

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**SOCIAL SECURITY SYSTEM,
*Petitioner,***

-versus-

**G.R. No. 100388
December 14, 2000**

**THE COURT OF APPEALS and
CONCHITA AYALDE,
*Respondents.***

X-----X

DECISION

YNARES-SANTIAGO, J.:

In a Petition before the Social Security Commission, Margarita Tana, widow of the late Ignacio Tana, Sr., alleged that her husband was, before his demise, an employee of Conchita Ayalde as a farmhand in the two (2) sugarcane plantations she owned (known as Hda. No. Audit B-70 located in Pontevedra, La Carlota City) and leased from the University of the Philippines (known as Hda. Audit B-15-M situated in La Granja, La Carlota City). She further alleged that Tana worked continuously six (6) days a week, four (4) weeks a month, and for twelve (12) months every year between January 1961 to April 1979. For his labor, Tana allegedly received a regular salary according to the minimum wage prevailing at the time. She further alleged that throughout the given period, social security contributions, as well as

medicare and employees compensation premiums were deducted from Tana's wages. It was only after his death that Margarita discovered that Tana was never reported for coverage, nor were his contributions/premiums remitted to the Social Security System (SSS). Consequently, she was deprived of the burial grant and pension benefits accruing to the heirs of Tana had he been reported for coverage.

Hence, she prayed that the Commission issue an order directing:

1. respondents Conchita Ayalde and Antero Maghari as her administrator to pay the premium contributions of the deceased Ignacio Tana, Sr. and report his name for SSS coverage; and
2. the SSS to grant petitioner Margarita Tana the funeral and pension benefits due her^[1]

The SSS, in a petition-in-intervention, revealed that neither Hda. B-70 nor respondents Ayalde and Maghari were registered members-employers of the SSS, and consequently, Ignacio Tana, Sr. was never registered as a member-employee. Likewise, SSS records reflected that there was no way of verifying whether the alleged premium contributions were remitted since the respondents were not registered members-employers. Being the agency charged with the implementation and enforcement of the provisions of the Social Security Law, as amended, the SSS asked the Commission's leave to intervene in the case.^[2]

In his answer, respondent Antero Maghari raised the defense that he was a mere employee who was hired as an overseer of Hda. B-70 sometime during crop years 1964-65 to 1971-72, and as such, his job was limited to those defined for him by the employer which never involved matters relating to the SSS. Hence, he prayed that the case against him be dismissed for lack of cause of action.^[3]

For her part, respondent Ayalde belied the allegation that Ignacio Tana, Sr. was her employee, admitting only that he was hired intermittently as an independent contractor to plow, harrow, or burrow Hda. No. Audit B-15-M. Tana used his own carabao and other

implements, and he followed his own schedule of work hours. Ayalde further alleged that she never exercised control over the manner by which Tana performed his work as an independent contractor. Moreover, Ayalde averred that way back in 1971 the University of the Philippines had already terminated the lease over Hda. B-15-M and she had since surrendered possession thereof to the University of the Philippines. Consequently, Ignacio Tana, Sr. was no longer hired to work thereon starting in crop year 1971-72, while he was never contracted to work in Hda. No. Audit B-70. She also prayed for the dismissal of the case considering that Ignacio Tana, Sr. was never her employee.^[4]

After hearing both parties, the Social Security Commission issued a Resolution on January 28, 1988, the dispositive portion of which reads:

After a careful evaluation of the testimonies of the petitioner and her witnesses, as well as the testimony of the respondent together with her documentary evidences, this Commission finds that the late Ignacio Tana was employed by respondent Conchita Ayalde from January 1961 to March 1979. The testimony of the petitioner which was corroborated by Agaton Libawas and Aurelio Tana, co-workers of the deceased Ignacio Tana, sufficiently established the latter's employment with the respondent.

As regards respondent Antero Maghari, he is absolved from liability because he is a mere employee of Conchita Ayalde.

PREMISES CONSIDERED, this Commission finds and so holds that the late Ignacio Tana had been employed continuously from January 1961 to March 1979 in Hda. B-70 and Hda. B-15-M which are owned and leased, respectively, by respondent Conchita (Concepcion) Ayalde with a salary based on the Minimum Wage prevailing during his employment.

