

SECOND DIVISION

[G.R. No. 155639, April 22, 2009]

JANUARIA A. RIVERA, PETITIONER, VS. UNITED LABORATORIES, INC., RESPONDENT.

DECISION

BRION, J.:

Before the Court is the case of a retired employee who continued working after her retirement, and who now claims retirement pay differential for the subsequent work she undertook. The retiree is Januaria A. Rivera (*Rivera*) now before the Court on a petition for review on *certiorari* under Rule 45 of the Rules of Court.^[1] She seeks to set aside the decision of the Court of Appeals (CA)^[2] and its subsequent resolution denying her motion for reconsideration.^[3] The assailed CA decision set aside the decision of the National Labor Relations Commission (NLRC) decision dismissing Rivera's appeal,^[4] and remanded the case to the Labor Arbiter for hearing on the merits.

The Factual Background

Rivera commenced employment with respondent United Laboratories, Inc. (UNILAB) on April 7, 1958 as senior manufacturing pharmacist. She later became Director of UNILAB's Manufacturing Division.

In 1959, UNILAB adopted a comprehensive retirement plan^[5] (*the plan or retirement plan*) supported by a retirement fund, consisting of Trust Fund A where it would put in its contributions for the account of the member-employee (*member*) and Trust Fund B consisting of the contributions of the members themselves. **The parties do not dispute that under the plan, a member is compulsorily retired upon reaching the normal retirement date which is the date when the member has reached age 60 or has completed 30 years of service, whichever comes first.**

In 1988, Rivera completed 30 years of service and UNILAB retired her pursuant to the terms of the plan effective December 31, 1988. Based on her monthly salary of P28,000.00 at that time, and at one month's terminal basic salary for every year of service, Rivera's retirement benefits amounted to P860,473.12 from Trust Fund A and P186,858.21 from Trust Fund B, for a total of P1,047,331.33.

^[6]

Rivera's accrued retirement benefits under Trust Fund A and Trust Fund B were withdrawn from the retirement fund and deposited in Trust Fund C, a special account from which she could make withdrawals as she pleased. A manual computation prepared by the company showed that the full amount of

Rivera's retirement pay was transferred to Trust Fund C.^[7]

At Rivera's request, UNILAB allowed her to continue working for the company; she was even promoted to the position of Assistant Vice-President on January 1, 1989, with a basic monthly salary of P50,034.00, and a fixed monthly allowance of P8,900.00. She rendered service to the company in this capacity until the end of 1992, at which time, **Rivera retired from employment with the company (as distinguished from retirement from the plan), as UNILAB put it and as evidenced by a personnel action notice dated February 19, 1993.**^[8]

From 1993 to 1994, Rivera served as a personal consultant under contract with the Active Research and Management Corporation (ARMCO) in 1993 and with Fil-Asia Business Consultants (Fil-Asia) in 1994. These are UNILAB's sister companies which assigned Rivera to render service involving UNILAB. Submitted in evidence were Rivera's contracts with the two corporations.^[9]

On December 16, 1992, the company amended its retirement plan, providing, among others, for an increase in retirement benefits from one (1) month to one-and-a-half (1.5) months of terminal basic salary for every year of service.^[10] The amendment also provides that "[T]he effective date of normal or mandatory retirement from the Plan is 30 days after an employee reaches his/her 60th birthday. The effective date applies to all rank and file as well as KPs."^[11]

In a **letter dated January 7, 1995** to UNILAB,^[12] Rivera asked that her retirement benefits be increased in accordance with the amended retirement program based on her December 31, 1992 terminal basic salary, multiplied by her thirty four (34) years of service with the company. UNILAB did not reply to this letter and Rivera made two follow-up letters, one dated December 18, 1995^[13] and the other, February 12, 1996,^[14] reiterating her demand for additional retirement benefits.

UNILAB denied Rivera's request in a letter dated February 26, 1996.^[15] The company explained that since the upgrade of the retirement benefit formula occurred in December 1992, the upgraded formula does not apply to her; what applied to her case is the formula that governed in 1988, the year she compulsory retired from the plan.

