343 Phil. 467

FIRST DIVISION

[G.R. No. 120256, August 18, 1997]

HERMITO CABCABAN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION AND TEODORA CABILLO DE GUIA, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

On March 16, 1993, Hermito Cabcaban, then 63 years old, filed a complaint for retirement benefits under Republic Act 7641 against Hda. Corazon de Jesus and/or Teodora Cabillo de Guia. Complainant alleged that he worked at the 50-hectare hacienda, owned by Teodora Cabillo de Guia at Bais, Negros Oriental, from 1962 to July 1991,[1] performing such jobs as clearing the plantation, planting, weeding, fertilizing, cutting cane points, canal digging, harvesting/loading, "depol," "gahit," and gathering coconuts.

Respondents moved to dismiss the complaint on the following grounds: first, that complainant's cause of action had already prescribed; and second, that complainant is also one of the complainants in RAB-VII-06-0110-92-D,[2] a case for illegal dismissal and reinstatement against the same respondents pending before another Labor Arbiter.

On the basis of the parties' position papers, the Labor Arbiter in the complaint for retirement benefits rendered a decision in complainant's favor. The dispositive portion of said decision reads:

> WHEREFORE, in the light of the foregoing, judgment is hereby rendered directing the respondent to pay complainant's retirement pay in the amount of PESOS: THIRTY SEVEN THOUSAND EIGHT HUNDRED TWELVE & 30/100 (P37,812.30).
>
> SO ORDERED.[3]

On appeal to the National Labor Relations Commission (NLRC), respondents reiterated their defense that complainant's cause of action had already prescribed. As proof thereof, respondents presented as "newly-found evidence" an "Application for Retirement Benefit"[4] which complainant filed with the Social Security System (SSS) on March 11, 1991. Said document was obtained by respondents from the SSS Field Services Division in Bacolod City.

According to respondents:

> x x x [C]omplainant-appellee declared in his application under "History of Employment" that he was an employee of Augusto de Guia (deceased spouse of Respondent - de Guia) and that his period of employment covers only from July 1, 1973 to December 31, 1978. This newly found evidence is an admission against complainant-appellee's interest since this piece of document will show that he was separated last December 31, 1978, contrary to his claim in this instant case that he worked from 1962 until July 1991. If complainant-appellee was dismissed in 1978, then clearly his cause of action had already prescribed.[5]

Respondents, likewise, argued that assuming complainant's action had not prescribed, he still would not be entitled to any retirement benefits since he was only 48 years old when he was separated from employment in 1978, well below the 60-year old retirement age prescribed by the Labor Code.

It does not appear that complainant filed any opposition to respondents' appeal.

On June 30, 1994, the NLRC rendered a Decision dismissing the complaint for lack of merit.

On August 29, 1994, complainant filed a Motion for Reconsideration before the NLRC. He pointed out that in the same Application for Retirement Benefit adduced by respondents, complainant's employer, Teodora C. de Guia, certified complainant's exact date of separation to be February 28, 1991.

The NLRC, however, denied complainant's motion in a Resolution promulgated on April 7, 1995. It held that:

> It is not disputed as found by the Commission that the applicant had applied for retirement benefits under the Social Security System and may have already enjoyed the said benefits. Moreover, even on the assumption that the complainant was separated from the service on February 28, 1991, he is not covered by R.A. 7641 which took effect on January 7, 1993, years before his separation from the service.[6]

In this special civil action for certiorari, complainant, now petitioner, claims that:

> The Honorable Commission did not only abuse its discretion amounting to lack of jurisdiction BUT THE DECISION IS NULL AND VOID FOR BEING CONTRARY TO THE FACTS AND EVIDENCE.[7]

First, petitioner takes exception to the following pronouncement in the impugned resolution:

> One more observation in the instant case is that the evidence relied on by the complainant to show merit in his claim for retirement benefits is the latter's application for retirement benefits tending to show that complainant was still in the service up to February 29, 1991. This particular evidence was not made available to the Labor Arbiter in the proceedings below. Thus, he could not be faulted for his findings against the respondents.[8]

Petitioner brands the above pronouncement as "totally untrue" since the records show that the application for retirement benefits was used as evidence by private respondent, not by petitioner.

The contention is well-taken. Indeed, the document in question was attached as Annex "B" in private respondent's Memorandum of Appeal before the NLRC. Nevertheless, it does not appear that the NLRC's "observation" played a profound role in its decision to deny petitioner retirement benefits.

Petitioner next faults the NLRC for denying petitioner's claims on the ground that he had earlier availed of retirement benefits from the SSS. He contends that the provisions of R.A. 7641 entitles an employee to retirement pay in addition to the retirement benefits granted by the SSS. He adds that, despite his having retired prior to R.A. 7641's date of effectivity, the same should apply retroactively in his favor in line with our ruling in Oro Enterprises, Inc. vs. NLRC.[9]

We do not agree.

Prior to its amendment, Article 287 of the Labor Code provided as follows:

> ART. 287. *Retirement.* – Any employee may be retired upon reaching the retirement age established in the Collective Bargaining Agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreements.

In Llora Motors, Inc. vs. Drilon,[10] we interpreted the provisions of the above article to mean that:

> xxx Article 287 does not itself purport to impose any obligation upon employers to set up a retirement scheme for their employees over and above that already established under existing laws. In other words, Article 287 recognizes that existing laws already provide for a scheme by which retirement benefits may be earned or accrue [sic] in favor of employees, as part of a broader social security system that provides not only for retirement benefits but also death and funeral benefits, permanent disability benefits, sickness benefits and maternity leave benefits.[11]

As a consequence of our ruling in the above case, Congress enacted Republic Act 7641,[12] amending Article 287 of the Labor Code to read as follows:

> ART. 287. *Retirement.* – Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided,