Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LEONARDA JAMAGO SALABE,

Petitioner,

-versus-

SOCIAL SECURITY COMMISSION AND MARINO TALICTIC, IN HIS CAPACITY AS OFFICER-IN-CHARGE AND BRANCH HEAD, SSS-TAGBILARAN CITY BRANCH,

Respondents.

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G.R. No. 223018

Members:

PERALTA, *Chief Justice,*
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

Promulgated:

AUG 27 2020

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This petition for review on *certiorari*[1] seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. S.P. No. 07954 entitled *Leonarda Jamago Salabe v. Social Security System and Marino Talictic, in his capacity as Officer-in-Charge and Branch Head, SSS-Tagbilaran City Branch*:

[1] *Rollo*, pp. 9-25.

1. Decision [2] dated December 1, 2014, affirming the rulings of respondent Social Security Commission which upheld the invalidation of petitioner's SSS membership and the cancellation of her pension benefits; and

2. Resolution[3] dated January 28, 2016 denying reconsideration.

Antecedents

The Petition

Petitioner Leonarda Jamago Salabe sought relief from the Social Security Commission[4] via her Petition dated March 31, 2008. She essentially alleged:

From August 1978 to February 1979, she worked as a helper[5] in the *carinderia* of one Ana Macas at the Jagna Public Market, Jagna, Bohol. By virtue of this employment, Ana registered her for social security purposes. Thus, she became a *bona fide* member of the Social Security System (SSS)[6] with Social Security Number 06-0618084-5.[7]

After her employment with Ana, she continued her membership with SSS as a voluntary paying member and diligently paid her monthly premiums for a total of one hundred thirty-seven (137) contributions.[8]

In 1993, when she reached the age of sixty (60), she filed an application for retirement benefits with the SSS which got approved. That same year, she started receiving a monthly pension of ₱1,362.75.[9]

Sometime in 2001, however, the SSS suddenly and unilaterally terminated her monthly pension so she inquired with the local SSS branch regarding its cause.[10]

By Letter[11] dated March 24, 2008, through respondent Marino B. Talictic, Officer-in-Charge and Branch Head, SSS-Tagbilaran City Branch,

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[2] Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando (Now a member of the Supreme Court) and Marie Christine Azcarraga-Jacob, concurring; *rollo*, pp. 85-98.
[3] Penned by Associate Justice Edgardo L. Delos Santos (Now a member of the Supreme Court) with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring; *rollo*, pp. 106-108.
[4] *Rollo*, pp. 43-52.
[5] As attested by a disinterested person through an Affidavit by one Sabas G. Ranin, marked Annex "F", *rollo*, p. 52.
[6] "Employee Static Information" page downloaded from SSS website, attached as Annex "A", *rollo*, p. 47; "Employment History" page downloaded from SSS website, attached as Annex "B", *rollo*, p. 48.
[7] *Rollo*, p. 43.
[8] *Id.* at 45, "Contributions – Actual Premiums" page downloaded from SSS website, attached as Annex "C", *rollo*, p. 49.
[9] *Id.*; Attached Affidavit marked Annex "D", and Pension and Check Voucher marked Annex "E", *Rollo*, pp. 50-52.
[10] *Id.*
[11] *Id.* at 44, marked Annex "G", by OIC Branch Head Marino B. Talictic.

informed her that her membership was cancelled for there was purportedly no employer-employee relationship between her and Ana, *viz.*:

> Dear Sir/Madam:
>
> This has reference to your retirement pension, which was cancelled in 7/2001. Our review of the records showed the following:
>
> 1. You were employed by ER Ana Macas ID# 06-1663518-6 whose membership with the system was cancelled due to **"No EE-ER Relationship".**
>
> 2. As a result of the cancellation of the membership of the employer, all contributions remitted in favor of any of its alleged employees cannot be considered in the computation of benefit. Since it has no basis, the same is therefore subject to refund.
>
> 3. Your voluntary membership after separation from employment with cancelled employer were also invalid.
>
> In this connection, you may opt to file a petition to the Social Security Commission (SSC) should you decide to pursue the resumption of your monthly pension. For further clarification on the matter, please feel free to visit our SSS Tagbilaran Office.
>
> Thank you.
>
> Very sincerely yours,
>
> (sgd.)
> MARINO B. TALICTIC
> OIC, Branch Head
>
> (Emphasis and underscoring in the original)

She thus asked to be declared a *bona fide* employee of Ana and a bona fide member of the SSS, and that her retirement pension be restored. She likewise asked for other just and equitable remedies under the premises.[12]

The Answer

By Answer[13] dated August 28, 2008, the SSS riposted, in the main:

Records showed that Leonarda became a covered employee in 1978 and became a retiree-pensioner effective November 6, 1993 with a monthly pension of ₱1,584.83. Her last one was given on July 2001.[14]

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[12] *Id.* at 45.
[13] *Id.* at 53-57.
[14] *Id.* at 54.

Under Memorandum Report [15] dated April 14, 1989, then SSS Provincial Officer Lamberto C. Miel, Jr. recommended the cancellation of Leonarda's SSS membership for failure of her alleged employer Ana Macas to prove that she actually had employees in her *carinderia*, *viz.*:

> This has reference to the letter-complaint allegedly signed by business firms whose SSS membership were withdrawn and cancelled due to lack of Employer-Employee Relationship.
>
> x x x x
>
> ... the letter complaint had given us some leads or information regarding violations of SSS coverage of employees and self-employed persons. The investigation conducted on the basis of this report disclosed the following:
>
> x x x x
>
> 6. Ana Macas – SSS No. 06-1663578-6 – **The investigation showed that subject firm could not present any proof of employment of its reported employees despite repeated demands.** All the reported were already separated and had applied for voluntary membership. **In view of the absence of employer-employee relationship, it is recommended that withdrawal of SSS membership of subject firm and its employees be effected.** (emphases added)

