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FIRST DIVISION

[G.R. No. 162775. October 27, 2006]

INTERCONTINENTAL BROADCASTING CORPORATION (IBC), represented by ATTY. RENATO Q. BELLO, in his capacity as CEO and President, *petititoners, vs.* **NOEMI B. AMARILLA, CORSINI R. LAGAHIT ANATOLIO G. OTADOY, and CANDIDO C. QUIÑONES, JR.,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; RETIREMENT; RETIREMENT BENEFITS ARE PART OF THE GROSS INCOME OF THE EMPLOYEE AND SUBJECT TO TAX; REQUISITES FOR EXEMPTION.— We agree with petitioner's contention that, under the CBA, it is not obliged to pay for the taxes on the respondents' retirement benefits. We have carefully reviewed the CBA and find no provision where petitioner obliged itself to pay the taxes on the retirement benefits of its employees. We also agree with petitioner's contention that, under the NIRC, the retirement benefits of respondents are part of their gross income subject to taxes. Section 28 (b) (7) (A) of the NIRC of 1986 provides: Sec. 28. *Gross Income.*— xxx (b) *Exclusions from gross income.* — The following items shall not be included in gross income and shall be exempt from taxation under this Title: xxx (7) *Retirement benefits, pensions, gratuities, etc.* — xxx. Revenue Regulation No. 12-86, the implementing rules of the foregoing provisions, provides: (b) *Pensions, retirements and separation pay.* — xxx. Thus, for the retirement benefits to be exempt from the withholding tax, the taxpayer is burdened to prove the concurrence of the following elements: (1) a reasonable private benefit plan is maintained by the employer; (2) the retiring official or employee has been in the service of the same employer for at least 10 years; (3) the retiring official or employee is not less than 50 years of age at the time of his retirement; and (4) the benefit had been availed of only once.

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2. ID.; ID.; ID.; **EMPLOYER IS OBLIGED TO WITHHOLD THE TAXES ON THE RETIREMENT BENEFITS PAID TO THE EMPLOYEES AND REMIT THE SAME TO THE BUREAU OF INTERNAL REVENUE; CASE AT BAR.**— Respondents were qualified to retire optionally from their employment with petitioner. However, there is no evidence on record that the 1993 CBA had been approved or was ever presented to the BIR; hence, the retirement benefits of respondents are taxable. Under Section 80 of the NIRC, petitioner, as employer, was obliged to withhold the taxes on said benefits and remit the same to the BIR. However, we agree with respondents' contention that petitioner did not withhold the taxes due on their retirement benefits because it had obliged itself to pay the taxes due thereon. This was done to induce respondents to agree to avail of the optional retirement scheme.

3. ID.; ID.; ID.; **AN AGREEMENT TO PAY THE TAXES ON THE RETIREMENT BENEFITS TO ENTICE EMPLOYEES TO VOLUNTARILY RETIRE EARLY IS NOT CONTRARY TO LAW OR TO PUBLIC MORALS; EMPLOYER CANNOT RENEGE ON ITS COMMITMENT TO PAY THE TAXES ON THE RETIREMENT BENEFITS OF ITS EMPLOYEES.**— An agreement to pay the taxes on the retirement benefits as an incentive to prospective retirees and for them to avail of the optional retirement scheme is not contrary to law or to public morals. Petitioner had agreed to shoulder such taxes to entice them to voluntarily retire early, on its belief that this would prove advantageous to it. Respondents agreed and relied on the commitment of petitioner. For petitioner to renege on its contract with respondents simply because its new management had found the same disadvantageous would amount to a breach of contract. There is even no evidence that any "new management" was ever installed by petitioner after respondents' retirement; nor is there evidence that the Board of Directors of petitioner resolved to renege on its contract with respondents and demand the reimbursement for the amounts remitted by it to the BIR. The well-entrenched rule is that estoppel may arise from a making of a promise if it was intended that the promise should be relied upon and, in fact, was relied upon, and if a refusal to sanction the perpetration of fraud would result to injustice. The mere omission by the promisor to do whatever he promises to do is sufficient forbearance to give rise to a promissory estoppel.

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4. CIVIL LAW; OBLIGATIONS AND CONTRACTS; WHEN THE AGREEMENT FREELY AND VOLUNTARILY ENTERED INTO BY THE PARTIES TURNS OUT TO BE ADVANTAGEOUS TO A PARTY, THE COURTS CANNOT RESCUE THE OTHER PARTY WITHOUT VIOLATING THE CONSTITUTIONAL RIGHT TO CONTRACT; CASE AT BAR.— Respondents received their retirement benefits from the petitioner in three staggered installments without any tax deduction for the simple reason that petitioner had remitted the same to the BIR with the use of its own funds conformably with its agreement with the retirees. It was only when respondents demanded the payment of their salary differentials that petitioner alleged, for the first time, that it had failed to present the 1993 CBA to the BIR for approval, rendering such retirement benefits not exempt from taxes; consequently, they were obliged to refund to it the amounts it had remitted to the BIR in payment of their taxes. Petitioner used this "failure" as an afterthought, as an excuse for its refusal to remit to the respondents their salary differentials. Patently, petitioner is estopped from doing so. It cannot renege on its commitment to pay the taxes on respondents' retirement benefits on the pretext that the "new management" had found the policy disadvantageous. It must be stressed that the parties are free to enter into any contract stipulation provided it is not illegal or contrary to public morals. When such agreement freely and voluntarily entered into turns out to be advantageous to a party, the courts cannot "rescue" the other party without violating the constitutional right to contract. Courts are not authorized to extricate the parties from the consequences of their acts. Thus, the fact that the contract stipulations of the parties may turn out to be financially disadvantageous to them will not relieve them of their obligation under the agreement.

APPEARANCES OF COUNSEL

The Government Corporate Counsel and *John Anthony Hilario* for petitioner.

Bertino A. Ruaya, Jr. for respondents.

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DECISION

CALLEJO, SR., *J.*:

Before us is a Petition for Review on *Certiorari* filed by petitioner Intercontinental Broadcasting Corporation (IBC) assailing the Decision[1] of the Court of Appeals in CA-G.R. SP No. 72414, which in turn affirmed the Decision[2] of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000660-2000.

On various dates, petitioner employed the following persons at its Cebu station: Candido C. Quiñones, Jr.; on February 1, 1975;[3] Corsini R. Lagahit, as Studio Technician, also on February 1, 1975;[4] Anatolio G. Otadoy, as Collector, on April 1, 1975;[5] and Noemi Amarilla, as Traffic Clerk, on July 1, 1975.[6] On March 1, 1986, the government sequestered the station, including its properties, funds and other assets, and took over its management and operations from its owner, Roberto Benedicto.[7] However, in December 1986, the government and Benedicto entered into a temporary agreement under which the latter would retain its management and operation. On November 3, 1990, the Presidential Commission on Good Government (PCGG) and Benedicto executed a Compromise Agreement,[8] where Benedicto transferred and assigned all his rights, shares and interests in petitioner station to the government. The PCGG submitted the

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[1] Penned by Associate Justice Jose Catral Mendoza, with Associate Justices B.A. Adefuin-de la Cruz and Eliezer R. de los Santos, concurring; *rollo*, pp. 35-42.

[2] Penned by Presiding Commissioner Irenea E. Ceniza, with Commissioners Edgardo M. Enerlan and Oscar S. Uy, concurring; *id.* at 135-139.

[3] Records, p. 91.

[4] *Id* at 93.

[5] *Id.* at 94.

[6] *Id.* at 95.

[7] *Id.* at 40.

[8] *Id.* at 30-39.

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Agreement to the Sandiganbayan in Civil Case No. 0034 entitled "*Republic of the Philippines v. Roberto S. Benedicto, et al.*"[9]

In the meantime, the four (4) employees retired from the company and received, on staggered basis, their retirement benefits under the 1993 Collective Bargaining Agreement (CBA) between petitioner and the bargaining unit of its employees.

Name of Employee	Date of Retirement	Retirement Benefit
Candido C. Quiñones, Jr.	October 16, 1995	₱ 766,532.97
Noemi B. Amarilla	April 16, 1998	₱1,134,239.47
Corsini R. Lagahit	April 16, 1998	₱1,298,879.50
Anatolio G. Otadoy	February 29, 1996	₱ 751,914.30

In the meantime, a ₱1,500.00 salary increase was given to all employees of the company, current and retired, effective July 1994. However, when the four retirees demanded theirs, petitioner refused and instead informed them via a letter that their differentials would be used to offset the tax due on their retirement benefits in accordance with the National Internal Revenue Code (NIRC). Amarilla was informed that the ₱71,480.00 of the amount due to her would be used to offset her tax liability of ₱340,641.42.[10] Otadoy was also informed in a letter dated July 5, 1999, that his salary differential of ₱170,250.61 would be used to pay his tax liability which amounted to ₱127,987.57. Since no tax liability was withheld from his retirement benefits, he even owed the company ₱17,727.26 after the offsetting. Quiñones was informed that he should have retired compulsorily in 1992 at age 55 as provided in the CBA, and that since he was already 58 when he retired, he was no longer entitled to receive salary increases from 1992 to 1995. Consequently, he was overpaid by ₱137,932.22 for the "extension" of his employment from 1992 to 1995, which amount he was obliged

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[9] *Benedicto v. Board of Administrators of Television Stations RPN, BBC and IBC*, G.R. No. 87710, March 31, 1992, 207 SCRA 659.

[10] Records, p. 83.

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to return to the company. In any event, his claim for salary differentials had expired pursuant to Article 291 of the Labor Code of the Philippines.[11] Lagahit's claim for salary differential of ₱73,165.23 was rejected by petitioner in a letter dated July 6, 1999, on the ground that he had a tax liability of ₱396,619.03; since the amount would be used as partial payment for his tax liability, he still owed the company ₱323,453.80.[12]

The four (4) retirees filed separate complaints[13] against IBC TV-13 Cebu and Station Manager Louella F. Cabañero for unfair labor practice and non-payment of backwages before the NLRC, Regional Arbitration Branch VII. As all of the complainants had the same causes of action, their complaints were docketed as NLRC RAB-VII Case No. 10-1625-99.

The complainants averred that their retirement benefits are exempt from income tax under Article 32 of the NIRC. Sections 28 and 72 of the NIRC, which petitioner relied upon in withholding their differentials, do not apply to them since these provisions deal with the applicable income tax rates on foreign corporations and suits to recover taxes based on false or fraudulent returns. They pointed out that, under Article VIII of the CBA, only those employees who reached the age of 60 were considered retired, and those under 60 had the option to retire, like Quiñones and Otadoy who retired at ages 58 and 51, respectively. They prayed that they be paid their salary differentials, as follows:

Otadoy	₱ 170,250.61
Quiñones	₱ 170,250.61
Lagahit	₱ 73,165.23
Amarilla	₱ 71,480.00[14]

For its part, petitioner averred that under Section 21 of the NIRC, the retirement benefits received by employees from

[11] *Id.* at 85.

[12] *Id.* at 86.

[13] *Id.* at 32-35.

[14] *Id.* at 78.

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their employers constitute taxable income. While retirement benefits are exempt from taxes under Section 28(b) of said Code, the law requires that such benefits received should be in accord with a reasonable retirement plan duly registered with the Bureau of Internal Revenue (BIR) after compliance with the requirements therein enumerated. Since its retirement plan in the 1993 CBA was not approved by the BIR, complainants were liable for income tax on their retirement benefits. Petitioner claimed that it was mandated to withhold the income tax due from the retirement benefits of said complainants. It was not estopped from correcting the mistakes of its former officers. Under the law, complainants are obliged to return what had been mistakenly delivered to them.[15]

In reply, complainants averred that the claims for the retirement salary differentials of Quiñones and Otadoy had not prescribed because the said CBA was implemented only in 1997. They pointed out that they filed their claims with petitioner on April 3, 1999. They maintained that they availed of the optional retirement because of petitioner's inducement that there would be no tax deductions. Petitioner IBC did not commit any mistake in not withholding the taxes due on their retirement benefits as shown by the fact that the PCCG, the Commission on Audit (COA) and the Bureau of Internal Revenue (BIR) did not even require them to explain such mistake. They pointed out that petitioner paid their retirement benefits on a staggered basis, and nonetheless failed to deduct any amount as taxes.[16]

Petitioner countered that the retirement benefits received by the complainants were based on the CBA between it and its bargaining units. Under Sections 72 and 73 of the NIRC, it is obliged to deduct and withhold taxes determined in accordance with the rules and regulations to be prepared by the Secretary of Finance. It was its duty to withhold the taxes on complainants' retirement benefits, otherwise, it would be held civilly and criminally liable under Sections 251, 254 and 255 of the NIRC.

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[15] *Id.* at 89-142.

[16] *Id.* at 147-150.

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On February 14, 2000, the Labor Arbiter rendered judgment in favor of the retirees. The *fallo* of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondent Intercontinental Broadcasting Corporation (IBC TV-13 Cebu) to pay the complainants Noemi Amarilla and Corsini Lagahit as follows:

1. Noemi E. Amarilla	– ₱26,423.00
2. Corsino R. Lagahit	– ₱26,423.00
Total	– ₱52,846.00

The claim of complainants Anatolio Otadoy and Candido Quiñones and the case against respondent Louella F. Cabañero are dismissed for lack of merit.

SO ORDERED.[17]

The Labor Arbiter ruled that the claims of Quiñones and Otadoy had prescribed. The retirement benefits of complainants Lagahit and Amarilla, on the other hand, were exempt from income tax under Section 28(b) of the NIRC. However, the differentials due to the two complainants were computed three years backwards due to the law on prescription.

Petitioner appealed the decision of the Labor Arbiter to the NLRC, arguing that the retirement benefits of Amarilla and Lagahit are not tax exempt. It insisted that the Labor Arbiter erred in declaring as unlawful the act of withholding the employees' salary differentials as payment for the latter's tax liabilities.

Otadoy and Quiñones no longer appealed the decision.

On May 21, 2002, the NLRC rendered its decision dismissing the appeal and affirming that of the Labor Arbiter. The *fallo* of the decision reads:

WHEREFORE, the Decision of the Labor Arbiter dated February 14, 2000 is hereby AFFIRMED. Respondents' appeal is dismissed for lack of merit.

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[17] *Id.* at 242.

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SO ORDERED. [18]

The NLRC held that the benefits of the retirement plan under the CBAs between petitioner and its union members were subject to tax as the scheme was not approved by the BIR. However, it had also been the practice of petitioner to give retiring employees their retirement pay without tax deductions and there was no justifiable reason for the respondent to deviate from such practice. The NLRC concluded that petitioner was deemed to have assumed the tax liabilities of the complainants on their retirement benefits, hence, had no right to deduct taxes from their salary differentials. The NLRC thus ratiocinated:

The sole concern of the law is that tax shall be imposed on retirement benefits. The employer assuming the payment of tax on behalf of the retiring employee to make the retirement attractive, does not contravene the tax law, because it is not contrary to the law or public policy, morals and good customs. It is significant to note that respondent did not refute the complainants' allegations in their Position Papers, to wit:

> "Complainants Amarilla and Lagahit availed themselves of the offer of the respondent company when they were induced and were made to believe that respondent company's employees who avail of such early retirement can avail of that exemption on their retirement benefits. Were it not for the offer of no tax liability, complainants would not have availed of such optional or early retirement."

It is worthy to note that the retirement benefits of the complainants did not suffer any tax deductions when they were given at the first instance. It is only after they claimed the salary differentials when the respondent withheld the backwages for the payment of tax liabilities.

> "From the facts it can be shown that the disbursement of retirement benefits of the complainants were made on staggered basis, three (3) and four (4) times. So, if the company, as it claimed, is really vent on deducting the alleged taxes due the complainants, they have three or four opportunities to do so."

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[18] CA *rollo*, p. 76.

