ENRIQUEZ SECURITY SERVICES, INC., PETITIONER, VICTOR A. CABOTAJE, RESPONDENT.

G.R. NO. 147993. July 21, 2006

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-147993/

CORONA, J.:

Sometime in January 1979, respondent Victor A. Cabotaje was employed as a security guard by Enriquez Security and Investigation Agency (ESIA). On November 13, 1985, petitioner Enriquez Security Services, Inc. (ESSI) was incorporated. Respondent continued to work as security guard in petitioner's agency.

On reaching the age of 60 in July 1997,[1] respondent applied for retirement.

Petitioner acknowledged that respondent was entitled to retirement benefits but opposed his claim that the computation of such benefits must be reckoned from January 1979 when he started working for ESIA. It claimed that the benefits must be computed only from November 13, 1985 when ESSI was incorporated.

Respondent consequently filed a complaint in the National Labor Relations Commission (NLRC) seeking the payment of retirement benefits under Republic Act No. (RA) 7641, otherwise known as the Retirement Pay Law.[2]

On January 15, 1999, labor arbiter Eduardo Carpio decided in respondent's favor:

> Complainant is entitled to retirement pay. This entitlement was not denied by respondents. xxx The computation of this benefits shall cover the entire period of his employment from January 1979 up to July 16, 1997 based on his latest monthly salary of P5,383.15 per the payroll sheet submitted by respondents. While respondents claim that respondent corporation was merely registered with the DOTC on November 13, 1985, they did not deny however that complainant was an employee of the then Enriquez Security and Investigation Agency, and that complainant's services with the said security agency up to the present respondent corporation was uninterrupted. The obligation of the new company involves not only to absorb the workers of the dissolved company, but also to include the length of service earned by the absorbed employee with their former employer as well. To rule otherwise would be manifestly less than fair, certainly less than just and equitable.
>
> xxx xxx xxx
>
> WHEREFORE, judgment is hereby rendered ordering respondents to pay complainant the grand total amount of P228,581.00 representing his retirement benefits and other money claims.
>
> SO ORDERED.[3]

On appeal, the NLRC set aside the labor arbiter's award of one-month salary for every year of service for being excessive. It ruled that under RA 7641, respondent Cabotaje was entitled to retirement pay equivalent only to one-half month salary for every year of service. Thus:

> WHEREFORE, the assailed decision is hereby set aside and a new one entered ordering respondents to pay

> complainant the amount of P76,710.60 representing his retirement benefits.
>
> SO ORDERED.[4]

On March 15, 2000, the NLRC denied petitioner's motion for reconsideration.[5]

On May 25, 2000, petitioner filed a special civil action for certiorari[6] with the Court of Appeals.

On September 26, 2000, the appellate court affirmed the NLRC decision.[7] It also denied the motion for reconsideration on May 8, 2001.[8]

Hence, this petition for review on certiorari[9] on the following issues:

> - [w]hether or not the Retirement [Pay] Law has retroactive effect.
>
> - [w]hether the whole 5 days service incentive leave or just a portion thereof equivalent to 1/12 should be included in the ½ month salary for purposes of computing the retirement pay.
>
> - [w]hether or not the length of service of a retired employee in a dissolved company (his former employer) should be included in his length of service with his last employer for purposes of computing the retirement pay.[10]

We find no merit in the petition.

First. Petitioner's contention that RA 7641 cannot be applied retroactively has long been settled in the Guidelines for Effective Implementation of RA 7641 issued on October 24, 1996 by the Department of Labor and Employment. Paragraph B of the guidelines provides:

> In reckoning the length of service, the period of employment with the same employer before the effectivity date of the law on January 7, 1993 should be included.

Thus, in Rufina Patis Factory v. Lucas, Sr.,[11] we held:

> RA 7641 is undoubtedly a social legislation. The law has been enacted as a labor protection measure and as a curative statute that - absent a retirement plan devised by, an agreement with, or a voluntary grant from, an employer - can respond, in part at least, to the financial well-being of workers during their twilight years soon following their life of labor. There should be little doubt about the fact that the law can apply to labor contracts still existing at the time the statute has taken effect, and that its benefits can be reckoned not only from the date of the law's enactment but retroactively to the time said employment contracts have started. (emphasis ours)

Second. Petitioner's insistence that only 1/12 of the service incentive leave (SIL) should be included in the computation of the retirement benefit has no basis. Section 1, RA 7641 provides:

> x x x 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 13[th] month pay and the cash equivalent of not more than five (5) days of service incentive leave. x x x
>
> Section 5.2, Rule II of the Implementing Rules of Book VI of the Labor Code further clarifies what comprises the "1/2 month salary" due a retiring employee:
>
> 5.2 Components of One-half (1/2) Month Salary. - For the purpose of determining the minimum retirement pay due an employee under this Rule, the term "one-half month salary" shall include all the following:
>
> (a) Fifteen (15) days salary of the employee based on his latest salary rate. x x x;
>
> (b) The cash equivalent of not more than five (5) days of service incentive leave;

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

(c) One-twelfth of the 13th month pay due an employee;

(d) All other benefits that the employer and employee may agree upon that should be included in the computation of the employee's retirement pay.

The foregoing rules are clear that the whole 5 days of SIL are included in the computation of a retiring employees' pay.

Third. It is a well-entrenched doctrine that the Supreme Court does not pass upon questions of fact in an appeal by certiorari under Rule 45.[12] It is not our function to assess and evaluate the evidence all over again[13] where the findings of the quasi-judicial agency and the appellate court on the matter coincide.

The consistent rulings of the labor arbiter, the NLRC and the appellate court should be respected and petitioner's veil of corporate fiction should likewise be pierced. These are based on the following uncontroverted facts: (1) respondent worked with ESIA and petitioner ESSI; (2) his employment with both security agencies was continuous and uninterrupted; (3) both agencies were owned by the Enriquez family and (4) petitioner ESSI maintained its office in the same place where ESIA previously held office.[14]

The attempt to make the security agencies appear as two separate entities, when in reality they were but one, was a devise to defeat the law and should not be permitted. Although respect for corporate personality is the general rule, there are exceptions. In appropriate cases, the veil of corporate fiction may be pierced as when it is used as a means to perpetrate a social injustice or as a vehicle to evade obligations. Petitioner was thus correctly ordered to pay respondent's retirement under RA 7641, computed from January 1979 up to the time he applied for retirement in July 1997.

WHEREFORE, the petition is hereby DENIED. The assailed decision and resolution of the Court of Appeals are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

---

[1] Respondent was born on September 10, 1936.

[2] RA 7641 took effect on January 7, 1993.

[3] Rollo, pp. 49-52.

[4] Id., pp. 38-43.

[5] Id., pp. 46-47.

[6] Under Rule 65 of the Rules of Court; the petition was docketed as CA-G.R. SP No. 58885.

[7] Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Angelina Sandoval-Gutierrez (now Associate Justice of the Supreme Court) and Elvi John S. Asuncion of the Fifth Division of the Court of Appeals; rollo, pp. 27-32.

[8] Id., p. 35.

[9] Under Rule 45 of the Rules of Court; id., pp. 8-25.

[10] Id., p. 14.

[11] G.R. No. 146202, July 14, 2004, 434 SCRA 418, citing Oro Enterprises, Inc. v. NLRC, G.R. No. 110861, 14 November 1994, 238 SCRA 105.

[12]Romualdez-Licaros v. Licaros, 449 Phil. 824 (2003).

[13]Telefunken Semiconductors Employees Union-FFW v. Court of Appeals, 401 Phil. 776 (2000).

[14] Rollo, p. 41.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.