

THIRD DIVISION

[G.R. No. 200575, February 05, 2014]

**INTEL TECHNOLOGY PHILIPPINES, INC., PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND JEREMIAS
CABILES, RESPONDENTS.**

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner Intel Technology Philippines, Inc. (*Intel Phil.*). It assails the October 28, 2011^[1] and February 3, 2012^[2] Resolutions of the Court of Appeals (CA) in CA-G.R. SP No.118880, which dismissed the petition for *certiorari* filed by Intel Phil. thereby affirming the September 2, 2010 Decision^[3] of the National Labor Relations Commission (NLRC) and its February 9, 2011 Resolution. The NLRC decision modified the March 18, 2010 Decision^[4] of the Labor Arbiter (LA), and held Intel Phil. solely liable for the retirement benefits of respondent Jeremias Cabiles (*Cabiles*).

The Facts

This case concerns the eligibility of Cabiles to receive retirement benefits from Intel Phil. granted to employees who had complied with the ten (10)-year service period requirement of the company.

Cabiles was initially hired by Intel Phil. on April 16, 1997 as an Inventory Analyst. He was subsequently promoted several times over the years and was also assigned at Intel Arizona and Intel Chengdu. He later applied for a position at Intel Semiconductor Limited Hong Kong (*Intel HK*).

In a letter,^[5] dated December 12, 2006, Cabiles was offered the position of Finance Manager by Intel HK. Before accepting the offer, he inquired from Intel Phil., through an email, the consequences of accepting the newly presented opportunity in Hong Kong, to wit:

Are there any clearance requirements I need to fulfil as I move as a local hire to Hong Kong starting February 1?? I am still on my expat assignment in Chengdu till it ends January 31. Then immediately I become a HK local employee so I don't technically repatriate and work back to my home site Philippines at all. Nevertheless, I still need to close I think my employment there and so that all my ES benefits and clearance will be closed like conversion of my vacation leaves to cash, carry over of my service tenure in CV to HK etc. Please do let me know what process I need to go through or would an email notification be enough?

Another issue I would like to clarify is with regard to my retirement benefits. I will celebrate my 10th year of service with Intel on April 16, 2007. However, because I will be moving to Hong Kong as a local hire starting February 1, would I still be entitled to retirement benefits?? Do we roundup the years of service if its close enough to 10 years?? If not, what other alternatives I have or do I just lose my years of service at Intel Philippines? Any possibility that I keep my 9.5 years and start from there when I work in the Philippines again in the future??.^[6]

On January 23, 2007, Intel Phil., through Penny Gabronino (*Gabronino*), replied as follows:

Jerry – **you are not eligible to receive your retirement benefit given that you have not reached 10 years of service** at the time you moved to Hong Kong. We do not round up the years of service.

There will [be] no gap in your years of service. So in case that you move back to the Philippines your total tenure of service will be computed less on the period that you are out of Intel Philippines.^[7] [Emphasis supplied]

On January 31, 2007, Cabiles signed the job offer.^[8]

On March 8, 2007, Intel Phil. issued Cabiles his “Intel Final Pay Separation Voucher” indicating a net payout of P165,857.62. On March 26, 2007, Cabiles executed a Release, Waiver and Quitclaim (*Waiver*)^[9] in favor of Intel Phil. acknowledging receipt of P165,857.62 as full and complete settlement of all benefits due him by reason of his separation from Intel Phil.

On September 8, 2007, after seven (7) months of employment, Cabiles resigned from Intel HK.

About two years thereafter, or on August 18, 2009, Cabiles filed a complaint for non-payment of retirement benefits and for moral and exemplary damages with the NLRC Regional Arbitration Branch-IV. He insisted that he was employed by Intel for 10 years and 5 months from April 1997 to September 2007 – a period which included his seven (7) month stint with Intel HK. Thus, he believed he was qualified to avail of the benefits under the company’s retirement policy allowing an employee who served for 10 years or more to receive retirement benefits.

The Labor Arbiter’s Decision

On March 18, 2010, the LA ordered Intel Phil. together with Grace Ong, Nida delos Santos, Gabronino, and Pia Vilorio, to pay Cabiles the amount of HKD 419,868.77 or its peso equivalent as retirement pay with legal interest and attorney’s fees. The LA held that Cabiles did not sever his employment with Intel Phil. when he moved to Intel HK, similar to the instances when he was assigned at Intel Arizona and Intel Chengdu. Despite the clarification made by Intel Phil. regarding his ineligibility to receive retirement benefits, the LA stated that Cabiles could not be faulted if he was made to believe his non-entitlement to retirement benefits. Thus, it should not prevent him from asserting his right to receive them. Finally, the Waiver executed by Cabiles when he left Intel Phil., was treated by the LA as no bar for claiming his

retirement pay because it merely covered the last salary and commutation of sick leaves and vacation leaves to the exclusion of retirement benefits. The dispositive portion of the LA decision reads:

WHEREFORE, premises considered, Respondents are hereby ordered to pay complainant the amount of Four Hundred Nineteen Thousand Eight Hundred Sixty-Eight and 77/100 Hong Kong Dollars (HKD419,868.77) or its Peso equivalent as retirement pay with legal interest until satisfied, and to pay attorney's fees equivalent to ten percent (10%) of the judgment award.