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The respondent's history reveals that it was paying retirement pays to its retiring employees without tax deductions as a matter of practice. There is no justifiable reason for the respondent to deviate from that practice now. It is deemed to have assumed the tax liabilities of the complainants.[19]

Aggrieved, petitioner elevated the decision before the CA on the following grounds:

1. THE HONORABLE NLRC GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OF JURISDICTION WHEN IT RULED THAT WHILE PETITIONER MAY NOT HAVE A RETIREMENT PLAN WHOSE BENEFITS THEREFROM ARE EXEMPTED FROM TAXES UNDER SECTION 28 OF THE NIRC, BY VIRTUE OF ITS PREVIOUS PRACTICE THAT IT ASSUMED THE PAYMENT OF TAX LIABILITES, IT IS DEEMED TO HAVE ANSWERED FOR THE TAX LIABILITES OF THE COMPLAINANTS, WHICH ULTIMATE CONSEQUENCE, IF NOT RECTIFIED, SHALL CAUSE IRREPARABLE DAMAGE AND INJURY TO THE PETITIONER CORPORATION.

2. THE HONORABLE NLRC GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE DECISION RENDERED BY THE LABOR ARBITER ON FEBRUARY 14, 2000 WHICH GRANTED RETIREMENT DIFFERENTIAL TO RESPONDENTS AMARILLA AND LAGAHIT AS THESE ARE CONTRARY TO THE FACTS AND RETIREMENT LAWS PARTICULARLY THE PROVISIONS EMBODIED IN SECTIONS 21, 27, 28 OF THE NATIONAL INTERNAL REVENUE CODE AND R.A. 7641 IMPLEMENTING ARTICLE 287 OF THE LABOR CODE AS WELL AS SECTION 6 OF THE IMPLEMENTING RULES OF RA 7641.

3. CONSEQUENT TO NLRC'S RULING GRANTING RETIREMENT DIFFERENTIAL TO RESPONDENTS AMARILLA AND LAGAHIT, THE HONORABLE NLRC GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT PETITIONER'S ACT OF WITHHOLDING COMPLAINANTS'

[19] Records, pp. 350-351.

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BACKWAGES AS PAYMENT OF THEIR TAX LIABILITIES IS ILLEGAL.'[20]

On December 3, 2003, the CA rendered judgment dismissing the petition for lack of merit.

The appellate court declared that the salary differentials of the respondents are part of their taxable gross income, considering that the CBA was not approved, much less submitted to the BIR. However, petitioner could not withhold the corresponding tax liabilities of respondents due to the then existing CBA, providing that such retirement benefits would not be subjected to any tax deduction, and that any such taxes would be for its account. The appellate court relied on the allegations of respondents in their Position Paper before the Labor Arbiter which petitioner failed to refute.

Petitioner filed a motion for reconsideration, which the appellate court denied. Hence, the present petition, where petitioner avers that:

WITH ALL DUE RESPECT, THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT SINCE IT HAS BEEN THE PURPORTED PRACTICE OF PETITIONER IBC-13 NOT TO WITHHOLD TAXES DUE ON THE SALARY DIFFERENTIAL AND THE RETIREMENT BENEFITS, PETITIONER IBC-13 NECESSARILY ASSUMED PAYMENT OF THE TAXES AND COULD NOT THEREFORE WITHHOLD THE SAME NOTWITHSTANDING THE SUBSEQUENT DISCOVERY THAT THE FAILURE TO WITHHOLD THE TAXES WAS DONE DUE TO THE OMISSION, MISTAKE, FRAUD OR IRREGULARITY COMMITTED BY PREVIOUS MANAGEMENT.

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS GLOSSED OVER THE FACT AND COMMITTED REVERSIBLE ERROR WHEN IT AFFIRMED THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION DATED MAY 21, 2002 WHICH ORDERED PETITIONER IBC-13 TO PAY RETIREMENT DIFFERENTIAL TO RESPONDENTS AMARILLA AND LAGAHIT AS THESE ARE CONTRARY TO THE FACTS AND

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[20] CA *rollo*, pp. 11-12.

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RETIREMENT LAWS PARTICULARLY THE PROVISIONS EMBODIED IN SECTIONS 21, 27, 28 OF THE NATIONAL INTERNAL REVENUE CODE (AS AMENDED BY PRESIDENTIAL DECREE NO. 1994)[21]

Petitioner insists that respondents are liable for taxes on their retirement benefits because the retirement plan under the CBA was not approved by the BIR. It insisted that it failed to comply with the requisites of Section 32 of the NIRC and Rule II, Section 6 of the Rules Implementing the New Retirement Law which provides that retirement pay shall be tax exempt upon compliance with the requirements under Section 2(b) of Revenue Regulation No. 12-86 dated August 1, 1986.