In the absence of an employer-employee relationship between Ana and Leonarda, Leonarda's membership with SSS had no factual and legal basis. Consequently, her payment of monthly premiums during her alleged employment with Ana, as well as her subsequent voluntary payments, were just as ineffective.[16]

It was incumbent upon Leonarda to prove the fact of her employment with Ana Macas by clear and convincing evidence. As it was, however, she only offered self-serving affidavits uncorroborated by documentary proof. Thus, the cancellation of Leonarda's retirement pension was in order.[17]

Leonarda's Position Paper

In her Position Paper,[18] Leonarda further averred:

The so called SSS Memorandum Report dated April 14, 1989 sought to establish material facts that occurred in 1978 or eleven (11) years ago. SSS conveniently declared there was no employer-employee relationship based solely on ground that *the subject firm could not present any proof of employment of its reported employees*. As a humble *carinderia*, the SSS could

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[15] *Id.* at 58-60.
[16] *Id.* at 55; 86-87.
[17] *Id.* at 55-56; 87.
[18] *Id.* at 61-65.

not have reasonably expected it to have kept employment records of all its employees throughout its existence. At any rate, she should not be faulted for the alleged infraction of her employer.[19]

More, as much as she would like to implead Ana Macas in her petition, the latter had already passed away. Ana's son Cefernio Macas, nonetheless, executed a sworn declaration attesting to her employment. She also attached sworn declarations of disinterested witnesses Sabas Ranin and Ricardo Viñalon to corroborate her claim.[20]

Finally, she relied on ***Social Security System v. Court of Appeals***,[21] where the Court decreed *the testimonial evidence of the claimant and her witnesses constitute positive and credible evidence of the existence of an employer-employee relationship.*

The SSS' Position Paper

By Manifestation dated August 28, 2009, the SSS adopted its Answer in lieu of filing its Position Paper.

Administrative Hearing before the SSC

During the clarificatory hearing, **Leonarda Salabe** testified: In August 1978, Ana personally recruited and hired her as a helper (dishwasher) in her restaurant at the Jagna Public Market; her salary was ₱30.00 per day, paid on a weekly or monthly basis; she worked from Mondays through Saturdays from 7 o'clock in the morning to 5 o'clock in the afternoon, and even on Sundays when there were plenty of customers; the restaurant had a four (4) to five (5)-table capacity; Ana had six (6) employees, including her; Ana herself supervised them; her employment lasted for five (5) months; she and her co-workers regularly remitted their SSS contributions.[22]

Ceferino Macas corroborated Leonarda's testimony. He further testified that he executed an Affidavit dated April 21, 2008; his parents Ana and Vicente operated a small restaurant (*carinderia*) which had a six (6)-table capacity and was frequented by a lot of patrons (*suki*); his mother regularly remitted SSS contributions; many people from their place also registered under the system to avail of the coverage; he personally knew Leonarda because they were neighbors and his mother hired her as a helper in their *carinderia*; his mother's employees worked for short periods only, the longest employment lasted about two (2) years; in any given month, the number of his mother's employees did not reach ten (10).[23]

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[19] *Id.* at 62.
[20] *Id.*
[21] 401 Phil. 132, 146 (2000).
[22] *Rollo*, p. 70.
[23] *Id.* at 71.

Ricardo O. Viñalon affirmed the contents of his Affidavit dated January 21, 2008. He testified further that he used to sell and deliver meat to Ana's *carinderia*; there, he met Leonarda who worked as a helper; the *carinderia* only had about three (3) to five (5) employees at a time, considering the small size; he was covered by the system himself, being a self-employed member.[24]

The Social Security Commission's Ruling

By Resolution[25] dated June 6, 2012, the Social Security Commission dismissed the petition, *viz.*:

> WHEREFORE, the petition is hereby DISMISSED for lack of merit.
>
> The SSS is ordered to demand within thirty (30) days from receipt hereof, the refund of the monthly pensions paid to petitioner Salabe on account of her "retirement" on November 6, 1993, minus all contributions paid by her, including those she paid as a voluntary member.
>
> SO ORDERED.[26]

At the outset, it noted the inconsistency in its records where Ana reported Leonarda as "***Leonarda A. Jamago,*** widow (assigned SS. No. 06-0*618084-5) for SS coverage effective August 1978*", while Leonarda represented herself in the proceedings as "***Leonarda Jamago Salabe***" with a "married" civil status. She failed to explain or reconcile the inconsistency before the Commission, making her identity questionable.[27]

At any rate, Leonarda failed to prove her employment with Ana Macas.[28]

Leonarda allegedly worked at Ana's *carinderia* which had five (5) to six (6) tables maximum and listed twelve (12) employees for 1978. At the end of 1978, however, Ana remitted contributions for a total of twenty (20) employees, more than the eleven (11) employees she had paid for in the previous quarter (ending September 1978).[29]

Among Ana's twelve (12) employees, only three (3) were long-time employees. This conformed with Ricardo's testimony that the *carinderia* had about three (3) to five (5) employees only. Thus, most of Ana's supposed

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[24] *Id.*
[25] Penned by Commissioner Bienvenido E. Laguesma; *rollo*, pp. 66-75.
[26] *Rollo*, p. 74.
[27] *Id.* at 72.
[28] *Id.*
[29] *Id.*

employees, Leonarda included, were not legitimate employees at all; their so called employments were mere accommodations for purposes of qualifying them as members of the SSS.[30]

In the absence of an employer-employee relationship, Leonarda could not be deemed a *bona fide* member of the SSS. Consequently, she could not have paid contributions either as a covered employee or as a voluntary member. For to be considered a voluntary member, one should have earlier been separated from employment but was nevertheless allowed to continue paying contributions to maintain the right to full benefits. Leonarda, therefore, had no right to remit voluntary contributions and receive a monthly pension from the SSS.[31]

