SUPREME COURT
SECOND DIVISION

FORD PHILIPPINES SALARIED EMPLOYEES ASSOCIATION; ENSITE LIMITED SALARIED EMPLOYEES UNION; FORD PHILIPPINES WORKERS UNION; FORD ENSITE WORKERS UNION; and FORD PHILIPPINES PARTS DEPOT WORKERS UNION,

***Petitioners*,**

-versus-

G.R. No. L-75347
December 11, 1987

NATIONAL LABOR RELATIONS COMMISSION (En Banc), LABOR ARBITER VIRGINIA G. SON, FORD PHILIPPINES, INC. ENSITE LTD. (Phil. Branch - Ford Stamping Plant), JOHN SAGOVAC (President and Managing Director), ARMANDO DAVID (Finance Director), and BANK OF THE PHILIPPINE ISLANDS,

***Respondents*.**

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FORD PHILIPPINES, INC., ENSITE LTD. (Phil. Branch) and RICARDO J. ROMULO,

***Petitioners*,**

-versus-

G.R. No. L-75628
December 11, 1987

NATIONAL LABOR RELATIONS COMMISSION, FORD PHILIPPINES SALARIED EMPLOYEES ASSOCIATION, ENSITE Ltd. SALARIED EMPLOYEES UNION, FORD PHILIPPINES WORKERS UNION, INC., FORD PHILIPPINES PARTS DEPOT WORKERS UNION and ENSITE LTD. WORKERS UNION,

***Respondents*.**

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D E C I S I O N

PADILLA, *J.*:

These two (2) cases are considered jointly because they involve related issues.

In G.R. No. 75347, the Petition for Certiorari seeks to set aside the Resolution of the NLRC en banc, dated 19 June 1986, in NLRC Case No. 11-4073-84, together with NLRC Resolutions, dated 28 January 1986, and 4 December 1985, and the Decision of Labor Arbiter Virginia Son, dated 25 June 1985, insofar as said Resolutions and Decision upheld the validity of the deduction of P13,000,000.00 from

the Retirement Fund, for payment of separation benefits to the Ford and Ensite Unions, for the benefit of their members.

On the other hand, in G.R. No. 75628, the Petition for Certiorari, with a prayer for issuance of restraining order and preliminary injunction, seeks to set aside the Resolutions dated 20 May 1986 and 19 June 1986, issued by the NLRC en banc also in NLRC Case No. 11-4073-84, insofar as said Resolutions authorized the issuance of a writ of execution in favor of the Ford and Ensite Unions, against their respective employer-companies, for the amount of P10,117,016.20.

The facts are as follows:

In 1971 and 1978, Ford Philippines. Inc. (Ford, for short) and Ensite Ltd. [Phil. Branch] (Ensite, for short), established their respective Employees' Retirement Plans (Plans or Plan, for short),[1] exclusively funded from the companies' own contributions, and for which, the Bank of the Philippine Islands (BPI) was appointed as irrevocable trustee.[2] Both Plans contain an "integration provision," which authorizes the companies to integrate the employees' retirement, death and disability benefits under the Plans, with and in lieu of statutory benefits under the provisions on termination pay and retirement benefits in the Labor Code as well as other similar laws, and analogous benefits granted under present or future collective bargaining agreements and other employees' benefit plans. The "integration provision" is found in Article XIII, Section 5 of the two (2) Plans, to wit:

> "To the fullest extent, the retirement, death and disability benefits accorded participants under the terms of this Plan shall be deemed integrated with and in lieu of, statutory benefits in the New Labor Code, as well as other similar laws, as now or hereafter amended, analogous benefits granted under present or future Collective Bargaining Agreements, and other employee benefit plans providing analogous benefits which may be imposed by future legislations. In the event private benefits due under the plan are less than those due and demandable under the provisions of the termination pay law and/or present or future Collective Bargaining Agreement and/or future plans of similar nature imposed by law, the company shall respond

> for the difference." (Retirement/Pension Plan as amended, August 1, 1983)
>
> Since the establishment and effectivity of the Retirement Plans, the employees' termination, retirement and other analogous benefits have been paid out of the Retirement Fund, pursuant to the "integration provision."[3]

In 1984, Ford and Ensite ceased operations in the Philippines, resulting in the termination of all their employees. The employees were correspondingly paid their full separation benefits totaling about P50,000,000.00 or an average of around P45,454.00 for each employee. Of the P50,000,000.00, an estimated amount of P37,000,000.00 was drawn from the companies' operating funds and the sum of about P13,000,000.00 was deducted from and paid out of the accumulated P25,000,000.00 (more or less) Retirement Fund. After the amount of P13,000,000.00 was withdrawn from the Retirement Fund, there remained a balance of around P10,000,000.00, which under the Plan should be distributed among all the employees.[4]