Petitioner maintains that respondents failed to present any document as proof that petitioner bound and obliged itself to pay the withholding taxes on their retirement benefits. In fact, the Labor Arbiter did not make any finding that petitioner had obliged itself to pay the withholding taxes on respondents' retirement benefits. The NLRC's reliance on the statements in its Position Paper that it undertook to pay for respondents' withholding taxes is misplaced.

While petitioner admits that its "previous directors" had paid the withholding taxes on the retirement benefits of respondents, it explains that this practice was stopped when the new management took over. The new management could not be expected to enforce and follow through the illegal policy of the old management which is adverse to the interests of the petitioner; hence, the decisions of the NLRC and the CA affirming such undertaking should be reversed. It points out that it is a government corporation, and as such, its officials and employees may be held liable for violation of Section 3(a) of Republic Act Nos. 3019, and 6713.[22] Moreover, its officers and employees are mandated to preserve the company's assets, and may, likewise

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[21] *Rollo*, pp. 19-20.

[22] Otherwise known as a law establishing an "Act Establishing a Code of Conduct and Ethical Standards for Public Officials Employees."

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be held liable for failure to do so under Section 31 of the Corporation Code.

The issues are (1) whether the retirement benefits of respondents are part of their gross income; and (2) whether petitioner is estopped from reneging on its agreement with respondent to pay for the taxes on said retirement benefits.

We agree with petitioner's contention that, under the CBA, it is not obliged to pay for the taxes on the respondents' retirement benefits. We have carefully reviewed the CBA and find no provision where petitioner obliged itself to pay the taxes on the retirement benefits of its employees.

We also agree with petitioner's contention that, under the NIRC, the retirement benefits of respondents are part of their gross income subject to taxes. Section 28 (b) (7) (A) of the NIRC of 1986[23] provides:

> Sec. 28. *Gross Income.* –
>
> x x x x x x x x x
>
> (b) *Exclusions from gross income.* – The following items shall not be included in gross income and shall be exempt from taxation under this Title:
>
> x x x x x x x x x
>
> (7) *Retirement benefits, pensions, gratuities, etc.* – (A) Retirement benefits received by officials and employees of private firms whether individuals or corporate, in accordance with a reasonable private benefit plan maintained by the employer: *Provided*, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty years of age at the time of his retirement: *Provided, further*, That the benefits granted under this subparagraph shall be availed of by an official or employee only once. For purposes of this subsection, the term "reasonable private benefit plan" means a pension, gratuity, stock bonus or profit-sharing plan maintained by an employer for the benefit of some or all of his officials or employees,

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[23] Now Section 32 (B) (6) (a) of the NIRC of 1997.

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where contributions are made by such employer for officials or employees, or both, for the purpose of distributing to such officials and employees the earnings and principal of the fund thus accumulated, and wherein it is provided in said plan that at no time shall any part of the corpus or income of the fund be used for, or be diverted to, any purpose other than for the exclusive benefit of the said official and employees.

Revenue Regulation No. 12-86, the implementing rules of the foregoing provisions, provides:

(b) *Pensions, retirements and separation pay.* – Pensions, retirement and separation pay constitute compensation subject to withholding tax, except the following:

(1) Retirement benefit received by official and employees of private firms under a reasonable private benefit plan maintained by the employer, if the following requirements are met:

(i) The retirement plan must be approved by the Bureau of Internal Revenue;

(ii) The retiring official or employees must have been in the service of the same employer for at least ten (10) years and is not less than fifty (50) years of age at the time of retirement; and

(iii) The retiring official or employee shall not have previously availed of the privilege under the retirement benefit plan of the same or another employer.

Thus, for the retirement benefits to be exempt from the withholding tax, the taxpayer is burdened to prove the concurrence of the following elements: (1) a reasonable private benefit plan is maintained by the employer; (2) the retiring official or employee has been in the service of the same employer for at least 10 years; (3) the retiring official or employee is not less than 50 years of age at the time of his retirement; and (4) the benefit had been availed of only once.