Rivera sought legal assistance and in a letter dated July 24, 1996,^[16] lawyer Katz N. Tierra demanded a recomputation of Rivera's retirement pay under the plan and under the retirement law. UNILAB again rejected the demand in its letter dated August 5, 1996.^[17]

On August 9, 1996, Rivera sought relief from the NLRC in an action against UNILAB for recovery of unpaid retirement pay differential. In defense, UNILAB argued that the complaint was filed out of time as it was filed only on August 9, 1996. UNILAB prayed for the dismissal of the complaint on the ground of prescription. Invoking Article 291 of the Labor Code,^[18] it maintained that Rivera's cause of action accrued when the company's retirement plan was amended

considering that the action was triggered by the additional benefit provided by the amendment to the retirement plan on December 16, 1992.

Rivera disagreed with UNILAB's position, arguing that the three-year period within which to file her complaint should be counted, not from December 16, 1992, but from February 26, 1996 when the company had "*categorically*" denied her letter demanding payment of the unpaid balance of her retirement benefits.

The Arbitration Rulings

Labor Arbiter Manuel R. Caday dismissed the complaint for lack of merit in an order dated November 7, 1997.^[19] The Labor Arbiter found that Rivera's cause of action did not accrue only on February 26, 1996 when her third letter was answered by UNILAB; it accrued on January 15, 1993 when she received the company's check in payment of her retirement benefits after she was retired on December 31, 1992. According to the Arbiter, the company stood firm in its position that the amended retirement plan did not apply to Rivera and the company had not wavered in this stand; UNILAB's reply to Rivera's third letter was nothing but a reiteration of its denial of Rivera's demand that she be covered by the amended retirement plan.

Arbiter Caday rejected Rivera's contention that under Article 1155 of the Civil Code, "*written extrajudicial demand*," like letters, effectively interrupted the running of the three-year prescriptive period. He pointed out that while it is true that Article 1155 of the Civil Code was mentioned in *Manuel L. Quezon University Association v. Manuel L. Quezon Educational Institution Inc.*,^[20] the Court did not categorically state that it superseded Article 291 because the said demand letter amounted to nothing, the cause of action having already prescribed.

Separately from the prescription issue, the Labor Arbiter found that Rivera was not entitled to the upgraded benefits under the company's amended retirement plan because she was compulsorily retired on April 7, 1988. Thus, her retirement benefits should be computed based on her last monthly basic pay in April 1988 and not in December 1992.

Rivera appealed to the NLRC. In a decision promulgated on August 18, 1998,^[21] the NLRC denied the appeal for lack of merit, thereby affirming the Labor Arbiter's order of November 7, 1997. Rivera moved for the reconsideration of the decision, but the NLRC denied the motion in a resolution promulgated on January 29, 1997.^[22]

Rivera elevated the case to the CA by way of a petition for *certiorari* under Rule 65 of the Rules of Court,^[23] questioning the NLRC's ruling that her claims for additional retirement benefits had prescribed.

The CA ruled in favor of Rivera. In a decision promulgated on December 21, 2001,^[24] it set aside the assailed decision and resolution of the NLRC, but remanded the case to the Labor Arbiter for hearing on the merits. It found that Rivera's claim for retirement had not yet prescribed at the time of its filing on August 9, 1996.

The appellate court held that even assuming that Rivera's cause of action did arise on January 15, 1993, when she received her retirement pay check from the company, the running of the three-year prescriptive period was effectively

interrupted by Rivera's first letter to UNILAB on January 7, 1995, when she demanded additional retirement benefits under the 1992 amended retirement plan.

In upholding Rivera's claim, the CA relied on *De Guzman v. Court of Appeals*^[25] where the Court ruled that based on Article 1155 of the Civil Code, the three-year prescriptive period for money claims in labor cases can be interrupted by a claim filed with the proper judicial or quasi-judicial forum, by an extrajudicial demand on the employer, or by the employer's acknowledgment of its debt or obligation. *De Guzman* cited the *Manuel L. Quezon University* ruling.^[26]

To the CA, the running of the prescriptive period (that began on January 15, 1993) stopped when Rivera made the extrajudicial demand on UNILAB through her January 7, 1995 letter,^[27] leaving her with one year and eight days more of the three-year period, or up to about March 5, 1997, within which to file her claim. Thus, when Rivera brought her case to the NLRC on August 9, 1996, it was well within the prescriptive period.

