

DENNIS D. SY, PETITIONER, VS. METROPOLITAN BANK & TRUST COMPANY, RESPONDENT.

G.R. NO. 160618. November 02, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision[1] dated June 7, 2002 of the Court of Appeals in CA-G.R. SP No. 68149, which reinstated the Decision[2] dated June 19, 2000 of the Labor Arbiter dismissing petitioner's complaint for illegal suspension, illegal dismissal, and money claims.

The pertinent facts are as follows:

Petitioner Dennis D. Sy, herein substituted by his heirs Soledad Y. Sy, Ronald Allan Y. Sy, and Melinda S. Pompenada, was the branch manager in Bajada, Davao City, of respondent Metropolitan Bank and Trust Company.

Under the bank's Retirement Plan, an employee must retire upon reaching the age of 55 years or after rendering 30 years of service, whichever comes first. Sy would have rendered 30 years of service by August 18, 1999.[3] However, on February 5, 1999, he was reappointed as branch manager for a term of one year starting August 18, 1999 until August 18, 2000.[4] His monthly compensation was accordingly increased from P50,400 to P54,500, effective August 16, 1999.[5]

Meanwhile, on November 10 and 15, 1999, the bank released the results of the audit conducted in its Bajada branch. On November 15, 1999, Sy tendered an irrevocable letter of retirement.[6] In his letter, he requested the timely release of his retirement pay and other benefits. His request was denied.[7]

The bank alleged that Sy allowed spouses Gorgonio and Elizabeth Ong to conduct "kiting" activities in their account with the bank, to wit:

- Approving DBP accommodations beyond the authority limits established by Management;
- Approving DBP accommodations against accounts already found to be engaged (sic) in irregular and unsound banking practice;
- Releasing/renewing loans without Head Office approval;
- Allowing persons other than the depositor to purchase Cashier's Checks without authority;
- Ignoring previous Bank's warning to discontinue granting such accommodations; and
- Debit of the depositor's account as payment for the purchase of Cashier's Check without conformity or authority.[8]

Thus, the bank placed Sy under preventive suspension and gave him 48 hours to submit a written explanation. In response, Sy wrote a letter explaining that he only made a wrong credit judgment.[9] Not satisfied with his

answer, the bank notified Sy of other alleged violations of company policies, to wit:

- Granting of DBP-Clean accommodations totaling [P9.11M] from March to April 1999 to Sps. Samuel Aquino and Charito Sy-Aquino, your [brother-in-law] and sister, respectively. This is in patent abuse of authority as you have knowledge that your branch's lending authority has been suspended since January 1998.
- Purchasing checks, Philam Bank and Bank of Commerce under Account Nos. 001103-00467 and 00-9014-31103-4 which are payable to Landcraft Transport Services a company owned by your aforementioned relatives. Please note that the signatories to the said checks are also your aforementioned sister and [brother-in-law]. This has allowed your relatives to conduct kiting activities through your branch with your knowledge and consent.[10]

In reply, Sy explained in writing that the accommodation granted to spouses Samuel Aquino and Charito Sy-Aquino was only P650,000, not P9.11M as claimed by the bank. He added that the spouses even offered a parcel of land as collateral and were willing to sell a vehicle in settlement of their obligation with the bank.[11]

Unconvinced, the bank dismissed Sy on December 15, 1999. The termination letter reads in part:

SPS. GORGONIO & ELIZABETH ONG ACCOUNT

- Your wanton violations of Bank rules as stated in our November 17, 1999 letter have allowed the above clients to do kiting activities in your branch and have resulted to a possible loss of over TEN MILLION PESOS (P10,000,000.00)
- The account has already become past due and the clients involved have already absconded.

SPS. SAMUEL & CHARITO SY-AQUINO (Your Brother-in-law And Sister)

- As stated in our letter dated December 3, 1999 evidence shows that you have allowed your brother-in-law and sister to conduct kiting activities through your branch. Their DBP accommodations of SIX HUNDRED FIFTY THOUSAND PESOS (P650,000.00) rolled over daily from March to April 1999 accumulates to over NINE MILLION PESOS (P9,000,000.00);
- The above account has already become past due in the principal amount of SIX HUNDRED FIFTY THOUSAND PESOS (P650,000.00).[12]

Sy filed against the bank a complaint for illegal suspension, illegal dismissal and money claims, docketed as RAB-11-01-00024-0. However, the Labor Arbiter dismissed the case for lack of merit.[13]

On appeal, the National Labor Relations Commission (NLRC) deemed Sy compulsorily retired. Thus, the NLRC awarded him retirement benefits, unpaid salary, monetary value of unused leave credits, 13th month pay, Christmas bonus, and refund of provident fund.

The parties sought reconsideration, which were both denied for lack of merit. Respondent bank elevated the matter to the Court of Appeals, which set aside the ruling of the NLRC and reinstated the Decision of the Labor Arbiter. On motion for reconsideration, however, the Court of Appeals modified its ruling and ordered the bank to reimburse Sy's contribution to the provident fund.[14]

Hence, the instant petition raising the following issues:

- (1) WHETHER OR NOT AN EMPLOYEE WHOSE COMPULSORY RETIREMENT DATE HAD ALREADY ELAPSED CAN STILL BE DISMISSED FROM HIS EMPLOYMENT BY HIS EMPLOYER?
- (2) WHETHER OR NOT, IF AN EMPLOYEE'S SERVICE WAS UNILATERALLY EXTENDED BY HIS EMPLOYER BEYOND HIS COMPULSORY RETIREMENT DATE, THEN SUBSEQUENTLY HE WAS

DISMISSED, HIS DISMISSAL WOULD PERTAIN TO THE "EXTENDED PERIOD" ONLY OR ALSO TO HIS PREVIOUS TENURE OF EMPLOYMENT FROM WHICH HE WAS SUPPOSED TO COMPULSORILY RETIRE?

(3) WHETHER OR NOT THE EMPLOYMENT OF AN EMPLOYEE WHO IS MERELY PLACED UNDER PREVENTIVE SUSPENSION IS DEEMED SEVERED?

(4) WHETHER OR NOT METROBANK IS IN ESTOPPEL CONSIDERING THAT IT UNILATERALLY EXTENDED DENNIS SY'S SERVICE BY REASON OF HIS EXEMPLARY PERFORMANCE, AND ON AUGUST 16, 1999 (I.E. TWO DAYS BEFORE DENNIS SY'S COMPULSORY RETIREMENT DATE – AUGUST 18, 1999) IT INCREASED DENNIS SY'S COMPENSATION?

(5) WHETHER OR NOT AN EMPLOYEE CAN BE DEPRIVED OF HIS RETIREMENT BENEFITS AND OTHER FRINGE BENEFITS AFTER RENDERING THE 30-YEAR EMPLOYMENT, A CONDITION SINE QUA NON FOR COMPULSORY RETIREMENT AS STIPULATED IN HIS EMPLOYER'S RETIREMENT PLAN?[15]

Petitioner Sy contends that his dismissal pertains solely to his extended one-year term of employment and should not affect the benefits owing to his 30-year tenure. He points out that the reappointment letter itself separates his 30-year tenure from his extended employment by providing that, except for retirement benefits, he was to enjoy the benefits of a regular employee, thus:

We are pleased to inform you of your [reappointment] for another term from August 18, 1999 to August 18, 2000.

You will continue to enjoy the benefits of a regular employee except for retirement benefits.[16]

He adds that his extension was at the instance of the bank, which was a violation of its own retirement policy. He also claims that the alleged anomalous transactions were not at all prohibited, but were allowed on a case-to-case basis; they were, at worst, simple errors of judgment on his part.

Respondent bank, however, counters that petitioner Sy committed acts of fraud, dishonesty, and willful breach of the trust reposed in him, justifying his dismissal. Further, it argues that Sy's reappointment was not a unilateral act, but a consensual agreement to extend his employment. Lastly, the bank posits that since his termination was for a just cause, which transpired prior to his retirement, the forfeiture of his retirement benefits was but proper.

Simply put, the issues are: (1) Was petitioner illegally terminated? (2) If his dismissal was valid, would he still be entitled to retirement benefits?

We hold that petitioner Sy was validly dismissed on the ground of fraud and willful breach of trust under Article 282 of the Labor Code.[17] Records show that as bank manager, he authorized "kiting" or drawing of checks against uncollected funds[18] in wanton violation of the bank's policies.[19] It was sufficient basis for the bank to lose trust in him.

Unlike a rank-and-file worker, where breach of trust as a ground for valid dismissal requires proof of involvement in the alleged anomaly and where mere uncorroborated accusation by the employer will not suffice, the sheer existence of a basis for believing that the employer's trust has been breached is enough for the dismissal of a managerial employee.[20]

Petitioner's conduct betrays his culpability. Shortly after the audit conducted in the Bajada branch, he tendered an "irrevocable letter of retirement." In the said letter, he requested that his retirement be made effective December 1, 1999. Said request arouses suspicion considering that he had previously agreed to the extension of his employment as branch manager until August 18, 2000. Petitioner's evident failure to offer any reasonable

explanation for such sudden shift in his plans is prejudicial to his cause.

As for the requirement of due process, records[21] show that it has been fully satisfied in the instant case. The bank had complied with the two-notice requirement, i.e.: (a) a written notice of the cause for his dismissal to afford him ample opportunity to be heard and to defend himself with the assistance of counsel, if he so desires; and (b) a written notice of the decision to terminate him, stating clearly the reason therefor.[22]

Petitioner, however, theorizes that having been compulsorily retired, he could no longer be dismissed by the bank. His premise is absurd. Indeed, he would have qualified for compulsory retirement under the bank's Retirement Plan. However, he opted to accept the bank's offer of extending his employment for another year with a corresponding salary increase. Thus, in effect, he had never retired. Unfortunately for him, while serving such extended term, the bank discovered his unauthorized grant of accommodation to accounts engaged in "kiting" activity. Such act is a clear breach of the trust reposed in him by the bank. He cannot now elude dismissal for a just cause by claiming he was already retired compulsorily.

Is petitioner nevertheless entitled to retirement benefits?

Under the Labor Code, only unjustly dismissed employees are entitled to retirement benefits and other privileges including reinstatement and backwages.[23] Since petitioner's dismissal was for a just cause, he is not entitled to any retirement benefit. To hold otherwise would be to reward acts of willful breach of trust by the employee. It would also open the floodgate to potential anomalous banking transactions by bank employees whose employments have been extended. Since a bank's operation is essentially imbued with public interest, it owes great fidelity to the public it deals with. In turn, it cannot be compelled to continue in its employ a person in whom it has lost trust and confidence and whose continued employment would patently be inimical to the bank's interest.[24] While the scale of justice is tilted in favor of workers, the law does not authorize blind submission to the claim of labor regardless of merit.

While the Court commiserates with petitioner who has spent with the bank the best three decades of his employable life, we find no room to accord him compassionate justice. Records showed that he violated the bank policies prior to his compulsory retirement.[25] Thus, there can be no earned retirement benefits to speak of. No such provision is provided for by the Labor Code. In fact, even the Civil Service Law imposes forfeiture of retirement benefits in valid dismissal cases.[26]

Notably, the Court has also disallowed claims for retirement benefits in valid dismissal cases because the retirement plan itself precluded employees dismissed for cause from availing it.[27] Although no such prohibition in the retirement plan was alleged or proved in this case, we nevertheless deny petitioner's claims because his offenses, vis-à-vis his long years of service with the bank, reflect a regrettable lack of loyalty which he should have strengthened instead of betrayed.[28]

WHEREFORE, the petition is hereby DENIED. The Decision dated June 7, 2002 of the Court of Appeals in CA-G.R. SP No. 68149, which reinstated the Decision dated June 19, 2000 of the Labor Arbiter, is AFFIRMED together with the Court of Appeals Resolution dated September 30, 2003 thereby ordering the respondent bank to reimburse petitioner's contribution to the provident fund. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio Morales, and Velasco, JR., JJ., concur.

Tinga, J., on leave.

[1] Rollo, pp. 60-71.

[2] Id. at 509-525.

[3] Id. at 323.

[4] Id. at 308.

[5] Id. at 439.

[6] Id. at 323.

[7] Id. at 850.

[8] Id. at 846.

[9] Id. at 847-848.

[10] Id. at 849.

[11] Id. at 851.

[12] Id. at 852-853.

[13] Id. at 509-525.

[14] Id. at 829.

[15] Id. at 896-897.

[16] Id. at 830.

[17] Art. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

x x x x

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

x x x x

[18] Associated Citizens Bank v. Ople, No. L-48896, February 24, 1981, 103 SCRA 130, 134.

[19] Rollo, pp. 835-844.

[20] Etcuban, Jr. v. Sulpicio Lines, Inc., G.R. No. 148410, January 17, 2005, 448 SCRA 516, 529.

[21] Rollo, pp. 446, 447-448, 449, 451, 452-453.

[22] Shoppes Manila, Inc. v. National Labor Relations Commission, G.R. No. 147125, January 14, 2004, 419 SCRA 354, 362.

[23] Bongar v. National Labor Relations Commission, G.R. No. 107234, August 24, 1998, 294 SCRA 536, 540-541.

[24] Dayan v. Bank of the Philippine Islands, G.R. No. 140692, November 20, 2001, 369 SCRA 712, 718.

[25] Rollo, pp. 309-322.

[26] Paredes v. Padua, A.M. No. CA-91-3-P, April 14, 2004, 427 SCRA 134, 140.

[27] San Miguel Corporation v. Lao, G.R. Nos. 143136-37, July 11, 2002, 384 SCRA 504, 512-513.

[28] Salvador v. Philippine Mining Service Corporation, G.R. No. 148766, January 22, 2003, 395 SCRA 729, 741.

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