By Order[32] dated June 10, 2013, the SSC denied Leonarda's motion for reconsideration.[33]

Proceedings before the Court of Appeals

Aggrieved, Leonarda assailed the SSC Resolutions[34] dated June 6, 2012 and June 10, 2013 before the Court of Appeals. She argued:

First. Her right to due process was violated by the unilateral investigation initiated by a certain by SSs Provincial Officer Miel. In fact, she was not even furnished with copy of Miel's memorandum report. She only got hold of it when the SSS attached a copy thereof to its answer before the SSC.[35] Among the cardinal administrative due process rights postulated in ***Ang Tibay v. CIR***,[36] "the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected"; and that the decision must be rendered "in such a manner that the parties to the proceedings can know the various issues involved, and the reasons for the decisions rendered." None of these requirements were complied with by the SSS when it invalidated her membership.[37]

Second. The SSC erred when invalidated her SSS membership and cancelled her retirement pension despite the presence of sufficient evidence showing that she was really an employee at Ana's *carinderia*. The SSC merely relied on the presumption of regularity accorded to its investigation. On the other hand, she presented witnesses Ceferino and Ricardo to corroborate her claim.

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[30] *Id.* at 73.
[31] *Id.*
[32] *Id.* at 79-84.
[33] *Id.* at 76-78.
[34] *Id.* at 26-42; Petition for Review before the Court of Appeals.
[35] *Id.* at 31.
[36] 69 Phil. 635 (1940).
[37] *Rollo*, p. 32.

Too, the SSC merely hinged its finding on the number of Ana's employees *vis-à-vis* the size of her *carinderia*, *viz.*:

> *The rest of the reported employees were "new" and had no previous employers. As there were more "employees" than the number of tables that the small restaurant had, the Commission concluded that a majority of these 20 reported individuals were not really legitimate employees of Macas. Even the petitioner's testimony supports such findings, as she declared that at the time of her employment, there were then only 5 employees, already including herself.* (Resolution of the SSC dated June 6, 2012; Italics and underscoring supplied by petitioner)

Notably though, the SSC did not even apply the four-fold test in determining the existence of an employer-employee relationship.[38]

Third. Under the principle of estoppel, the SSC was already barred from questioning her status as an SSS member. After the SSS approved her membership, it received her total one hundred thirty-seven (137) contributions. Though SSS Provincial Officer Miel formally recommended the cancellation of her membership as early as April 14, 1989, this was not immediately acted upon. Meanwhile, she turned sixty (60) on November 6, 1993 and applied with SSS for pension benefits. Her application got approved and she had been receiving pension benefits until it got cancelled in 2001. But it was only on March 24, 2008 when she was formally informed of the cancellation.

Surely, when she applied for retirement benefits, the SSS would have inevitably come across Miel's Memorandum Report dated April 14, 1989 recommending the cancelation of her membership. Yet the SSS still approved her claim for pension. It cannot, a decade later rule that she was after all ineligible not only to receive retirement benefits, but also to become a voluntary member of the SSS.

Had the SSS wanted to validly assail her membership, it should have done so at the earliest opportunity. To demand a refund from her now in twilight of her years would be against the principles of justice, equity, and good conscience.[39]

Finally. The SSS should not be unjustly enriched, and Leonarda prejudiced, by its own inaction or negligence as regards the Memorandum Report dated April 14, 1989.

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[38] *Id.* at 33.
[39] *Id.* at 36-37.

The Court of Appeals' Ruling

Through its Decision[40] dated December 1, 2014, the Court of Appeals affirmed.

First, it gave weight and credence to the factual findings of the SSC, being the agency with expertise on the matter. Such findings of administrative agencies with primary jurisdiction are generally accorded not only respect, but even finality if supported by substantial evidence.[41]

Second, the absence of an employer-employee relationship between Ana and Leonarda was sufficiently established. This was based on Miel's investigation as well as the testimonies given before the SSC. Too, Leonarda's failure to present documentary evidence such as a timesheets, pay slips, pay roll, or cash vouchers was fatal to her cause.[42]

Third, there was no violation of due process. Among the duties of the SSC is to protect workers by requiring reports and conducting investigations to ensure that the proper benefits are received by the rightful members.[43]

Fourth. The SSC did its investigation and resolved the issue at the earliest possible time. It was impossible for SSC to investigate first before accepting a prospective member. The fact that it accepted contributions from a person claiming to be a member does not mean it is already accepting as valid the payor's membership. A person's membership with the SSS is always subject validation and investigation.[44]

Finally. The SSS was not unjustly enriched since the SSC ordered the refund of Leonarda's contributions.[45]

Through its Resolution[46] dated January 28, 2016,the Court of Appeals denied reconsideration.[47]

The Present Appeal

Leonarda now seeks affirmative relief from the Court and prays for the dispositions of the Court of Appeals to be reversed.[48] She faults the Court of Appeals for affirming the SSC Resolutions which discontinued her monthly pension and cancelled her SSS membership.

