

**PRUDENTIAL BANK (NOW BANK OF THE PHILIPPINE ISLANDS),
PETITIONER, VS. ANTONIO S.A. MAURICIO SUBSTITUTED BY HIS
LEGAL HEIRS, MARIA FE, VOLTAIRE, ANTONIO, JR., ANTONILO,
EARL JOHN...**

G.R. No. 183350. January 18, 2012

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the January 30, 2008 Decision[1] and June 16, 2008 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 82908. The appellate court ruled that respondent Antonio S.A. Mauricio was illegally dismissed from employment by petitioner Prudential Bank.

The antecedent facts of the case are as follows:

Respondent Mauricio was hired by petitioner Prudential Bank on August 17, 1960. He was the Branch Manager of Prudential Bank's Magallanes Branch in Makati City when he was dismissed from employment.

On June 25, 1990, Spouses Marcelo and Corazon Cruz (Spouses Cruz) opened a dollar savings account, FXSD No. 221-6, with an initial cash deposit of US\$500.00, in the Bank's Magallanes Branch. At that time, Mauricio was already its Branch Manager.

On July 17, 1990, Spouses Cruz executed in favor of the Bank a Deed of Real Estate Mortgage over their property covered by Transfer Certificate of Title No. 1310-R of the Register of Deeds of San Juan, Metro Manila. Later, the Spouses Cruz executed another Deed of Real Estate Mortgage over the same property in favor of the Bank for the amount of P600,000.

On September 7, 1992, an audit investigation was conducted in the Magallanes Branch. The salient portions of the reports[3] of the audit team are summarized as follows:

From March 1991 to August 1991, credits to FXSD No. 221-6 consisted mostly of dollar check deposits composed of U.S. Treasury Warrants (USTWs), U.S. Postal Money Orders, Travellers Express and Amexco Money Orders. Despite the fact that Spouses Cruz were not the payees of said instruments and neither of them endorsed the same, Mauricio allowed immediate withdrawals against them. Most of the proceeds of the encashments were then deposited to a peso savings account, S/A No. 3396, also in the name of the Spouses Cruz.

The dollar checks were eventually returned by their drawee banks for having forged endorsements, alterations to the stated amounts, or being drawn against insufficient funds, among other reasons. Allegedly, upon receipt of the returned checks at the Magallanes Branch, Mauricio debited FXSD No. 221-6, but such debits were made against the uncollected deposits of the Spouses Cruz. Some of the returned checks and USTWs were lodged to accounts receivable because the balance of FXSD No. 221-6 was not sufficient to cover the returned checks. The other

returned checks were then covered with the personal checks of the Spouses Cruz and their children. Said personal checks, however, were also returned by the drawee banks.

According to the tellers, it was Mauricio who brings the checks to them with the prepared deposit slips for S/A No. 3396. He also received the proceeds of the withdrawals and the difference between the total peso equivalent of the checks and the amount being deposited to S/A No. 3396. When the available teller's machine tapes from March 1 to August 30, 1991 were examined, it was shown that in some instances, cash-in validations on the deposits slips for S/A No. 3396 were effected by the tellers without actual receipt of cash at the time the validations were made. Simultaneously, cash withdrawals were allowed even if S/A No. 3396 did not have sufficient balance to cover the withdrawals at the time they were made. The cash accountability of the tellers will balance only once the encashment of the USTWs were made later in the day.

On October 16, 1992, Mauricio was directed to report for work at the Head Office immediately.

On November 10, 1992, Prudential Bank President Jose L. Santos issued a Memorandum[4] dated November 9, 1992 to Mauricio furnishing him with a copy of the audit team's report and directing him to report in writing within seventy-two (72) hours from receipt of the memorandum why the bank should not institute an action against him. The report showed that the bank was exposed to losses amounting to \$774,561.58, broken down as follows:

1. Returned \$ checks deposited to FXSD 221-6

\$344,600.00

2. Returned \$ checks encashed over the counter

3,190.58

Total Checks returned which cannot be debited to the account

\$347,790.58

3. Checks Expected to be returned:

- Deposited to FXSD 221-6

- Encashments

\$202,685.48

224,085.52

426,771.00

Total Possible Loss to the Bank

\$ 774,561.58

In his reply[5] dated November 12, 1992, Mauricio stated that he is "exhausting all efforts to get the Spouses Marcelo and Corazon Cruz to settle their obligation immediately" and that they "have requested the Bank to allow them to fully settle the obligations on or before 31 December 1992." He further stated that he is willing to face an investigation body to explain his side on the matter so he can clear his name and reputation.

Incidentally, in the same year, the property subject of the deeds of real estate mortgage was gutted down by fire. The insurer, Rizal Surety Insurance, paid the proceeds of the policy to the Bank.

