

THIRD DIVISION

[G.R. No. 179593, September 14, 2011]

**UNIVERSITY OF THE EAST, PETITIONER, VS. UNIVERSITY OF
THE EAST EMPLOYEES' ASSOCIATION, RESPONDENT.**

DECISION

MENDOZA, J.:

Before the Court is a petition for review under Rule 45 of the Rules of Court assailing the February 26, 2007 Decision^[1] and September 5, 2007 Resolution^[2] of the Court of Appeals (CA), in CA-G.R. SP No. 90740, which set aside the February 28, 2005 Decision and May 31, 2005 Resolution of the National Labor Relations Commission (NLRC) in NLRC-NCR-00-04-05015-99. The dispositive portion of the CA decision reads:

WHEREFORE, the instant petition is GRANTED. The Decision dated 28 February 2005 and Resolution dated 31 May 2005 rendered by the NLRC are SET ASIDE. The final resolutions dated 29 April 2004 and 24 August 2004 hereby REMAIN in effect.

SO ORDERED.^[3]

Facts of the Case

Petitioner University of the East (UE) is an educational institution duly organized and existing under Philippine laws. On the other hand, respondent University of the East Employees' Association (UEEA) is a duly registered labor union of the rank-and-file employees of UE.

It appears from the records that prior to school year (SY) 1983-1984, the 70% incremental proceeds from tuition fee increases as mandated by Presidential Decree No. 451 (P.D. No. 451), as amended, was distributed by UE in proportion to the average number of academic and non-academic personnel. The distribution scheme became the subject of an Agreement^[4] dated October 18, 1983 signed by the management, faculty association and respondent.^[5] Starting SY 1994-1995, however, the 70% incremental proceeds from the tuition fee increase was distributed by UE to its covered employees based on a new formula of percentage of salary.

Not in conformity, UEEA, thru its president Ernesto C. Verceles (*Verceles*), sent a letter^[6] dated December 22, 1994 to then UE President, Dr. Rosalina S. Cajucom (*Dr. Cajucom*), questioning the manner of distribution of the employees' share in

the 1994-1995 tuition fee increase. The letter reads:

Dear President Cajucom:

This is with reference to the recent distribution of the employees' share in the 1994-95 tuition fee increase.

We understand that the University unilaterally instituted a partial distribution of FIVE PERCENT (5%) only of the basic wage of employees, faculty members and administration personnel.

This, to our mind, is quite irregular and unfair in view of the following considerations:

1.) We have all along instituted the practice of having a Tripartite Meeting where the three (3) sectors involved, i.e. management, faculty and employees' representatives go over the incremental proceeds that have been realized and come to an agreement on the distribution of the share whether partial or total in nature;

2.) The accepted and traditional practice was that for every ₱1.00 per share of faculty members based on the "full load equivalent," management personnel and rank-and-file employees receive ₱100.00 a month;

3.) Using as a basis 5% of the wages of University personnel entitled thereto besides being a departure from past practices, creates that unfair situation where those who have higher salaries receive more to the prejudice of low salaried employees and faculty members;

4.) There is an existing Tripartite Agreement, with a xerox copy attached hereto as ANNEX "A," clearly specifying the agreed manner of distribution. Even [if] the May 17, 1994 letter to UE President Rosa[lina] Cajucom by then Secretary of Education, Culture and Sports Armand V. Fabella, states under the third paragraph thereof that "the discretion is vested upon the school authorities xxx," but, in the same breath, the Secretary qualifies the distribution or manner of remittance thereof with the phrase "(except where it forms part of a collective bargaining agreement but accrues to school personnel in any case) xxx." In this light, Article XX Section 5 of our past and current CBAs provide succinctly that:

"The UNIVERSITY agrees to continue the implementation of all benefits hitherto enjoyed by the employees not embodied herein and are the subject of communication between the UNIVERSITY and the ASSOCIATION provided they are not inconsistent with the provisions of the Agreement or of the Labor Code. All other existing clauses, covenants, provisions or agreements shall remain in force."

We, therefore, urge the University to rectify the aforementioned erroneous, unfair and irregular distribution instituted last December 13, 1994.

We believe that you may have been misled by your staff in so arriving at such objectionable manner of distributing our tuition fee shares. We therefore hope that in the spirit of the season, the University thru your good self would institute the necessary correction, thereby affording our lower salaried employees and faculty members the means to have a more meaningful Christmas celebration.

xxx

On February 23, 1995, UEEA sent another letter^[7] to the UE President reiterating its earlier objection to the distribution scheme of the 70% incremental proceeds from the tuition fee increase and requested a tripartite conference among management, faculty, administration, and rank-and-file representatives to address the issue.

On June 19, 1995, a tripartite meeting was held among the representatives of management, faculty union and UEEA. In the said meeting, it was agreed that the distribution of the incremental proceeds would now be based on percentage of salary, and not anymore on the average number of personnel. The Minutes^[8] of the June 19, 1995 meeting was signed and attested to by UEEA officers who attended.

On April 27, 1999, UEEA filed a complaint before the NLRC for non-payment/underpayment of the rank-and-file employees' share of the tuition fee increases against UE pursuant to P.D. No. 451, as amended, and Republic Act (R.A.) No. 6728 otherwise known as *Government Assistance to Students and Teachers in Private Education Act*.

In its position paper,^[9] UEEA alleged that starting SY 1994-1995, UE had been withholding from the rank-and-file employees a sizeable portion of their share in the tuition fee increases as mandated by P.D. No. 451, as amended. It asserted that before SY 1994-1995, shares of tuition fee increases were distributed proportionately among the management, faculty and rank-and-file employees based on equal sharing or on a share-and-share alike basis. In SY 1994-1995, however, UE arbitrarily and unilaterally distributed the tuition fee increase proceeds through percentage based on salaries, thereby reducing the shares of the rank-and-file employees, while increasing those of the management personnel.

