

PHILIPPINE NATIONAL BANK, PETITIONER, VS. RAMON BRIGIDO L. VELASCO, RESPONDENT.

G.R. No. 166096. September 11, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THIS is a tale of a bank officer-depositor clinging to his position after violating bank regulations and falsifying his passbook to cover up a false transaction.

Before the Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure seeking the reversal of the Decision[1] and Resolution[2] of the Court of Appeals (CA). The appealed decision reversed those of the National Labor Relations Commission (NLRC)[3] and the Labor Arbiter[4] which dismissed the complaint for illegal dismissal and damages of Ramon Brigido L. Velasco against Philippine National Bank (PNB).

The Facts

Ramon Brigido L. Velasco, a PNB audit officer, and his wife, Belen Amparo E. Velasco, maintained Dollar Savings Account No. 010-714698-9[5] at PNB Escolta Branch. On June 30, 1995, while on official business at the Legazpi Branch, he went to the PNB Ligao, Albay Branch and withdrew US\$15,000.00 from the dollar savings account. At that time, the account had a balance of US\$15,486.07. The Ligao Branch is an off-line branch, i.e., one with no network connection or computer linkage with other PNB branches and the head office. The transaction was evidenced by an Interoffice Savings Account Withdrawal Slip, also known as the Ticket Exchange Center (TEC).[6]

On July 10, 1995, PNB Escolta Branch received the TEC covering the withdrawal. It was included among the proofsheets of Cashier IV Ruben Francisco, Jr. The withdrawal was not, however, posted in the computer of the Escolta Branch when it received said advice. This means that the withdrawal was not recorded. Thus, the account of Velasco had an overstatement of US\$15,000.00.

Sometime in September 1995, while Velasco was on a provincial audit, he claimed calling through phone a kin in Manila who just arrived from abroad. This kin allegedly told him that his New York-based brother, Gregorio Velasco, sent him various checks through his kin totaling US\$15,000.00 and that the checks would just be deposited in time in Velasco's account.

On October 6, 1995, Velasco updated his dollar savings account by depositing US\$12.78, reflecting a balance of US\$15,486.01. He was allegedly satisfied with the updated balance, as he thought that the US\$15,000.00 in his account was the amount given by his brother.

On different dates, Velasco made several inter-branch withdrawals from the dollar savings account, to wit:

PNB Branch Date Amount

PNB Legaspi November 7, 1995 US \$2,000.00

PNB Legaspi November 13, 1995 3,329.97

Cash Dept. November 23, 1995 4,000.00

Total US \$9,329.97

Mrs. Belen Velasco also withdrew several amounts on the dollar account, viz.:

PNB Branch Date Amount

PNB CEPZ December 6, 1995 US\$11,494.00

PNB Frisco January 2, 1996 1,292.32

Total US\$12,786.32

Subsequently, the dollar savings account of the spouses was closed.

On February 6, 1996, in the course of conducting an audit at PNB Escolta Branch, Molina D. Salvador, a member of the Internal Audit Department (IAD) of PNB, discovered that the inter-branch withdrawal made on June 30, 1995 by Velasco at PNB Ligao, Albay Branch in the amount of US\$15,000.00 was not posted; and that no deposit of said amount had been credited to the dollar savings account.

On February 7, 1996, Velasco was notified of the glitch when he reported at the IAD. He said it was only in the evening that he was able to verify from his kin that the latter was not able to deposit in his account the US\$15,000.00.[7]

The following day, or on February 8, 1996, Velasco went to Dolorita Donado, assistant vice president of the Internal Audit Department and team leader of the Escolta Task Force, and delivered three (3) checks in the amount of US\$5,000.00 each or a total of US\$15,000.00. However, Donato returned the checks to Velasco and instructed him that he should personally deposit the checks.

On February 14, 1996, he deposited the checks and the amount was consequently applied to his unposted withdrawal of US\$15,000.00.

Meanwhile, on February 9, 1996, PNB vice president, B.C. Hermoso, required[8] Velasco to submit a written explanation concerning the incident.

On February 12, 1996, he submitted his sworn letter-explanation.[9] He described the inter-branch withdrawal at PNB Ligao, Albay Branch on June 30, 1995 as "no-book," i.e., without the corresponding presentation to the bank teller of the savings passbook. He stated, among others, that his withdrawal was accommodated as the statement of account showed a balance of US\$15,486.01, and that he is personally known to the officers and staff, being a

former colleague at the PNB Ligao, Albay Branch.

On February 27, 1996, PNB Ligao, Albay Branch division chief III, Rexor Quiambao, financial specialist II, Emma Gacer, and division chief II, Renato M. Letada, confirmed the "no-book" withdrawal.[10]

On March 5, 1996, PNB formally charged Velasco with "Dishonesty, Grave Misconduct, and/or Conduct Grossly Prejudicial to the Best Interest of the Service for the irregular handling of Dollar Savings Account No. 010-714698-9." [11] The administrative charge alleged that: (1) he transacted a no-book withdrawal against his Dollar Savings Account No. 010-714698-9 at PNB Ligao, Albay Branch in violation of Section 1216 of the Manual of Regulations for Banks; (2) in transacting the no-book withdrawal, he failed to present any letter of introduction as required under General Circular 3-72/92; (3) the irregular inter-branch withdrawal was aggravated by the failure of Escolta Branch to post/enter the withdrawal into the computer upon receipt of the TEC advice, resulting in the overstatement of the account balance by US\$15,000.00; and (4) since he was presumed to be fully aware that neither the deposit nor withdrawal of the US\$15,000.00 was reflected on the passbook, he was able to appropriate the amount for his personal benefit, free of interest, to the damage and prejudice of PNB.[12]

On April 8, 1996, PNB withheld his rice and sugar subsidy, dental/optical/outpatient medical benefits, consolidated medical benefits, commutation of hospitalization benefits, clothing allowance, longevity pay, anniversary bonus, Christmas bonus and cash gift, performance incentive award, and mid-year financial assistance.[13] On April 10, 1996, he was placed under preventive suspension for a period of ninety (90) days.[14]

On May 2, 1996, Velasco submitted his sworn Answer[15] to the administrative charge against him. Unlike his previous answer, he here claimed that his withdrawal on June 30, 1995 was "with passbook." As proof, he attached a copy of his passbook[16] bearing the withdrawal entry of US\$15,000.00 on June 30, 1995. Explaining the inconsistency with his sworn letter-explanation on February 12, 1996, he said his initial answer was made under pressing circumstances. He was unable to find his passbook which was then kept by his wife who could not be contacted at that moment.

On October 2, 1996, the Administrative Adjudication Office (AAO) of PNB composed of Fernando R. Mangubat, Jr., Wilfredo S. Verzosa, Celso D. Benologa, and Jesse L. Figueroa exonerated Velasco of the charges of dishonesty and conduct prejudicial to the best interest of service. However, he was found guilty of grave misconduct, mitigated by length of service and absence of actual loss to PNB. Thus, he was meted the penalty of forced resignation with benefits.[17]

On October 31, 1996, Velasco was formally notified of the findings of the AAO after its approval by the management. As of that time, he had been employed with PNB for eighteen (18) years, holding the position of Manager 1 of the IAD. He was earning P14,932.00 per month plus a monthly allowance of P3,940.00 or a total salary of P18,872.00 per month.

On December 22, 1997, he filed a Complaint[18] against PNB for illegal suspension, illegal dismissal, and damages before the NLRC.

Labor Arbiter, NLRC, and CA Dispositions

On July 9, 1999, Labor Arbiter Pablo C. Espiritu gave judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

- Dismissing the complaint for illegal dismissal against respondents for want of merit.
- Ordering PNB to pay complainant unpaid wages for the period May 12, 1996 to October 31, 1996 in the

amount of P103,796.00.

- Dismissing complainant's claims for damages and other monetary claims for lack of merit.

SO ORDERED.[19]

In his ruling, the Labor Arbiter opined that as an employee and officer of PNB for eighteen (18) years, Velasco is expected to know bank procedures, including the expected entries in a savings passbook. Even if it should be assumed that he presented his passbook when he withdrew US\$15,000.00 at the PNB Ligao Branch on June 30, 1995, he should have known that there was something wrong with the amounts credited to his account when he made an update on October 6, 1995. Being an audit officer, and fully aware of his withdrawal of US\$15,000.00, he should have made inquiries on the inconsistency of the entries in his passbook.[20]

The Labor Arbiter also found as flimsy the argument that the additional US\$15,000.00 was the amount given to Velasco by his brother from the United States. As early as October 6, 1995, when he updated his passbook, Velasco should have known that (1) his brother's checks in the amount of US\$15,000.00 have not been deposited in his dollar savings account and (2) he appears to have been improperly credited with US\$15,000.00.[21]

Moreover, the Labor Arbiter held that the entry in the passbook purportedly reflecting the withdrawal of US\$15,000.00 is a forgery. It was done to conform to the defense of Velasco that he presented his passbook on June 30, 1995.[22]

On the charge of illegal suspension, the Labor Arbiter held that the preventive suspension of Velasco was reasonable in view of the sensitive nature of his position. It was also necessary to protect the records of PNB.[23] It follows that the withholding of his company benefits is reasonable.[24] Nonetheless, he should be paid his salary from May 12, 1996 up to October 31, 1996.[25]

His claim for damages and attorney's fees must be denied because PNB did not violate his rights.[26]

Dissatisfied with the decision of the Labor Arbiter, both Velasco[27] and PNB[28] appealed to the NLRC.

On July 31, 2000, the NLRC affirmed with modification the Labor Arbiter decision, disposing, thus:

WHEREFORE, the decision appealed from is hereby MODIFIED to the extent that the award of unpaid salaries is hereby REDUCED to the complainant's salaries from May 27, 1996 to July 31, 1996. Other dispositions in the appealed decision stands (sic) affirmed.[29]

In sustaining the Labor Arbiter, the NLRC held that Velasco's lack of knowledge of the non-posting of his withdrawal is not credible. Even a cursory look at his passbook shows that no deposit of US\$15,000.00 was ever made. That there was still a balance of more than US\$15,000.00 in his account after the withdrawal he made on June 30, 1995 could only mean that the withdrawal was never posted. Worse, based also on the entries in his passbook, it is clear that the withdrawal on June 30, 1995 was a "no-book" transaction. The withdrawal of US\$15,000.00 was not taken into consideration in the determination of the balance of June 30, 1995 and the succeeding dates. Thus, it is clear that the entry in question was falsified. It was made merely to bolster his subsequent claim that he presented his passbook when he withdrew on June 30, 1995.[30]

The NLRC concluded that the falsification of the passbook shows deceit on the part of Velasco. He took advantage of his position. The posting of the falsified entry could not have been made without, or was at least facilitated by, his being an employee of the bank. Thus, his subsequent withdrawals amounted to losses on the part of the bank. He made those withdrawals from his account with full knowledge that the balance of his passbook of more than US\$15,000.00 was attributed to the non-posting of the June 30, 1995 withdrawal.[31]

The NLRC also held that he had been preventively suspended for more than thirty (30) days as of May 27, 1996. Since he was paid his salaries from August 1, 1996 to October 31, 1996, he may recover only his salary from May 27, 1996 to July 31, 1996.[32]

Like the Labor Arbiter, the NLRC held that Velasco may not recover damages. His dismissal was not done oppressively or in bad faith. Neither was he subjected to unnecessary embarrassment or humiliation.[33]

His motion for reconsideration having been denied, Velasco elevated the matter to the CA by way of petition for review on certiorari under Rule 43 of the Rules of Court.[34] On April 22, 2004, the CA rendered the assailed decision, the fallo stating, thus:

WHEREFORE, for the foregoing discussions, We REVERSE and SET ASIDE the findings of public respondent NLRC and Labor Arbiter and hereby enter a decision ordering PNB to pay petitioner a separation pay equivalent to half-month salary for every year of service, plus backwages from the time of his illegal termination up to the finality of this decision.

SO ORDERED.[35]

According to the CA, the failure of Velasco to present his passbook and a letter of introduction does not constitute misconduct. Assuming for the sake of argument that he committed a serious misconduct in not properly monitoring his account with ordinary diligence and prudence, the same may be said of PNB when it failed to make the necessary posting of his withdrawal.[36] Lastly, the alleged offense of Velasco is not work-related to constitute just cause for his dismissal.[37]

Issues

PNB has filed the instant petition for review on certiorari, putting forth the following issues for Our resolution, viz.:

- WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN FINDING THAT RESPONDENT HAS BEEN ILLEGALLY DISMISSED BY THE PETITIONERS.

- WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN DIRECTING PNB TO PAY RESPONDENT SEPARATION PAY AND BACKWAGES.[38]
(Underscoring supplied)

We add a third issue which was raised by PNB before the CA but was, however, left unresolved: whether Velasco took the correct recourse when he elevated the decision of the NLRC to the CA by way of petition for review on certiorari under Rule 43.

Our Ruling

I. Appeal does not lie from the decision of the NLRC.

We first address the procedural question on the propriety of the Rule 43 petition. Rule 43 provides for appeal from quasi-judicial agencies to the CA by way of petition for review. Petition for review on certiorari or appeal by certiorari is a recourse to the Supreme Court under Rule 45.

The mode of appeal resorted to by Velasco is wrong because appeal is not the proper remedy in elevating to the CA the decision of the NLRC. Section 2, Rule 43 of the 1997 Rules of Civil Procedure is explicit that Rule 43 "shall not apply to judgments or final orders issued under the Labor Code of the Philippines."

The correct remedy that should have been availed of is the special civil action of certiorari under Rule 65. As this Court held in the case of *Pure Foods Corporation v. NLRC*,[39] "the party may also seasonably avail of the

special civil action for certiorari, where the tribunal, board or officer exercising judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion, and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such tribunal, board or officer." [40] In any case, *St. Martin Funeral Homes v. National Labor Relations Commission* [41] settled any doubt as to the manner of elevating decisions of the NLRC to the CA by holding that "the legislative intendment was that the special civil action of certiorari was and still is the proper vehicle for judicial review of decisions of the NLRC." [42]

That the decision of the NLRC is not subject to appeal could have been a ground for the CA to dismiss the appeal of Velasco. [43] But even assuming, *arguendo*, that his petition could be liberally treated as one for certiorari under Rule 65, the recourse should not have prospered.

II. Velasco committed serious misconduct, hence, his dismissal is justified.

Article 282 of the Labor Code enumerates the just causes where an employer may terminate the services of an employee, [44] to wit:

a)

Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

b)

Gross and habitual neglect by the employee of his duties;

c)

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

d)

Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

e)

Other causes analogous to the foregoing.

In *Austria v. National Labor Relations Commission*, [45] the Court defined misconduct as "improper and wrongful conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment." [46] In *Camus v. Civil Service Board of Appeals*, [47] misconduct was described as "wrong or improper conduct." [48] It implies a wrongful intention and not a mere error of judgment. [49]

Of course, ordinary misconduct would not justify the termination of the services of an employee. The law is explicit that the misconduct should be serious. It is settled that in order for misconduct to be serious, "it must be of such grave and aggravated character and not merely trivial or unimportant." [50] As amplified by jurisprudence, the misconduct must (1) be serious; (2) relate to the performance of the employee's duties; and (3) show that the employee has become unfit to continue working for the employer. [51]

Measured by the foregoing yardstick, We rule that Velasco committed serious misconduct that warrants termination from employment.

A. The misconduct is serious. Velasco violated bank rules when he transacted a "no-book" withdrawal by his

failure to present his passbook to the PNB Ligao, Albay Branch on June 30, 1995. Section 1216 of the Manual of Regulations for Banks and Other Financial Intermediaries state that "[b]anks are prohibited from issuing/accepting `withdrawal authority slips' or any other similar instruments designed to effect withdrawals of savings deposits without following the usual practice of requiring the depositors concerned to present their passbooks and accomplishing the necessary withdrawal slips."

Further, he failed to present any letter of introduction as mandated under General Circular 3-72-92 which requires that "[b]efore going out-of-town, the Depositor secures a Letter of Introduction from the branch/office where his Peso Savings Account is maintained."

The presentation of passbook and letter of introduction is not without a valid reason. As aptly stated by the IAD of PNB:

Considering that the PNB Ligao, Albay Branch is an offline branch, it is a must that an LOI and the passbook be presented by the depositor before any withdrawal is allowed. This procedure is required in order for the negotiating branch to determine or ascertain the available balance and the specimen signature of the withdrawing party. Moreover, the maintaining branch upon issuance of the LOI shall place a "hold" on the account in the computer as an internal control procedure.[52]

True, a strict reading of General Circular 3-72-92 would lead one to conclude that only persons with peso savings account are required to secure a letter of introduction. However, simple logic dictates that those maintaining dollar savings account are also included. No cogent reason would be served by the rule if only persons with peso savings account are required to get a letter of introduction. Otherwise, there can be a circumvention of the rule. *Nemo potest facere per alium quod non potest facere per directum*. No one is allowed to do indirectly what he is prohibited to do directly. *Sinuman ay hindi pinapayagang gawin nang hindi tuwiran ang ipinagbabawal gawin nang tuwiran*.

As an audit officer, Velasco should be the first to ensure that banking laws, policies, rules and regulations, are strictly observed and applied by its officers in the day-to-day transactions. The banking system is an indispensable institution in the modern world. It plays a vital role in the economic life of every civilized nation. Whether banks act as mere passive entities for the safekeeping and saving of money, or as active instruments of business and commerce, they have become an ubiquitous presence among the citizenry, who have come to regard them with respect and even gratitude and, most of all, confidence.[53]

The CA, however, opined that the failure of Velasco to abide by the rules is not serious misconduct because (1) from the admission of PNB itself, allowing bank personnel who are out-of-town to make a "no-book" transaction without a letter of introduction is considered a common practice, and (2) the approving officers of PNB Ligao Branch should have also been administratively charged considering that the "no-book" transaction could not have pushed through without their approval.[54]

In *Santos v. San Miguel Corporation*,[55] petitioner, in his defense, cited the prolonged practice of payroll personnel, including persons in managerial levels, of encashing personal checks. Finding this argument unmeritorious, the Court held that "[p]rolonged practice of encashing personal checks among respondent's payroll personnel does not excuse or justify petitioner's misdeeds. Her willful and deliberate acts were in gross violation of respondent's policy against encashment of personal checks of its personnel, embodied in its Cash Department Memorandum dated September 6, 1989." [56] The Court even added that petitioner "cannot feign ignorance of such memorandum as she is duty-bound to keep abreast of company policies related to financial matters within the corporation." [57] We apply the same principle here.

Suffice it to state that the option of who to charge or punish belongs to PNB. As an employer, PNB is given the

latitude to determine who among its erring employees should be punished, to what extent and what penalty to impose.[58] Too, by charging Velasco, PNB is not estopped from charging its other employees who might as well have been remiss with their job.

Of course, We are not unaware that Velasco had a change of heart. In his sworn Letter-Explanation February 12, 1996, he admitted that his June 30, 1995 withdrawal of US\$15,000.00 was a "no-book" transaction. However, in his sworn Answer dated April 30, 1996, he claimed that he actually presented his passbook when he withdrew on June 30, 1995.

To recall, he was charged with dishonesty, grave misconduct, and/or conduct grossly prejudicial to the best interest of the service for irregularly handling his dollar savings account. Thus, it is safe to assume that when he prepared his February 12, 1996 sworn Letter-Explanation, the circumstances surrounding his June 30, 1995 withdrawal at PNB Ligao, Albay Branch were still fresh on his mind. The allegations against him were serious, which should have put him on guard from preparing a haphazard explanation. He should have been mindful that dire consequences would surely befall him should the charges against him be proven. Lest it be forgotten, the no-book withdrawal was confirmed by the concerned officers of PNB Ligao, Albay Branch, namely, Quiambao, Gacer, and Letada. These circumstances, taken together, lead to no other conclusion than that Velasco changed his explanation from "no-book" to "with book" transaction after realizing that he violated bank rules and regulations.

Perez v. People,[59] is illustrative on this score. Perez, an acting municipal treasurer, submitted two contradicting answers explaining the location of the missing funds under his custody and control: the first, reiterating his previous verbal admission before the audit team that part of the money was used to pay for the loan of his late brother, another portion was spent for the food of his family, and the rest for his medicine; and the second, claiming that the alleged missing amount was in the possession and custody of his accountable personnel at the time of the audit examination.

This Court held that the sudden turnaround of Perez was merely an afterthought. He "only changed his story to exonerate himself, after realizing that his first Answer put him in a hole, so to speak." [60] Neither did the Court believe that his alleged sickness affected the preparation of his first Answer. Perez "presented no convincing evidence that his disease at the time he formulated that Answer diminished his capacity to formulate a true, clear and coherent response to any query. In fact, its contents merely reiterated his verbal explanation to the auditing team on January 5, 1989 on how he disposed of the missing funds." [61]

We find no cogent reason to depart from Our ruling in Perez. The claim of Velasco that his initial answer was made under pressing circumstances is too flimsy an excuse. It partakes of the nature of an alibi. As such, it constitutes a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.[62] The Court has consistently frowned upon the defense of alibi, and received it with caution, not only because it is inherently weak and unreliable but also because it can be easily fabricated.[63]

Also worth noting is that Velasco never imputed any ill motive on the part of Rector, Gacer, and Letada who collectively narrated that the June 30, 1995 withdrawal was a no-book transaction. They confirmed his earlier version that he did not present his passbook when he withdrew the US\$15,000.00 on June 30, 1995. In any case, the fact that he changed his stance puts his credibility in doubt. Was he lying when he submitted his sworn letter-explanation of February 12, 1996, or when he submitted his sworn Answer dated April 30, 1996? Allegans contraria non est audiendus. He is not to be heard who alleges things contradictory to each other. Hindi dapat pakinggan ang nagsasabi ng mga bagay na salungat sa isa't-isa.

Velasco did not only violate bank rules and regulations. What compounds his offense was his unusual silence. He

never informed PNB about the huge overstatement of US\$15,000.00 in his account. He updated his passbook on October 6, 1995 by depositing US\$12.78. Thus, as early as that date, he should have known that something was wrong with the credited balance in his passbook and reported it immediately to the concerned officers of PNB. What he did, instead, was to keep mum until PNB discovered the incident and notified him on February 7, 1996, or almost eight (8) months after his no-book withdrawal on June 30, 1995.

With his silence, he clearly intended to gain at the expense of PNB. The omission to report is not trivial or inconsequential because it gave him the opportunity to withdraw from his dollar savings account more than its real balance, as what he actually did. He took advantage of the overstatement of his account, instead of protecting the interest of the bank. It would be impossible for him not to detect the error at the time he deposited US\$12.78 on October 6, 1995, because his account had a big balance despite the fact that no large amount of money was deposited.

His claim that he was satisfied with the updated balance of US\$15,486.01 on October 6, 1995, as he thought that the US\$15,000.00 in his account was the amount given by his brother, is simply unbelievable. It is a desperate attempt at exculpation. The deposit of the money from his brother should have been reflected in the on-line computer of PNB. The deposit would have also been posted for update upon the presentation of the passbook on October 6, 1995. No deposit of US\$15,000.00 was, however, reflected in the passbook.

In *Aboitiz Shipping Corporation v. Dela Serna*,^[64] *Tiu v. National Labor Relations Commission*,^[65] *Five J Taxi v. National Labor Relations Commission*,^[66] and *Falguera v. Linsangan*,^[67] among other cases, this Court consistently held that factual findings of quasi-judicial agencies, which have acquired expertise in matters entrusted to their jurisdiction, are accorded not only respect but also finality if they are supported by substantial evidence.^[68] Thus, in the absence of proof that the Labor Arbiter or the NLRC had gravely abused their discretion, this Court shall deem conclusive and will not overturn their particular factual findings.^[69]

The Labor Arbiter and the NLRC are in unison that Velasco transacted a no-book withdrawal and failed to present a letter of introduction at PNB Ligao, Albay Branch on June 30, 1995. He also forged his passbook to cover up his offense. Being duly supported by substantial evidence, We sustain said finding. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct, and ability separate and independent of each other. A service of irregularities, when combined, may constitute serious misconduct which is a just cause for dismissal.^[70]

B. The serious misconduct relates to the performance of duties. The CA ruled that the offense of Velasco was not work-related and does not warrant dismissal. It likewise held that there is no proof that his failure to be a good depositor affected his duties or performance as an employee of PNB.^[71]

At first glance, the acts committed by Velasco pertain only to his being a depositor of PNB. But he has a dual personality. He was a depositor and, at the same time, an officer of the bank.