As requested by Mauricio, a Hearing Committee was constituted and several hearings were held starting March 2, 1993. In all the proceedings, Mauricio was duly represented by counsel.

The hearings revolved on the following charges brought against Mauricio:

- VIOLATIONS OF SPECIFIC ORDERS AND MEMORANDUM

- Violation of Office Order No. 1516 which enjoin approving officers from encashing U.S. Treasury Warrants (USTWs) whenever the presenter is not the payee of the check. x x x

- Violation of Office Memorandum dated 7 March 1985 re: Any claim/s and/or case/s against the Prudential Bank or where the Bank is involved should be referred immediately to the Head Office, to Dr. Octavio D. Fule, Vice President and Legal Officer, who will take necessary and appropriate action on the said claim/s or case/s. x x x

- Violation of Office Order No. 1666 re: Prohibition on Drawing against Uncollected Deposit. x x x

- Violation of Office Order No. 1596 which states that returned items should be lodged to Accounts Receivable when there is no sufficient balance on the ac[c]ount. x x x

- COMMISSION OF IMPRUDENT ACTS PREJUDICIAL TO THE INTERESTS OF THE BANK

- Concealment of the overdrawing effects of the returned checks on FXSD No. 221[-6], by allowing the depositor to cover the returned checks with other checks which were also subsequently returned by the drawee banks, instead of reporting it to Management (Lapping)[.]

- Approval of encashment of various USTWs without endorsement of Mr. Marcelo Cruz which placed the interest of the Bank at great risk, the greater portion of which checks were already returned unpaid by the U.S. Treasury mostly for the reason amount altered, while the rest are expected to be returned unpaid.

- Instructing tellers to make cash-in validations of the USTWs when in fact there was no deposit yet.[6]

Answering the above charges, Mauricio alleged:

1. Re: Office Order No. 1516

Office Order No. 1516 is directory because of the use of the word "refrain" and that it applies only where the presenter is a stranger to the Bank. x x x

2. Re: Office Memorandum dated March 1985

Everytime there was a complaint by a payee of the USTW, he notified Atty. Pablo Magno, the Bank's external counsel. He presented a Joint Affidavit, Receipt, Quitclaims and Withdrawal Memos x x x.

Claims against the US Treasury are not covered by the Office Order and there is no need to inform Head Office because the Head Office had already debited the amount in favor of the US Treasury and the Head Office in turn, sends him instructions to debit the client's account. x x x

3. Re: Office Order No. 1666

DAUD [Drawings Against Uncollected Deposits] is a tolerated practice and bank managers are given discretion to allow DAUD. It was not the act of allowing DAUD that was punished but the loss resulting therefrom. x x x

4. Re: Office Order No. 1596

To explain the delay in responding to the returned tickets, he said that everytime there is a returned check, he notifies Mr. Cruz. With respect to the USTWs that are being deposited to SA 3396, the Sps. Cruz deposited in cash; whereas in FXSD 221[-6], he debits the account but because it has an uncleared balance, he still asks for additional deposit. These deposits to FCDU are in the form of personal checks of the Sps. Cruz or relatives but he debits the account even if these checks have not been cleared. x x x

5. Re: Concealment of Overdrawing Effects of Returned Checks on FXSD 221[-6] instead of reporting the same to management; and, Approval of Encashment without Endorsement of Mr. Marcelo Cruz.

He notified Atty. Pablo Magno of the fact of the returned checks. He presented a letter dated 15 May 1992 by Atty. Magno addressed to him assuring the latter that the Sps. Cruz will not renege on their obligation x x x. He further submitted a letter dated 1 August 1992 which is the demand letter of Atty. Magno to the Sps. Cruz x x x.

He is not aware of any procedure of reporting to management x x x and there is no prejudice to the Bank because it earns interest and penalty charges and the Sps. Cruz acknowledged their obligation to the Bank. x x x He presented three (3) letters of the Sps. Cruz, one dated 30 October 1992 and two dated 14 January 1993 where [the] Sps. Cruz admitted their obligation to the Bank. x x x

6. Instructing Tellers to make Cash-in Validations when in fact there is no Deposit yet

Mr. Mauricio explained that whenever he instructed the teller to cash-in validate, the USTWs were already in the Bank but are brought to Mr. Carlos Gresola to prepare the transmittal. The USTWs are not brought to the teller because they are too many. He further explained that by the time the deposit slips are validated, the proceeds of the USTWs were already deposited to SA 3396 and sometimes the amount of cash-in did not tally with the cash-out because Mr. Cruz did not want to withdraw the entire amount. x x x[7]

On April 15, 1994, while the investigation against Mauricio was ongoing, the property subject of the deeds of real estate mortgage executed by the Spouses Cruz was extrajudicially foreclosed by the Bank for the amount of P5,660,000. Spouses Cruz, however, sought the annulment and/or declaration of nullity of foreclosure in a complaint dated April 18, 1995, filed with the Regional Trial Court (RTC) of Makati City.[8]

In the Bank's Answer dated June 9, 1995,[9] it claimed that it sent the proper demand letters to the Spouses but to no avail. Thus, it was constrained to foreclose the mortgaged property extrajudicially for the settlement of the obligations of the Spouses Cruz including the returned USTWs, checks and drafts. Later, on November 24, 1995, and while the investigation against Mauricio was still ongoing, the Bank filed an Amended Answer to implead Mauricio in its counterclaim contending that he conspired and confederated with the Spouses Cruz to commit the fraud.