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[40] *Id.* at 85-98; Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando (Now a member of the Supreme Court) and Marie Christine Azcarraga-Jacob, concurring.
[41] *Id.* at 92.
[42] *Id.* at 96.
[43] *Id.* at 93.
[44] *Id.* at 96-97.
[45] *Id.* at 97.
[46] Penned by Associate Justice Edgardo L. Delos Santos (Now a member of the Supreme Court) with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring; *rollo*, pp. 106-108.
[47] *Rollo*, pp. 99-105.
[48] *Id.* at 9-25; Petition for Review on *Certiorari.*

For one, no particular form of evidence is required to prove the existence of an employer-employee relationship.[49]

The present case involves a peculiar situation where it was neither she nor Ana Macas who questioned the employment, but a third party, anchored on the theory of an "accommodation" employment. Hence, the burden was unduly shifted to Ana to prove the existence of an employer-employee relationship between her and Leonarda. Unfortunately, Ana had already died so Leonarda had to rely on the affidavits of Ana's son and disinterested third persons which the SSC nonetheless rejected.[50]

Leonarda's failure to present documentary evidence to prove her employment does not mean there was no employer-employee relationship at all between her and Ana Macas. To determine its existence, the four-fold test, which does not require a particular form of evidence, should have been applied. Thus, any competent and relevant evidence may be admitted.[51] ***SSS v. Court of Appeals***[52] decrees:

> 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. (Underscoring in the original)

Ana's positive act of registering Leonardo under the system was an admission or acknowledgment of the employer-employee relationship between them. This should have been considered as reliable and substantial proof of her employment, as corroborated by the affidavits and testimonies of Ceferino, Sabas, and Ricardo.[53]

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[49] *Id.* at 14-17.
[50] *Id.* at 15.
[51] Citing *Lirio v. Genovia*, 677 Phil. 134, 148 (2011).
[52] 401 Phil. 132 (2000), citing *Opulencia Ice Plant and Storage v. NLRC*, 298-A Phil. 449 (1993).
[53] *Rollo*, p. 16.

More, Section 8(d), Republic Act 8282[54] itself defines an employee, thus:

> Any person who performs services for an employer in which either or both mental or physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship: Provided, That a self-employed person shall be both employee and employer at the same time.

As a dishwasher who performed services at Ana's *carinderia* and received compensation therefor, she was indubitably Ana's employee.[55]

For another, the cancellation of her retirement pension and membership was too harsh a penalty considering she is a beneficiary of a law enacted for social legislation, under which compassionate justice should prevail. [56] Our jurisdiction commands a liberal construction of social legislation in favor of laborers, especially to retirees who need sustenance when she is no longer capable to earn a livelihood.[57]

In its *Comment*,[58] the SSC agrees that as a general rule, the existence of an employer-employee relationship may be proved by any evidence other than documentary, which is precisely why it called for clarificatory hearings and allowed Leonarda to present testimonial evidence. Despite this opportunity given to Leonarda, she nevertheless failed to establish her employer-employee relation with Ana. On the contrary, the SSC found Ana to have employed an illegal scheme for her so called workers to get registered under the system and avail of its benefits.[59] It was highly suspicious for Ana to have hired twenty (20) employees to operate her small *carinderia* of five (5) to six (6) tables, leading to the *obvious conclusion* that this mass reporting of "employees" was done essentially for accommodation.[60]

In her *Reply*,[61] Leonarda maintains that the SCC failed to meet quantum of evidence required in administrative proceedings. More, the lengthy period of ten (10) years between the termination of her employment and Miel's investigation makes the SSCs findings all the more questionable. As for the other issues, she reiterates the arguments she had exhaustively discussed in her earlier pleadings.[62]

In its *Memorandum*, [63] the SSC echoes: factual findings in the performance of duty by administrative agencies with expertise should be

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[54] AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE, REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW
[55] *Rollo*, p. 17.
[56] *Id.* at 17-20.
[57] *Id.* at 17-18.
[58] *Id.* at 140-146.
[59] *Id.* at 142.
[60] *Id.* at 142-144.
[61] *Id.* at 148-152.
[62] *Id.* at 150.
[63] Dated April 20, 2017; *rollo*, pp. 163-172.

accorded not just respect, but finality; its findings here are supported by substantial evidence based on its investigation; with the cancellation of Ana's registration, the very foundation of Leonarda's membership crumbles. Her membership, too, must be cancelled. Finally, social welfare legislations are only construed liberally in favor of those intended to be benefited when there is doubt or ambiguity in the law which does not obtain here.[64]

In her *Memorandum*,[65] Leonarda maintains: she had acquired a vested right to receive her monthly pension under the law which the SSC took away without due process; the SSC's factual findings were not supported by substantial evidence, but a lazy conclusion; the twenty (20) employees could have worked part time and in shifts and would nonetheless still be employees; the cancellation of Ana's employer's registration should not affect the fact that there was an employer-employee relationship that validly existed between them; she registered under the system in good faith; assuming arguendo that Ana merely accommodated her, it was not proscribed by the law or its implementing rules and regulations; if at all, Ana should have only been fined; finally, the cancellation of Ana's employer's registration leading to the invalidation of her membership does not have legal basis.

Issue

Is Leonarda entitled to retirement benefits from the SSS?

Ruling

We grant the petition.

The Governing Law

Leonarda prays for the dispositions of the Court of Appeals to be reversed and set aside to effectively restore her membership with the SSS and the payment of her retirement benefits.

To recall, Leonarda was registered as a member of SSS in August 1978. The applicable law at that time was RA 1161 or the Social Security Act of 1954, *viz.*:

> SECTION 9. (a) *Compulsory Coverage*. — Upon determination by the Commission pursuant to paragraphs (a) and (b) of section four hereof, **coverage in the System shall be compulsory upon all employees between the ages of eighteen and sixty years, inclusive,** if they have been for at least six months in the service of an employer who is a member of the System: *Provided*, That the Commission may not compel any employer to

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[64] *Rollo*, p. 169.
[65] *Id.* at 173-187.