On one hand, he failed to present his passbook and a letter of introduction when he withdrew US\$15,000.00 at PNB Ligao, Albay Branch on June 30, 1995. This serious misconduct was aggravated when he presented a falsified passbook to make it appear that he did not commit any misdeed. On the other hand, he worked for PNB for eighteen (18) long years, his last position having been as Manager 1 of the IAD. As such, he was involved in the examination of the books of account of PNB. Thus,

when he violated bank rules and regulations and tried to cover up his infractions by falsifying his passbook, he was not only committing them as a depositor but also, or rather more so, as an officer of the bank. It is akin to falsification of time cards,^[72] and circulation of fake meal tickets,^[73] which this Court held as a just cause for

terminating the services of an employee.

C. Velasco has become unfit to continue working at PNB. Taken together, his acts render him unfit to remain in the employ of the bank. That it is his first offense is of no moment because he holds a managerial position. Employers are allowed wide latitude of discretion in terminating managerial employees who, by virtue of their position, require full trust and confidence in the performance of their duties.[74] Managerial employees like Velasco are tasked to perform key and sensitive functions and are bound by more exacting work ethics.[75] Indeed, not even his eighteen (18) years of service could exonerate him. As this Court held in *Equitable PCIBank v. Caguioa*: [76]

The leniency sought by respondent on the basis of her 35 years of service to the bank must be weighed in conjunction with the other considerations raised by petitioners. As that service has been amply compensated, her plea for leniency cannot offset her dishonesty. Even government employees who are validly dismissed from the service by reason of timely discovered offenses are deprived of retirement benefits. Treating respondent in the same manner as the loyal and code-abiding employees, despite the timely discovery of her Code violations, may indeed have a demoralizing effect on the entire bank. Be it remembered that banks thrive on and endeavor to retain public trust and confidence, every violation of which must thus be accompanied by appropriate sanctions.[77]

III. The CA erred in directing PNB to pay Velasco separation pay and backwages. PNB has no other liability to Velasco, except his unpaid wages from May 27, 1996 to July 31, 1996.

PNB was registered under the Corporation Code under SEC Reg. No. ASO 96-005555 dated May 27, 1996.[78] Thus, on that day, employees of

PNB came under the jurisdiction of the Labor Code, whose Sections 8 and 9 of Rule XXIII, Book V of the Implementing Rules state:

Section 8. Preventive Suspension. - The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or his co-workers.

Section 9. No preventive suspension shall last longer than thirty (30) days. The employer shall thereafter reinstate the worker in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension, he pays the wages and other benefits due to the worker. In such case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker.

PNB has the right to preventively suspend Velasco during the pendency of the administrative case against him. It was obviously done as a measure of self-protection. It was necessary to secure the vital records of PNB which, in view of the position of Velasco as internal auditor, are easily accessible to him.

Velasco was preventively suspended for more than thirty (30) days as of May 27, 1996, while the records bear that Velasco was paid his salaries from August 1, 1996 to October 31, 1996.[79] Thus, the NLRC is correct in its holding that he may recover his salaries from May 27, 1996 to July 31, 1996.

He is not entitled to separation and backwages because he was not illegally dismissed.[80] We note though that PNB was not at all insensitive to his plight, considering (1) his restitution of the amount akin to no actual loss to the bank, and (2) his length of service of eighteen (18) years.[81] As stated earlier, PNB imposed on Velasco the penalty of forced resignation with benefits, instead of dismissal. The records bear out that he was granted P542,110.75 as separation benefits[82] which was used to offset his loan in the bank, leaving an outstanding balance of P167,625.82 as of May 27, 1997.[83] We find that PNB acted humanely under the circumstances.

One last word.

The law imposes great burdens on the employer. One needs only to look at the varied provisions of the Labor Code. Indeed, the law is tilted towards the plight of the working man. The Labor Code is titled that way and not as "Employer Code." As one American ruling puts it, the protection of labor is the highest office of our laws.[84]

Corollary to this, however, is the right of the employer to expect from the employee no less than adequate work, diligence and good conduct.[85] As Mr. Justice Joseph McKenna of the United States Supreme Court said in *Arizona Copper Co. v. Hammer*,[86] "[t]he difference between the position of the employer and the employee, simply considering the latter as economically weaker, is not a justification for the violation of the rights of the former." [87]

WHEREFORE, the petition is GRANTED and the appealed Decision REVERSED and SET ASIDE. The Decision of the National Labor Relations Commission is REINSTATED.

