

## FIRST DIVISION

[ G.R. NO. 163269, April 19, 2006 ]

**ROLANDO C. RIVERA, PETITIONER, VS. PROMULGATED:  
SOLIDBANK CORPORATION, RESPONDENT.**

### D E C I S I O N

**CALLEJO, SR., J.:**

Assailed in this Petition for Review on *Certiorari* is the Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 52235 as well as its Resolution<sup>[2]</sup> denying the Motion for Partial Reconsideration of petitioner Rolando C. Rivera.

Petitioner had been working for Solidbank Corporation since July 1, 1977.<sup>[3]</sup> He was initially employed as an Audit Clerk, then as Credit Investigator, Senior Clerk, Assistant Accountant, and Assistant Manager. Prior to his retirement, he became the Manager of the Credit Investigation and Appraisal Division of the Consumer's Banking Group. In the meantime, Rivera and his brother-in-law put up a poultry business in Cavite.

In December 1994, Solidbank offered two retirement programs to its employees: (a) the Ordinary Retirement Program (ORP), under which an employee would receive 85% of his monthly basic salary multiplied by the number of years in service; and (b) the Special Retirement Program (SRP), under which a retiring employee would receive 250% of the gross monthly salary multiplied by the number of years in service.<sup>[4]</sup> Since Rivera was only 45 years old, he was not qualified for retirement under the ORP. Under the SRP, he was entitled to receive P1,045,258.95 by way of benefits.<sup>[5]</sup>

Deciding to devote his time and attention to his poultry business in Cavite, Rivera applied for retirement under the SRP. Solidbank approved the application and Rivera was entitled to receive the net amount of P963,619.28. This amount included his performance incentive award (PIA), and his unearned medical, dental and optical allowances in the amount of P1,666.67, minus his total accountabilities to Solidbank amounting to P106,973.00.<sup>[6]</sup> Rivera received the amount and confirmed his separation from Solidbank on February 25, 1995.<sup>[7]</sup>

Subsequently, Solidbank required Rivera to sign an undated Release, Waiver and Quitclaim, which was notarized on March 1, 1995.<sup>[8]</sup> Rivera acknowledged receipt of the net proceeds of his separation and retirement benefits and promised that "[he] would not, at any time, in any manner whatsoever, directly or indirectly engage in any unlawful activity prejudicial to the interest of Solidbank, its parent, affiliate or subsidiary companies, their stockholders, officers, directors, agents or employees, and their successors-in-interest and will not disclose any information concerning the business of Solidbank, its manner or operation, its plans, processes, or data of any

kind."<sup>[9]</sup>

Aside from acknowledging that he had no cause of action against Solidbank or its affiliate companies, Rivera agreed that the bank may bring any action to seek an award for damages resulting from his breach of the Release, Waiver and Quitclaim, and that such award would include the return of whatever sums paid to him by virtue of his retirement under the SRP.<sup>[10]</sup> Rivera was likewise required to sign an undated Undertaking as a supplement to the Release, Waiver and Quitclaim in favor of Solidbank in which he declared that he received in full his entitlement under the law (salaries, benefits, bonuses and other emoluments), including his separation pay in accordance with the SRP. In this Undertaking, he promised that "[he] will not seek employment with a competitor bank or financial institution within one (1) year from February 28, 1995, and that any breach of the Undertaking or the provisions of the Release, Waiver and Quitclaim would entitle Solidbank to a cause of action against him before the appropriate courts of law."<sup>[11]</sup> Unlike the Release, Waiver and Quitclaim, the Undertaking was not notarized.

On May 1, 1995, the Equitable Banking Corporation (Equitable) employed Rivera as Manager of its Credit Investigation and Appraisal Division of its Consumers' Banking Group.<sup>[12]</sup> Upon discovering this, Solidbank First Vice-President for Human Resources Division (HRD) Celia J.L. Villarosa wrote a letter dated May 18, 1995, informing Rivera that he had violated the Undertaking. She likewise demanded the return of all the monetary benefits he received in consideration of the SRP within five (5) days from receipt; otherwise, appropriate legal action would be taken against him.<sup>[13]</sup>

When Rivera refused to return the amount demanded within the given period, Solidbank filed a complaint for Sum of Money with Prayer for Writ of Preliminary Attachment<sup>[14]</sup> before the Regional Trial Court (RTC) of Manila on June 26, 1995. Solidbank, as plaintiff, alleged therein that in accepting employment with a competitor bank for the same position he held in Solidbank before his retirement, Rivera violated his Undertaking under the SRP. Considering that Rivera accepted employment with Equitable barely three months after executing the Undertaking, it was clear that he had no intention of honoring his commitment under said deed.