> become a member of the System unless he shall have been in operation for at least three years and has, at the time of admission, two hundred employees: *Provided, further*, That any employer otherwise qualified to be a member may be exempted by the Commission from the provisions of this Act (a) if said employer can satisfactorily show that he did not make any profit in any one year for the last three consecutive years, or (b) if he is maintaining for his employee's compulsory contributions are not higher, and employer's contribution not lower, than those required in this Act: *Provided, further*, That any such employer, with the consent of the majority of his employees participating in the plan, may liquidate such plan and become a member of the System: *Provided, finally*, That any amount accruing to an employee as a result of such liquidation shall not be paid to him but shall be remitted to the System to be credited to his account therein.
>
> An employer exempt from the provision of this Act for the reason that he has an equivalent plan shall, nevertheless, be a member of the System with respect to all his other employees who are not included in such plan, or who may refuse to join or continue under said plan.
>
> (b) *Voluntary Coverage.* — Under such rules and regulations as the Commission may prescribe, any employer not required to be a member of the System may become a member thereof and have his employees come under the provisions of this Act if the majority of his employees do not object; and any individual in the employ of the Government, or of any of its political subdivisions, branches, or instrumentalities, including corporations owned or controlled by the Government, as well as any individual employed by a private entity not subject to compulsory membership under this Act may join the System by paying twice the employee's contribution prescribed in section nineteen. Any other individual may likewise join the System, subject to such rules and regulations as may be prescribed by the Commission.

Section 8 of the law defines "employees" as follows:

> (d) *Employee.* — 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.

Verily, RA 1161 did not expressly cover self-employed individuals. Section 11, however, allows a person previously employed to continue paying contributions in order to retain his or her benefits as a member, *viz.*:

> SECTION 11. *Effect of Separation from Employment.* — When an **employee under compulsory coverage is separated from employment**, his employer's contribution on his account shall cease at the end of the month of separation, **but said employee may continue his membership in the System and receive the benefits of this Act**, in accordance with such rules and regulations as may be promulgated by the Commission.

Thus, when Leonarda's employment with Ana ended in February, 1979, she continued paying contributions to SSS under Section 11.

Subsequently, on January 1, 1980, Presidential Decree (PD) 1636 took effect, amending RA 1161 and enlarging the scope of the SSS' compulsory coverage to include the self-employed, *viz.*:

> SECTION 8. *Terms Defined.* – x x x
>
> x x x x
>
> (c) Employer Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking or activity or 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 subdivision, branches or instrumentalities, including corporations owned or controlled by the Government: **Provided, that a self-employed professional shall be both employee and employer at the same time.**
> (d) Employee 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; **Provided, That a self-employed professional shall be both employee and employer at the same time.**
>
> x x x x
>
> Sec. 9-A. **Compulsory coverage of the self-employed.** Coverage in the SSS shall also be compulsory upon all self-employed persons earning ₱1,800.00 or more per annum; x x x

RA 1161, as amended by PD 1636 was still in effect when Leonarda applied for retirement benefits in 1993. The eligibility requirements for retirement benefits are set forth under Section 12-B of the law, as amended, thus:

> SECTION 12-B. *Retirement benefits.* - (a) A covered employee **who had paid at least one hundred twenty monthly contributions prior to the semester of retirement**; and who (1) **has reached the age of sixty years** and is not receiving monthly compensation of at least three hundred pesos, or (2) has reached the age of sixty-five years, shall be entitled for as long as he lives to the monthly pension: Provided, That his dependents born before his retirement of a marriage subsisting when he was fifty-seven years old shall be entitled to the dependents' pension.
>
> x x x x

Hence, to be eligible for retirement benefits, Leonarda must establish that (a) she is a covered employee, (b) paid at least 120 contributions prior to the semester of her retirement, (c) has reached the age of 60, and (d) is not receiving monthly compensation of at least ₱300.00.

The sole issue here is the presence of the first requirement.

Leonarda was Ana's Employee

Indeed, there is no dispute that Leonarda had made 137 contributions to SSS during her lifetime. Too, she turned 60 in 1993. The records also made no mention whatsoever about Leonarda's sources of compensation.

What appears on record, however, is that the Court of Appeals affirmed the SSC's cancelation of Leonarda's membership on ground that she was not a legitimate employee of Ana. She could not have therefore been a covered employee under Section 9 of RA 1161 prior to its amendment, nor could she have continued making payments under Section 11 of the same law. Consequently, she was not a valid member of the SSS and, thus, not entitled to retirement pensions; her payments under the system must be returned.

We disagree with the findings of the Court of Appeals.

a. Factual findings generally not subject to review; Exceptions

As stated, whether Leonarda is a *bona fide* member of the SSS hinges on whether there was a valid employer-employee relationship between Ana and her. While the existence of an employer-employee relationship is a factual matter generally beyond the purview of a Rule 45 petition, the Court finds that three (3) of the recognized exceptions to the rule obtain in this case, *viz.*:

> **(1) When the conclusiou is a finding grounded entirely on speculation, surmises or conjectures**; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; **(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;** (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and **(10) The finding of fact of the Court of Appeals is premised on the supposed absencc of evidence and is contradieted by the evidencc on records.** (Emphasis supplied) [66]

Here, the factual finding that Leonarda was not Ana's employee was based on a mere conjecture, speculation, or an estimate, as will be discussed below. Too, such conclusion was based on an investigation which was not supported by any sort of evidence. Contrary to the findings of the Court of Appeals, Leonarda sufficiently established that she was employed by Ana.

b. Leonarda was deprived due process of law

Preliminarily, the Court observes that Leonarda was deprived of due process when the SSS canceled her membership and retirement pension before according her an opportunity to be heard on her eligibility.

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[66] *Sps. Miano v. Manila Electric Co.*, 800 Phil. 118, 123 (2016).

In ***GSIS v. Montesclaros***,[67] the Court pronounced:

> x x x [W]here the employee **retires and meets the eligibility requirements, he acquires a vested right to benefits that is protected by the due process clause**. Retirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law. x x x **No law can deprive such person of his pension rights without due process of law, that is, without notice and opportunity to be heard**. (citations omitted; emphasis and underscoring supplied)

Here, Leonarda had been receiving pension benefits of ₱1,362.75 since 1993 until it was unilaterally cancelled by the SSS in 2001. She never knew the cause of the cancellation until 2008 when respondent Talictic informed her in writing that the cancellation of her membership was due to the cancelation of Ana's membership in the system.

As it turned out, Leonarda's case was a derivative of the earlier investigation against Ana who allegedly failed to prove that she actually had employees in her *carinderia.* Thus, SSS Investigator Miel recommended the cancellation of Ana's membership in the system, which recommendation was approved in 2001.

It bears stress, however, that Leonarda was never a party to the investigation against Ana. Thus, Leonarda could not have possibly been bound by the results thereof. Indeed, a decision rendered in a proceeding does not bind or prejudice a person not impleaded therein, for no person shall be adversely affected by the outcome of a proceeding in which he or she is not a party.[68] The exception to this rule - successors in interest,[69] is inapplicable here since Ana's interest as the purported employer is surely different from the interest of her purported employee Leonarda.

Perhaps aware of this due process violation, respondent Talictic, in the same letter in 2008, advised Leonarda to file a petition with the SSC should she decide to pursue the restoration of her monthly pension. This, however, is paradoxical.

Section 5(d) of RA 8282, which amended RA 1161 and took effect in 1997, was already in force when the SSS implemented its ruling that cancelled Ana's membership leading to the cancellation of Leonarda's membership and monthly pension. It states:

> (d) Execution of Decisions. - The Commission may, motu proprio or on motion of any interested party, issue a writ of execution to enforce any of its decisions or awards, **after it has become final and executory**, in the

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[67] 478 Phil. 573, 584 (2000). [En Banc, Carpio, J.]

[68] *Guy v. Gacot*, 778 Phil. 308, 320 (2016), citing *Muñoz v. Yabut, Jr.*, 665 Phil. 488 (2011).

[69] Section 47(b) of Rule 39, Rules of Court:

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; xxx.

> same manner as the decision of the Regional Trial Court by directing the city or provincial sheriff or the sheriff whom it may appoint to enforce such final decision or execute such writ; and any person who shall fail or refuse to comply with such decision, award or writ, after being required to do so shall, upon application by the Commission, pursuant to Rule 71 of the Rules of Court, be punished for contempt. (emphasis added)

Verily, the SSS could have only canceled Leonarda's pension if there was already a final ruling against her to that effect. As earlier explained though, the ruling against Ana could not have been such final ruling required under Section 5. It simply does not bind Leonarda. Hence, the cancelation of Leonarda's SSS membership had no factual or legal basis.

At any rate, even assuming that the ruling against Ana was final and binding on Leonarda as well, why would Talictic advise Leonarda to file a new petition to establish the fact of employment?

The situation would have been different had the SSS rejected Leonarda's application for retirement benefits in 1993. After all, the SSS was already informed as early as 1989 of Ana's supposed fraudulent scheme. Thus, when the SSS approved her application despite knowledge thereof, Leonarda obtained a vested right to her pension benefits. Consequently, though not estopped, the SSS could not have deprived her of these benefit without due process.

In fine, the SSS violated Leonarda's constitutional right to due process of law **first**, when it unilaterally canceled her membership and retirement pension without affording her an opportunity to be heard, **second,** when it implemented the cancelation of her membership and retirement pension despite the absence of a final ruling to that effect, and **third**, when it failed to notify Leonarda of the cause of the cancelation until seven (7) years later. To make matters worse, the advice to Leonarda to file a case only came when Ana had already passed away. Worse still, the SSS asked Leonarda to prove that she was a dishwasher at a humble *carinderia* thirty (30) years after her separation from employment. For these reasons alone, the petition should already be granted.

c. There is substantial evidence to establish that Leonarda was Ana's employee

The deprivation of her right to due process notwithstanding, Leonarda was nevertheless able to prove that she was an employee at Ana's *carinderia.* During the clarificatory hearings before the SSC, Leonarda offered the following pieces evidence: her affidavit and testimony; affidavit of Sabas Ranin; affidavit and testimony of Ceferino Macas as son of *carinderia* owner Ana Macas who had since passed away; and affidavit and testimony of Ricardo Viñalon as disinterested third person.

Sabas G. Ranin essentially stated under the pain of perjury: he was a firewood supplier to small restaurants at the Jagna public market from 1975 to 1988; he personally knows Leonarda whom he met at Ana's *carinderia*; Leonarda started working for Ana in August 1978.[70]

Ricardo O. Viñalon expressed in his affidavit that he personally knew Leonarda whom he met in August 1978 when Leonarda started working for Ana at the latter's *carinderia*; he was acquainted with her because he used to deliver meats to the *carinderia* on a daily basis.[71] In the October 5, 2009 SSC clarificatory hearing, he added that Ana's *carinderia* had about three (3) to five (5) employees at a time, but never more than ten (10) since the place was not that big to accommodate many workers.[72]

Ceferino Macas was also present at the clarificatory hearing and he testified that his parents Ana and Vicente Macas owned and operated *carinderia* at the Jagna Public Market; it had six (6) tables and attracted a lot of customers (*suki*); he personally knew Leonarda as their neighbor and as one of the workers at the *carinderia*; specifically, she worked as a server or a dishwasher every day from 7 o' clock in the morning until 5 o' clock in the afternoon; she worked at his mother's *carinderia* for around five (5) to seven (7) months; after her separation therefrom, Leonarda chose to be a self-employed SSS member; finally, the *carinderia* had four (4) to five (5) workers at a time, but never more than a total of ten (10) in any given month.

We find the affidavits and testimonies of Leonarda's witnesses to be credible, candid, and consistent on material points. They were all able to support Leonarda's claim that there was an employer-employee relationship between her and Ana. Indeed, they positively identified her and her role in the *carinderia* as helper.

At any rate, the Court does not only take these documents and testimonies at face value, but also considers Leonarda's circumstances. For one, she offered possibly the best evidence available to her, given that thirty (30) years had already elapsed since her separation from employment with Ana. For another, the Court is not unmindful that a *carinderia* at a public market is part of a small and rather informal economy that could not reasonably be expected to maintain a comprehensive documentation, more so beyond its operating lifetime. Still another, Ana had already passed away, making any record or papers in her possession even more difficult, if not impossible, to procure. Thus, it would be contrary to the dictates of fair play and justice to demand Leonarda to submit pay slips, time sheets, or any other paper documentation of her employment.

Indeed, the Court has consistently ruled that there is no hard and fast rule designed to establish the elements of an employer-employee

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[70] *Rollo*, p. 52.
[71] *Id.* at 65.
[72] *Id.* at 70-71.

relationship.[73] Some forms evidence that have accepted to establish the elements include, but are not limited to, identification cards, cash vouchers, **social security registration**, appointment letters or employment contracts, payroll, organization charts, and personnel lists, among others.[74] Too, the Court has also accepted witnesses' testimonial evidence to sufficiently establish employer-employee relationship, as here.[75]

Even applying the more stringent standards of the four-fold test, Leonarda satisfied its requisites in establishing her employment. To be sure, the elements are: 1) the selection and engagement of the employees; 2) the payment of wages; 3) the power of dismissal; and 4) the power to control the employee's conduct.[76] Leonarda and her witnesses proved: *first*, Ana personally hired Leonarda as helper; *second*, Ana paid Leonarda a daily wage of ₱30.00, albeit on a weekly or monthly basis; *third*, corollary to the power to hire, Ana could have fired Leonarda; *fourth* and most importantly, Ana as owner directly supervised Leonarda in her work as helper or dishwasher.

d. The SSS failed to disprove the fact of Leonarda's employment

Even with the testimonies and affidavits offered by Leonarda, the SSC essentially found it unbelievable that a *carinderia* with a maximum of six (6) tables employed twenty (20) workers to operate. With these "doubtful" figures, it had the "obvious conclusion" that the hiring of majority, if not all, of these purported employees was done for accommodation. More:

> **The investigation showed that subject firm could not present any proof of employment of its reported employees despite repeated demands.** All the reported were already separated and had applied for voluntary membership. **In view of the absence of employer-employee relationship, it is recommended that withdrawal of SSS membership of subject firm and its employees be effected.** (Emphasis supplied)

We are not persuaded.

First, the SSC had no actual basis for its conclusion that Ana had fake employees, but a mere assumption which came to fore just because Ana allegedly failed to respond to its demands to prove that her employees, including Leonarda, were not merely accommodated for inclusion in the social security system. To be sure, the factual findings of the SSC pertaining

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[73] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 450 (2014), citing *Consulta v. Court of Appeals*, 493 Phil. 842, 847 (2005) [Per J. Carpio, First Division]; *Caurdanetaan Piece Workers Union v. Laguesma*, 350 Phil. 35, 74 (1998), 350 Phil. 35 (1998).

[74] *Fuji* citing *Tenazas v. R. Villegas Taxi Transport*, 731 Phil. 217, 230 (2014) [Per J. Reyes, First Division], and *Meteoro v. Creative Creatures, Inc.*, 610 Phil. 150, 161 (2009) [Per J. Nachura, Third Division].

[75] *Opulencia Ice Plant and Storage v. NLRC*, 298-A Phil. 449 (1993).

[76] *Marsman & Company, Inc. v. Sta. Rita*, G.R. No. 194765, April 23, 2018, citing *Bazar v. Ruizol*, 797 Phil. 656, 665 (2016).

to its cancellation of Ana's registration cannot be used against Leonarda. More, the belated investigation that took thirty (30) years to commence, through no fault of Leonarda, should not prejudice her.

Second, assuming arguendo that most of Ana's workers were indeed merely accommodated to be registered under the system, the SSC did not establish with substantial evidence that Leonarda was one of them. The SSC itself admitted that Ana had legitimate employees. In fact, among the many faces and names who may be more imagined than real, the witnesses here **positively identified** Leonarda as a legitimate employee, erasing any doubt on her employment.

Finally, Ana's failure to comply with reportorial requirements merely called for the application of Section 24 of RA 1161, *viz.*:

> Section 24. Employment Records and Reports. — (a) Each employer **shall immediately report to the SSS the names, ages, civil status, occupations, salaries and dependents of all his employees who are subject to compulsory coverage**: Provided, That if an employee subject to compulsory coverage should die or become sick or disabled **or reach the age of sixty without the SSS having previously received any report or written communication about him from his employer** or a contribution paid in his name by his employer, ***the said employer shall pay to the SSS the damages*** equivalent to the benefits to which said employee would have been entitled had his name been reported on time by the employer to the SSS, except that ***in case of pension benefits, the employer shall be liable to pay the SSS damages*** equivalent to five year's monthly pension; including dependents' pension: Provided, further, That if the contingency occurs within thirty days from the date of employment, the employer shall be relieved of his liability for damages. (As amended by Sec. 15, R.A. 1792; Sec. 9, R.A. 4857; Sec. 13, P.D. No. 24, S-1972; Sec. 16, P.D. No. 735, S-1975; and Sec. 12, P.D. No. 1202, S-1977) (Emphases and underscoring supplied)

The provision does not mandate the automatic cancellation of the membership of the covered employee.

Weighed against SSC's bare assertion, we find Leonarda's position to be more tenable. The SSC should not have made a sweeping cancellation of the membership of all of Ana's employees in view of the SSC's own findings that at least some of them were legitimate. These legitimate employees, including Leonarda, should not be prejudiced by the SSC's over-arching allegation of fraud.

e. A case of social legislation and the liberality rule

Suffice it to state that in cases involving social legislation, doubts should be liberally construed in favor of the intended beneficiary of the law.[77]

In ***Philippine National Bank v. Dalmacio,*** the Court emphasized:

> Retirement laws, in particular, are liberally construed in favor of the retiree because their objective is to provide for the retiree's sustenance and, hopefully, even comfort, when he no longer has the capability to earn a livelihood. The liberal approach aims to achieve the humanitarian purposes of the law in order that efficiency, security, and well-being of government employees may be enhanced. Indeed, retirement laws are liberally construed and administered in favor of the persons intended to be benefited, and all doubts are resolved in favor of the retiree to achieve their humanitarian purpose.

