

SECOND DIVISION

[G.R. No. 194137, June 21, 2017]

AMBASSADOR HOTEL, INC., PETITIONER, VS. SOCIAL SECURITY SYSTEM, RESPONDENT.

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the July 29, 2010 Decision^[1] and October 18, 2010 Resolution^[2] of the Court Appeals (CA) in CA-G.R. CV No. 87948, which affirmed *in toto* the December 20, 2005 Decision^[3] of the Regional Trial Court, Branch 218, Quezon City (RTC) in Criminal Case No. Q-04-125458, a case for nonpayment of Social Security System (SSS) contributions.

Sometime in September 2001, the SSS filed a complaint with the City Prosecutor's Office of Quezon City against Ambassador Hotel, Inc. (*Ambassador Hotel*) and its officers for non-remittance of SSS contributions and penalty liabilities for the period from June 1999 to March 2001 in the aggregate amount of P769,575.48.

After preliminary investigation, the City Prosecutor's Office filed an Information,^[4] dated January 28, 2004, before the RTC charging Ambassador Hotel, Inc.'s Yolanda Chan (*Yolanda*), as President and Chairman of the Board; and Alvin Louie Rivera, as Treasurer and Head of the Finance Department, with violation of Section 22(a), in relation to Section 22(d) and Section 28(e) of Republic Act (R.A.) No. 1161, as amended by R.A. No. 8282. Only Yolanda was arrested. Upon arraignment, she pleaded not guilty. Thereafter, trial ensued.

Evidence of the Prosecution

The prosecution presented Maria Rezell C. De Ocampo (*De Ocampo*), Accounts Officer of SSS and Simeon Nicolas Chan (*Simeon*), former President of Ambassador Hotel. Their combined testimonies tended to establish the following:

De Ocampo was assigned to investigate the account of Ambassador Hotel. In the course of her investigation, she discovered that the hotel was delinquent in its payment of contributions for the period from June 1999 to March 2001, as an examination of the hotel's records revealed that its last payment was made in May 1999. Thereafter, De Ocampo prepared a delinquency assessment and a billing letter for Ambassador Hotel. On April 17, 2001, she visited Ambassador Hotel, where a certain Guillermo Ciriaco (*Ciriaco*) assisted her. De Ocampo then informed Ciriaco of the hotel's delinquency. She showed him the assessment, billing letter, and letter of authority. De Ocampo also requested for the records of previous SSS payments, but the same could not be produced. Thus, she told Ciriaco that Ambassador Hotel had to comply with the said request within fifteen (15) days.

De Ocampo referred the matter to their Cluster Legal Unit. On May 23, 2001, she prepared an investigation report stating that Ambassador Hotel failed to present the required reports and to fully pay their outstanding delinquency. In turn, the Cluster Legal Unit issued a final demand letter to Ambassador Hotel. De Ocampo sent the final demand letter to Ambassador Hotel via registered mail. She also returned to the hotel to personally serve the said letter, which was received by Norman Cordon, Chief Operating Officer of Ambassador Hotel.

On July 4, 2001, Pilar Barzanilla of Ambassador Hotel went to the SSS office and submitted a list of unpaid contributions from June 1999 to March 2001. On September 14, 2001, De Ocampo went back to the hotel to seek compliance with the demand letter. The representatives of the hotel requested that the delinquency be settled by installment. They also submitted a collection list, the audited financial settlement and the request of installment to the SSS. Ambassador Hotel, however, did not tender any postdated checks for the installment payments.

De Ocampo concluded that based on the actual assessment and documents submitted, the unpaid contributions of Ambassador Hotel from June 1999 to March 2001 amounted to P303,459.00. Further, as of January 2, 2005, the hotel is liable for penalties in the amount of P531,341.44.

On the other hand, Simeon testified that he was the President of Ambassador Hotel from 1971 until he was replaced in 1998; and that on April 25, 1998, her daughter, Yolanda, became the President of the hotel pursuant to Board Resolution No. 7, series of 1998.^[5]

Evidence of the Defense

The defense presented the following witnesses: Yolanda, President and Chairman of the Board of Ambassador Hotel; Atty. Laurenao Galon (*Atty. Galon*), lawyer of Ambassador Hotel; Michael Paragas, Sheriff of RTC Branch 46; and Norman D. Cordon (*Cordon*), Chief Operating Officer of Ambassador Hotel. Their testimonies are summarized, to wit:

Yolanda was elected as President of Ambassador Hotel on April 25, 1998. Simeon, however, prevented her from assuming her office and performing her functions as President. Consequently, she filed a case for grave coercion and grave threats against Simeon and his allies. On the other hand, Simeon filed a case for injunction, damages and declaration of nullity of the corporate meeting, which elected Yolanda as President. The case was raffled to RTC Branch 46, which ruled in her favor. Pursuant to the Order, dated April 10, 2001 of RTC Branch 46, she assumed the position of President of the hotel without any impediment.

