



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**AMBASSADOR HOTEL, INC.,**  
 Petitioner,

**G.R. No. 194137**

Present:

CARPIO,\* *J.*,  
 PERALTA,\*\* *Acting Chairperson*,  
 MENDOZA,  
 LEONEN,\*\*\* and  
 MARTIRES, *JJ.*

- versus -

**SOCIAL SECURITY SYSTEM,**  
 Respondent.

Promulgated:

27 JUN 2017

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**DECISION**

**MENDOZA, J.:**

This is a petition for review on *certiorari* seeking to reverse and set aside the July 29, 2010 Decision<sup>1</sup> and October 18, 2010 Resolution<sup>2</sup> of the Court Appeals (CA) in CA-G.R. CV No. 87948, which affirmed *in toto* the December 20, 2005 Decision<sup>3</sup> of the Regional Trial Court, Branch 218, Quezon City (RTC) in Criminal Case No. Q-04-125458, a case for non-payment 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 ₱769,575.48.

\* On Official Leave.

\*\* Per Special Order No. 2445 dated June 16, 2017.

\*\*\* On Leave.

<sup>1</sup> Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Juan Q. Enriquez and Florito S. Macalino, concurring; *rollo*, pp. 64-76.

<sup>2</sup> Id. at 89-90.

<sup>3</sup> Penned by Judge Hilario L. Laqui; id. at 27-35.

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After preliminary investigation, the City Prosecutor's Office filed an Information,<sup>4</sup> 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

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<sup>4</sup> Id. at 27-28.

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 ₱303,459.00. Further, as of January 2, 2005, the hotel is liable for penalties in the amount of ₱531,341.44.

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.<sup>5</sup>

#### *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.

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<sup>5</sup> Id. at 30.

*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 ₱584,804.00 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.<sup>6</sup>**

In its Memorandum,<sup>7</sup> 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,<sup>8</sup> 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-

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<sup>6</sup> Id. at 155.

<sup>7</sup> Id. at 152-161.

<sup>8</sup> Id. at 165-182.

age, death and other contingencies resulting in loss of income or financial burden.<sup>9</sup>

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.<sup>10</sup>

*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 Government and any of its political subdivisions, branches or instrumentalities, including corporations owned or controlled by the Government.” Ambassador Hotel, as a juridical entity, is still bound by the provisions of R.A. No. 8282. Section 22 (a) thereof states:

*Remittance of Contributions.* (a) The contributions imposed in the preceding section shall be remitted to the SSS within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment and if any contribution is not paid to the SSS as herein prescribed, he shall pay besides the contribution a penalty thereon of three percent (3%) per month from the date the contribution falls due until paid. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: *Provided*, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer.

Verily, prompt remittance of SSS contributions under the aforesaid provision is mandatory. Any divergence from this rule subjects the employer not only to monetary sanctions, that is, the payment of penalty of three percent (3%) per month, but also to criminal prosecution if the employer fails to: (a) register its employees with the SSS; (b) deduct monthly contributions from the salaries/wages of its employees; or (c) remit to the

<sup>9</sup> *Garcia v. Social Security Commission Legal and Collection, SSS*, 565 Phil. 193, 214 (2007).

<sup>10</sup> *Id.*

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SSS its employees' SSS contributions and/or loan payments after deducting the same from their respective salaries/wages.<sup>11</sup>

*To acquire jurisdiction over  
Ambassador Hotel, its  
managing head, director or  
partner must be arrested*

As discussed above, even when the employer is a corporation, it shall still be held liable for the non-remittance of SSS contributions. It is, however, the head, directors or officers that shall suffer the personal criminal liability. Although a corporation is invested by law with a personality separate and distinct from that of the persons composing it,<sup>12</sup> the corporate veil is pierced when a director, trustee or officer is made personally liable by specific provision of law.<sup>13</sup> In this regard, Section 28 (f) of R.A. No. 8282 explicitly provides that “[i]f the act or omission penalized by this Act be committed by an association, partnership, corporation or any other institution, its managing head, directors or partners shall be liable to the penalties provided in this Act for the offense.” Thus, a corporation cannot invoke its separate judicial entity to escape its liability for non-payment of SSS contributions.

To acquire jurisdiction over the corporation in a criminal case, its head, directors or partners must be served with a warrant of arrest. Naturally, a juridical entity cannot be the subject of an arrest because it is a mere fiction of law; thus, an arrest on its representative is sufficient to acquire jurisdiction over it. To reiterate, the law specifically disregards the separate personality between the corporation and its officers with respect to violations of R.A. No. 8282; thus, an arrest on its officers binds the corporation.

In this case, Yolanda, as President of Ambassador Hotel, was arrested and brought before the RTC. Consequently, the trial court acquired jurisdiction over the person of Yolanda and of Ambassador Hotel as the former was its representative. No separate service of summons is required for the hotel because the law simply requires the arrest of its agent for the court to acquire jurisdiction over it in the criminal action. Likewise, there is no requirement to implead Ambassador Hotel as a party to the criminal case because it is deemed included therein through its managing head, directors or partners, as provided by Section 28 (f) of R.A. No. 8282.

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<sup>11</sup> *Navarra v. People*, G.R. No. 224943, March 20, 2017.

<sup>12</sup> *Kukan International Corporation v. Reyes*, 646 Phil. 210, 236 (2010).

<sup>13</sup> *Aratea v. Suico*, 547 Phil. 407, 414 (2007).

*The acquittal of Yolanda  
does not extinguish the civil  
liability of Ambassador Hotel*

It is a basic rule that when a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately, or institutes the civil action prior to the criminal action.<sup>14</sup> Necessarily, when the Information was filed with the RTC, the civil action against Ambassador Hotel for the recovery of civil liability arising from the non-remittance of SSS contributions was deemed instituted therein.

Further, extinction of the penal action does not carry with it the extinction of the civil action, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil liability might arise did not exist.<sup>15</sup> When Yolanda was acquitted in the criminal case because it was proven that she did not perform the functions of the president from June 1999 to March 2001, it did not result in the dismissal of the civil case against Ambassador Hotel. The RTC did not declare in its judgment that the fact from which the civil liability might arise did not exist. Thus, the civil action, deemed impliedly instituted in the criminal case, remains.

The argument of Ambassador Hotel – that the RTC lost its jurisdiction over it when Yolanda was acquitted – fails to convince. It is a well-settled rule that the jurisdiction of a court depends upon the state of facts existing at the time it is invoked, and if the jurisdiction once attaches to the person and subject matter of the litigation, the subsequent happening of events, although they are of such a character as would have prevented jurisdiction from attaching in the first instance, will not operate to oust jurisdiction already attached.<sup>16</sup> Also, it is fundamental that the jurisdiction of a court in criminal cases is determined by the allegations of the information or criminal complaint and not by the result of the evidence presented at the trial, much less by the trial judge's personal appraisal of the affidavits and exhibits attached by the fiscal to the record of the case without hearing the parties and their witnesses nor receiving their evidence at a proper trial.<sup>17</sup>

In this case, the Information alleged that Yolanda was the President of Ambassador Hotel. Moreover, such fact was supported by the affidavits and exhibits attached to the Information. Hence, the RTC properly issued a warrant of arrest over Yolanda pursuant to Section 28(f) of R.A. No. 8282 to

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<sup>14</sup> Section 1, Rule 111 of the Rules of Court.

<sup>15</sup> *Abellana v. People*, 671 Phil. 444, 451 (2011).

<sup>16</sup> *Dioquino v. Cruz*, 202 Phil. 35, 41 (1982).

<sup>17</sup> *People v. Ocaya*, 172 Phil. 576, 581 (1978).

acquire jurisdiction over her person and that of Ambassador Hotel. From that moment, the jurisdiction over their persons was acquired.

Even though it was established during the trial that Yolanda was not performing the functions of the hotel's president from June 1999 to March 2001, which negated her criminal responsibility, it is *non sequitur* that the jurisdiction over Ambassador Hotel will be detached. Any subsequent event during trial will not strip the RTC of its jurisdiction because once it attaches, the same shall remain with the said court until it renders judgment.

To subscribe to the theory of Ambassador Hotel - that evidence will dictate the jurisdiction of the court - will create a chaotic situation. It will be absurd for the courts to first conduct trial on the merits before it can determine whether it has jurisdiction over the person or subject matter. The more logical and orderly approach is for the court to determine jurisdiction by the allegations in the information or criminal complaint, as supported by the affidavits and exhibits attached therein, and not by the evidence at trial. Once jurisdiction attaches, it shall not be removed from the court until the termination of the case.

As the jurisdiction over Ambassador Hotel was obtained, it became a party in the case and, as will be discussed later, it was given fair opportunity to present its evidence and controvert the prosecution's evidence. In fine, the RTC's jurisdiction over Ambassador Hotel continued in spite of Yolanda's acquittal.

*Ambassador Hotel failed  
to controvert the evidence  
of its non-remittance of  
SSS contributions*

The CA found that Ambassador Hotel was well informed of its delinquency by the SSS even before the case was filed. When the case was eventually filed, its directors and officers were also notified. Notably, even its own lawyer, Atty. Galon, testified during trial on its behalf. Ambassador Hotel was given the opportunity to present its defense before the court for its non-payment of SSS contributions. Thus, it was given the right to be heard and controvert the evidence presented against it.

During trial, the prosecution established that the SSS, through De Ocampo, discovered that the last remittance of SSS contributions by Ambassador Hotel was made in May 1999. She then informed the hotel of its delinquency when she visited the establishment on April 17, 2001. She gave the hotel's representative the delinquency assessment and the billing letter. De Ocampo also requested that the records of previous SSS payments be presented, but these could not be produced. After referring the case to the

Cluster Legal Unit, De Ocampo sent a final demand letter to Ambassador Hotel by registered mail and personal service. Notwithstanding the several notices of its delinquency, Ambassador Hotel failed to settle its obligations. Moreover, though it offered to pay its delinquency through installment, no postdated checks were ever submitted.

On the other hand, Ambassador Hotel's evidence simply focused on establishing that Yolanda was not acting as its President from June 1999 to March 2001 because of an internal dispute. Although this may be sufficient to eliminate the criminal liability of Yolanda, it does not justify the non-payment of SSS contributions. Ambassador Hotel did not squarely address the issue on its obligations because there was dearth of evidence that it remitted the said contributions. Cordon, a witness for the hotel, even admitted that they were informed of their delinquency and that they attempted to unearth its SSS records to defend its obligations, but failed to do so. The hotel never proved that it had already paid its contributions or, if not, who should have been accountable for its non-payment. Glaringly, even though Ambassador Hotel was given sufficient leeway to explain its obligations, it did not take advantage of the said opportunity. Consequently, it had nothing else to blame for its predicament but itself.

In fine, the Court is of the view that there is preponderance of evidence that Ambassador Hotel failed to remit its SSS contributions from June 1999 to March 2001 in the amount of ₱584,804.00. It must pay the said amount to the SSS plus interest at the legal rate of six percent (6%) *per annum*.

**WHEREFORE**, the petition is **DENIED**. The July 29, 2010 Decision and October 18, 2010 Resolution of the Court Appeals in CA-G.R. CV No. 87948 are **AFFIRMED** with **MODIFICATION** in that the judgment award shall earn interest at the rate of six percent (6%) *per annum* from the date of finality until fully paid.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

**WE CONCUR:**

(On Official Leave)  
**ANTONIO T. CARPIO**  
Associate Justice

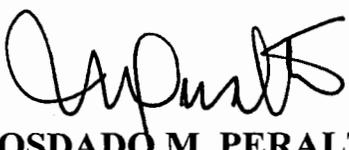
  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson

(On Leave)  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**SAMUEL R. MARTIRES**  
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.

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice