

**UNITED LABORATORIES, INC., PETITIONER, VS. JAIME DOMINGO
SUBSTITUTED BY HIS SPOUSE CARMENCITA PUNZALAN DOMINGO,
ANONUEVO REMIGIO, RODOLFO MARCELO, RAUL NORICO AND
EUGENIO OZARAG...**

G.R. No. 186209. September 21, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

We are confronted with a curious case of employees demanding the severance of their employment, insisting on the redundancy of their work and thereafter, when the demands went unheeded, crying constructive dismissal by the employer.

Assailed in this petition for review on certiorari[1] is the Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 87502 which granted the petition for certiorari[3] filed by respondents Jaime Domingo, Anonuevo Remigio, Rodolfo Marcelo, Raul Norico and Eugenio Ozaraga and reversed the National Labor Relations Commission's (NLRC's) finding that there was no constructive dismissal in three (3) consolidated cases respectively docketed as NLRC NCR CASE NO. 00-08-06034-2002, NLRC NCR CASE NO. 00-10-08397-2002, and NLRC CASE NO. 00-10-08407-2002. The NLRC decision was an affirmance of the Labor Arbiter's dismissal of respondents' complaints for constructive dismissal against petitioner United Laboratories, Inc. (Unilab).[4]

The dispute, which resulted in the unusual resort by the employees to the principle of constructive dismissal, arose from the following facts:

Unilab is a prominent domestic corporation engaged in the manufacture, sale, marketing and distribution of pharmaceutical products.

Respondents Jaime Domingo, Anonuevo Remigio, Rodolfo Marcelo, Raul Norico and Eugenio Ozaraga were former employees of Unilab assigned to the Distribution Accounting Department (DAD) servicing all the accounting requirements of Unilab's sixteen (16) provincial depots--fourteen (14) distribution centers and two (2) area offices--spread nationwide.

Sometime in 2001, under a Physical Distribution Master Plan (PDMP), Unilab consolidated its finished goods inventories and logistics activities (warehousing, order processing and shipping) into one distribution center located in Metro Manila. As a result, Unilab closed down its sixteen (16) provincial depots. The job functions of the employees working thereat were declared redundant and their positions were abolished. Unilab gave the redundant employees a separation package of two and a half (2½) months' pay for every year of service.

In the succeeding year, on 7 January 2002, respondents wrote Unilab requesting for their separation or retirement from service under a separation package similar or equivalent to that of the redundant employees in the provincial depots. Respondents referred to this separation package as the Bagong Sibol Program.[5]

On 9 April 2002, respondents' counsel, on their behalf, wrote Unilab reiterating respondents' previous request to be separated from service under Unilab's purported Bagong Sibol Program. Particularly, respondents were keen on retiring and receiving 2½ months' pay for every year of service, and all the other benefits which Unilab had extended to the redundant employees in the provincial depots. The message and sentiment were that "they should likewise be retired under the same redundancy plan or retirement scheme [because] their positions are similarly situated [to] the `retired employees' of [Unilab's] distribution centers under the principle that `things that are alike should be treated alike' since they also hold the position of `distribution personnel.'"[6]

In a letter dated 15 April 2002,[7] Unilab denied respondents' claims, pointing out that:

1. The PDMP is not a retirement program but a cost restructuring measure which resulted in the redundancy of the job functions of the employees working in the provincial depots;
2. Unilab has no Bagong Sibol Program, and "independent of the PDMP, there is no redundancy program or other severance scheme `open [for] application' by any employee;"
3. The only existing and official early retirement program of Unilab is provided for in Article IV, Section 2, in relation to Article V, Section 2, of the United Retirement Plan (URP);
4. "At the time of the PDMP implementation, [respondents] were not assigned to the provincial depot centers performing provincial, [decentralized], distribution functions;" and
5. "At present, [respondents'] positions are not redundant, i.e., superfluous, or in excess of what is reasonably demanded by the actual requirements of the business."

Quite relevantly, in the first half of 2002, Unilab implemented a Shared Services Policy (SSP) which consolidated and centralized all accounting functions of the UNILAB Group of Companies, its affiliates and subsidiaries, under the Finance Division of Unilab. Essentially, accounting services and requirements of the UNILAB Group of Companies, were merged into a single pool, and performed in Unilab's main office. After the closure of the provincial depots, respondents were transferred and re-assigned to the accounting work pool pursuant to the SSP.

Respondents, along with four (4) other co-employees, Rosemarie F. Cortez, Exequiel B. Sioson, Wilfredo M. Tumalad, and William C. Obedencia, filed three complaints for constructive dismissal, nonpayment/underpayment of separation pay, damages and attorney's fees against Unilab, which were eventually consolidated. As it turned out, the denial of their request for retirement covered by a higher retirement package rankled on respondents.

Interestingly, while their cases were pending before the NLRC, and thereafter while on petition for certiorari before the CA, Cortez and respondents Domingo and Remigio remained working at UNILAB. In fact, the three remained employed at UNILAB until their actual separation therefrom: they received monies as full retirement benefits and as settlement of all their claims against Unilab.

On 14 July 2003, the Executive Labor Arbiter dismissed respondents' complaints for lack of merit:

WHEREFORE, judgment is hereby rendered dismissing the instant complaints for utter lack of merit. [UNILAB], however, is directed to pay the Remaining Complainants, namely: Rosemarie F. Cortez, Jaime A. Domingo, Anonuevo S. Remigio and William Obedencia their separation pay equivalent to one and one-half (1½) months' salary for every year of service.[8]

Dissatisfied, respondents, along with Cortez, appealed to the NLRC. However, on March 30, 2004, the NLRC denied the appeal and affirmed the Labor Arbiter's dismissal of the complaints.

Posthaste, respondents filed a petition for certiorari before the CA alleging grave abuse of discretion in the decision of the NLRC. Meanwhile, after respondents' petition was submitted for resolution, Unilab, with respondents Remigio and Cortez, separately, arrived at an amicable settlement. Remigio, in particular, received the amount of Four Million Seventy Seven Thousand Eight Hundred Ninety Seven Pesos and Eighty Seven Centavos (P4,077,897.87) from Unilab as full settlement and payment of all his claims; he signed a Quitclaim[9] in favor of Unilab.

Not surprisingly, Unilab received a Motion for Leave of Court to Withdraw as Petitioner separately filed by Cortez and Remigio. The motions were similarly worded and filed by the same counsel on Cortez's and Remigio's behalf.

The reversal by the CA of the NLRC resulted in the ruling that respondents were constructively dismissed. The CA disposed of the case, thus:

WHEREFORE, the PETITION FOR CERTIORARI is GRANTED.

The assailed RESOLUTIONS DATED MARCH 30, 2004 AND AUGUST 31, 2004 of [the] NATIONAL LABOR RELATIONS COMMISSION are NULLIFIED AND SET ASIDE.

[Petitioner] UNITED LABORATORIES, INC. is ORDERED:

1. To cause the immediate reinstatement of [respondents] JAIME A. DOMINGO, EUGENIO P. OZARAGA, RODOLFO R. MARCELO, RAUL C. NORICO, and ANONUEVO S. REMIGIO to their former positions or to substantially equivalent positions without loss of seniority rights and other benefits;
2. If reinstatement is no longer possible, to pay JAIME A. DOMINGO, EUGENIO P. OZARAGA, RODOLFO R. MARCELO, RAUL C. NORICO and ANONUEVO S. REMIGIO their separation pay, the amount of which shall be computed on the basis of the United Laboratories, Inc. Computation of Separation Benefit;
3. To pay full backwages to JAIME A. DOMINGO, EUGENIO P. OZARAGA, RODOLFO R. MARCELO, RAUL C. NORICO and ANONUEVO S. REMIGIO, computed from the time of the abolition of [Unilab's] Distribution Accounting Department up to the finality of this Decision without qualification or deduction;
4. To pay 10% of the total award as attorney's fees.