Subsequently, the Bank's investigation on Mauricio was terminated. The Hearing Committee found that there was sufficient evidence to hold Mauricio guilty of the charges against him. In a Memorandum[10] dated November 11, 1996 addressed to the bank's Board of Directors, it recommended that Mauricio be dismissed on the ground of loss of trust and confidence.

On February 19, 1997, the Board of Directors issued Resolution No. 11-08-97[11] adopting the Hearing Committee's recommendation:

RESOLVED, as it is hereby resolved, that upon considering the recommendation of the Hearing Committee, the Board has found Antonio S.A. Mauricio to have violated Bank policies and regulations and committed imprudent acts prejudicial to the interests of the Bank; resulting in monetary loss to the Bank and giving rise to loss of trust and confidence;

RESOLVED, further, that the services of Mr. Mauricio be terminated effective immediately and that his retirement benefits shall be forfeited except those that may be legally determined to be due him; the dismissal is also without prejudice to the outcome of the civil case entitled "Spouses Marcelo and Corazon vs. Prudential Bank," with Civil Case No. 95-599, pending before the Regional Trial Court of Makati City, Branch 46, where Mr. Mauricio is impleaded as additional defendant on counterclaim.

On the same day, A. Benedicto L. Santos, Senior Vice President for the Administrative Department of the Bank, issued a Memorandum to Mauricio, informing him of the Board's decision to terminate his employment effective immediately. Said memorandum was received by Mauricio on February 24, 1997.[12]

On January 28, 2000, Mauricio filed with the National Labor Relations Commission (NLRC) a complaint for illegal dismissal with prayer for back wages; retirement and provident benefits; vacation and sick leave credits; and actual, moral and exemplary damages, plus attorney's fees. The parties were enjoined to settle the dispute amicably during the mandatory pre-trial conferences, but to no avail. Thus, they were required to submit their respective position papers and evidence.

Mauricio, in his Position Paper,[13] explained the questioned transactions, to wit:

- No irregularity attended the transactions between the Magallanes Branch and Spouses Marcelo and Corazon Cruz.

- [He] allowed the US Treasury Warrant (USTW) and foreign check transactions with the Spouses Cruz on the premise that: (i) the Spouses were valued clients of the Bank, having been referred by the Bank's legal counsel, Atty. Pablo Magno and having substantial deposits and security with the bank, (ii) the Spouses enjoyed a favorable credit standing with the Bank, as the Bank approved a loan in favor of the spouses, and (iii) the Spouses undertook to replace any returned USTW and/or foreign checks.

- Initially, the Spouses were able to replace the returned USTWs and/or foreign checks. However, when [he] noticed that the spouses were having difficulty in fulfilling their obligation, he immediately put a stop to the transactions, and started pressuring the spouses to settle their outstanding obligations.

- He further intensified his efforts at collecting from the Spouses by making a formal demand upon the Spouses to settle their obligation. He likewise endorsed the account to the Bank's counsel, Atty. Magno, to seek the latter's assistance in settling the obligations of the Spouses.

- As a result thereof, Atty. Magno assured [him] that the Spouses could settle their obligation because:

"A. They have an outstanding real estate mortgage in favor of Prudential Bank with a security worth P5,000,000.00 x x x

B. Their residential house at San Juan xxx was accidentally burned xxx the proceeds of P1,900,000.00 will be paid directly to the Bank;

C. The spouses have left with [the Bank] various real estate titles to show their good faith that they will liquidate all their obligation;

D. The spouses were willing to execute any undertaking whereby they will liquidate their obligation and their intention to pay their accounts."

- As a result of [his] efforts, he was able to obtain the original copies of the transfer certificates of title to realties registered under the names of Spouses Cruz, which he endorsed to the Bank's counsel. Likewise, he informed Dr. Octavio Fule of the various assets of the Spouses Cruz to further protect the Bank from losses.