In its reply, ^[10] UE denied that the implementation of the new scheme in the distribution of the 70% incremental proceeds derived from tuition fee increases starting SY 1994-1995 was made arbitrarily and/or unilaterally. It explained that the distribution scheme was only implemented after inquiry from the Department of Education, Culture and Sports (DECS) regarding the provision of R.A. No. 6728. DECS explained that the law was silent on the manner of the distribution of the 70% incremental proceeds and stated that discretion in the distribution was vested in the school authorities. What the law clearly required was that the incremental proceeds from the tuition fee increases should be allocated for the payment of salaries/wages, allowances and other benefits of the teaching and non-teaching personnel except

the administrators who were principal stockholders of the school. Thus, UE insisted that it may distribute the entire 70% incremental proceeds for an across-the-board salary increase, or for merit increase, or for allowances and other employment benefits.

Furthermore, UE pointed out that the new distribution scheme was implemented after a tripartite meeting was held on June 19, 1995 among the representatives of the management, UE Faculty Association (UEFA) and the UEEA, wherein it was agreed that for SY 1994-1995, the distribution of the incremental increase would be 9.96% of the salaries of the employees as of May 31, 1994. In fact, copies of the minutes of the meeting were distributed and signed by the participants. Hence, UEEA was estopped from questioning the distribution scheme when it accepted the benefits.

Lastly, UE asserted that the claim of the UEEA was already barred since it was filed three (3) years from the time its supposed cause of action accrued.

On September 4, 2002, Labor Arbiter Francisco A. Robles (LA) rendered a decision^[11] favoring UEEA, the *fallo* of which reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondent University of the East, to pay the members of University of the East Employees Association (UEEA) the amount of TWENTY-FIVE MILLION SEVEN HUNDRED FORTY-NINE THOUSAND NINE HUNDRED NINETY-FIVE PESOS AND 40/100 (P25,749,995.40) representing the portions of the tuition fee increases for the school year 1994-1995 and up to May 31, 2002 which were denied/withheld and/or lost by the members of the aforesaid Union as a result of the disputed distribution scheme based on percentage of salary which was arbitrarily and unilaterally adopted and implemented by the respondent. Furthermore, the respondent is hereby directed to submit to this Office a report to show compliance to the order herein stated.

SO ORDERED.^[12]

The LA ruled that the equal sharing distribution scheme in relation to the incremental proceeds from the tuition fee increases had been adopted as a matter of policy by UE since 1983 and was made part of its collective bargaining agreement with the UEEA. In addition, the LA noted that the existence of the said policy or practice in the university was made part of the tripartite agreement dated October 18, 1983, among UE, UEFA and UEEA. There was no evidence on record that the said agreement was superseded by another agreement between UE and UEEA. Furthermore, UE's reliance on the letter-reply of then DECS Secretary Armand V. Fabella was misplaced as the law imposed a limitation on the extent of the discretionary authority given to the school officials such as when the disposition had been agreed upon in a collective bargaining agreement. The LA concluded that UE was legally bound to keep and maintain the established practice of distributing equally among its employees the incremental proceeds from the tuition fee increases particularly in light of the aforesaid tripartite agreement dated October 18, 1983 and the provisions of Article XX, Section 5 of the UE-UEEA collective

bargaining agreement.

Undaunted, UE interposed an appeal before the NLRC. The NLRC, in its April 29, 2004 Resolution,^[13] dismissed the appeal and sustained the LA decision. UE filed a motion for reconsideration but it was denied in a resolution^[14] dated August 24, 2004 with a warning that no further motion for reconsideration shall be entertained.

Nonetheless, on September 20, 2004, UE filed a motion for leave to file and admit a second motion for reconsideration, incorporating therein its second motion for reconsideration. UE alleged that the NLRC resolution was not valid for failure to pass upon and consider the new and vital issues raised in its motion for reconsideration and for failure to comply with the prescribed form for NLRC resolutions pursuant to Section 13, Rule VII, NLRC New Rules of Procedure.^[15]

On February 28, 2005, the NLRC gave due course to the second motion for reconsideration, reversed its earlier ruling and declared valid the distribution of the 70% incremental proceeds from tuition fee increases based on the percentage of salary of the covered employees.^[16] Consequently, UEEA filed a motion for reconsideration^[17] but it was denied in the NLRC Resolution^[18] dated May 31, 2005.

Aggrieved, UEEA filed a petition before the CA. The appellate court granted the petition and set aside the questioned decision and resolution of the NLRC.^[19] The CA declared that since the second motion for reconsideration was a prohibited pleading, it did not interrupt the running of the reglementary period. Therefore, the NLRC Resolution dated August 24, 2004 became final and executory after ten (10) days from receipt of the copy thereof by the parties. Accordingly, the said resolution had attained finality and could no longer be modified in any respect, even if the modification was meant to correct what was perceived to be an erroneous conclusion of fact or law.

UE filed a motion for reconsideration of the CA decision but it was denied in a resolution^[20] dated September 5, 2007. Hence, this appeal, anchored on the following:

GROUND:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT DECLARED THAT PETITIONER'S SECOND MOTION FOR RECONSIDERATION IS A PROHIBITED PLEADING.

II

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT HELD THAT THERE ARE "[NO] EXTRAORDINARY PERSUASIVE REASONS" IN THE INSTANT CASE WARRANTING THE ALLOWANCE OF A SECOND MOTION FOR RECONSIDERATION.