Costs of suit to be paid the [petitioner] (sic).[10]

Oddly, despite a motion to withdraw as petitioner signed by Remigio's counsel, the CA did not drop him as petitioner.

Unilab filed separate motions: a Motion for Reconsideration dated July 2, 2008 and a Motion for Inhibition dated July 7, 2008, both pointing out that Remigio should have been dropped as petitioner in CA-G.R. SP No. 87502 given his motion to withdraw as petitioner. Naturally, Unilab likewise alleged that the CA decision is contrary to law and not supported by the evidence.

In a Resolution dated 28 January 2009, the CA promptly dismissed Unilab's motions:

EXCEPT FOR THE FIRST GROUND, [PETITIONER] APPARENTLY REITERATE[S] MATTERS ALREADY ADDRESSED AND PASSED UPON IN THE DECISION DATED JUNDE 16, 2008. AS SUCH, WE REJECT THEM AND REITERATE THE DECISION.

ANENT THE FIRST GROUND, WE HAVE NO RECORD OF THE SO-CALLED MOTION FOR LEAVE TO WITHDRAW AS PETITIONER SUPPOSEDLY FILED BY ANONUEVO S. REMIGIO. THE FIRST

TIME WE ARE INFORMED OF THE MOTION IS VIA THE MOTION FOR RECONSIDERATION. FOR ALL INTENTS AND PURPOSES, THEREFORE, THE FIRST GROUND OF THE MOTION FOR RECONSIDERATION IS UNWARRANTED AND SHOULD BE DENIED FOR THAT REASON.

II

THE MOTION FOR INHIBITION, BEING APPARENTLY WITHOUT FACTUAL AND LEGAL BASES AS NOW INDICATED, IS DENIED FOR LACK OF MERIT.[11]

Hence, this petition for review on certiorari positing the following issues:

I.

THE COURT OF APPEALS DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT INCLUDED REMIGIO IN THE DECISION EVEN IF HIS MOTION TO WITHDRAW AS A PARTY (WITH ABANDONMENT OF CLAIMS AGAINST PETITIONER) AND HIS QUITCLAIM HAVE BEEN PRESENTED BEFORE IT.

II.

THE COURT OF APPEALS' REVERSAL OF THE DECISION OF BOTH THE NLRC AND THE LABOR ARBITER ON THE MATTER OF RESPONDENTS' ALLEGED CONSTRUCTIVE DISMISSAL WAS ARBITRARY AND RUNS COUNTER TO WELL-SETTLED JURISPRUDENCE.

III.

THE COURT OF APPEALS' REVERSAL OF THE DECISION OF BOTH THE NLRC AND THE LABOR ARBITER ON THE MATTER OF WHETHER RESPONDENTS NORICO, MARCELO AND OZARAGA WERE FORCED TO RESIGN WAS HIGHLY SPECULATIVE AND RUNS COUNTER TO WELL-SETTLED JURISPRUDENCE.

IV.

THE COURT OF APPEALS' DIRECTIVE FOR [UNILAB] TO PAY RESPONDENTS SEPARATION PAY IN THE SAME WAY IT PAID ITS REDUNDATED EMPLOYEES HAS UTTERLY NO LEGAL BASIS.

V.

THE COURT OF APPEALS' RULING THAT RESPONDENTS ARE ENTITLED TO BOTH SEPARATION PAY AND RETIREMENT PAY NOTWITHSTANDING THE PROVISIONS OF [UNILAB'S] RETIREMENT PLAN TO THE CONTRARY IS A DIRECT VIOLATION OF WELL-SETTLED JURISPRUDENCE ON THE MATTER. IRONICALLY, [UNILAB'S] RETIREMENT PLAN IS THE VERY SAME PLAN WHICH THIS HONORABLE COURT EARLIER SUSTAINED AS VALID.[12]

Respondents filed two Comments dated 20 May 2009[13] and June 8, 2009,[14] respectively, signed by two different counsels. In the expanded Comment dated 8 June 2009, one of respondents' counsel, Romulo Macalintal, manifested that Remigio has executed an Affidavit declaring under oath that he did execute a quitclaim in favor of Unilab and no longer intends to pursue his case against it. Albeit belatedly, Atty. Macalintal clarified that the Comment he has filed is only for respondents Domingo, Marcelo, Norico and Ozaraga.

On 13 August 2009, a different counsel for respondents filed a Manifestation with Motion to Substitute a Party[15] informing the Court of the death of respondent Domingo and the substitution of Domingo's wife, Carmencita Punzalan Domingo, as respondent in this case.

Preliminarily, regarding the CA's refusal to drop Remigio as petitioner and its categorical declaration of the

inexistence of a Motion for Leave to Withdraw as Petitioner filed by Remigio's counsel, we have checked the records and found that one of respondents' counsels, Atty. Alexander Versoza, on behalf of Remigio, indeed filed a Motion for Leave to Withdraw as Petitioner with the CA.[16] In fact, attached to the motion in question is a Quitclaim executed by Remigio in favor of Unilab, which Remigio does not disavow. Thus, the CA was mistaken in not dropping Remigio as petitioner contrary to his motion.

The disingenuousness of Remigio's counsel is not lost on this Court. We note that this peripheral issue could have been easily settled if respondents' counsel, Atty. Versoza, forthwith acknowledged the existence of this Motion for Leave to Withdraw as Petitioner he had filed before the CA and had served on Unilab. We likewise note that Atty. Macalintal who has been co-counsel from the time of the filing of the complaints before the NLRC, only belatedly and reluctantly admitted that Remigio has signed a Quitclaim in favor of Unilab. By that time, the issue had reached us, unnecessarily.

Respondents' counsels ought to be reacquainted with Canon 10 of the Code of Professional Responsibility: A lawyer owes candor, fairness and good faith to the Court. Specifically, Rule 10.01: A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

We will here review the factual conclusions of the CA which are contrary to those of the administrative tribunal. The conflict in findings is a first signal that a further review may be needed. This is so because, as we have long held in a number of cases, factual findings of administrative or quasi-judicial bodies, which are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence.[17] Such that, while our well-entrenched holding is that this Court is not a trier of facts,[18] we can go to the rule exceptions culled from jurisprudence on rule application, among such exception being that the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[19]

We so reach a conclusion in this case different from that of the appellate court.

Two facts relevant to the issues at hand were not given enough deserved importance by the CA:

1. The Physical Distribution Master Plan (PDMP) of Unilab whereby it consolidated the warehousing and distribution of the finished goods of the sixteen (16) provincial centers into one distribution center in Metro Manila; and
2. The Shared Services Policy (SSP) which centralized all accounting services of Unilab into one pool at its main office.

These plan and policy had company wide application and effect. As earlier pointed out, the PDMP resulted in the closure of sixteen (16) provincial depots while the SSP consolidated under the Financial Division of Unilab all the accounting services in the UNILAB group of companies, affiliates and subsidiaries. Quite plainly, while the plan and policy resulted in the personnel movement that included respondents, they were not conceptualized and implemented by Unilab for the sole purpose of easing the respondents out of the company's employ, or as the CA underscored, to decrease the "merit rating" of respondents. The CA did not dispute the uniform findings of the Labor Arbiter and the NLRC that the PDMP was a "cost restructuring strategy program" and that the SSP was a "recognized management prerogative." Indeed, the legitimacy of Unilab's plan and policy was not questioned by the respondents. It was the implementation of the management projects that respondents complained about. They wanted to avail of the separation package for employees declared redundant because of the PDMP. They refused their transfer to the centralized Financial Division as planned under the SSP. When they were not included among

those considered as redundant employees, they wanted their transfer to the Financial Division declared as "constructive dismissal," and Unilab pronounced liable for damages and attorney's fees, aside from non-payment of separation pay.