To be sure, even if both parties have presented substantial evidence to support their allegations, the *equipoise* rule dictates that the scales of justice must be titled in favor of labor, as here.[78]

Leonarda may be considered a Self-Employed or or Voluntary Paying Member

Assuming further that Leonarda was not an employee of Ana, this does not automatically entail the invalidation of her 137 contributions to SSS. For Leonadra may be placed under the category "self-employed" pursuant to the liberality rule. In fact, she may even be considered as a voluntary paying member.

The application of liberality in this kind of situation is not out of the ordinary. In ***Haveria v. SSS,***[79] the Court found no employer-employee relationship between therein petitioner and the SSSEA. The Court, nonetheless, considered Haveria's contributions remitted by the SSSEA as voluntary contributions to allow him to receive his pension which was then suspended by the SSC. Similarly, Haveria registered with the SSS in May 1966 or under RA 1161, as here, and the SSSEA remitted his monthly contributions from May 1966 to December 1981. The Court ruled:

> Under R.A. No. 1161, there are two kinds of coverage: compulsory coverage and voluntary coverage. The Act provides:
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> x x x x

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[77] *PNB v. Dalmacio*, 813 Phil. 127, 138 (2017), citing *GSIS v. De Leon*, 649 Phil. 610 (2010).
[78] *Hubilla v. Hsy Marketing Ltd. Co.*, G.R. 207354, January 10, 2018.
[79] G.R. No. 181154, August 22, 2018, [Resolution, per Second Division, Caguioa, J.]

> (b) Voluntary Coverage. — x x x any employer not required to be a member of the System may become a member thereof and have his employees come under the provisions of this Act if the majority of his employees do not object; and any individual in the employ of the Government, or of any of its political subdivisions, branches, or instrumentalities, including corporations owned or controlled by the Government, as well as any individual employed by a private entity not subject to compulsory membership under this Act may join the System by paying twice the employee's contribution prescribed in section nineteen. Any other individual may likewise join the System, subject to such rules and regulations as may be prescribed by the Commission.[80]
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> x x x x
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> **Haveria was reported by the SSSEA as an employee, and he claims coverage as a compulsory member of the SSS.** As correctly held by the SSC and CA, the SSSEA, a labor organization, **cannot be considered an employer under the law.** The Labor Code expressly excludes labor organizations from the definition of an employer, except when they directly hire employees to render services for the union or association. Aside from his bare allegation that he was an employee of the SSSEA, Haveria did not present any other fact to substantiate his claim of employment with the SSSEA. He did not state his day-to-day duties or responsibilities and work hours; he did not even present proof of employment such as pay slips and contract of employment. **Thus, the SSSEA was not an employer and Haveria was not its employee, but merely a member or officer thereof.**
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> x x x x
>
> x x x Consequently, his compulsory coverage while supposedly employed with the SSSEA was erroneous.
>
> x x x x
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> x x x **in the interest of justice and equity, Haveria's contributions remitted by the SSSEA shall be considered as voluntary contributions so that his contributions can reach the minimum 120 monthly contributions for qualification to a retirement pension.** x x x (Emphases supplied)

Hence, even if the Court rules that Leonarda was never an employee of Ana, this would not necessarily entail the invalidity of **all** her contributions. Rather, this would call for the application of liberality wherein Leonarda could be considered as a self-employed or voluntary paying member as of January 1, 1980 when PD 1636 took effect, expanding t the scope of RA 1161 to include the self-employed.

Here, it is undisputed that Leonarda made a total of 137 contributions to the SSS. Meanwhile, she could have only paid a maximum of seventeen (17) months of contribution from the time she got registered under the system

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[80] Available electronically at https://www.officialgazette.gov.ph/1954/06/18/republic-act-no-1161/.

in August 1978 until PD 1636 took effect on January 1, 1980. Thus, even if we deduct these seventeen (17) contributions made prior to the effectivity of PD 1636, Leonarda would still have made one hundred twenty (120) valid contributions before she turned sixty (60) in 1993, the minimum required to qualify for retirement benefits. Consequently, Leonarda has satisfied the qualifications to receive her pension.

Retirees look forward to a life of dignified simplicity and sustenance, if not comfort, after their economically productive years. If we deny Leonarda's petition, then we deny her the very humanitarian purpose of the law - which she has been deprived of for nineteen (19) long years now. What should have been her comfortable twilight years, Leonarda was burdened with worries and anxiety of the laborious process of pleading her case.

The SSS should have been more sympathetic with its stakeholders - careful, not brash; supportive, not vindictive; or at the very least true to its mandate.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated December 1, 2014 and Resolution dated January 28, 2016 of the Court of Appeals in CA-G.R. S.P. No. 07954 are **REVERSED** and **SET ASIDE**.

Respondent Social Security System is hereby ordered to:

1) **REINSTATE** petitioner Leonarda Jamago Salabe's membership with the system;

2) **VALIDATE** petitioner's 137 paid contributions;

3) **RESTORE** petitioner's right to retirement benefits; and

4) **PAY** petitioner her accrued retirement benefits from August 2001. This amount shall earn twelve percent[81] (12%) interest computed from the time her pension was withheld in August 2001 until June 30, 2013 and six percent[82] (6%) from July 1, 2013 until fully paid.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

[81] Central Bank Circular No. 905, s. 1982.
[82] Central Bank Circular No. 799, s. 2013.

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

DIOSDADO M. PERALTA
Chief Justice