Article VIII of the 1993 CBA provides for two kinds of retirement plans – compulsory and optional. Thus:

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ARTICLE VIII
RETIREMENT

Section 1: Compulsory Retirement – Any employee who has reached the age of Fifty Five (55) years shall be retired from the COMPANY and shall be paid a retirement pay in accordance with the following schedule:

LENGTH OF SERVICE	RETIREMENT BENEFITS
1 year – below 5 yrs.	15 days for every year of service
5 years – 9 years	30 days for every year of service
10 years – 14 years	50 days for every year of service
15 years – 19 years	65 days for every year of service
20 years or more	80 days for every year of service

A supervisor who reached the age of Fifty (50) may at his/her option retire with the same retirement benefits provided above.

Section 2: Optional Retirement – Any covered employee, regardless of age, who has rendered at least five (5) years of service to the COMPANY may voluntarily retire and the COMPANY agrees to pay Long Service Pay to said covered employee in accordance with the following schedule:

LENGTH OF SERVICE	RETIREMENT BENEFITS
5 – 9 years	15 days for every year of service
10 – 14 years	30 days for every year of service
15 – 19 years	50 days for every year of service
20 years and above	60 days for every year of service

Section 3: Fraction of a Year – In computing the retirement under Section 1 and 2 of this Article, a fraction of at least six (6) months shall be considered as one whole year. Moreover, the COMPANY may exercise the option of extending the employment of an employee.

Section 4: Severance of Employment Due to Illness – When a supervisor suffers from disease and/or permanent disability and her/his continued employment is prohibited by law or prejudicial to her/his health of the health of his co-employees, the COMPANY

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shall not terminate the employment of the subject supervisor unless there is a certification by a competent public health authority that the disease is of such a nature or at such stage that it can not be cured within a period of six (6) months even with proper medical treatment. The supervisor may be separated upon payment by the COMPANY of separation pay pursuant to law, unless the supervisor falls within the purview of either Sections 1 or 2 hereof. In which case, the retirement benefits indicated therein shall apply, whichever is higher.

Section 5: Loyalty Recognition – The COMPANY shall recognize the services of the supervisor/director who have reached the following number of years upon retirement by granting him/her a plaque of appreciation and any lasting gift:

10 years but below 15 years – (₱ 3,000.00) worth
15 years but below 20 years – (₱ 7,000.00) worth
20 years and more – (₱10,000.00) worth

Respondents were qualified to retire optionally from their employment with petitioner. However, there is no evidence on record that the 1993 CBA had been approved or was ever presented to the BIR; hence, the retirement benefits of respondents are taxable.

Under Section 80 of the NIRC, petitioner, as employer, was obliged to withhold the taxes on said benefits and remit the same to the BIR.

Section 80. *Liability for Tax.* –

(A) *Employer.* – The employer shall be liable for the withholding and remittance of the correct amount of tax required to be deducted and withheld under this Chapter. If the employer fails to withhold and remit the correct amount of tax as required to be withheld under the provision of this Chapter, such tax shall be collected from the employer together with the penalties or additions to the tax otherwise applicable in respect to such failure to withhold and remit.

However, we agree with respondents' contention that petitioner did not withhold the taxes due on their retirement benefits because it had obliged itself to pay the taxes due thereon. This was done to induce respondents to agree to avail of the

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optional retirement scheme. Thus, in its petition in this case, petitioner averred that:

> While it may indeed be conceded that the previous dispensation of petitioner IBC-13 footed the bill for the withholding taxes, upon discovery by the new management, this was stopped altogether as this was grossly prejudicial to the interest of the petitioner IBC-13. The policy of withholding the taxes due on the differentials as a remedial measure was a matter of sound business judgment and dictates of good governance aimed at protecting the interests of the government. Necessarily, the newly-appointed board and officers of the petitioner, who learned about this grossly disadvantageous mistake committed by the former management of petitioner IBC-13 cannot be expected to just follow suit blindly. An illegal act simply cannot give rise to an obligation. Accordingly, the new officers were correct in not honoring this highly suspect practice and it is now their duty to rectify this anomalous occurrence, otherwise, they become remiss in the performance of their sworn responsibilities.
>
> It need not be stressed that as board members and officers of the acquired asset of the government, they are committed to preserve the assets thereof. Their concomitant obligations spring not only from their fiduciary responsibility as corporate officers but as well as public officers.[24]

Respondents received their retirement benefits from the petitioner in three staggered installments without any tax deduction for the simple reason that petitioner had remitted the same to the BIR with the use of its own funds conformably with its agreement with the retirees. It was only when respondents demanded the payment of their salary differentials that petitioner alleged, for the first time, that it had failed to present the 1993 CBA to the BIR for approval, rendering such retirement benefits not exempt from taxes; consequently, they were obliged to refund to it the amounts it had remitted to the BIR in payment of their taxes. Petitioner used this "failure" as an afterthought, as an excuse for its refusal to remit to the respondents their salary differentials. Patently, petitioner is estopped from doing so. It cannot renege on its commitment to pay the taxes on

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[24] *Rollo*, p. 23 (Underscoring supplied).

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respondents' retirement benefits on the pretext that the "new management" had found the policy disadvantageous.

It must be stressed that the parties are free to enter into any contract stipulation provided it is not illegal or contrary to public morals. When such agreement freely and voluntarily entered into turns out to be advantageous to a party, the courts cannot "rescue" the other party without violating the constitutional right to contract. Courts are not authorized to extricate the parties from the consequences of their acts. Thus, the fact that the contract stipulations of the parties may turn out to be financially disadvantageous to them will not relieve them of their obligation under the agreement.[25]

An agreement to pay the taxes on the retirement benefits as an incentive to prospective retirees and for them to avail of the optional retirement scheme is not contrary to law or to public morals. Petitioner had agreed to shoulder such taxes to entice them to voluntarily retire early, on its belief that this would prove advantageous to it. Respondents agreed and relied on the commitment of petitioner. For petitioner to renege on its contract with respondents simply because its new management had found the same disadvantageous would amount to a breach of contract. There is even no evidence that any "new management" was ever installed by petitioner after respondents' retirement; nor is there evidence that the Board of Directors of petitioner resolved to renege on its contract with respondents and demand the reimbursement for the amounts remitted by it to the BIR.

The well-entrenched rule is that estoppel may arise from a making of a promise if it was intended that the promise should be relied upon and, in fact, was relied upon, and if a refusal to sanction the perpetration of fraud would result to injustice. The mere omission by the promisor to do whatever

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[25] *Torres v. Court of Appeals,* G.R. No. 134559, December 9, 1999, 320 SCRA 428, 437; *Pryce Corporation v. Philippine Amusement and Gaming Corporation,* G.R. No. 157480, May 6, 2005, 458 SCRA 164, 175.

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he promises to do is sufficient forbearance to give rise to a promissory estoppel.[26]

Petitioner cannot hide behind the fact that, under the compromise agreement between the PCGG and Benedicto, the latter had assigned and conveyed to the Republic of the Philippines his shares, interests and rights in petitioner. Respondents retired only after the Court affirmed the validity of the Compromise Agreement[27] and the execution by petitioner and the union of their 1993 CBA while Civil Case No. 0034 was still pending in the *Sandiganbayan*. There is no showing that before respondents demanded the payment of their salary differentials, petitioner had rejected its commitment to shoulder the taxes on respondents' retirement benefits and sought its nullification before the court; nor is there any showing that petitioner's "new management" filed any criminal or administrative charges against the former officers/board of directors comprising the "old management" relative to the payment of the taxes on respondents' retirement benefits.

IN VIEW OF ALL THE FOREGOING, the petition is *DENIED* for lack of merit. The Decision of the Court of Appeals in CA-G.R. SP No. 72414 is *AFFIRMED*. Costs against the petitioner.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.,* concur.

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[26] *Central Bank of the Philippines v. Intermediate Appellate Court,* G.R. No. 69078, December 4, 1989, 179 SCRA 752, 758.

[27] *Benedicto v. Board of Administrators of Television Stations RPN, BBC and IBC, supra* note 9.