The primary facts of respondents' employment are enough to support the submission of Unilab that the CA was wrong in reversing the NLRC's conclusion that there was no "constructive dismissal." Respondents were accountants or were performing accounting functions all assigned to the Distribution Accounting Department (DAD) servicing the accounting requirements of distribution centers such as Unilab's sixteen (16) provincial depots. The closing of the provincial depots did not result in the abolition of respondents' position as accountants. While they had assignments pertaining to the provincial depots, they did not perform goods distribution or warehousing functions. They were accountants and their work as such was appropriately covered by the SSP that transferred all accounting functions to the Finance Division of Unilab.

The concept of constructive dismissal is inapplicable to respondents. Constructive dismissal is a derivative of dismissal without cause; an involuntary resignation, nay, a dismissal in disguise.[20] It occurs when there is cessation of work because continued employment is rendered impossible, unreasonable, or unlikely as when there is a demotion in rank or diminution in pay or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee leaving the latter with no other option but to quit.[21]

In turn, dismissal without cause is prohibited because of the Constitutional security of tenure of workers.

Thus, it is stated in Article XIII, Section 3 of the Constitution that:

xxx [Workers] shall be entitled to security of tenure, humane conditions of work, and a living wage. xxx

The Labor Code describes as basic policy the worker's security of tenure. Thus:

ART. 3. Declaration of basic policy - The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between worker and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and humane conditions of work.

ART. 279. Security of Tenure. - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

It should be remembered, however, that the entitlement of workers to security of tenure is correlative to the right of enterprises to reasonable returns on investments.[22] The rights are measured each in relation to the other.

In one section under the same title of Article XIII, the Constitution mandates that "all workers shall be entitled to security of tenure" and commands at the same time in the same way, that the State shall recognize the right of enterprises to reasonable returns on investments, and to expansion and growth. Such that, in this jurisdiction, we recognize that management has a wide latitude to regulate, according to his own discretion and judgment, all aspects of employment, including the freedom to transfer and reassign employees according to the requirements of its business. The right of employees to security of tenure does not give them vested rights to their positions to the extent of depriving management of its prerogative to change their assignments or to transfer them.[23] Managerial prerogatives, on the other hand, are subject to limitations provided by law, collective bargaining agreements, and general principles of fair play and justice.[24]

Simply put, security of tenure from which springs the concept of constructive dismissal is not an absolute right. It

cannot be pleaded to avoid the transfer or assignment of employees according to the requirements of the employer's business. Such transfer or assignment becomes objectionable only when it is not for "reasonable returns on investments," and for "expansion and growth" which are constitutionally recognized employer's rights, but is sought merely as a convenient cover for oppression. No such thing transpired in the instant case. We cite with favor the uniform ruling of the NLRC and the labor arbiter:

It is not disputed that Unilab instituted a cost restructuring strategy program called the Physical Distribution Master Plan (PDMP) which resulted in the closure of [Unilab's] provincial depots nationwide sometime in March 2002. As a necessary consequence of the closure of [Unilab's] provincial depots, the positions affected were became redundant and were declared to be so. Thus, the personnel affected by the redundancy were separated from the service and paid a generous separation pay, i.e., 2.5 months' pay for every year of service.

It is likewise not disputed that complainants Cortez, [respondents] Domingo, Marcelo, Norico, Ozaraga, and Remigio were all accountants and/or performing accounting functions who, with the sole exception of complainant Cortez and prior to the implementation of the PDMP, were all assigned to the Distribution Division. Also not disputed is the fact that [Unilab] came up with its Shared Services Policy where accounting services within the Unilab group of companies were pooled and consolidated under [Unilab's] Finance Division.

According to [respondents] Domingo, Remigio, Norico, Marcelo and Ozaraga, they were in effect constructively dismissed after the closure of [Unilab's] provincial depots. They claim that the job or work subsequently assigned to them were either menial or servile or they were never given new assignments at all. This Office is not convinced.

