

## EN BANC

[ G.R. No. 210500, April 02, 2019 ]

**KILUSANG MAYO UNO, REPRESENTED BY ITS SECRETARY GENERAL ROGELIO SOLUTA; REP. FERNANDO HICAP FOR HIMSELF AND AS REPRESENTATIVE OF THE ANAKPAWIS PARTY-LIST; CENTER FOR TRADE UNION AND HUMAN RIGHTS, REPRESENTED BY ITS EXECUTIVE DIRECTOR DAISY ARAGO; JOSELITO USTAREZ AND SALVADOR CARRANZA, FOR THEMSELVES AND IN REPRESENTATION OF THE NATIONAL FEDERATION OF LABOR UNIONS-KMU; NENITA GONZAGA, PRESCILA A. MANQUIZ, REDEN ALCANTARA, PETITIONERS, V. HON. BENIGNO SIMEON C. AQUINO III, HON. PAQUITO N. OCHOA, JR., SOCIAL SECURITY COMMISSION, SOCIAL SECURITY SYSTEM, AND EMILIO S. DE QUIROS, JR., RESPONDENTS.**

### DECISION

**LEONEN, J.:**

This Court is called to determine the validity of the Social Security System premium hike, which took effect in January 2014. The case also involves the application of doctrines on judicial review, valid delegation of powers, and the exercise of police power.

This resolves a Petition for Certiorari and Prohibition,<sup>[1]</sup> praying that a temporary restraining order and/or writ of preliminary injunction be issued to annul the Social Security System premium hike embodied in the following issuances: (1) Resolution No. 262-s. 2013 dated April 19, 2013;<sup>[2]</sup> (2) Resolution No. 711-s. 2013 dated September 20, 2013;<sup>[3]</sup> and (3) Circular No. 2013-010<sup>[4]</sup> dated October 2, 2013 (collectively, the assailed issuances). Kilusang Mayo Uno, together with representatives from recognized labor centers, labor federations, party-list groups, and Social Security System members (collectively, Kilusang Mayo Uno, et al.), filed the case against government officials and agencies involved in issuing the assailed issuances.

On April 19, 2013, the Social Security Commission issued Resolution No. 262-s. 2013,<sup>[5]</sup> which provided an increase in: (1) the Social Security System members' contribution rate from 10.4% to 11%; and (2) the maximum monthly salary credit from P15,000.00 to P16,000.00. The increase was made subject to the approval of the President of the Philippines.<sup>[6]</sup>

In a September 6, 2013 Memorandum, the President approved the increase.<sup>[7]</sup>

On September 20, 2013, the Social Security Commission issued Resolution No. 711-s. 2013,<sup>[8]</sup> which approved, among others, the increase in contribution rate and maximum monthly salary credit.

On October 2, 2013, the Social Security System, through President and Chief Executive Officer Emilio S. De Quiros, Jr., issued Circular No. 2013-010,<sup>[9]</sup> which provided the revised schedule of contributions that would be in effect in January 2014. Per the circular, the employer and the employee shall *equally* shoulder the 0.6% increase in contributions. Thus, the employer would pay a contribution rate of 7.37% (from 7.07%); the employee, 3.63% (from 3.33%).

On January 10, 2014, Kilusang Mayo Uno, et al. filed this Petition for Certiorari and Prohibition,<sup>[10]</sup> questioning the validity of the assailed issuances.

Maintaining that a majority of them are Social Security System members directly affected by the premium hike, petitioners assert having the requisite *locus standi* to file the Petition.<sup>[11]</sup> Citing *David v. Macapagal-Arroyo*,<sup>[12]</sup> they further argue that the other petitioners' legal personality arises from the transcendental importance of the Petition's issues.<sup>[13]</sup>

Petitioners claim that the assailed issuances were issued per an unlawful delegation of power to respondent Social Security Commission based on Republic Act No. 8282, or the Social Security Act. In particular, Section 18<sup>[14]</sup> allegedly offers vague and unclear standards, and are incomplete in its terms and conditions. This provision, they claim, has allowed respondent Social Security Commission to fix contribution rates from time to time, subject to the President's approval. Petitioners claim that the delegation of the power had no adequate legal guidelines to map out the boundaries of the delegate's authority.<sup>[15]</sup>

In addition, petitioners claim that the increase in contribution rate violates Section 4(b)(2) of the Social Security Act,<sup>[16]</sup> which states that the "increases in benefits shall not require any increase in the rate of contribution[.]" They argue that this proviso prohibits the increase in contributions if there was no corresponding increase in benefits.<sup>[17]</sup>

Petitioners then argue that the increase in contributions is an invalid exercise of police power for not being reasonably necessary for the attainment of the purpose sought, as well as for being unduly oppressive on the labor sector.<sup>[18]</sup> According to them, the Social Security System can extend actuarial life and decrease its unfunded liability without increasing the premiums they pay.<sup>[19]</sup>

Petitioners further insist that the revised ratio of contributions between employers and employees, per the assailed issuances, is grossly unjust to the working class and is beyond respondents' powers. They claim that for the purposes of justice and consistency, respondents should have maintained the 70%-30% ratio in the premium increase. Changing it, they add, is grossly unfair and detrimental to employees.<sup>[20]</sup>

Petitioners further emphasize that the State is required to protect the rights of workers and promote their welfare under the Constitution.<sup>[21]</sup>

Lastly, petitioners pray that a temporary restraining order and/or writ of preliminary injunction be issued to stop the implementation of the increase in contributions. They aver that stopping it is necessary to protect their substantive rights and

interests. They point out that their earnings for food and other basic needs would be reduced and allocated instead to defraying the amount needed for contributions.<sup>[22]</sup>

The issues for this Court's resolution are:

First, whether or not this Court can exercise its power of judicial review;

Second, whether or not there is an actual case or controversy;

Third, whether or not the doctrine of exhaustion of administrative remedies applies;

Fourth, whether or not petitioners have legal standing to file the Petition; and

Finally, whether or not the assailed issuances were issued in violation of laws and with grave abuse of discretion.