SO ORDERED.

Chico-Nazario,[*] (Acting Chairperson), Tinga,**] Velasco, Jr.,**] and Nachura, JJ., concur.

* Vice Associate Justice Consuelo Ynares-Santiago as chairperson. Justice Ynares-Santiago is on official leave per Special Order No. 516 dated August 27, 2008.

** Designated as additional members vice Associate Justices Consuelo Ynares-Santiago and Ma. Alicia Austria-Martinez per Special Order No. 517 dated August 27, 2008.

[1]Rollo, pp. 78-89; Annex "A." CA-G.R. No. 61881. Penned by Associate Justice Danilo P. Pine, with Associate Justices Martin S. Villarama, Jr. and Arcangelita Romilla-Lontok, concurring.

[2]Id. at 90-91; Annex "B."

[3]Id. at 108-114; Annex "D." NLRC CA No. 020663-99. Penned by Commissioner Ireneo B. Bernardo, with Commissioners Lourdes C. Javier and Tito F. Genilo, concurring.

[4] Id. at 93-106; Annex "C." NLRC NRC Case No. 00-12-08987-97.

[5]Annex "F."

[6]Annex "G."

[7]Id. at 121.

[8] Annex "H."

[9]Annex "I."

[10]CA rollo, pp. 186-188; Annex "M."

[11] Annex "J".

[12]Rollo, pp. 123-125.

[13]CA rollo, p. 121; Annex "G."

[14] Annex "K."

[15] Annex "L."

[16] Rollo, p. 117.

[17] Annex "M."

[18] Annex "O."

[19] Rollo, p. 106.

[20] Id. at 101.

[21] Id. at 101-102.

[22] Id. at 104-105.

[23] Id. at 105.

[24] Id.

[25] Id.

[26] Id. at 105-106.

[27] Annex "T."

[28] Annex "U."

[29] Rollo, p. 114.

[30] Id. at 112-113.

[31] Id. at 113.

[32] Id.

[33] Id. at 114.

[34] Annex "W."

[35] Rollo, pp. 88-89.

[36] Id. at 85-86.

[37] Id. at 86.

[38] Id. at 413.

[39] G.R. No. 78591, March 21, 1989, 171 SCRA 415.

[40] Id. at 424.

[41] G.R. No. 130866, September 16, 1998, 295 SCRA 494.

[42] *St. Martin Funeral Homes v. National Labor Relations Commission*, id. at 507.

[43] Rules of Civil Procedure (1997), Sec. 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(i) The fact that the order or judgment appealed from is not appealable.

[44] As contradistinguished with Article 285 of the Labor Code, which enumerates the instances when an employee may terminate his employment relation with the employer, to wit: (1) Serious insult by the employer or his representative on the honor and person of the employee; (2) Inhuman and unbearable treatment accorded the employee by the employer or his representative; (3) Commission of a crime or offense by the employer or his representative against the person of the employee or any of the immediate members of his family; and (4) Other causes analogous to any of the foregoing.

[45] G.R. No. 124382, August 16, 1999, 312 SCRA 410.

[46] *Austria v. National Labor Relations Commission*, id. at 429, citing *Cosep v. National Labor Relations Commission*, G.R. No. 124966, June 16, 1998, 290 SCRA 704.

[47] 112 Phil. 301 (1961).

[48] *Camus v. Civil Service Board of Appeals*, id. at 306.

[49] Id., citing *In re Morilleno*, 43 Phil. 212, 214 (1922).

[50] *Austria v. National Labor Relations Commissions*, supra note 47.

[51] *Philippine Aeolus Automotive United Corporation v. National Labor Relations Commission*, G.R. No. 124617, April 28, 2000, 331 SCRA 237, 246; *Molato v. National Labor Relations Commission*, G.R. No. 113085, January 2, 1997, 266 SCRA 42, 46; *Aris Philippines, Inc. v. National Labor Relations Commission*, G.R. No. 97817, November 10, 1994, 238 SCRA 59, 62.

[52] CA rollo, p. 99.

[53] *Simex International (Manila), Inc. v. Court of Appeals*, G.R. No. 88013, March 19, 1990, 183 SCRA 360, 366-367.

[54] Rollo, pp. 84-85.

[55] G.R. No. 149416, March 14, 2003, 399 SCRA 172.

[56] *Santos v. San Miguel Corporation*, id. at 183.

[57] Id.; see also *San Miguel Corporation v. National Labor Relations Commission*, G.R. No. L-50321, March 13, 1984, 128 SCRA 180.

[58] See *Soriano v. National Labor Relations Commission*, G.R. No. L-75510, October 27, 1987, 155 SCRA 124.