Records will reveal that [respondents] Domingo, Remigio, Norico, Marcelo and Ozaraga as accountants or employees performing accounting functions were affected by the Shared Services Policy of the Company. Thus, after the provincial depots were closed down, they were reassigned to [Unilab's] Finance Division to service the accounting requirement of the Unilab group of companies. Thereafter, [respondents] Norico, Marcelo and Ozaraga voluntarily resigned while respondents Domingo and Remigio remained with [Unilab].

This Office notes that [respondents] were transferred to the Finance Division on account of the Shared Services Policy of [Unilab]. In *San Miguel v. NLRC*, it was held that the abolition of departments or positions in the company is one of the recognized management prerogatives. Likewise, in *Castillo v. NLRC*, the Supreme Court reiterated the long standing rule that it is the prerogative of the employer to transfer and reassign employees for valid reasons and according to the requirements of its business. There is therefore nothing irregular or illegal in the transfer of [respondents] to the Finance Division after [Unilab] came up with its Shared Services Policy.^[25]

That the respondents were indeed not constructively dismissed is supported by substantial evidence.

First. The CA's ruling easily unravels because three (3) of the complainants before the NLRC, including herein respondents Domingo and Remigio, even while their petition for certiorari was pending before the CA, remained employed at UNILAB. In those instances, there was actually no dismissal to speak of.

Most recently, *The University of the Immaculate Concepcion v. National Labor Relations Commission*^[26] iterated that a crucial element in a finding of constructive dismissal is a cessation of employment relations between the parties.

A claim of involuntary resignation or being left with no choice but to quit presupposes an employee actually quitting or resigning. But not all respondents quit: Domingo stayed on with Unilab until his retirement while Remigio, and even complainant Cortez, although they eventually settled with Unilab, never resigned.

Plainly, respondents Domingo and Remigio, even Cortez, cannot claim that their employment circumstances with

Unilab were so unbearable and left them with no other option but to quit.

Second. As regards respondents Marcelo, Norico and Ozaraga, the ruling of the labor tribunals that the three voluntarily resigned and were not constructively dismissed is again, and also, supported by substantial evidence.

To substantiate its finding that Norico's, Marcelo's and Ozaraga's resignations were involuntary, the CA pointed out that Marcelo and Ozaraga had children who were still studying, and, obviously had "great need for continued employment." Moreover, the CA finds incredulous respondents' reasons for resigning: Marcelo to venture into business and Ozaraga to pay off his mounting debt. For the CA, their resignations forego a steady income from continued employment and, therefore, inconsistent with a voluntary resignation.

The reasoning of the CA is specious and pure conjecture.

It is not unheard of that employees who have opted for early retirement have used the windfall therefrom to start their own business and to pay off their debts. The trade off with having a "steady income" and "continued employment" is to be their own boss or to turn over a new leaf, free from debt. We can likewise surmise, as the CA has so easily done, that Ozaraga would have been buried deeper in debt if he expected to pay it off with only his "steady income." In any event, the CA's vaguely drawn theory as to the impetus for respondents' resignations can be easily debunked by similarly plausible reasons. It is indeed apropos, to once more refer to the correlation between the workers' right to security of tenure and the right of enterprise to reasonable returns on investment. The right of enterprise in the case at bar was exercised by Unilab through the PDMP which resulted in the abolition of the provincial depots but did not erase the respondents' accounting functions that, in the same manner that the logistic activities at the provinces were centralized in Metro Manila, were consolidated under the Finance Division of Unilab under its SSP. Absent a showing that the PDMP and the SSP were illegal or meant to defeat respondents' security of tenure, we cannot uphold their proposition that they must, like those in the provincial distribution centers, also be considered redundant employees. Respondents, who are accounting employees, cannot refuse their assignment to the Finance Division. As we have delared on more than one occasion:

Certainly, the Court cannot accept the proposition that when an employee opposes his employer's decision to transfer him to another work place, there being no bad faith or underhanded motives on the part of either party, it is the employee's wishes that should be made to prevail. On the basis of the qualifications, training and performance of the employee, the prerogative to determine the place or station where he or she is best qualified to serve the interests of the company belongs to the employer.[27]

As a final point, the allegations of respondents and the factual findings of both the labor tribunals and the appellate court bring to the fore respondents obvious position that they have the option to claim redundancy as reason for severing their employment from Unilab.

