavit with Jugue, stated that she and respondent started working in Hda. Cataywa in 1970 and like her, she was reported to the SSS on December 19, 1978.[18] It was also revealed in the records that the SSC found that Denaga was employed by Manuel Villanueva at Hda. Cataywa from 1970 to December 1987.[19]

Jurisprudence has identified the three types of employees mentioned in the provision[20] of the Labor Code: (1) regular employees or those who have been engaged to perform activities that are usually necessary or desirable in the usual business or trade of the employer; (2) project employees or those whose employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time of their engagement, or those whose work or service is seasonal in nature and is performed for the duration of the season; and (3) casual employees or those who are neither regular nor project employees.[21]

Farm workers generally fall under the definition of seasonal employees.[22] It was also consistently held that seasonal employees may be considered as regular employees when they are called to work from time to time.[23] They are in regular employment because of the nature of the job, and not because of the length of time they have worked. However, seasonal workers who have worked for one season only may not be considered regular employees.[24]

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18 *Rollo*, p. 101.

19 *Id*. at 298.

20 Article 280. *Regular and Casual Employment*. – the provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists.

21 *Gapayao vs. Fulo, SSS and SSC, supra* note 15, at 499, citing *Benares v. Pancho*, 497 Phil. 181, 189-190 (2005), citing *Perpetual Help Credit Cooperative, Inc. v. Faburada*, 419 Phil. 147, 155 (2001).

22 *Id*.

23 *Id.,* citing *AAG Trucking and/or Alex Ang Gaeid v. Yuag*, G.R. No. 195033, October 12, 2011, 659 SCRA 91, 102.

24 *Hacienda Fatima v. National Federation of Sugarcane Workers-Food & General Trade*, 444 Phil. 587, 596 (2003).

The nature of the services performed and not the duration thereof, is determinative of coverage under the law.[25] To be exempted on the basis of casual employment, the services must not merely be irregular, temporary or intermittent, but the same must not also be in connection with the business or occupation of the employer.[26] Thus, it is erroneous for the petitioners to conclude that the respondent was a very casual worker simply because the SSS form revealed that she had 16 months of contributions. It does not, in any way, prove that the respondent performed a job which is not in connection with the business or occupation of the employer to be considered as casual employee.

The test for regular employees to be considered as such has been thoroughly explained in *De Leon v. NLRC,*[27] *viz.*:

> The primary standard, therefore, of determining a regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer. The test is whether the former is usually necessary or desirable in the usual business or trade of the employer. The connection can be determined by considering the nature of the work performed and its relation to the scheme of the particular business or trade in its entirety. Also, if the employee has been performing the job for at least one year, even if the performance is not continuous or merely intermittent, the law deems the repeated and continuing need for its performance as sufficient evidence of the necessity if not indispensability of that activity to the business. Hence, the employment is also considered regular, but only with respect to such activity and while such activity exists.[28]

A reading of the records would reveal that petitioners failed to dispute the allegation that the respondent performed hacienda work, such as planting sugarcane point, fertilizing, weeding, replanting dead sugarcane fields and routine miscellaneous hacienda work.[29] They merely alleged that respondent was a very casual worker because she only rendered work for 16 months.[30] Thus, respondent is considered a regular seasonal worker and not a casual worker as the petitioners alleged.

Petitioners also assert that the sugarcane cultivation covers only a period of six months, thus, disproving the allegation of the respondent that she worked for 11 months a year for 25 years. This Court has classified

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25 Social Security Law, Republic Act No. 1161 as amended by RA No. 8282.
26 *Alcantara, Philippine Labor and Social Legislation Annotated,* 2011 ed., volume II, p. 37.
27 257 Phil. 626 (1989).
28 *De Leon v. NLRC, supra,* at 632-633.
29 *Rollo,* p. 101.
30 *Id*. at 27.

farm workers as regular seasonal employees who are called to work from time to time and the nature of their relationship with the employer is such that during the off season, they are temporarily laid off; but reemployed during the summer season or when their services may be needed.[31] Respondent, therefore, as a farm worker is only a seasonal employee. Since petitioners provided that the cultivation of sugarcane is only for six months, respondent cannot be considered as regular employee during the months when there is no cultivation.