The CA however avoided ruling on the merits of the case by reason of what it recognized as "*an existing controversy as to the crucial fact of when precisely petitioner retired from respondent company for purposes of determining whether or not she is covered by respondent's amended retirement plan so as to fix the amount of retirement benefits.*"

UNILAB moved for a reconsideration of the CA decision on grounds that the CA erred: in entertaining the petition which was filed beyond the 60-day period allowed by the Rules of Court; and, in ruling that Rivera's cause of action had not prescribed. On the other hand, Rivera filed a partial motion for reconsideration of the decision asking the CA to resolve the remaining issues raised in the petition.

On October 16, 2002, the CA promulgated its resolution denying both motions for lack of merit.^[28] Hence, the present petition.

The Petition

The petition asks the Court to exercise its power of review over the questioned decision and resolution of the CA on the following grounds:

1. They are not in accord with applicable decisions of the Court;
2. They contravene the provisions of the Constitution on the promotion of "*social justice*" and "*protection to labor*"; and
3. The CA and NLRC records of the case are sufficient to resolve the entire controversy.

The petition then proceeds to show that Rivera's claim for unpaid retirement benefits differential should have been disposed of by the CA on the basis of the records before it, considering that the appellate court made specific factual findings culled from the parties' respective submissions in resolving the prescription issue.

Rivera contends that: the CA's factual findings based on UNILAB's admissions show that she continued in the employ and service of the company from April 7, 1958

until December 31, 1994; her so-called first and second "*retirements*" in 1988 and 1992, as well as "*consultancy*" up to the end of 1994, "*were a brilliant but a devious scheme*" by UNILAB to deprive her of benefits due her; she lost millions of pesos in benefits when she was made to retire a second time on December 31, 1992, and to immediately assume thereafter a "*consultancy*" that lasted until December 31, 1994, but was given retirement benefits based only on her 1988 pay scale and under the old retirement plan.

Rivera further contends that even without UNILAB's admissions, the factual findings of the CA are borne out by the records which unequivocally established that there was no break in her employment with the company. Even prior to Rivera's so-called retirement on December 31, 1992, her services were already subject of a consultancy contract dated October 15, 1992 with ARMCO,^[29] which UNILAB used to maintain her services under a purported "*contract of hire*"; Rivera's compensation package exposed ARMCO's consultancy contract with her as a "*monumental sham*."

Rivera submits that a cursory examination of the corporate records of UNILAB and ARMCO on file with the Securities and Exchange Commission (SEC)^[30] discloses that ARMCO and UNILAB have six (6) common directors, a common chairman of the board, a common corporate secretary, a common treasurer and two (2) other common officers. UNILAB continued to use Rivera's services for the period January to December 1994 through another conduit, FIL-ASIA, pursuant to a letter-agreement dated January 3, 1994.^[31] Comparing FIL-ASIA's corporate records with those of ARMCO and UNILAB, Rivera points out that the three (3) corporations have a common president, a common corporate secretary, and a common assistant secretary. Moreover, FIL-ASIA has three (3) common directors with UNILAB and also three (3) common directors with ARMCO, with which it has likewise two (2) common officers; both FIL-ASIA and ARMCO have the same business address and telephone numbers.^[32]

Rivera posits that in the light of these incontrovertible facts, UNILAB, ARMCO and FIL-ASIA are one and the same corporation. She opines that the "*veil of corporate fiction may be pierced when the same is made as a shield to confuse the legitimate issues*." She maintains that when her "*agreement*" with FIL-ASIA expired on December 31, 1994, she had completed thirty six (36) years, eight (8) months and twenty four (24) days of continuous service with UNILAB.

Rivera considers the check for P1,175,666.22^[33] that she received on January 15, 1993 as retirement benefits falls short of the correct amount due her; the amount paid was computed on the basis of her 1988 salary scale, not on her last salary as of December 31, 1994. She adds that there were modifications and changes to the retirement plan prior to January 15, 1993, but were formally made known only in a memorandum dated June 1, 1993;^[34] thus, the January 15, 1993 check did not include the modifications and changes in the benefits mentioned in the memorandum.

Rivera submits that the provisions of the retirement plan on compulsory retirement age and maximum years of service were deemed waived, when UNILAB continued to employ the services of Rivera for six (6) more years after 1988, or until December 31, 1994. Under these facts, Rivera contends, the "*monthly basic pay*" that should serve as basis in computing her retirement benefits should be the prevailing pay in