[59] G.R. No. 164763, February 12, 2008.

[60] *Perez v. People*, id. at 11.

[61] Id. at 13.

[62] *People v. Estomaca*, G.R. Nos. 134288-89, January 15, 2002, 373 SCRA 197.

[63] *People v. Villamor*, G.R. Nos. 140407-08 & 141908-09, January 15, 2002, 373 SCRA 254.

[64] G.R. No. 88538, July 25, 1991, 199 SCRA 568.

[65] G.R. No. 83433, November 12, 1992, 215 SCRA 540.

[66] G.R. No. 111474, August 22, 1994, August 22, 1994, 235 SCRA 556.

[67]G.R. No. 114848, December 14, 1995, 251 SCRA 364.

[68] See also *German Marine Agencies, Inc. v. National Labor Relations Commission*, G.R. No. 142049, January 30, 2001, 350 SCRA 629, 646, citing *Travelaire & Tours Corporation v. National Labor Relations Commission*, G.R. No. 131523, August 20, 1998, 294 SCRA 505; *Suarez v. National Labor Relations Commission*, G.R. No. 124723, July 31, 1998, 293 SCRA 496; *Autobus Workers' Union v. National Labor Relations Commission*, G.R. No. 117453, June 26, 1998, 291 SCRA 219; *Prangan v. National Labor Relations Commission*, G.R. No. 126529, April 15, 1998, 289 SCRA 142; *International Pharmaceuticals, Inc. v. National Labor Relations Commission*, G.R. No. 106331, March 9, 1998, 287 SCRA 213; *Villa v. National Labor Relations Commission*, G.R. No. 117043, January 14, 1998, 284 SCRA 105.

[69]Id. at 647, citing *Gandara Mill Supply v. National Labor Relations Commission*, G.R. No. 126703, December 29, 1998, 300 SCRA 702; *National Union of Workers in Hotels, Restaurants and Allied Industries v. National Labor Relations Commission*, G.R. No. 125561, March 6, 1998, 287 SCRA 192.

[70]*Piedad v. Lanao del Norte Electric Cooperative, Inc.*, G.R. No. 73735, August 31, 1987, 153 SCRA 500, 509, citing *National Service Corporation v. Leogardo, Jr.*, G.R. No. L-64296, July 20, 1984, 130 SCRA 502; see also *Gustilo v. Wyeth Philippines, Inc.*, G.R. No. 149629, October 4, 2004, 440 SCRA 67, 75.

[71]Rollo, pp. 86-87.

[72] See *San Miguel Corporation Employees Union v. Ferrer-Calleja*, G.R. No. 80141, July 5, 1989, 175 SCRA 85.

[73]*Ibarrientos v. National Labor Relations Commission*, G.R. No. 75277, July 31, 1989, 175 SCRA 761.

[74] *Mendoza v. National Labor Relations Commission*, G.R. No. 131405, July 20, 1999, 310 SCRA 846; see also *Etcuban, Jr. v. Sulpicio Lines, Inc.*, G.R. No. 148410, January 17, 2005, 448 SCRA 516; *Tan v. National Labor Relations Commission*, G.R. No. 128290, November 24, 1998, 299 SCRA 169, 183; *Filipro, Incorporated v. National Labor Relations Commission*, G.R. No. L-70546, October 16, 1986, 145 SCRA 123; *Lamsan Trading, Inc. v. Leogardo, Jr.*, G.R. No. L-73245, September 30, 1986, 144 SCRA 571; *Metro Drug Corporation v. National Labor Relations Commission*, G.R. No. L-72248, July 22, 1986, 143 SCRA 132; *San Miguel Corporation v. National Labor Relations Commission*, G.R. No. L-70177, June 25, 1986, 142 SCRA 376.

[75] *Gonzales v. National Labor Relations Commission*, G.R. No. 131653, March 26, 2001, 355 SCRA 195.

[76]G.R. No. 159170, August 12, 2005, 466 SCRA 686.

[77]*Equitable PCIBank v. Caguioa*, id. at 698.

[78] Rollo, p. 165.

[79]Rollo, p. 258; Annex "1."

[80] See Labor Code, Art. 279; *Philippine Carpet Employees Association v. Philippine Carpet Manufacturing Corporation*, G.R. Nos. 140269-70, September 14, 2000, 340 SCRA 383.

[81]Rollo, p. 164.

[82]CA rollo, p. 200.

[83]Id. at 203.

[84] Ex parte Newman, 9 Cal. 502, 521 (1858).

[85]Coca-Cola Bottlers Philippines Incorporated v. National Labor Relations Commission, G.R. Nos. 82580 & 84075, April 25, 1989, 172 SCRA 751; Firestone Tire and Rubber Co. of the Phils. v. Lariosa, G.R. No. L-70479, February 27, 1987, 148 SCRA 187.

[86]250 US 400 (1919).

[87] Arizona Copper Co. v. Hammer, id. at 437.

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