However, before the actual distribution of the Fund residue, the different labor unions, Ford Salaried Union, Ford Workers Union and Ensite Salaried Union, filed a complaint dated 19 November 1984 before the Ministry of Labor and Employment (now Department of Labor and Employment, National Capital Region), assailing the validity of the deduction of P13,000.000.00 from the Retirement Fund, which were used for separation benefits.[5]

For their part, Ford and Ensite maintained that the deduction of the P13,000,000.00 from the Retirement Fund is in accord with the "integration provision" of the Plans as well as the various CBAs entered into between management and the different unions involved.

After due hearing, Labor Arbiter Virginia Son rendered a Decision dated 25 June 1985:[6] 1) upholding the validity of the deduction of P13,000,000.00 from the Retirement Fund; 2) ordering Ford and Ensite to distribute among the unions their respective shares in the remaining assets of the Fund, including investments in real estate and

stocks, after liquidation of the Fund, ten percent (10%) of which shall be paid to the unions' counsel as attorney's fees.

On 8 July 1985, the unions appealed to the NLRC from the abovecited decision of the Labor Arbiter, insofar as it sustained the validity of the deduction by the companies from the Retirement Fund of said P13,000,000.00 for employees' separation benefits. But, pending the appeal, the unions filed with the Labor Arbiter on 20 August 1985 a "Motion for Clarification." The unions informed the Labor Arbiter that there is reportedly a Fund residue of P8,300,000.00 (later clarified by the companies to be P10,117,016.20) which, according to the unions, may be distributed, even pending their appeal before the NLRC, as said appeal allegedly involved only the deduction of P13,000,000.00. In the same Motion, the unions prayed for the issuance of an order directing the immediate distribution of the P8,300,000.00 (P10,117,016.20) among all the employees.[7]

Without acting on the Motion, Labor Arbiter Son called both parties to a series of conferences. During one such conference, Labor Arbiter Son proposed the immediate distribution of the Fund residue by the companies, preferably before Christmas of 1985, provided the unions would agree to withdraw their appeal then pending before the NLRC in the matter of the amount deducted from the Fund. Ford and Ensite agreed to the proposal. However, the unions reserved their final decision on whether or not to agree with the proposal until they had an exact quantification by the companies of the Fund residue. Hence, Ford and Ensite, through counsel, disclosed that the Fund residue is actually P10,117,016.20, not P8,300,000.00.[8]

But, eventually, the unions rejected the Labor Arbiter's proposal, for they believed that they would lose out if they were to abandon their appeal. On 15 November 1985, the unions filed a motion for execution, relative to the Fund residue, before the NLRC [Second Division].[9] However, the companies opposed said motion for execution on the ground that "to establish the remaining balances in the retirement funds, so that they could be ripe for liquidation, there must be a final resolution as to what are the exact amounts thereof; that execution was not possible at that point in time because the Labor Unions' appeal had prevented the final determination of the amount involved."[10]

On 4 December 1985, NLRC (Second Division) promulgated a Resolution affirming the decision of Labor Arbiter Son "with modification." The dispositive portion of said Resolution reads:

> "WHEREFORE, the appealed decision is, as it is hereby, modified. Consequently, respondents are hereby ordered to pay in full the retirement pay, the amount to be taken from the retirement plan, to those complainants who are entitled to retirement pay and to shoulder whatever balances to be paid according to the Retirement plan (Art. XVII, Sec. 5).
>
> In all other aspects, the decision is hereby affirmed.
>
> SO ORDERED."[11]

Affirmed were the right of the companies to deduct separation benefits from the Retirement Fund pursuant to the "integration provision," and the order to distribute the Fund residue among the employees after liquidation of the Fund. But, as to the modifying portion of the aforequoted dispositive portion of the Resolution, it seemed both superfluous and confusing, considering that the employees' separation benefits (inadvertently referred to by NLRC as "retirement benefits") were already long fully paid.[12]

Because of the superfluous modifying portion of the Resolution, the unions filed a Motion for Clarification and/or Reconsideration on 9 December 1985. They particularly inquired as to what portion of the Decision of the Labor Arbiter was modified, and why retirement benefits were being ordered to be paid, and asking for reconsideration of the Resolution sustaining the companies' right to pay the employees' separation benefits from the Retirement Fund.[13]