Not having reported the petitioner's husband for coverage with the SSS, respondent Conchita (Concepcion) Ayalde is, therefore, liable for the payment of damages equivalent to the death

benefits in the amount of P7,067.40 plus the amount of P750.00 representing funeral benefit or a total of P7,817.40.

Further, the SSS is ordered to pay to the petitioner her accrued pension covering the period after the 5-year guaranteed period corresponding to the employer's liability.

SO ORDERED.”^[5]

Respondent Ayalde filed a Motion for Reconsideration^[6] which the Commission denied for lack of merit in an Order dated November 3, 1988.^[7]

Not satisfied with the Commission's ruling, Ayalde appealed to the Court of Appeals, docketed as CA-G.R. SP No. 16427, raising the following assignment of errors:

I

The Social Security Commission erred in not finding that there is sufficient evidence to show that:

(a) The deceased Ignacio Tana, Sr. never worked in the farmland of respondent-appellant situated in Pontevedra, La Carlota City, otherwise known as Hacienda No. Audit B-70, (Pontevedra B-70 Farm for short), in any capacity, whether as a daily or monthly laborer or as independent contractor;

(b) During the time that respondent-appellant was leasing a portion of the land of the University of the Philippines, otherwise known as Hacienda Audit No. B-15-M, (La Granja B-15 Farm for short), the deceased Ignacio Tana, Sr. was hired thereat on a 'pakyaw' basis, or as an independent contractor, performing the services of an 'arador' (Plower), for which he was proficient, using his own carabao and farming implements on his own time and discretion within the period demanded by the nature of the job contracted.

II

The Social Security Commission erred in holding that there is no evidence whatsoever to show that respondent-appellant was no longer leasing La Granja B-15 Farm.

III

The Social Security Commission erred in not holding that the deceased Ignacio Tana, having been hired as an independent contractor on ‘pakyaw’ basis, did not fall within the coverage of the Social Security Law.^[8]

The Court of Appeals rendered judgment in favor of respondent appellant Conchita Ayalde and dismissed the claim of petitioner Margarita Tan.

The SSS, as intervenor-appellee, filed a Motion for Reconsideration, which was denied on the ground that the arguments advanced are “mere reiterations of issues and arguments already considered and passed upon in the decision in question which are utterly insufficient to justify a modification or reversal of said decision.”^[9]

Hence, this Petition for Review on *Certiorari* on the following assigned errors:

- 1) The Court of Appeals was in error in ruling that an employee working under the “pakyaw” system is considered under the law to be an independent contractor.
- 2) The Court of Appeals was in error in not giving due consideration to the fundamental tenet that doubts in the interpretation and implementation of labor and social welfare laws should be resolved in favor of labor.
- 3) The Court of Appeals was in error in disregarding the settled rule that the factual findings of administrative bodies on matters within their competence shall not be disturbed by the courts.

- 4) The Court of Appeals was in error in ruling that even granting *arguendo* that Ignacio Tana was employed by Conchita Ayalde, such employment did not entitle him to compulsory coverage since he was not paid any regular daily wage or basic pay and he did not work for an uninterrupted period of at least six months in a year in accordance with Section 8(j) (1) of the SS Law.

The pivotal issue to be resolved in this petition is whether or not an agricultural laborer who was hired on “pakyaw” basis can be considered an employee entitled to compulsory coverage and corresponding benefits under the Social Security Law.

Petitioner, Social Security System (or SSS), argues that the deceased Ignacio Tana, Sr., who was hired by Conchita Ayalde on “pakyaw” basis to perform specific tasks in her sugarcane plantations, should be considered an employee; and as such, his heirs are entitled to pension and burial benefits.

The Court of Appeals, however, ruled otherwise, reversing the ruling of the Social Security Commission and declaring that the late Ignacio Tana, Sr. was an independent contractor, and in the absence of an employer-employee relationship between Tana and Ayalde, the latter cannot be compelled to pay to his heirs the burial and pension benefits under the SS Law.