SO ORDERED.^[10]

The NLRC Ruling

On appeal, the NLRC affirmed with modification the LA decision. In its September 2, 2010 Decision, the NLRC held Intel Phil. solely liable to pay Cabiles his retirement benefits. It determined that his decision to move to Intel HK was not definitive proof of permanent severance of his ties with Intel Phil. It treated his transfer to Hong Kong as akin to his overseas assignments in Arizona and Chengdu. As to the email exchange between Cabiles and Intel Phil., the NLRC considered the same as insufficient to diminish his right over retirement benefits under the law. Meanwhile, the NLRC disregarded the Waiver because at the time it was signed, the retirement pay due him had not yet accrued. Hence:

WHEREFORE, the appealed Decision is **MODIFIED**. Respondent-appellant Intel Technology Phil., Inc. is ordered to pay complainant-appellee Jeremias Cabiles the sum [xx] of Four Hundred Nineteen Thousand Eight Hundred Sixty Eight and 77/100 Hong Kong Dollars (HKD419,868.77) or its equivalent in Philippine peso as retirement pay together with legal interest thereon and attorney's fees computed at ten percent (10%) of the award.

The individual respondents-appellants Grace Ong, Nida delos Santos, Penny Gabronino and Pia Vilorio are RELIEVED from any personal liability resulting from the foregoing.

SO ORDERED.^[11]

Intel Phil. moved for reconsideration but its motion was denied in the NLRC Resolution,^[12] dated February 9, 2011.

The CA Decision

Aggrieved, Intel Phil. elevated the case to the CA via a petition for *certiorari* with application for a Temporary Restraining Order (TRO) on April 5, 2011. The application for TRO was denied in a Resolution, dated July 5, 2011. A motion for reconsideration, dated July 27, 2011, was filed, but it was denied in a Resolution, dated October 28, 2011, which also dismissed the petition for *certiorari*.^[13]

On December 1, 2011, Intel Phil. filed a motion for reconsideration.

Earlier, on September 19, 2011, pending disposition of the petition before the CA, the NLRC issued a writ of execution^[14] against Intel Phil.:

NOW, THEREFORE, you are commanded to proceed to the premises of respondent **INTEL TECHNOLOGY PHILIPPINES, INCORPORATED** located at Gateway Business Park, Javalera, General Trias, Cavite or anywhere in the Philippines where it could be located to collect the amount of Three Million Two Hundred One Thousand Three Hundred Ninety Eight Pesos and Sixty Centavos (P3,201,398.60) and turn over the same to this Office for appropriate disposition.

You are likewise directed to collect from the respondents the amount of Thirty One Thousand Five Hundred Ten Pesos (P31,510.00) representing the execution fees pursuant to the provisions of the NLRC Manual of Execution of Judgment.

In case you fail to collect the said amount in cash, you are directed to cause the satisfaction of the same out of the respondents' chattels or movable goods or in the absence thereof, out of the immovable properties not exempt from execution and return this Writ of Execution to the undersigned not more than five (5) years from receipt hereof together with the report not later than thirty (30) days from receipt and every thirty (30) days thereafter pursuant to Section 12, Rule XI of the 2001 NLRC Rules of Procedures.^[15]

As ordered by the NLRC, Intel Phil. satisfied the judgment on December 13, 2011 by paying the amount of P3,201,398.60 which included the applicable withholding taxes due and paid to the Bureau of Internal Revenue. Cables received a net amount of P2,485,337.35, covered by the Bank of the Philippine Islands Manager's Check No. 0000000806.^[16]

By reason thereof, Intel Phil. filed on December 21, 2011 a Supplement to the Petition for Certiorari^[17] praying, in addition to the reliefs sought in the main, that the CA order the restitution of all the amounts paid by them pursuant to the NLRC's writ of execution, dated September 19, 2011.

In its February 3, 2012 Resolution,^[18] the CA noted without action the supplement to the petition for *certiorari* of Intel Phil. and denied the December 21, 2011 motion for reconsideration.

Hence, this petition.

ISSUES

I

The Court of Appeals committed serious error in dismissing the Petition for Certiorari without expressing clearly and distinctly the facts and the law on which its decision was based.

II

The Court of appeals committed serious and reversible error in not finding that respondent NLRC gravely abused its discretion when it ruled that private respondent was entitled to retire under Intel Philippines' retirement plan.

III

The Court of Appeals committed serious and reversible error in not finding that respondent NLRC gravely abused its discretion in annulling private respondent's quitclaim.

IV

The Court of Appeals committed serious and reversible error in not finding that Cabiles has the legal obligation to return all the amounts paid by Intel pursuant to the writ of execution.^[19]

Intel Phil. insists as serious error the CA's affirmation of the NLRC decision holding it liable for the retirement benefits claimed by Cabiles. It contends that he is disqualified to receive the benefits for his failure to complete the required minimum ten (10) years of service as he resigned to assume new responsibilities with Intel HK effective February 1, 2007.

Respondent's Position

In his Comment,^[20] Cabiles submits (1) that the petition presents questions of fact which cannot be reviewed via Rule 45; and (2) that the CA did not err when it affirmed the NLRC ruling:

- (a) for his entitlement to retirement pay as he was under the employ of Intel Phil. for more than ten (10) years in accordance with the prevailing retirement policy;
- (b) for the nullity of the quitclaim as he was misled to believe that he was disqualified to receive retirement benefits; and
- (c) for his right to receive legal interest, damages and attorney's fees.

Cabiles views his employment with Intel HK as a continuation of his service with Intel Phil. alleging that it was but an assignment by his principal employer, similar to his assignments to Intel Arizona and Intel Chengdu. Having rendered 9.5 years of service with Intel Phil. and an additional seven months with Intel HK, he claims that he had completed the required 10 year continuous service^[21] with Intel Phil., thus, qualifying him for retirement benefits.

In its Reply, Intel Phil. reiterates the arguments contained in its petition.

The Court's Ruling

Review of Factual Findings

As a general rule, this Court is not a trier of facts and a petition for review on