The Motion for Clarification and/or Reconsideration was elevated by the Second Division to the NLRC en banc, which in turn issued a Resolution dated 4 February 1986, denying the motion for lack of merit, and at the same time stating that the Decision of the Second Division of the Commission (NLRC) in its entirety clearly orders the respondents (companies) to pay the complainants the remaining

amount of the retirement fund, after deducting the separation pay as provided for in the integration provision.[14]

On 13 February 1986, the unions filed a Second (Urgent) Motion for Reconsideration with a prayer for oral argument, which prayer for oral argument was granted. Oral arguments were held on 6 March 1986 before the NLRC en banc. During the oral arguments, the unions called the attention of the NLRC regarding their then pending motion for execution earlier filed on 15 November 1985, for the distribution of the Fund residue.[15]

On 20 May 1986, NLRC en banc issued a Resolution granting the unions' Motion for Execution with specific order for Ford and Ensite to set aside 10% of the Fund residue as attorney's fees for the unions' counsel.

The dispositive portion of the Resolution states:[16]

> "Wherefore, the complainants' motion for issuance of a writ of execution is hereby granted.
>
> "Accordingly, let a writ of execution be issued for P10,117,016.20, ten percent (10%) of which is to set (sic) aside by the respondent company for the complainant's counsel as attorney's fees in accordance with the Decision of Labor Arbiter Virginia G. Son dated 25 June 1985."

On 5 June 1986, Ford and Ensite filed a motion for reconsideration of the foregoing resolution. On 19 June 1986, the NLRC en banc issued another Resolution[17] denying the companies' Motion for Reconsideration relative to the execution over the Fund residue, and at the same time dismissing the unions' Urgent Motion for Reconsideration concerning the deduction from the Fund of the separation benefits of the employees.

Hence, these two (2) petitions, separately filed by Ford Philippines Salaried Employees Association et al. (G.R. No. 75347) and Ford Philippines and Ensite Ltd. (G.R. No. 75628).

The issue in G.R. No. 75347 is whether or not the companies' action in charging the Retirement Fund for payment of the employees' separation benefits is valid, while the issue in G.R. No. 75628 is whether or not the issuance of a writ of execution against the companies, for the distribution of the Fund residue of P10,117,016.20 to the employees is legal.

The unions contend that the "integration provision" in the Retirement Plan authorizing Ford and Ensite to integrate the retirement, death and disability benefits under the Plan with and in lieu of statutory benefits under the provisions on termination pay and retirement benefits in the Labor Code, is applicable only in cases of death, disability or retirement, but not to termination of employment due to closure of business.

Article XIII, Section 5 of the Retirement Plan, otherwise known as the integration provision is again hereunder quoted:

"x x x"

> "Section 5. To the fullest extent the retirement, death and disability benefits accorded participants under the terms of this Plan shall be deemed integrated with and in lieu of, statutory benefits under the provisions on termination pay and retirement benefits in the New Labor Code, as well as other similar laws, as now or hereafter amended, analogous benefits granted under present or future Collective Bargaining Agreements, and other employee benefit plans providing analogous benefits which may be imposed by future legislations. In the event private benefits due under the Plan are less than those due and demandable under the provisions of the termination pay law and/or present or future Collective Bargaining Agreement and/or future benefit plans of similar nature imposed by law, the Company shall respond for the difference."[18] (Annex A).

A careful perusal of the foregoing provision shows that the retirement, death and disability benefits paid under the Plan are deemed integrated with and in lieu of termination benefits required

to be paid under the Labor Code, which in turn includes instances where the employees are terminated due to closure of business.

The pertinent provision of the Labor Code is found in Article 283 which reads:

> "Art. 283. Closure of establishment and reduction of personnel. — 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 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."

Consequently, the deduction of P13,000,000.00 from the Retirement Fund, utilized for the payment of separation benefits is well in accord with the "integration provision," and, as such, cannot be seriously assailed.

Likewise, the fact that the "integration provision" was incorporated in the respective CBAs of the companies and the unions, is a clear manifestation that the same was acceptable to, and accepted by the employees, and that they recognized the right of the companies to charge the Retirement Fund for payment of separation benefits. The pertinent provisions of the different Collective Bargaining Agreements (CBAs) entered into between management and the various unions provide the following:[19]

FORD SALARIED UNION CBA
ENSITE SALARIED UNION CBA —

> "Section 4(3). Retirement and Termination. — The severance and/or retirement benefits stipulated in the preceding three sections include and are in lieu of any severance or termination pay provided by law. The Company may pay the foregoing retirement or severance benefits from a fund established for that purpose."