Solidbank prayed that Rivera be ordered to return the net amount of P963,619.28 plus interests therein, and attorney's fees, thus:

**WHEREFORE,** it is respectfully prayed that:

1. At the commencement of this action and upon the filing of a bond in such amount as this Honorable Court may fix, a writ of preliminary attachment be forthwith issued against the properties of the defendant as satisfaction of any judgment that plaintiff may secure;
2. After trial, judgment be rendered ordering defendant to pay plaintiff the following sums: NINE HUNDRED SIXTY-THREE THOUSAND SIX HUNDRED NINETEEN AND 28/100 ONLY (P963,619.28) PESOS, Philippine Currency, as of 23 May 1995, plus legal interest of 12% per annum until fully paid;
3. Such sum equivalent to 10% of plaintiff's claims plus P2,000.00 for every appearance by way of attorney's fees; and

#### 4. Costs of suit.

PLAINTIFF prays for other reliefs just and equitable under the premises.

[15]

Solidbank appended the Affidavit of HRD First Vice-President Celia Villarosa and a copy of the Release, Waiver and Quitclaim and Undertaking which Rivera executed.

[16]

In an Order dated July 6, 1995, the trial court issued a Writ of Preliminary Attachment<sup>[17]</sup> ordering Deputy Sheriff Eduardo Centeno to attach all of Rivera's properties not exempt from execution. Thus, the Sheriff levied on a parcel of land owned by Rivera.

In his Answer with Affirmative Defenses and Counterclaim, Rivera admitted that he received the net amount of P963,619.28 as separation pay. However, the employment ban provision in the Undertaking was never conveyed to him until he was made to sign it on February 28, 1995. He emphasized that, prior to said date, Solidbank never disclosed any condition to the retirement scheme, nor did it impose such employment ban on the bank officers and employees who had previously availed of the SRP. He alleged that the undertaking not to "seek employment with any competitor bank or financial institution within one (1) year from February 28, 1995" was void for being contrary to the Constitution, the law and public policy, that it was unreasonable, arbitrary, oppressive, discriminatory, cruel, unjust, inhuman, and violative of his human rights. He further claimed that the Undertaking was a contract of adhesion because it was prepared solely by Solidbank without his participation; considering his moral and economic disadvantage, it must be liberally construed in his favor and strictly against the bank.

On August 15, 1995, Solidbank filed a Verified Motion for Summary Judgment, alleging therein that Rivera raised no genuine issue as to any material fact in his Answer except as to the amount of damages. It prayed that the RTC render summary judgment against Rivera. Solidbank alleged that whether or not the employment ban provision contained in the Undertaking is unreasonable, arbitrary, or oppressive is a question of law. It insisted that Rivera signed the Undertaking voluntarily and for valuable consideration; and under the Release, Waiver and Quitclaim, he was obliged to return the P963,619.28 upon accepting employment from a competitor bank within the one-year proscribed period. Solidbank appended to its motion the Affidavit of Villarosa, where she declared that Rivera was employed by Equitable on May 1, 1995 for the same position he held before his retirement from Solidbank.

Rivera opposed the motion contending that, as gleaned from the pleadings of the parties as well as Villarosa's Affidavit, there are genuine issues as to material facts which call for the presentation of evidence. He averred that there was a need for the parties to adduce evidence to prove that he did not sign the Undertaking voluntarily. He claimed that he would not have been allowed to avail of the SRP if he had not signed it, and consequently, his retirement benefits would not have been paid. This was what Ed Nallas, Solidbank Assistant Vice-President for HRD and Personnel, told him when he received his check on February 28, 1995. Senior Vice-President Henry Valdez, his superior in the Consumers' Banking Group, also did not mention that he would have to sign such Undertaking which contained the assailed provision. Thus,

he had no choice but to sign it. He insisted that the question of whether he violated the Undertaking is a genuine issue of fact which called for the presentation of evidence during the hearing on the merits of the case. He also asserted that he could not cause injury or prejudice to Solidbank's interest since he never acquired any sensitive or delicate information which could prejudice the bank's interest if disclosed.

Rivera averred that he had the right to adduce evidence to prove that he had been faithful to the provisions of the Release, Waiver and Quitclaim, and the Undertaking, and had not committed any act or done or said anything to cause injury to Solidbank.<sup>[18]</sup>

Rivera appended to his Opposition his Counter-Affidavit in which he reiterated that he had to sign the Undertaking containing the employment ban provision, otherwise his availment of the SRP would not push through. There was no truth to the bank's allegation that, "in exchange for receiving the larger amount of P1,045,258.95 under the SRP, instead of the very much smaller amount of P224,875.81 under the ORP, he agreed that he will not seek employment in a competitor bank or financial institution within one year from February 28, 1995." It was the bank which conceived the SRP to streamline its organization and all he did was accept it. He stressed that the decision whether to allow him to avail of the SRP belonged solely to Solidbank. He also pointed out that the employment ban provision in the Undertaking was not a consideration for his availment of the SRP, and that if he did not avail of the retirement program, he would have continued working for Solidbank for at least 15 more years, earning more than what he received under the SRP. He alleged that he intended to go full time into the poultry business, but after about two months, found out that, contrary to his expectations, the business did not provide income sufficient to support his family. Being the breadwinner, he was then forced to look for a job, and considering his training and experience as a former bank employee, the job with Equitable was all he could find. He insisted that he had remained faithful to Solidbank and would continue to do so despite the case against him, the attachment of his family home, and the resulting mental anguish, torture and expense it has caused them.<sup>[19]</sup>

In his Supplemental Opposition, Rivera stressed that, being a former bank employee, it was the only kind of work he knew. The ban was, in fact, practically absolute since it applied to all financial institutions for one year from February 28, 1995. He pointed out that he could not work in any other company because he did not have the qualifications, especially considering his age. Moreover, after one year from February 28, 1995, he would no longer have any marketable skill, because by then, it would have been rendered obsolete by non-use and rapid technological advances. He insisted that the ban was not necessary to protect the interest of Solidbank, as, in the first place, he had no access to any "secret" information which, if revealed would be prejudicial to Solidbank's interest. In any case, he was not one to reveal whatever knowledge or information he may have acquired during his employment with said bank.<sup>[20]</sup>

In its Reply, Solidbank averred that the wisdom of requiring the Undertaking from the 1995 SRP is purely a management prerogative. It was not for Rivera to question and decry the bank's policy to protect itself from unfair competition and disclosure of its trade secrets. The substantial monetary windfall given the retiring officers was

meant to tide them over the one-year period of hiatus, and did not prevent them from engaging in any kind of business or bar them from being employed except with competitor banks/financial institutions.<sup>[21]</sup>

On December 18, 1995, the trial court issued an Order of Summary Judgment.<sup>[22]</sup> The *fallo* of the decision reads:

WHEREFORE, SUMMARY JUDGMENT is hereby rendered in favor of plaintiff and against defendant ordering the latter to pay to plaintiff bank the amount of NINE HUNDRED SIXTY-THREE THOUSAND SIX HUNDRED NINETEEN AND 28/100 (P963,619.28) PESOS, Philippine Currency, as of May 23, 1995, plus legal interest at 12% per annum until fully paid, and the costs of the suit.

FURTHER, NEVERTHELESS, both parties are hereby encouraged as they are directed to meet again and sit down to find out how they can finally end this rift and litigation, all in the name of equity, for after all, defendant had worked for the bank for some 18 years.<sup>[23]</sup>

The trial court declared that there was no genuine issue as to a matter of fact in the case since Rivera voluntarily executed the Release, Waiver and Quitclaim, and the Undertaking. He had a choice not to retire, but opted to do so under the SRP, and, in fact, received the benefits under it. According to the RTC, the prohibition incorporated in the Undertaking was not unreasonable. To allow Rivera to be excused from his undertakings in said deed and, at the same time, benefit therefrom would be to allow him to enrich himself at the expense of Solidbank. The RTC ruled that Rivera had to return the P963,619.28 he received from Solidbank, plus interest of 12% per annum from May 23, 1998 until fully paid.

Aggrieved, Rivera appealed the ruling to the CA which rendered judgment on June 14, 2002 partially granting the appeal. The *fallo* of the decision reads:

**WHEREFORE**, the appeal is **PARTIALLY GRANTED**. The decision appealed from is **AFFIRMED** with the modification that the attachment and levy upon the family home covered by TCT No. 51621 of the Register of Deeds, Las Piñas, Metro Manila, is hereby **SET ASIDE** and **DISCHARGED**.

**SO ORDERED.**<sup>[24]</sup>

The CA declared that there was no genuine issue regarding any material fact except as to the amount of damages. It ratiocinated that the agreement between Rivera and Solidbank was the law between them, and that the interpretation of the stipulations therein could not be left upon the whims of Rivera. According to the CA, Rivera never denied signing the Release, Waiver, and Quitclaim, including the Undertaking regarding the employment prohibition. He even admitted joining Equitable as an employee within the proscribed one-year period. The alleged defenses of Rivera, the CA declared, could not prevail over the admissions in his pleadings. Moreover, Rivera's justification for taking the job with Equitable, "dire necessity," was not an acceptable ground for annulling the Undertaking since there were no earmarks of coercion, undue influence, or fraud in its execution. Having executed the said deed and thereafter receiving the benefits under the SRP, he is