SECOND DIVISION

[G.R. No. 247819, October 14, 2019]

GUIDO B. PULONG, PETITIONER, VS. SUPER MANUFACTURING INC., ENGR. EDUARDO DY AND ERMILO PICO, RESPONDENTS.

DECISION

LAZARO-JAVIER, J.:

The Case

This petition seeks to nullify the following dispositions of the Court of Appeals in CA-G.R. SP No. 146616:

> 1. Decision[1] dated July 13, 2018 affirming the ruling of the National Labor Relations Commission (NLRC) that petitioner was not illegally dismissed but had validly retired from service.
>
> 2. Resolution[2] dated March 6, 2019 denying petitioner's motion for reconsideration.

Antecedents

On September 30, 2014, petitioner Guido B. Pulong filed a complaint for illegal dismissal, non-payment of wages, 13th month pay, damages, and attorney's fees against herein respondents.

He essentially alleged that, in December 1978, respondent Super Manufacturing Inc., (SMI) hired him as a spot welder in its production plant in Quezon City.[3] In May 1998, he and other workers were granted their separation pay following the transfer of SMI's production plant to Calamba City, Laguna. On August 1, 1998, SMI re-employed him as a Senior Die Setter. He had since continued working for SMI.

On September 22, 2014, however, he was denied entry into SMI's production plant. SMI's Personnel Manager Ermilo Pico showed him a document stating he was compulsory retired since he had already turned sixty (60) years old. He refused to sign the retirement papers because he still wanted to work until sixty-five (65) years old. SMI, nevertheless, prevented him from returning work.[4]

For their part, respondents countered that petitioner was not illegally dismissed. Rather, he was compulsorily retired pursuant to the Memorandum of Agreement[5]

(MOA) dated January 1, 2013 between SMI and its workers, purportedly represented by Safety/Liaison Officer Eduardo K. Abad, Painter II Glenn B. Bionat, and Rewinder I Julio D. Cruz, *viz*:

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement executed by and between:

Super Manufacturing, Inc., Laguna Plant

xxx xxx xxx.

and

The Workers of Super Manufacturing, Inc., Laguna Plant located at Barangay Saimsim, Calamba City, Laguna.

xxx xxx xxx

III MISCELLANEOUS

5. Retirement pay – in accordance with law

5.1. Retirement Age – 60 years with at least 5 years of continuous service

5.2. Optional – 20 years of continuous service[6]

In his Reply and Rejoinder, petitioner argued that the MOA dated January 1, 2013 did not bind him for he was not a signatory therein. Abad, Bionat, and Cruz signed the MOA without authority to represent SMI's workers. As proof, petitioner submitted an Affidavit signed by thirteen (13) workers of SMI declaring they did not authorize Abad, Bionat, and Cruz to sign any contract in their behalf and they were not aware of the MOA; much less, the 60-year threshold for SMI workers.[7]

On the other hand, in their Reply and Rejoinder, respondents maintained that the MOA was validly entered into by SMI and the workers' representatives. Further, petitioner was estopped from claiming that the MOA did not bind him considering he had already availed of the benefits enumerated therein, e.g. uniform, Christmas gift, monetization of leave credits, and health card.[8]

Labor Arbiter's Ruling

Under Decision[9] dated June 10, 2015, Labor Arbiter Danna M. Castillon ruled that petitioner was illegally dismissed. Respondents failed to prove that the MOA dated January 1, 2013 was executed upon consultation with SMI's workers.[10] SMI failed to establish that Abad, Bionat, and Cruz were the authorized bargaining agents of its workers. The labor arbiter thus ruled:

> **WHEREFORE,** premises considered, the complainant is declared illegally dismissed by the respondent Super Manufacturing Inc. Thus, it is ordered to reinstate complainant to his former position without loss of seniority rights and to pay his backwages in the amount of **P125,815.03**.
>
> Respondent is directed to report compliance on the reinstatement aspect of this decision within ten (10) days from receipt of this decision.
>
> It is further ordered to pay ten percent (10%) attorney's fees.
>
> SO ORDERED.[11]

The NLRC's Ruling

On appeal, the NLRC affirmed.[12] It found that respondents failed to prove that Abad, Bionat, and Cruz were either appointed or elected by their co-workers to sign the MOA in their behalf.

