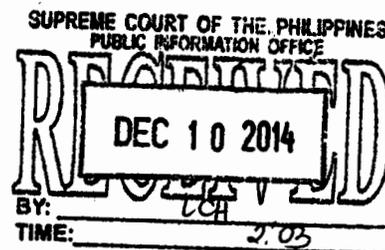




Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated November 17, 2014, which reads as follows:

**G.R. No. 202048 (Gregorio J. Magdamit vs. Wyeth Philippines, Inc. and Andrew L. Santos).** – The transmittal letter dated July 30, 2014 of the Court of Appeals (CA), elevating the CA *rollo* of the instant case is **NOTED**.

Petitioner Gregorio J. Magdamit joined respondent-corporation Wyeth Philippines, Inc. as territory manager on February 29, 1988.<sup>1</sup> On January 7, 2008, he tendered his resignation, and requested that it take effect on February 15, 2008.<sup>2</sup> Petitioner was then Regional Business Development Manager of respondent-corporation receiving a monthly salary of ₱103,975.

Meanwhile, respondent-corporation received information that petitioner was organizing a sub-distributorship shortly before his resignation, and was inviting some of his fellow employees, particularly the team constituted to promote the vaccine “Prevanar,” to invest in his endeavour. Consequently, respondent-corporation investigated the matter and suspended the release of petitioner’s retirement benefits.

Upon due investigation, respondent-corporation found that petitioner incorporated Central Vaxx, Inc. (CVI),<sup>3</sup> an entity competing directly with respondent-corporation business. Hence, respondent-corporation found petitioner liable for violating the conflict of interest provision in its Business Ethics Guide and Code of Conduct<sup>4</sup> (Employees’ Code). This provision specifically prohibited an employee from serving in any position of any commercial enterprise or other commercial endeavour that would interfere with the performance of [his or her] duties in Wyeth.<sup>5</sup> For this reason, respondent-corporation withheld petitioner’s retirement benefits amounting to ₱3,495,558.43.<sup>6</sup>

<sup>1</sup> *Rollo*, p. 254.

<sup>2</sup> Letter addressed to Noel L. Fortin, Respondent’s Sales and Marketing Director for Pharmaceuticals. *Id.* at 107.

<sup>3</sup> Articles of Incorporation. *Id.* at 195-203.

<sup>4</sup> *Id.* at 103-105.

<sup>5</sup> *Id.* at 103.

<sup>6</sup> *Id.* at 252.

Aggrieved, petitioner filed a complaint for non-payment of separation pay and retirement benefits as well as moral and exemplary damages<sup>7</sup> against respondent-corporation and Andrew L. Santos. Petitioner asserted that he was entitled to the foregoing as a consequence of his resignation from respondent-corporation. For its defense, respondent-corporation argued that petitioner was not entitled to separation pay and benefits under its retirement plan having violated the Employees' Code.<sup>8</sup>

Upon weighing the arguments and evidence submitted by the parties, the labor arbiter dismissed the complaint in a decision dated August 13, 2009.<sup>9</sup> Petitioner was found to have actively solicited investments for and recruited fellow employees to join CVI while he was still in respondent-corporation's employ. Petitioner therefore violated respondent-corporation's Employees' Code and should have been penalised with suspension or dismissal depending on the gravity of his offense.<sup>10</sup> Furthermore, while petitioner resigned before the investigation started, he is not entitled separation benefits and retirement benefits under respondent-corporation's retirement plan.

On appeal, the NLRC reversed and set aside the August 13, 2010 decision of the labor arbiter.<sup>11</sup> Because petitioner resigned and was not dismissed for cause,<sup>12</sup> respondent-corporation should have paid him his separation pay and retirement benefits. Respondent-corporation moved for reconsideration but was denied in a resolution dated September 30, 2011.<sup>13</sup>

Respondent-corporation elevated the foregoing decision and resolution of the NLRC to the Court of Appeals (CA) via a petition for review.<sup>14</sup> The appellate court granted the petition and reversed and set aside the August 13, 2010 decision and September 30, 2011 resolution of the NLRC.<sup>15</sup> The CA agreed with the labor arbiter that petitioner's violation of the Employees' Code in effect deprived him of benefits under the respondent-corporation's retirement plan.<sup>16</sup> Petitioner's motion for reconsideration was denied on May 24, 2012.<sup>17</sup>

<sup>7</sup> Docketed as NLRC NCR Case No. 01-00594-09.

<sup>8</sup> Section 2. Termination for Cause. Any member whose employment was terminated for just cause(s) shall not be entitled to any benefit under this Plan and any contribution together with any increment otherwise accruing to him shall remain the Fund and shall obligate to reduce the Company's contributions to the Fund for the remaining Members of the Plans. *Rollo*, p. 270.

<sup>9</sup> Penned by labor arbiter Eduardo J. Carpio of the National Labor Relations Commission National Capital Region Quezon City. *Id.* at 264-273.

<sup>10</sup> *Id.* at 272.

<sup>11</sup> Resolution penned by Presiding Commissioner Benedicto R. Palacol and concurred in by Commissioners Isabel G. Panganiban-Ortiguerra and Nieves Vivar-de Castro. *Id.* at 364-370.

<sup>12</sup> *Id.* at 368.

<sup>13</sup> *Id.* at 34.

<sup>14</sup> Docketed as CA-G.R. SP No. 116995.

<sup>15</sup> Decision dated September 30, 2011 penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Francisco P. Acosta and Michael P. Elbinias. *Rollo*, pp. 33-51.

<sup>16</sup> *Id.* at 47-50.

<sup>17</sup> *Id.* at 53.

Petitioner now assails the decision and resolution of the appellate court. He insists that he is entitled to his separation pay and retirement benefits because he never violated the Employees' Code. In its comment, respondent-corporation reiterated petitioner's actuations which constituted violations of the Employees' Code.

We deny the petition for raising factual questions and lack of reversible error.

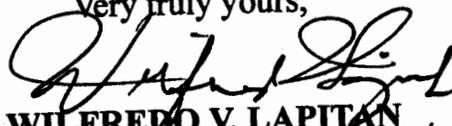
First, the question of whether petitioner's acts violated the Employees' Code are factual in nature; thus, beyond the ambit of this Court's power of review.<sup>18</sup> As a general rule, we only entertain questions of law in a Rule 45 petition.<sup>19</sup>

With regard to the question of whether petitioner is entitled to his separation pay and retirement benefits, the case of *Unilever Philippines v. Rivera*<sup>20</sup> is instructive. This case involved an employee terminated for just cause and, like petitioner, filed a complaint for separation and retirement benefits.<sup>21</sup> In the Unilever case, we held that separation pay shall be paid in the interest of social justice only when "an employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character."<sup>22</sup> Entitlement to benefits under a retirement plan, on the other hand, was denied therein pursuant to the pertinent provision of respondent's Retirement Plan.<sup>23</sup> Since respondent-corporation's Retirement Plan provides that an employee who violated the Employees' Code is ineligible to receive separation pay and retirement benefits, petitioner clearly cannot receive such sums.

**ACCORDINGLY**, the petition is hereby **DENIED**. Costs against petitioner. (Peralta, J., on leave; Perlas-Bernabe, J., Acting Member per Special Order No. 1866 dated November 4, 2014)

**SO ORDERED."**

Very truly yours,

  
WILFREDO V. LAPITAN  
Division Clerk of Court  
11/17/14

<sup>18</sup> *Century Iron Works, Inc. and others v. Banas*, G.R. No. 184116, July 19, 2013 (*Supreme Court of the Philippines*) <<http://sc.judiciary.gov.ph/jurisprudence/2013/june2013/184116.pdf>> accessed October 24, 2014.

<sup>19</sup> Id.

<sup>20</sup> G.R. No. 201701, June 3, 2013 (*Supreme Court of the Philippines*) <<https://docs.google.com/viewer?url=http%3A//sc.judiciary.gov.ph/jurisprudence/2013/june2013/201701.pdf>> accessed October 24, 2014.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

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