From the start, respondents insisted that Unilab has unjustifiably refused to grant them the same separation package granted to the redundant employees in the provincial depots. Respondents demanded that this higher separation package be applied for their retirement as they are "similarly situated" with the redundant employees. Respondents wished for the cessation of their employment, specifying, however, their avilment of retirement benefits equivalent to the separation package of the redundant employees. Effectively, respondents were exercising their right to terminate their employment, invoking a hodgepodge of provisions from the Unilab Retirement Plan, Unilab's purported Bagong Sibol Program, and the Labor Code.

Respondents are laboring under a cloud of confusion. Retirement and redundancy, while both resulting in the cessation of employment relations, are two entirely different things. Significantly, the Labor Code divides Book 6 on Post Employment into two titles: Title 1 on Termination of Employment and Title II on Retirement from the Service. Specifically, Article 283 of the Labor Code lists redundancy as an authorized cause for the employer to

terminate an employee, while Article 287 thereof provides for the retirement from the service of an employee, thus:

ART. 283. Closure of establishment and reduction of personnel. - The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of the operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Department of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one month pay or to at least one month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

ART. 287. Retirement. - Any employee retirement may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

In case of retirement, the employees shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining, and other agreement: Provided, however, the employee's retirement benefits under any collective bargaining and other agreement shall not be less than those provided herein.

In the absence of retirement plan or agreement providing for retirement benefits of employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared 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 of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

XXX

XXX

Violation of this provision is hereby declared unlawful and subject to the penal provisions under Article 288 of this Code.

Petitioner has an elaborate Retirement Plan that lists all possible benefits for retiring and resigning employees, and, significantly to this case, a separate article on involuntary separation due to redundancy.[28]

The requirements for, and the benefits from, the several and different manners of termination of employment are, naturally, also distinct and different. The employees cannot mix and match rights and obligations which are set and settled by law or agreement of the parties. This is particularly evident in this case where respondents demanded either the redundancy of their services in the face of the employees' continuing need for such services, or the benefits from redundancy upon their retirement or resignation. The demand cannot be honored.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 87502 is SET ASIDE. The Resolution of the National Labor Relations Commission in NLRC NCR CASE NO. 00-08-06034-2002, NLRC NCR CASE NO. 00-10-08397-2002, and NLRC CASE NO. 00-10-08407-2002 is REINSTATED. No costs.

SO ORDERED.

Velasco, Jr.,[*] Brion,**] (Acting Chairperson), Sereno and Reyes, JJ., concur.

[*] Per Special Order No. 1084 dated 13 September 2011.

[**] Per Special Order No. 1083 dated 13 September 2011.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Lucas P. Bersamin (now a Member of this Court) with then Presiding Justice Conrado M. Vasquez, Jr. (now retired) and Associate Justice Pampio A. Abarintos, concurring, rollo. pp. 70-90.

[3] Under Rule 65 of the Rules of Court.

[4] Rollo, pp. 100-112.

[5] Id. at 458.

[6] Id. at 459-460.

[7] Id. at 461-467.

[8] Id. at 147.

[9] Id. at 716.

[10] Id. at 88-89.

[11] Id. at 92-94.

[12] Id. at 25-26.

[13] Id. at 784-789.

[14] Id. at 791-808.

[15] Id. at 813-819.

[16] See Annexes "Q," "R" and "S" of the Petition, rollo, pp. 773-775.

[17] Benguet Electric Cooperative v. Fianza, 468 Phil. 980, 993 (2004).

[18] Merck Sharp & Dohme v. Robles, G.R. No. 176506, 25 November 2009, 605 SCRA 488, 494.

[19] Dealco Farms, Inc. v. National Labor Relations Commission (5[th] Division), G.R. No. 153192, 30 January 2009, 577 SCRA 280, 292.