Respondents filed a Motion for Reconsideration submitting for the first time documentary proofs of petitioner and his co-workers' receipt of benefits provided under the MOA, i.e. uniform, Christmas gift (a sack of rice, t-shirt, calendar, and P250.00 cash gift), monetization of 2013 leave credits, and health cards.[13]

But the tides had turned under Resolution dated February 29, 2016.[14] The NLRC found that petitioner and his co-workers' acceptance of benefits under the MOA estopped them from assailing its validity, as well as the authority of Abad, Bionat, and Cruz to sign it. Instead of paying petitioner's money claims on ground of illegal dismissal, SMI was thus ordered to pay petitioner's retirement benefits, *viz*:

> **WHEREFORE,** the motion for reconsideration of respondent Super Manufacturing Inc. is **GRANTED** and the 30 September 2015 Decision is **REVERSED AND SET ASIDE**. The complaint is **DISMISSED** for lack of merit. Nonetheless, respondent Super Manufacturing Inc. is **DIRECTED** to pay complainant's retirement pay in the amount of **P211,200.00**.
>
> **SO ORDERED.**[15]

Petitioner filed a motion for reconsideration but the NLRC denied with modification

under Resolution dated April 29, 2016,[16] thus:

> **WHEREFORE,** complainant's motion for reconsideration and respondents' *Motion to Recompute Retirement Pay* are **DENIED** for lack of merit. However, the 29 February 2016 Resolution is **MODIFIED** by increasing complainant's retirement pay from P211,200.00 to P216,000.00 pursuant to the clarified computation of retirement pay in *Elegir v. Philippine Airlines, Inc*. No motion for reconsideration of the same tenor shall be entertained.
>
> **SO ORDERED.**[17]

Aggrieved, petitioner sought to nullify the NLRC dispositions via a petition for certiorari before the Court of Appeals.

The Court of Appeals' Ruling

Under Decision[18] dated July 13, 2018, the Court of Appeals affirmed. It upheld SMI's compulsory retirement under the MOA, finding it was signed by authorized representatives of SMI's workers. The appellate court ruled that the MOA was the covenant between SMI and its workers for there was neither union nor a CBA at that time of its execution.[19]

Petitioner moved for a reconsideration but the Court of Appeals denied the same through its Resolution dated March 6, 2019.[20]

The Present Petition

Petitioner now seeks affirmative relief from the Court. He maintains he was illegally dismissed when respondents retired him at the age of sixty (60) against his will.[21] He argues that he accepted the benefits given him under the belief they were gratuities from SMI.[22]

In their Comment,[23] respondents riposte that petitioner's enjoyment of the benefits under the MOA proves its binding force upon him thus, precluding him from assailing its validity.

Issue

Did the Court of Appeals err in upholding petitioner's compulsory retirement at the age of sixty (60) years under the MOA dated January 1, 2013?

Ruling

We grant the petition.

Article 287[24] of the Labor Code, as amended by Republic Act 7641 (RA No. 7641) otherwise known as the "New Retirement Pay Law"[25] governs the retirement of employees in the private sector, *viz*:

> 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, however, that an employee's retirement benefits under any collective bargaining and other agreements shall not be less than those provided herein.
>
> **In the absence of a retirement plan or agreement plan providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty five (65) years which is hereby declared as the compulsory retirement age,** who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.
>
> Unless the parties provide for broader inclusions, the term one-half (1/2) month salary shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves. xxx (emphasis supplied)

By its express language, the law permits employers and employees to fix the employee's retirement age. Absent such an agreement, the law fixes the age for compulsory retirement at sixty-five (65) years, while the minimum age for optional retirement is set at sixty (60) years.[26] Thus, retirement plans allowing employers to retire employees who have not yet reached the compulsory retirement age of sixty-five (65) years are not *per se repugnant to the constitutional guaranty of security of tenure, provided that the retirement benefits are not lower than those prescribed by law*[27] *and they have the* ***employee's consent***.[28] It is axiomatic, therefore, that a retirement plan giving the employer the option to retire its employees below the ages provided by law must be assented to by the latter, otherwise, its adhesive imposition will amount to a deprivation of property without due process.[29]

In the recent case of ***Laya, Jr. v. Philippine Veterans Bank***,[30] we emphasized the character of the employee's consent to the employer's early retirement policy: it must be explicit, voluntary, free, and uncompelled. Unfortunately, this is not the