FORD WORKERS' UNION CBA
FORD DEPOT UNION CBA
ENSITE WORKERS' UNION CBA —

> "Section 4. (15.05). The severance or disability benefits stipulated in the preceding section include and are in lieu of any severance or termination pay provided by law."

The fact that, since the establishment and effectivity of the Retirement Plans, it had been the policy and practice of the companies to charge termination, retirement and analogous benefits for separated employees to the Retirement Fund,[20] without a single complaint or dissent on the part of the unions or any employee, for that matter, is a manifestation on the part of the unions that separation benefits (not necessarily retirement benefits) are covered by the "integration provision" of the Retirement Plans and are chargeable to and deductible from the Retirement Fund.

The purpose of the Plans or Fund, as provided in Article 1, Section 2 of the Retirement Plans, is "to assist the employees financially in providing for their retirement years."[21] This purpose, however, is subject to the terms and conditions set forth in the Plan. And one such condition is the integration of separation benefits with and in lieu of the retirement, death, and disability benefits under the Plan. Such being the case, and considering that the Retirement Plan should be interpreted in its entirety so as to give meaning to all the provisions therein, the phrase retirement years should not be literally construed as referring only to cases of employees' retirement from the companies, but should be broadly interpreted as inclusive of all other instances of employees' separation from the companies, such as, by reason of death, disability or closure of business.

Furthermore, the companies cannot be charged with "diversion of funds" for deducting the separation benefits from the Retirement Fund, because payment of separation benefits is among the liabilities contemplated in Section 3, Article 1 of the Plan, which reads:

"x x x

> "Section 3. Exclusive Benefit of the Employees.

x x x

> Under no circumstances, prior to the satisfaction of all liabilities with respect to the participants and their beneficiaries under the plan, shall any income or corpus of the Trust Fund or any Funds contributed to the Trust Fund by the Company be diverted to or used for purposes other than for the exclusive benefit of the Plan participants and their beneficiaries." (Emphasis supplied)

It cannot also be said that, by deducting the separation benefits from the Retirement Fund, the companies are paying the employees who have earned vested rights under the plan, with separation benefits out of their own money, and that in effect, a "recovery" is made by the companies of their contribution to the Plan.

The Retirement Fund was fully and solely funded by Ford and Ensite, that is, without contributions from any of their employees. And the "vested right" of the employees in the Plan simply means that they are entitled to the Fund even in cases of their voluntary resignation from the companies. But, as it happened, the companies closed down, thereby pre-empting any voluntary resignation on the part of the employees. Still, the employees are paid full separation benefits.

Based on the foregoing, the NLRC and the Labor Arbiter were justified in sustaining the companies' action in charging the Retirement Fund for payment of the employees' separation benefits occasioned by the companies' closure of business in the Philippines.

With regard to the issue in G.R. No. 75628, Ford and Ensite allege that the Resolution of 20 May 1986 granting the unions' Motion for Execution relative to the non-controverted amount of P10,117,016.20 is void, having been allegedly issued after the NLRC had lost jurisdiction over the case. The companies contend that the NLRC Resolution dated 4 February 1986 denying the unions' first motion for reconsideration, is a final resolution of all the issues in the case, so that when the unions filed their second urgent motion for reconsideration, dated 13 February 1986, the NLRC could not and should not have legally entertained the same, because under the

Interim Guidelines of the Rules of Court, second motions for reconsideration of final orders or judgments are not allowed.

The contention of the companies is without merit, because the Fund residue of P10,117,016.20 was never the subject of any motion for reconsideration, much less a second motion for reconsideration on the part of the unions. Instead, said amount had been the subject only of the Urgent Manifestation and Motion for Writ of Execution, and the Urgent Motion for Resolution of Motion for Writ of Execution, respectively filed by the unions on 15 November and 9 December 1985, both before the NLRC. In any event, the filing of a second motion for reconsideration is not barred under the Labor Code or the NLRC Rules. Administrative and quasi-judicial bodies, like the NLRC, are not bound by the technical rules of procedure in the adjudication of cases filed before them.[22]

Ford and Ensite admit that the Retirement Fund indeed has a balance of P10,117,016.20. Likewise, they recognize the right of the employees to receive their respective shares in the Fund residue, pursuant to Article XI, Section 3 of the Retirement Plan, to wit:

> "Section 3. In the event of termination of the Plan, no future obligation shall be payable under the Fund. The Trustee shall pay all debts or claims then outstanding against the trust. Thereafter, the Trustee shall distribute the property held in the Fund to the pensioners, participants and their beneficiaries on the basis of the mortality and other present value tables approved by the company.'[23]

The companies' alternative excuse that it is "actuarially impossible" for them to compute the individual shares of the employees in the Fund residue, is likewise untenable. This is because the residue amounting to P10,117,016.20 is obviously identifiable up to the last centavo. Not only that. The companies have in their possession all the necessary documents upon which the computations can be based, to wit: list of all the entitled employees; their respective service records; and books of accounts in the possession of the trustee bank (BPI).