[20] CRC Agricultural Trading v. National Labor Relations Commission, G. R. No. 177664, 23 December 2009, 609 SCRA 138, 149.

[21] Supra note 18.

[22] Article XIII, Sec. 3, paragraph 4 of the Constitution.

[23] Philippine Japan Active Carbon Corporation v. National Labor Relations Commission, 253 Phil. 149, 153 (1989).

[24] Norkis Trading Co., Inc. v. Gnilo, G.R. No. 159730, 11 February 2008, 544 SCRA 279, 290.

[25] Rollo, pp. 138-141.

[26] G.R. No. 181146, 26 January 2011.

[27] Supra note 17 at 997 citing Philippine Telegraph and Telephone Corporation v. Laplana, G.R. No. 76645, 23 July 1991, 199 SCRA 485.

[28] Article IV

NORMAL RETIREMENT

Section 1.

A member shall be retired on the 30th day after attaining age 60 and shall be entitled to the full normal retirement benefits as provided for in succeeding Article V of this Retirement Plan.

Section 2.

A member may elect to retire upon attaining age 50, provided he has at least 10 years of service, and shall be entitled to the early retirement benefits as provided for in the succeeding Article V, Section 2 of this Retirement Plan.

Article V

NORMAL RETIREMENT BENEFITS

Section 1.

Upon attainment of the normal retirement date as in Article IV, Section 1, a Member shall be entitled to the normal retirement benefits as follows:

A. From Trust Fund A

A lump sum of one and one-half month's pay per year of service based on the Member's last or terminal basic monthly salary (as amended), December 16, 1992).

B. From Trust Fund B

The member's total contributions and accumulated income less any loss.

Section 2.

Upon attainment of the early retirement date as in Article IV, Section 2, a Member shall be entitled to the early retirement benefits as follows:

A. From Trust Fund A

A lump sum of one and one-half months' pay per year of service based on the member's last or terminal basic monthly salary (as amended, December 16, 1992) reduced in accordance with Article VIII of this Retirement Plan.

However, if a member should avail of early retirement after reaching the age of 55 regardless of the number of years of service, he shall be entitled to a lump sum of one and one-half months' pay per year of service based on the member's last or terminal basic monthly salary.

Section A. From Trust Fund B

The Member's total contributions and accumulated income less any loss.

xxx

Article VIII

RESIGNATION BENEFITS

Section 1.

If a member (Manager or Non-Manager) should resign before reaching age 60, he shall be entitled to the following benefits:

A. From Trust Fund A

A lump sum of one and one-half months' pay per year of service based on the member's last or terminal basic monthly salary (as amended, December 16, 1992) reduced as follows:

Years of Continuous Service

Percentage of Normal Retirement Benefit

less than 5

none

5 to less than 6

25%

6 to less than 7

30%

7 to less than 8

35%

8 to less than 9

40%

9 to less than 10

45%

10 to less than 11

50%

11 to less than 12

55%

12 to less than 13

60%

13 to less than 14

65%

14 to less than 15

70%

15 to less than 16

75%

16 to less than 17

80%

17 to less than 18

85%

18 to less than 19

90%

19 to less than 20

95%

20 or more

100%

However, if a member should resign after reaching the age of 55 regardless of the number of years of service, he shall be entitled to a lump sum of one and one-half months' pay per year of service based on the member's last or terminal basic monthly salary.

B. From Trust Fund B

The Member's total contributions and accumulated income less any loss.

Article IX

INVOLUNTARY SEPARATION

Section 1.

A member who is terminated beyond his control due to the installation of labor-saving devices or redundancy, retrenchment program initiated by the employer as a result of merger or to prevent losses or other similar causes, or where the Employee suffers from a disease and his continued employment is prohibited by law or is prejudicial to his health or to the health of his co-employees, the Employee concerned shall be entitled to the same benefits as provided for under Article VIII of this Plan or the New Labor Code or similar legislation, whichever is applicable. Rollo, p. 48.

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