At the outset, we reiterate the well-settled doctrine that the existence of an employer-employee relationship is ultimately a question of fact.^[10] And while it is the general rule that factual issues are not within the province of the Supreme Court, said rule is not without exception. In cases, such as this one, where there are conflicting and contradictory findings of fact, this Court has not hesitated to scrutinize the records to determine the facts for itself.^[11] Our disquisition of the facts shall be our guide as to whose findings are supported by substantial evidence.

The mandatory coverage under the SSS Law (Republic Act No. 1161, as amended by PD 1202 and PD 1636) is premised on the existence of an employer-employee relationship, and Section 8(d) defines an “employee” as “any person who performs services for an employer in

which either or both mental and physical efforts are used and who receives compensation for such services where there is an employer-employee relationship.” The essential elements of an employer-employee relationship are: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the power of control with regard to the means and methods by which the work is to be accomplished, with the power of control being the most determinative factor.^[12]

There is no question that Tana was selected and his services engaged by either Ayalde herself, or by Antero Maghari, her overseer. Corollarily, they also held the prerogative of dismissing or terminating Tana’s employment. The dispute is in the question of payment of wages. Claimant Margarita Tana and her corroborating witnesses testified that her husband was paid daily wages “ per quincena” as well as on “ pakyaw” basis. Ayalde, on the other hand, insists that Tana was paid solely on “ pakyaw” basis. To support her claim, she presented payrolls covering the period January of 1974 to January of 1976;^[13] and November of 1978 to May of 1979.^[14]

A careful perusal of the records readily show that the exhibits offered are not complete, and are but a mere sampling of payrolls. While the names of the supposed laborers appear therein, their signatures are nowhere to be found. And while they cover the years 1975, 1976 and portions of 1978 and 1979, they do not cover the 18-year period during which Tana was supposed to have worked in Ayalde’s plantations. Also an admitted fact is that these exhibits only cover Hda. B70, Ayalde having averred that all her records and payrolls for the other plantation (Hda. B-15-M) were either destroyed or lost.^[15]

To our mind, these documents are not only sadly lacking, they are also unworthy of credence. The fact that Tana’s name does not appear in the payrolls for the years 1975, 1976 and part of 1978 and 1979, is no proof that he did not work in Hda. B70 in the years 1961 to 1974, and the rest of 1978 and 1979. The veracity of the alleged documents as payrolls are doubtful considering that the laborers named therein never affixed their signatures to show that they actually received the amounts indicated corresponding to their names. Moreover, no record was shown pertaining to Hda. B-15-M, where Tana was supposed to have worked. Even Ayalde admitted that she hired Tana

as “arador” and sometimes as laborer during milling in Hda. B-15-M.^[16] In light of her incomplete documentary evidence, Ayalde’s denial that Tana was her employee in Hda. B-70 or Hda. B-15-M must fail.

In contrast to Ayalde’s evidence, or lack thereof, is Margarita Tana’s positive testimony, corroborated by two (2) other witnesses. On the matter of wages, they testified as follows:

Margarita Tana:

Q. During the employment of your late husband, was he paid any wages?

A. Yes, he was paid.

Q. What was the manner of payment of his salary, was it on “pakyaw” or daily basis?

A. Daily basis.

Q. How many times did he receive his salary in a month’s time?

A. 2 times.

Q. You mean, payday in Hda. B-70 is every 15 days?

A. Yes, sir.

ATTY. GALVAN:

To prove that it is material to the main question because if ever the hacienda maintains complete payrolls of their employees, then the burden of proof lies in the petitioner.

HEARING OFFICER:

Let the witness answer, if she knows.

WITNESS:

There was no payroll, only pad paper.