In connection with the fifth issue, this Court further resolves:

First, whether or not the assailed issuances are void for having been issued under vague and unclear standards contained in the Social Security Act;

Second, whether or not the increase in Social Security System contributions is reasonably necessary for the attainment of the purpose sought and is unduly oppressive upon the labor sector; and

Finally, whether or not the revised ratio of contributions between employers and employees is grossly unjust to the working class and beyond respondent Social Security Commission's power to enact.

This Court denies the Petition for lack of merit.

## I

Procedural infirmities attend the filing of this Petition. To begin with, former President Benigno Simeon C. Aquino III, as President of the Philippines, is improperly impleaded here.

The president is the head of the executive branch,<sup>[23]</sup> a co-equal of the judiciary under the Constitution. His or her prerogative is entitled to respect from other branches of government.<sup>[24]</sup> Inter-branch courtesy<sup>[25]</sup> is but a consequence of the doctrine of separation of powers.<sup>[26]</sup>

As such, the president cannot be charged with any suit, civil or criminal in nature, during his or her incumbency in office. This is in line with the doctrine of the president's immunity from suit.<sup>[27]</sup>

In *David*,<sup>[28]</sup> this Court explained why it is improper to implead the incumbent President of the Philippines. The doctrine has both policy and practical considerations:

Settled is the doctrine that the President, during his tenure of office or actual incumbency, may not be sued in *any* civil or criminal case, and there is no need to provide for it in the Constitution or law. It will degrade the dignity of the high office of the President, the Head of State, if he can be dragged into court litigations while serving as such.

Furthermore, it is important that he be freed from any form of harassment, hindrance or distraction to enable him to fully attend to the performance of his official duties and functions. Unlike the legislative and judicial branch, only one constitutes the executive branch and anything which impairs his usefulness in the discharge of the many great and important duties imposed upon him by the Constitution necessarily impairs the operation of the Government. However, this does not mean that the President is not accountable to anyone. Like any other official, he remains accountable to the people but he may be removed from office only in the mode provided by law and that is by impeachment.<sup>[29]</sup> (Emphasis in the original, citations omitted)

As to the propriety of seeking redress from this Court, it is best to be guided by the power of judicial review as provided in Article VIII, Section 1 of the 1987 Constitution:

### **ARTICLE VIII**

#### *Judicial Department*

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to *settle actual controversies involving rights which are legally demandable and enforceable*, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

This Court has discussed in several cases how the 1987 Constitution has expanded the scope of judicial power from its traditional understanding. As such, courts are not only expected to "settle actual controversies involving rights which are legally demandable and enforceable[,]"<sup>[30]</sup> but are also empowered to determine if any government branch or instrumentality has acted beyond the scope of its powers, such that there is grave abuse of discretion.<sup>[31]</sup>

This development of the courts' judicial power arose from the use and abuse of the political question doctrine during the martial law era under former President Ferdinand Marcos. In *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*,<sup>[32]</sup> this Court held:

In *Francisco v. The House of Representatives*, we recognized that this expanded jurisdiction was meant "to ensure the potency of the power of judicial review to curb grave abuse of discretion by 'any branch or instrumentalities of government.'" Thus, the second paragraph of Article VIII, Section 1 engraves, for the first time in its history, into black letter law the "expanded *certiorari* jurisdiction" of this Court, whose nature and purpose had been provided in the sponsorship speech of its proponent, former Chief Justice Constitutional Commissioner Roberto Concepcion[:]

. . . .

The first section starts with a sentence copied from former Constitutions. It says:

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

I suppose nobody can question it.

The next provision is new in our constitutional law. I will read it first and explain.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.

Fellow Members of this Commission, this is actually a product of our experience during martial law. As a matter of fact, it has some antecedents in the past, but the role of the judiciary during the deposed regime was marred considerably by the circumstance that in a number of cases against the government, which then had no legal defense at all, the solicitor general set up the defense of political question and got away with it. As a consequence, certain principles concerning particularly the writ of *habeas corpus*, that is, the authority of courts to order the release of political detainees, and other matters related to the operation and effect of martial law failed because the government set up the defense of political question. And the Supreme Court said: "Well, since it is political, we have no authority to pass upon it." The Committee on the Judiciary feels that this was not a proper solution of the questions involved. It did not merely request an encroachment upon the rights of the people, but it, in effect, encouraged further violations thereof during the martial law regime.

. . . .

Briefly stated, courts of justice determine the limits of power of the agencies and offices of the government as well as those of its officers. In other words, the judiciary is the final arbiter on the question whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction, or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction or lack of jurisdiction. This is not only a judicial power but a duty to pass judgment on matters of this nature.

This is the background of paragraph 2 of Section 1, which means that the courts cannot hereafter evade the duty to settle matters of this nature, by claiming that such matters constitute a political question.<sup>[33]</sup> (Emphasis in the original, citations omitted)

Rule 65, Sections 1 and 2 of the Rules of Court provides remedies to address grave abuse of discretion by any government branch or instrumentality, particularly through petitions for certiorari and prohibition:

SECTION 1. *Petition for Certiorari*. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion