

FIRST DIVISION

[G.R. No. 166198, July 17, 2009]

**MARCELINO A. MAGDADARO, PETITIONER, VS. PHILIPPINE
NATIONAL BANK, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review assailing the 26 October 2004 Decision^[1] and 6 December 2004 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 80176.

The Antecedent Facts

Marcelino A. Magdadaro (petitioner) was employed by Philippine National Bank (respondent) since 8 January 1968. On 21 September 1998, petitioner filed his application for early retirement under respondent's Special Separation Incentive Program (SSIP). Petitioner was then holding the position of Senior Assistant Manager of respondent's Branch Operations and Consumer Finance Division for the Visayas. Petitioner stated in his application that 31 December 1999 was his preferred effective date of retirement.

Respondent approved petitioner's application for early retirement but made it effective on 31 December 1998. Petitioner protested the acceleration of his retirement. He received, under protest, his retirement and separation benefits amounting to P908,950.44. On 18 October 1999, petitioner filed a complaint for illegal dismissal and payment of moral, exemplary and actual damages against respondent before the Regional Arbitration Branch No. VII of the National Labor Relations Commission (NLRC), Cebu City.

The Ruling of the Labor Arbiter and the NLRC

In a Decision dated 3 August 2000,^[3] the Labor Arbiter ruled that respondent had the discretion and prerogative to set the effective date of retirement under the SSIP. The Labor Arbiter ruled that respondent's insistence on the date of effectivity of petitioner's retirement was not tantamount to illegal dismissal. The Labor Arbiter ruled that there was no dismissal to speak of because petitioner voluntarily availed of the SSIP. Still, the Labor Arbiter granted petitioner's preferred date of retirement and awarded him additional retirement benefits. The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, in the light of the foregoing premises, judgment is hereby rendered ordering respondent PHILIPPINE NATIONAL BANK to pay complainant the amount of P287,606.50 as additional retirement benefits and salaries with fixed allowances and P100,000.00 in the concept of moral and exemplary damages or a total amount of THREE HUNDRED EIGHTY-SEVEN THOUSAND SIX HUNDRED SIX and 50/00 (P387,606.50).

The other claims are dismissed for lack of merit.

SO ORDERED.^[4]

Both petitioner and respondent appealed from the Labor Arbiter's Decision.

In its 4 March 2003 Decision,^[5] the NLRC affirmed the Labor Arbiter's Decision. However, the NLRC considered petitioner's retirement on 31 December 1998 as tantamount to illegal dismissal. The NLRC ruled that while it recognized respondent's prerogative to change petitioner's retirement date, management prerogative should be exercised with prudence and without malice.

Petitioner and respondent filed their respective motions for reconsideration. In its 24 July 2003 Resolution,^[6] the NLRC denied both motions for reconsideration for lack of merit.

Respondent filed a petition for certiorari before the Court of Appeals.

The Ruling of the Court of Appeals

In its 26 October 2004 Decision, the Court of Appeals granted the petition. The Court of Appeals ruled that the NLRC acted with grave abuse of discretion in affirming the decision of the Labor Arbiter, while at the same time finding that petitioner's retirement was tantamount to illegal dismissal.

The Court of Appeals held that petitioner voluntarily applied for the SSIP. The Court of Appeals ruled that petitioner could not claim to have been illegally dismissed just because the date of effectivity of his retirement did not conform to his preferred retirement date. The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, the foregoing premises considered, the petition is hereby GRANTED. The assailed Resolution and Decision of the NLRC, Fourth Division are (a) MODIFIED by deleting entirely the award to private respondent of P287,606.50 as additional retirement benefits and salaries with fixed allowances and P100,000.00 in the concept of moral and exemplary damages or a total amount of THREE HUNDRED EIGHTY-SEVEN THOUSAND SIX HUNDRED SIX & 50/100 (P387,606.50), but (b) AFFIRMED in all other respects.

SO ORDERED.^[7]