Based on the foregoing facts and evidence on record, petitioners are liable for delinquent contributions. It being proven by sufficient evidence that respondent started working for the hacienda in 1970, it follows that petitioners are liable for deficiency in the SSS contributions.

The imposition upon and payment by the delinquent employer of the three percent (3%) penalty for the late remittance of premium contributions is mandatory and cannot be waived by the System. The law merely gives to the Commission the power to prescribe the manner of paying the premiums. Thus, the power to remit or condone the penalty for late remittance of premium contributions is not embraced therein.[32] Petitioners erred in alleging that the imposition of penalty is not proper.

Petitioners also insist that the award of damages for misrepresentation is without basis. This Court disagrees.

The law provides that should the employer misrepresent the true date of the employment of the employee member, such employer shall pay to the SSS damages equivalent to the difference between the amount of benefit to which the employee member or his beneficiary is entitled had the proper contributions been remitted to the SSS and the amount payable on the basis of the contributions actually remitted. However, should the employee member or his beneficiary is entitled to pension benefits, the damages shall be equivalent to the accumulated pension due as of the date of settlement of the claim or to the five years' pension, whichever is higher, including the dependent's pension.[33]

Lastly, petitioners aver that there is no legal basis to pierce the veil of corporation entity.

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31 *Gapayao v. Fulo, SSS and SSC, supra* note 15.

32 *Supra* note 26, citing *Airport Studio v. SSC*, CA-G R. No. 34806- R, September 9, 1969.

33 *Supra* note 25, Section 24 (b).

It was held in *Rivera v. United Laboratories, Inc.*[34] that □

> While a corporation may exist for any lawful purpose, the law will regard it as an association of persons or, in case of two corporations, merge them into one, when its corporate legal entity is used as a cloak for fraud or illegality. This is the doctrine of piercing the veil of corporate fiction. The doctrine applies only when such corporate fiction is used to defeat public convenience, justify wrong, protect fraud, or defend crime, or when it is made as a shield to confuse the legitimate issues, or where a corporation is the mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation. To disregard the separate juridical personality of a corporation, the wrongdoing must be established clearly and convincingly. It cannot be presumed.[35]

This Court has cautioned against the inordinate application of this doctrine, reiterating the basic rule that "the corporate veil may be pierced only if it becomes a shield for fraud, illegality or inequity committed against a third person.[36]

The Court has expressed the language of piercing doctrine when applied to alter ego cases, as follows: *Where the stock of a corporation is owned by one person whereby the corporation functions only for the benefit of such individual owner, the corporation and the individual should be deemed the same.*[37]

This Court agrees with the petitioners that there is no need to pierce the corporate veil. Respondent failed to substantiate her claim that Mancy and Sons Enterprises, Inc. and Manuel and Jose Marie Villanueva are one and the same. She based her claim on the SSS form wherein Manuel Villanueva appeared as employer. However, this does not prove, in any way, that the corporation is used to defeat public convenience, justify wrong, protect fraud, or defend crime, or when it is made as a shield to confuse the legitimate issues, warranting that its separate and distinct personality be set aside. Also, it was not alleged nor proven that Mancy and Sons Enterprises, Inc. functions only for the benefit of Manuel Villanueva, thus, one cannot be an alter ego of the other.

WHEREFORE, the petition for review on *certiorari* dated September 28, 2007 of petitioners Hda. Cataywa, Manuel Villanueva, *et al.* is hereby **DENIED**. Consequently, the resolution by the Social Security

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34 604 Phil. 184 (2009).
35 *Rivera v. United Laboratories, supra*, at 213.
36 *R & E Transport, Inc. v. Latag*, 467 Phil. 355, 367 (2004).
37 *Arnold v. Willets and Patterson, Ltd*., 44 Phil. 634, 645 (1923).

Commission is hereby **AFFIRMED** with **MODIFICATIONS** that the delinquent contributions should be computed as six months per year of service, and the case against Manuel and Jose Marie Villanueva be **DISMISSED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Acting Chief Justice