ATTY. GALVAN: (continuing)

Q. Were the names of workers of the hacienda all listed in that pad paper every payday?

A. Yes, we just sign on pad paper because we have no payroll to be signed.

x x x

Q. What do you understand by payroll?

A. Payroll is the list where the whole laborers are listed and receive their salaries.

Q. And how did that differ from the pad paper which you said you signed?

A. There is a difference.

Q. What is the difference?

A. In the payroll, at the end there is a column for signature but in the pad paper, we only sign directly.

Q. Did it contain the amount that you receive?

A. Yes, sir.

Q. And the date corresponding to the payroll pad?

A. I am not sure but it only enumerates our names and then we were given our salaries.

Q. Now, did you have a copy of that?

ATTY. GALVAN:

Objection, Your Honor, it is not the petitioner who had a copy, it is usually the owner because the preparation of the payrolls is done by the employer who.

ATTY. UNGCO:

That is why I'm asking.

HEARING OFFICER:

Let the witness answer. Objection overruled.

WITNESS:

I don't have.

X X X

Q. When you are receiving daily wage of P4.00 how much was your quincenal together with your husband?

A. The highest salary I received for my own was P30.00 in one quincena.

Q. What about the salary of your husband, how much?

A. The same.

Q. Was this P30.00 per quincena later on increased?

A. There was an increase because formerly it was P4.00 now it is P8.00.

Q. In 1979 how much was your husband's salary per quincena?

A. In one quincena my husband receives P60.00 while I only receive P30.00.^[17]

AGATON LIBAWAS:

Q. During your employment, do you sign payrolls everytime you draw your salary?

A. We sign on intermediate pad.

Q. You mean, the practice of the hacienda is to have the names of the laborers receiving that salaries listed on that intermediate pad?

A. Yes, sir.^[18]

AURELIO TANA:

Q. By the way, how many times did you receive your salaries in a month?

A. We receive our wages twice a month that is, every 15 days.

Q. Did you sign payrolls everytime you received your salaries?

A. In the pad paper as substitute payroll.

Q. Do you know if all the workers of the hacienda were listed in that payrolls?

A. Yes, sir.

Q. Who was in charge in giving your salaries?

A. Antero Maghari.^[19]

These witnesses did not waver in their assertion that while Tana was hired by Ayalde as an “arador” on “pakyaw” basis, he was also paid a daily wage which Ayalde’s overseer disbursed every fifteen (15) days. It is also undisputed that they were made to acknowledge receipt of their wages by signing on sheets of ruled paper, which are different from those presented by Ayalde as documentary evidence. In fine, we

find that the testimonies of Margarita Tana, Agaton Libawas and Aurelio Tana prevail over the incomplete and inconsistent documentary evidence of Ayalde.

In the parallel case of Oplencia Ice Plant and Storage vs. NLRC, the petitioners argued that since Manuel P. Esita's name does not appear in the payrolls of the company it necessarily means that he was not an employee. This Court held:

“Petitioners further argue that ‘complainant miserably failed to present any documentary evidence to prove his employment. There was no timesheet, pay slip and/or payroll/cash voucher to speak of. Absence of these material documents are necessarily fatal to complainant’s cause.’

We do not agree. No particular form of evidence is required to prove the existence of an employer-employee relationship. Any competent and relevant evidence to prove the relationship may be admitted. For, if only documentary evidence would be required to show that relationship, no scheming employer would ever be brought before the bar of justice, as no employer would wish to come out with any trace of the illegality he has authored considering that it should take much weightier proof to invalidate a written instrument. Thus, as in this case where the employer-employee relationship between petitioners and Esita was sufficiently proved by testimonial evidence, the absence of time sheet, time record or payroll has become inconsequential.”^[20] (Emphasis ours)

Clearly, then, the testimonial evidence of the claimant and her witnesses constitute positive and credible evidence of the existence of an employer-employee relationship between Tana and Ayalde. As the employer, the latter is duty-bound to keep faithful and complete records of her business affairs, not the least of which would be the salaries of the workers. And yet, the documents presented have been selective, few and incomplete in substance and content. Consequently, Ayalde has failed to convince us that, indeed, Tana was not her employee.

The argument is raised that Tana is an independent contractor because he was hired and paid wages on “ pakyaw” basis. We find this assertion to be specious for several reasons.

First, while Tana was sometimes hired as an “arador” or plower for intermittent periods, he was hired to do other tasks in Ayalde’s plantations. Ayalde herself admitted as much, although she minimized the extent of Tana’s labors. On the other hand, the claimant and her witnesses were direct and firm in their testimonies, to wit:

MARGARITA TANA:

Q. Was your late husband’s work continuous or not?

A. His work was continuous except on Sundays.

Q. Mrs. Witness, in January 1961, how many days in a week did your late husband work?

A. 4 weeks in January 1961.

Q. And how many months for that year did he work?

A. 12 months.

Q. Is this working pattern of your husband, considering that you testified that he worked continuously, the same all throughout his employment from 1961 to 1978?

A. Yes, he worked continuously from 1961 to 1978 for 6 days a week, 4 weeks a month and 12 months each year.

Q. Mrs. Witness, how many months did your husband work in 1979 considering that he died in 1979?

A. 3 months.

Q. What was the nature of the work of your late husband from 1961 until his death in 1979?

A. Cutting canes, hauling canes with the use of canecarts, plowing, hauling fertilizers, weeding and stubble cleaning.

X X X

Q. Now, the other co-workers of yours, you said they were Agaton Libawas, Narciso Dueñas, Juan Dueñas, and Aurelio Tana, what were their jobs?

A. Hauling canes by the use of bull carts and cutting canes. Their works are the same with that of my husband's.

Q. But you mentioned among the duties of your husband as "arador" meaning — plowing the fields?

A. Yes, he was also plowing because that is one of his duties.^[21]

AGATON LIBAWAS:

Q. How about petitioner Margarita Tana and the late Ignacio Tana, were they regular workers, or extra workers?

A. They were regular workers.

Q. In your case, Mr. Witness, considering that according to you, you are only a relief worker, please inform the Commission how many months each year from 1961 to 1984 did you work in Hda. B-70 and Hda. B-15M with Conchita Ayalde?

A. During milling season, I worked 2 months, during cultivation if they are short of plowers then they would call me to work for at least 3 months as a plower.

Q. So, all in all, each year, from 1961 to 1984 your average working months in Hda. B-70 and B-15M are 5 months each year?

A. Yes, sir.

Q. Mr. Witness, to prove that you have worked there, will you please inform at least 5 laborers of Hda. B-70 and B-15M of Conchita Ayalde?

A. Juan Dueñas, Narciso Dueñas, Aurelio Tana, Ignacio and Margarita Tana.

X X X

Q. Will you please inform the Commission if the deceased Ignacio Tana which is according to you, was a regular worker of the 2 haciendas, if how many months did he work during lifetime from 1961 until he died in 1979?

A. His work was continuous.

Q. And by continuous you mean he worked straight 12 months each year except in 1979?

A. He worked only for 10 months because the 2 months are already preparation for cultivation.

X X X

Q. And according to you, in a year's time, you worked only for at least 5 months in Hda. B-70 and B-15M, is that correct?

A. Yes.

Q. And during this time that you are working in your riceland you will agree with me that you do not know whether the laborers of this Hda. B-70 and Hda. B-15M are really working because you are devoting your time in your riceland, is that correct?

A. I knew because the place of their work is just near my house, it is along the way.

Q. How about when the canes are already tall, can you actually see the workers in Hda. B-70 and B-15M when you are busy at your riceland?

A. Yes, because they have to pass in my house.

Q. Is there no other passage in that hacienda except that road in front of your house?

A. Yes.

Q. Are you sure about that?

A. Yes, I am sure.^[22]

AURELIO TANA:

Q. Do you know what is the work of the petitioner during the time when you were together working in the field?

A. We were working together, like cutting and loading canes, hoeing, weeding, applying fertilizers, digging canals and plowing.

Q. During your employment in the said hacienda where were you residing?

A. There inside the hacienda.

Q. What about the petitioner?

A. The same.

Q. How far is your house from the house of the petitioner?

A. About 20 arms-length.

Q. How far is Hda. B-70 from Hda. B-15.

A. It is very near it is divided by the road.

Q. What road are you referring to?

A. Highway road from Barangay Buenavista to La Granja.

Q. During your employment will you please inform the Commission the frequency of work of the late Ignacio Tana?

A. 4 weeks a month, 6 days a week, 12 months a year.

Q. Why is it that you are in a position to inform the Commission about the period of employment of Ignacio Tana?

A. Because we were together working.^[23]

It is indubitable, therefore, that Tana worked continuously for Ayalde, not only as “arador” on “pakyaw” basis, but as a regular farmhand, doing backbreaking jobs for Ayalde’s business. There is no shred of evidence to show that Tana was only a seasonal worker, much less a migrant worker. All witnesses, including Ayalde herself, testified that Tana and his family resided in the plantation. If he was a mere “pakyaw” worker or independent contractor, then there would be no reason for Ayalde to allow them to live inside her property for free. The only logical explanation is that he was working for most part of the year exclusively for Ayalde, in return for which the latter gratuitously allowed Tana and his family to reside in her property.

The Court of Appeals, in finding for Ayalde, relied on the claimant’s and her witnesses’ admission that her husband was hired as an “arador” on “pakyaw” basis, but it failed to appreciate the rest of their testimonies. Just because he was, for short periods of time, hired on “pakyaw” basis does not necessarily mean that he was not employed to do other tasks for the remainder of the year. Even Ayalde admitted that Tana did other jobs when he was not hired to plow. Consequently, the conclusion culled from their testimonies to the effect that Tana was mainly and solely an “arador” was at best a selective appreciation of portions of the entire evidence. It was the

Social Security Commission that took into consideration all the documentary and testimonial evidence on record.

Secondly, Ayalde made much ado of her claim that Tana could not be her employee because she exercised no control over his work hours and method of performing his task as “arador.” It is also an admitted fact that Tana, Jr. used his own carabao and tools. Thus, she contends that, applying the “control test,” Tana was not an employee but an independent contractor.

A closer scrutiny of the records, however, reveals that while Ayalde herself may not have directly imposed on Tana the manner and methods to follow in performing his tasks, she did exercise control through her overseer.

Be that as it may, the power of control refers merely to the existence of the power. It is not essential for the employer to actually supervise the performance of duties of the employee; it is sufficient that the former has a right to wield the power.^[24] Certainly, Ayalde, on her own or through her overseer, wielded the power to hire or dismiss, to check on the work, be it in progress or quality, of the laborers. As the owner/lessee of the plantations, she possessed the power to control everyone working therein and everything taking place therein.

Jurisprudence provides other equally important considerations which support the conclusion that Tana was not an independent contractor. First, Tana cannot be said to be engaged in a distinct occupation or business. His carabao and plow may be useful in his livelihood, but he is not independently engaged in the business of farming or plowing. Second, he had been working exclusively for Ayalde for eighteen (18) years prior to his demise. Third, there is no dispute that Ayalde was in the business of growing sugar cane in the two plantations for commercial purposes. There is also no question that plowing or preparing the soil for planting is a major part of the regular business of Ayalde.

Under the circumstances, the relationship between Ayalde and Tana has more of the attributes of employer-employee than that of an independent contractor hired to perform a specific project. In the case of *Dy Keh Beng vs. International Labor*,^[25] we cited our long-

standing ruling in *Sunripe Coconut Products Co. vs. Court of Industrial Relations*, to wit:

“When a worker possesses some attributes of an employee and others of an independent contractor, which make him fall within an intermediate area, he may be classified under the category of an employee when the economic facts of the relations make it more nearly one of employment than one of independent business enterprise with respect to the ends sought to be accomplished.” (Emphasis Ours)^[26]

We find the above-quoted ruling to be applicable in the case of Tana. There is preponderance of evidence to support the conclusion that he was an employee rather than an independent contractor.

The Court of Appeals also erred when it ruled, on the alternative, that if ever Tana was an employee, he was still ineligible for compulsory coverage because he was not paid any regular daily wage and he did not work for an uninterrupted period of at least six months in a year in accordance with Section 8(j) (I) of the Social Security Law. There is substantial testimonial evidence to prove that Tana was paid a daily wage, and he worked continuously for most part of the year, even while he was also occasionally called on to plow the soil on a “pakyaw” basis. As a farm laborer who has worked exclusively for Ayalde for eighteen (18) years, Tana should be entitled to compulsory coverage under the Social Security Law, whether his service was continuous or broken.

