

SECOND DIVISION

[G.R. No. 139946, November 27, 2002]

**RAMON J. FAROLAN, PETITIONER, VS. HON. COURT OF APPEALS,
SOCIAL SECURITY COMMISSION, AND SOCIAL SECURITY
SYSTEM, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This is a petition for review of the decision^[1] dated August 31, 1999, of the Court of Appeals, in C.A.-G.R. SP No. 48514, dismissing the petition for certiorari and prohibition filed by petitioner, and affirming *in toto* the order^[2] dated June 9, 1998 of the Social Security Commission denying petitioner's motion to dismiss the amended petition to revive judgment against Marinduque Mining and Industrial Corporation and its officers.

The antecedent facts of the case are as follows:

Cecilio T. Saludar and Carlos Porquez were employed at Marinduque Mining and Industrial Corporation (MMIC). They were dismissed from MMIC in 1984.

Saludar filed a claim for illegal dismissal with the Office of the Labor Arbiter. On the other hand, Porquez's widow filed a claim for social security benefits with respondent Social Security Commission (SSC) docketed as SSC Case No. 8658.

On August 17, 1984, the Labor Arbiter decided in favor of Saludar and ordered his reinstatement and payment of backwages. The order became final on September 14, 1984. However, it was not executed as all the assets of MMIC had been foreclosed by the Philippine National Bank (PNB) and the Development Bank of the Philippines (DBP). These assets were subsequently acquired by Maricalum Mining Corporation (Maricalum) through a Deed of Transfer, while MMIC ceased its operation. Section 3 (1) of the Deed of Transfer provided that Maricalum shall assume MMIC's liabilities due or owing to any other person. Thus:

Section 3.1. From and after the effectivity date, Maricalum shall be solely liable (I) xxx; (II) for any other liability due or owing to any other person (natural or corporate).

Pursuant to the above provision, this Court, in *Maricalum Mining Corporation vs. NLRC*, 298 SCRA 378 (1998), ordered Maricalum to reinstate and pay Saludar backwages, after he filed an action to revive judgment. We held that:

...The records show that Maricalum voluntarily absorbed Marinduque's obligations to its employees. The NLRC found that when the Philippine National Bank (PNB) and Development Bank of the Philippines (DBP) transferred Marinduque's assets to Maricalum, the Deed of Transfer contained the proviso that "(f)rom and after the effectivity date,

Maricalum shall be solely liable for any liability due or owing to any other person (natural or corporate).” Marinduque’s liability to respondent Saludar for unpaid backwages adjudicated in RAB Case No. 06-0610-83 way back in 1984 became final when no appeal was interposed by it. This final judgment then formed part of the liabilities of Marinduque which Maricalum assumed in the Deed of Transfer. Thus, it is futile for Maricalum to deny liability it had voluntarily assumed.^[3]

Meanwhile, on August 28, 1986, in SSC Case No. 8658, respondent Social Security Commission issued a resolution in favor of Mrs. Porquez. Thus:

WHEREFORE, PREMISES CONSIDERED, this Commission finds and so holds that the respondent is held liable only for the SS contribution of the petitioner’s husband corresponding to his 12 months backwages.

The SSS is hereby directed to assess the SS contribution liability of the respondent based on his 12 months backwages at P14.00 a day within fifteen (15) days from receipt hereof, and furnish the respondent a copy of its assessment who is in turn directed to pay its said liability within thirty (30) days from receipt of the notice of assessment from the SSS.

^[4]

The resolution became final on October 8, 1986, and entry of judgment was made on November 5, 1986. However, no execution was made within the five-year period from date of entry. Thus, on December 11, 1991, the Social Security System filed with the Social Security Commission a petition to revive judgment against MMIC.

As MMIC had already ceased operation, summons was not served upon it. On April 28, 1997, the SSS filed an amended petition to revive judgment impleading the responsible officers of MMIC, including petitioner Ramon J. Farolan. Summonses were served upon MMIC’s officers but they could not be located, except for petitioner who was served summons on December 11, 1997.

On December 17, 1997, petitioner filed a motion to dismiss, which was denied by the Social Security Commission in its order^[5] dated June 9, 1998. Petitioner elevated the case to the Court of Appeals *via* a petition for certiorari and prohibition on the ground of prescription and laches.

On August 31, 1999, the Court of Appeals rendered its decision, disposing of the case thus:

WHEREFORE, in view of all the foregoing, the instant petition is hereby DENIED for lack of merit, and the Order of the Social Security Commission dated June 9, 1998 in SSC Case No. 12-13757-91 is AFFIRMED in toto.^[6]

The Court of Appeals held that the amended petition to revive judgment was not barred by prescription. True, it was filed way beyond the ten-year period from date of entry of judgment. But the delay could not be attributed to the SSS, but to the cessation of the operation of MMIC, said the appellate court. Citing *Camacho vs. Court of Appeals*, 287 SCRA 611 (1998), it held that where the cause of the delay was beyond the control of a prevailing party, prescription would not set in against him. Further, it said that based on the second paragraph of Section 22 (b) of Republic Act 1161, otherwise known as the Social Security Law,^[7] the employee’s