Moreover, in one of their conciliation conferences in 1985, before Labor Arbiter Son, the companies agreed to the distribution of the

Fund residue if only the unions would withdraw their appeal. The fact that the companies agreed to such a proposal (which however was eventually rejected by the unions as they would allegedly lose out if their appeal were abandoned), is also an indication that the computations of the employees' individual shares in the Fund residue were already prepared and ready at that time, or that at least the companies were then prepared and willing to immediately make the desired computations on the basis of the pertinent documents in their possession.

With regard to the automatic deduction by the companies of 10% of the Fund residue for attorney's fees of the unions' counsel, based on the Decision of Labor Arbiter Son, we find no rule of law or tenet of judicial ethics violated thereby. Considering that the workplaces of the employees have been closed simultaneously with the companies' closure of business, it would be almost impossible for the unions' counsel to be able to personally collect attorney's fees from his clients who are presently spread out here and abroad.

Being the custodian of the Fund residue duly belonging to the employees, and from which Fund, the attorney's fees of unions' counsel are to be paid, the companies are in a proper position to effect the automatic deduction of the attorney's fees of the unions' counsel. By doing so, the companies will not be acting as agents of the unions, but merely complying with a legal order of the labor court.

The questioned motion for execution should, however, include only the individual shares of the members of the unions which are party litigants in these cases, and should not include the shares of employees who are non-union members, such as the managerial, supervisory and other non-rank-and-file employees. The 10% attorney's fees of the unions counsel should also be charged exclusively against the individual shares of the union members in the Fund residue.

With regard to the motion for supplemental relief of the unions counsel, dated 23 March 1987, praying that Ford Philippines, Inc. should be ordered to pay the former the amount of ten percent (10%) of P5,700,000.00 (corresponding to the employee's share in the selling price of the real estate of Ford Philippines Inc. located in Sucat

Road) which were allegedly distributed to the employees without the knowledge of the unions' counsel,[24] the same is denied for being unsubstantiated.

WHEREFORE, the Petition in G.R. No. 75347 is **DENIED**. The Resolutions of the NLRC en banc, dated 19 June 1986 in NLRC Case No. 11-4073-84, together with NLRC Resolutions, dated 28 January 1986, and 4 December 1985, insofar as they sustain the companies' right and action of deducting the amount of P13,000,000.00 from the Retirement Fund as separation benefits for the employees, are **AFFIRMED**.

In G.R. No. 75628, the temporary restraining order dated 25 August 1986 is **LIFTED**. The Resolutions of the NLRC dated 20 May 1986 and 19 June 1986, insofar as they authorize the issuance of a writ of execution in favor of the unions, are **AFFIRMED**, as above qualified, with the modification that the writ of execution issued as to the union members' shares in the amount of P10,117,016.20, shall include the corresponding interests earned from 30 September 1985, up to the actual payment of such award.

SO ORDERED.

Yap, *J.*, *(Chairman)*, Melencio-Herrera, Paras and Sarmiento, *JJ.*, concur.

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[1] Petition, G.R. No. 75628, Annex "A."
[2] Id., p. 5.
[3] Id., p. 6.
[4] Petition, G.R. No. 75628, pp. 6-7.
[5] Id., p. 7.
[6] Id., Annex "C."
[7] Petition, G.R. No. 75347, pp. 5-8.
[8] Id., pp. 7-8.
[9] Id., p. 8.
[10] Petition, G.R. No. 75628, p. 9.
[11] Petition, G.R. No. 75628, Annex "G."
[12] Id., p. 202.
[13] Petition, G.R. No. 75347, p. 9.
[14] Petition, G.R. No. 75628, Annex "H."
[15] Petition, G.R. No. 75347, p. 10.

[16] Petition, G.R. No. 75628, p. 90.
[17] Petition, G.R. No. 75628, Annex "L."
[18] Petition, G.R. No. 75628, Annex "A."
[19] Petition, G.R. No. 75628, pp. 49-50.
[20] Id., p. 6.
[21] Id., Annex "A."
[22] Manila Doctors' Hospital vs. NLRC, No. 64897, February 28, 1985, 135 SCRA 262.
[23] Petition, G.R. No. 75628, Annex "A."
[24] Rollo, p. 225.