

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**PROGRESSIVE DEVELOPMENT
CORPORATION and/or MRS. JUDY A.
ROXAS and DANTE P. VERAYO,**
Petitioners,

-versus-

**G.R. No. 138826
October 30, 2000**

**NATIONAL LABOR RELATIONS
COMMISSION, RHOLANDA ANDRES
and ROY ROMANO,**
Respondents.

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DECISION

BELLOSILLO, J.:

This Petition for Review on Certiorari seeks to annul and set aside the Decision^[1] of the Court of Appeals dated 24 May 1999 affirming the Resolution^[2] of the National Labor Relations Commission dated 20 May 1997 which declared that private respondents were constructively terminated when forced to resign under the retirement program of petitioner company.

Progressive Development Corporation (PDC) is a corporation organized and existing under the laws of the Philippines and its co-

petitioner Judy A. Roxas and Dante P. Verayo are its Senior Vice President and former Manager of its Human Resources Division, respectively.

In 1980 PDC implemented its Employees' Non-Contributory Retirement Plan (The Plan) which took effect on 1 April 1980. Thereafter, a number of employees was retired pursuant to the optional retirement provision of the plan:

SECTION 3. Optional Retirement. —Any participant with twenty (20) years of service, regardless of age, may be retired at his option or at the option of the Company and shall be entitled to the following benefits.

On 8 October 1990, upon request by PDC, Director Augusto G. Sanchez of the Bureau of Working Conditions, Department of Labor and Employment, confirmed the validity of The Plan, particularly its provision on optional retirement.

On 28 November 1994 PDC notified its employees who had rendered more than twenty (20) years of service in the Company of its decision to retire them effective 31 December 1994. On 7 December 1994, Jose Riego and private respondent Rholanda Andres, two (2) of those who were retired, filed a complaint for illegal retirement and unfair labor practices against petitioners.

Private respondent Rholanda Andres started in the employ of petitioner PDC on 22 October 1971 as a payroll clerk and was billing assistant with a monthly salary of P5,972.00 when petitioners decided to retire her from employment. She was then forty-five (45) years old with twenty-three (23) years of service in the company.

On 2 January 1995 private respondent Roy Romano also filed a similar complaint against petitioners. He started working with PDC as an elevator operator on 2 January 1974 and was a tender mechanic at its maintenance department with a monthly salary of P4,820.00 when he was retired. He was then thirty-eight (38) years old with twenty (20) years of service in the company.

The two (2) cases were consolidated. During the pendency of these cases, complainant Jose Riego desisted from pursuing his claim and accepted his retirement benefits. In addition, he executed a Release and Quitclaim that effectively relieved PDC and its officers from obligations under and in connection with his employment.

Private respondent Andres was Chairman of the Board of Directors of PDW-LIKHA, a union of rank-and-file employees of PDC, while private respondent Romano was a member of the union. They contended that their retirement from PDC was done by the latter as a retaliatory measure for their union activities. They assailed the validity of The Plan under which they were retired claiming lack of knowledge thereof absent any collective bargaining agreement and any applicable employment contract.

On 14 August 1995 petitioners filed a Manifestation and Motion^[3] for the presentation of evidence by both parties to settle certain factual issues. On 24 August 1995 private respondents, without denying the early retirement of their co-employees, opposed petitioners' motion to present evidence and moved to submit the consolidated cases for resolution on the basis of the pleadings so far submitted.^[4]

On 25 October 1995 the Labor Arbiter upheld the validity of the retirement of private respondents and dismissed their consolidated complaints.^[5] He ruled that the retirement plan of PDC was consistent with Art. 287 of the Labor Code as amended which provides that "any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract." He explained that the phrase "may be retired" connotes an option given to an employer to retire an employee and such option, he further declared, was within the discretion of the employer to exercise. The Labor Arbiter also held that the discretion of the employer extended to the choice of employees to be retired and choosing private respondents to retire could not be attributed to their union activities as the other members of the union who were similarly situated were not retired by PDC.^[6]

On appeal the National Labor Relations Commission (NLRC) modified the decision of the Labor Arbiter. It declared private respondents to be constructively terminated when forced to resign

under the retirement program of PDC, ordered their reinstatement with payment of their full wages computed from the time they were forcibly resigned until actually reinstated, but dismissed the complaint for unfair labor practice for lack of substantial basis.^[7]

On 4 July 1997 petitioners filed a Motion for Reconsideration^[8] which was denied^[9] by the NLRC on 10 July 1997. On 24 October 1997 petitioners filed with this Court a petition for certiorari under Rule 65 of the Rules of Court.^[10] On 25 January 1999, after respondents had filed their comments, the Court referred the petition to the Court of Appeals for appropriate action and disposition.