Accordingly, Yolanda argued that because she was not performing the functions as the President of Ambassador Hotel from April 25, 1998 until April 10, 2001, she could not be held criminally liable for the non-payment of SSS contributions from June 1999 to March 2001.

Further, Cordon testified that the SSS indeed conducted an investigation as to their non-remittance of contributions. He attempted to locate the records regarding their SSS contributions, but could not find any. Cordon also communicated with the SSS, but it failed to respond and instead filed the present case against them.

The RTC Ruling

In its December 20, 2005 Decision, the RTC held that Yolanda could not be held criminally liable for the non-payment of SSS contributions because she was not performing the duties of the hotel's president from June 1999 to March 2001. It opined that Yolanda could not be considered as the managing head of the hotel within the purview of Section 28(f) of R.A. No. 8282; thus, she was not criminally accountable. The RTC, however, ruled that the acquittal of Yolanda did not absolve Ambassador Hotel from its civil liabilities. Thus, it concluded that Ambassador Hotel must pay SSS in the amount of P584,804.00 as contributions for SSS Medicare and Employee Compensation, including 3% penalties thereon.

Aggrieved, Ambassador Hotel filed an appeal insofar as the civil liability is concerned. It alleged that the RTC did not acquire jurisdiction over its person because it was not a party in the said case.

The CA Ruling

In its assailed decision, dated July 29, 2010, the CA affirmed *in toto* the RTC ruling. It held that the payment of SSS contributions is mandatory and its non-payment results in criminal prosecution. The appellate court stated that every criminal liability carries with it civil liability. As Ambassador Hotel neither waived nor reserved its right to institute a separate civil case, it was deemed instituted in the criminal case. The CA opined that the acquittal of Yolanda did not extinguish the civil action against Ambassador Hotel as the RTC did not declare that the fact from which the civil liability might arise did not exist. Moreover, it underscored that Ambassador Hotel was not deprived of due process as its directors and officers were informed numerous times regarding its delinquency and the pending case filed against it. The CA concluded that Ambassador Hotel was given every opportunity to contest its obligation with the SSS yet it did nothing.

Ambassador Hotel moved for reconsideration, but its motion was denied by the CA in its assailed resolution, dated October 18, 2010.

Hence, this petition.

ISSUES

I

WHETHER OR NOT THE LOWER COURT ACQUIRED JURISDICTION OVER THE PERSON OF THE PETITIONER.

II

WHETHER OR NOT PETITIONER WAS DEPRIVED OF DUE PROCESS WHEN THE LOWER COURT DECLARED IT LIABLE TO RESPONDENT SSS EVEN THOUGH IT IS NOT A PARTY TO THE CASE.

III

WHETHER OR NOT THE DECISION RENDERED BY THE LOWER COURT DECLARING PETITIONER LIABLE TO RESPONDENT SOCIAL SECURITY SYSTEM FOR ALLEGED UNREMITTED SSS CONTRIBUTION IS VALID.^[6]

In its Memorandum,^[7] Ambassador Hotel argued that it has a separate and distinct personality from its officers such as Yolanda; that it was neither a party to the criminal case nor was summons issued against it, hence, the RTC did not acquire jurisdiction over it; that it was deprived due process when the RTC ruled that it was civilly liable for the unpaid SSS contributions even though the trial court had no jurisdiction over its person; and that the RTC had no right to render an adverse decision against it because it was not a party in the criminal action.

In its Memorandum,^[8] the SSS countered that under R.A. No. 8282, employers, including juridical entities, that violate their obligation to remit the SSS contributions shall be criminally liable and that in cases of corporations, it is the managing head that shall be the one criminally responsible. It argued that since Yolanda, as President of Ambassador Hotel, was properly arrested, the RTC acquired jurisdiction over it. The SSS added that the acquittal of Yolanda did not extinguish the civil liability of the hotel because it was deemed instituted in the criminal action. Further, it highlighted that Ambassador Hotel was given sufficient notice of its delinquency and the pending case against it.

The Court's Ruling

The petition is bereft of merit.

The Social Security System is a government agency imbued with a salutary purpose to carry out the policy of the State to establish, develop, promote and perfect a sound and viable tax-exempt social security system suitable to the needs of the people throughout the Philippines which shall promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old-age, death and other contingencies resulting in loss of income or financial burden.^[9]

The soundness and viability of the funds of the SSS in turn depend on the contributions of its covered employee and employer members, which it invests in order to deliver the basic social benefits and privileges to its members. The entitlement to and amount of benefits and privileges of the covered members are contribution-based. Both the soundness and viability of the funds of the SSS as well as the entitlement and amount of benefits and privileges of its members are adversely affected to a great extent by the non-remittance of the much-needed contributions.^[10]

Ambassador Hotel is obligated to remit SSS contributions

Under Section 8(c) of R.A. No. 8282, an employer is defined as "any person, natural or **juridical**, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking, or activity of any kind and uses the services of another person who is under his orders as regards the employment, except the