Margarita Tana alleged that SSS premiums were deducted from Tana’s salary, testifying, thus:

Q. Were there deductions from the salaries of your husband while he was employed with the respondent from 1961 to 1979?

A. Yes, there were deductions but I do not know because they were the ones deducting it.

Q. Why do you know that his salaries were deducted for SSS premiums?

A. Because Antero Maghari asked me and my husband to sign SSS papers and he told us that they will take care of everything.

Q. How much were the deductions every payday?

A. I do not know how much because our daily wage was only P4.00.^[27]

Agaton Libawas, also testified:

Q. Mr. Witness, in your 15-day wages do you notice any deductions from it?

A. There were deductions and we were informed that it was for SSS.

Q. Mr. Witness, since when were there deductions from your salaries?

A. Since 1961.

Q. Up to when?

A. Up to 1979.

Q. Mr. Witness, are you a member of the SSS?

A. No.

Q. How about petitioner, if you know?

A. No, also.

Q. What happened to the deductions did you not ask your employer?

A. We asked but we were answered that we were being remitted for our SSS.

Q. Did you not verify?

A. No, because I just relied on their statement.^[28]

Ayalde failed to counter these positive assertions. Even on the assumption that there were no deductions, the fact remains that Tana was and should have been covered under the Social Security Law. The circumstances of his employment place him outside the ambit of the exception provided in Section 8(j) of Republic Act No. 1611, as amended by Section 4 of R.A. 2658.

WHEREFORE, in view of all the foregoing, the Decision of the Court of Appeals in C.A.-G.R. SP No. 16427 and the Resolution dated June 14, 1991 are hereby **REVERSED** and **SET ASIDE**. The Resolution of the Social Security Commission in SSC Case No. 8851 is **REINSTATED**.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan and Pardo, JJ., concur.

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- [1] Petition before SSC Case No. 8851; Original Record, p. 1.
[2] Petition-in-Intervention, Case No. 8851; Original Record, pp. 9-12.
[3] Answer of Antero Maghari, Case No. 8851; Original Record, p. 25.
[4] Answer of Conchita Ayalde, Case No. 8851; Original Record, pp. 26-29.
[5] Resolution of SSC; Original Record, pp. 134-135.
[6] Motion for Reconsideration; Original Record, pp. 153-167.
[7] Order of SSC; Original Record, pp. 175-178.
[8] CA Decision promulgated March 14, 1991; Rollo, pp. 34-35.
[9] CA Resolution promulgated June 14, 1991; Rollo, p. 39.
[10] Great Pacific Life Assurance Corp. vs. NLRC, 187 SCRA 694 (1990); Santos vs. NLRC, 293 SCRA 113 (1998).
[11] Arambulo vs. CA, 293 SCRA 567 (1998); Jison vs. CA, 286 SCRA 495 (1998).
[12] Filipinas Broadcasting Network, Inc. vs. NLRC, 287 SCRA 348 (1998); Cabalan Pastulan Negrito Labor Association vs. NLRC, 241 SCRA 643 (1995).
[13] Exhibits “4”, “4-A” to “4-L”, “5”; “5-A” to “5-J”; “7”, “7-A” to “7-C” (Exhibits for Ayalde).

- [14] Exhibits “8”; “9”; “9-A”; “9-B”; “10”; “10-A” to “10-F” (Exhibits for Ayalde).
- [15] Deposition of Ayalde, January 28, 1986, p. 44 (Exhibits for Ayalde).
- [16] Deposition of Ayalde, January 28, 1986, p. 45.
- [17] T.S.N., Margarita Tana, June 13, 1985, pp. 9, 11-12, 17.
- [18] T.S.N., Agaton Libawas, June 13, 1985, p. 25.
- [19] T.S.N., Aurelio Tana, September 30, 1985, pp. 37-38.
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