On 24 May 1999 the Court of Appeals denied the petition and affirmed the decision of the NLRC. Hence, this petition.

Clearly, the resolution of the issue on whether private respondents were illegally retired rests upon the determination of whether the retirement program of petitioner company is valid.

As a general rule, the factual findings and conclusions of quasi-judicial agencies such as the NLRC are accorded great weight and respect upon appeal, and even finality, as long as they are supported by substantial evidence or that amount of relevant evidence which a reasonable man might accept as adequate to justify a conclusion. But this is true only when they do not come under the established exceptions. One of these is where the findings of the NLRC and the Labor Arbiter are contrary to each other, as in the instant case. Consequently, there is a necessity for this Court to examine the records and the evidence presented to determine which findings of the NLRC and the Labor Arbiter should be preferred as more conformable with the evidentiary facts.

Accordingly, a careful examination of the records shows that the findings of the Labor Arbiter are more in harmony with the evidence on record. The retirement plan under which private respondents were retired is valid for it forms part of the employment contract of petitioner company. Director Augusto G. Sanchez of the Bureau of Working Conditions of the DOLE recognized and affirmed the validity of The Plan. Thus —

Considering therefore the fact that your client's retirement plan now forms part of the employment contract since it is made known to the employees and accepted by them, and such plan has an express provision that the company has the choice to retire an employee regardless of age, with twenty (20) years of service, said policy is within the bounds contemplated by the Labor Code. Moreover, the manner of computation of retirement benefits depends on the stipulation provided in the company retirement plan.

This pronouncement made by no less than the DOLE must be given substantial weight, as what the Labor Arbiter did, in the absence of any contrary evidence. Moreover, the undisputed fact that a number of employees of petitioner company had availed of The Plan since its effectivity only confirms that The Plan has already been part of the employment contract of petitioner company for a long time. Private respondents, particularly Andres, may not now feign ignorance of The Plan considering that she was the chairman of the union of rank-and-file employees of petitioner company and, as such, was considered to be familiar with the policies of the company.

Obviously, private respondents failed to substantiate their allegation that The Plan was invalid. The NLRC was thus incorrect in ruling in their favor by declaring that they were illegally retired. Hence, the affirmation by the Court of Appeals of the Decision of the NLRC must likewise be declared erroneous.

The Court notes that private respondents, in attacking the validity of The Plan, might have been motivated by their belief that they were retired by reason of their union activities. But, both the Labor Arbiter and the NLRC dismissed their allegation of unfair labor practice for apparent lack of substantial basis.

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals affirming the Resolution of the NLRC is **MODIFIED**. The dismissal of the complaint for unfair labor practice **STANDS** while its declaration that private respondents were illegally retired is **SET ASIDE**. The Decision of the Labor Arbiter declaring the validity of the retirement plan of petitioner company and ordering

the dismissal of the consolidated complaints of private respondents is **REVIVED** and **AFFIRMED**.

SO ORDERED.

Mendoza, Quisumbing, Buena and De Leon, Jr., JJ., concur.

[1] Decision penned by Associate Justice Eugenio S. Labitoria, concurred in by Associate Justices Marina L. Buzon and Renato C. Dacudao.(17th Division).

[2] Resolution, 20 May 1997, penned by Commissioner Ireneo B. Bernardo, concurred in by Presiding Commissioner Lourdes C. Javier; Rollo, pp.53-60.

[3] Rollo, pp. 38-40.

[4] Id., pp.43-44.

[5] Decision penned by Labor Arbiter Geobel A. Bartolbac.

[6] Ibid.

[7] See Note 2.

[8] Rollo, pp. 61-65.

[9] Id., pp. 67-68.

[10] Docketed as G.R. No. 130938.