- Unfortunately, [his] efforts were rendered inutile by the Bank's inaction.[14]

The Bank, on the other hand, contended that the dismissal of Mauricio was for a just cause, citing the imprudent acts prejudicial to the bank's interest and violations of several office orders and regulations which resulted to loss of trust and confidence on him. It further argued that they complied with the requirements of due process and that complainant was not entitled to payment of separation pay, back wages, retirement pay and provident fund benefits, moral and exemplary damages, and attorney's fees.

While the illegal dismissal complaint was awaiting resolution by the Labor Arbiter, the Makati RTC rendered a Decision[15] on September 28, 2000 in favor of the Spouses Cruz and Mauricio. The dispositive portion of the trial court's decision reads:

WHEREFORE, all the foregoing premises considered, judgment is hereby rendered:

- Annulling the extrajudicial foreclosure sale conducted on April 15, 1994;
- Ordering defendant to re-account the obligation of the plaintiffs reflecting the credit of the insurance proceeds to the mortgage obligation of the plaintiffs;
- Dismissing defendant's counterclaim and plaintiffs' cross-claim for lack of merit.

SO ORDERED.[16] (Emphasis supplied.)

Said decision was affirmed in toto on appeal by the CA in a Decision[17] dated February 27, 2004. The Bank filed a petition for review on certiorari before this Court appealing the CA decision, but its petition was denied on the ground that no reversible error was committed by the CA.[18]

On June 17, 2002, the labor arbiter rendered a Decision[19] holding that the Bank was justified in terminating Mauricio's employment. The labor arbiter ruled that even if Mauricio, as branch manager, was clothed with discretion, he gravely abused it to the detriment and prejudice of the Bank. Likewise, Mauricio was afforded procedural due process before he was dismissed. However, the labor arbiter nonetheless ordered the bank to pay Mauricio his 13th month pay and sick leaves earned prior to February 24, 1997 and reimburse him his actual contributions to the provident fund, all with legal interest at 12% per annum from date of the decision until actual payment and/or finality of the decision.

Mauricio filed a partial appeal of the labor arbiter's decision with the NLRC, which, however, affirmed the labor arbiter's decision on August 29, 2003.[20]

Upon recourse to the CA, the CA set aside the NLRC decision and ruled in favor of Mauricio. The fallo of the CA Decision reads:

WHEREFORE, the appeal is GRANTED. Accordingly, the Resolutions of public respondent NLRC dated 16 November 2003 and 29 August 2003 are hereby ANNULLED and SET ASIDE and a new one entered ordering respondent bank to pay petitioner his backwages computed from 27 February 1997, until such time as he would have come under the coverage of said bank's retirement scheme, inclusive of his allowances and the monetary equivalent of the other benefits that would have been due him during such period. Respondent bank is likewise ordered to pay petitioner all gratuity, retirement benefits and pension fund benefits due the latter from the said retirement plan.

SO ORDERED.[21]

The CA ruled that the NLRC should have taken into consideration the evidence presented in the civil case particularly as to the interpretation of Office Order No. 1516-A. The CA held that as correctly pointed out by Mauricio, the rule does not exactly prohibit an approving authority from encashing dubious checks as the rule is more permissive in nature, allowing any such approving authority to exercise discretion on whether to allow or

not the encashment of such checks. The CA noted that it was the Bank's own witness, Andres Mangahas, who testified that encashment of, or withdrawal against USTWs by valued clients, is not prohibited although it is not exactly encouraged.

The CA further held that it is difficult to conclude that Mauricio abused his discretion absent some semblance of parameters by which such discretion is to be exercised. In the absence of such guidelines, the appellate court ruled that the validity of Mauricio's acts may be tested using the accepted standards of reasonableness, or by determining whether said acts were justified under the circumstances.

The appellate court also cited the decisions of the RTC and the CA in the civil case where it was found that Mauricio was not in any way prompted by malicious motive in approving the encashment and/or withdrawal. Caught in a dilemma of cashing the checks despite the irregularities evident on their face and refusing such encashment but risk the possibility of losing a valued client, Mauricio chose the former. The CA held that in doing so, Mauricio could not have acted in gross negligence because he made sure that in the final analysis, his employer would not be left holding an empty bag. Mauricio even sought the advice of the bank's legal counsel who assured him that his actions were proper given the circumstances, and acted only after being assured that the Spouses Cruz's real estate mortgages could be made to answer for the premature encashments.

Further citing the decisions of the RTC and the CA in the civil case, the CA ruled that Mauricio reported the transactions to the head office, but the head office continued to credit the account of the spouses for the value of returned checks leading said courts to conclude that the Bank acquiesced to his transactions. The CA held that it defies reason that the Bank would not immediately call Mauricio's attention if it was true that his dealings with the Spouses Cruz were irregular or prohibited.

The CA likewise noted the Banks's own allegation that under Office Order No. 1596, Mauricio knew, or he is presumed to know, that he is personally liable for returned dollar checks and treasury warrants which he encashed or allowed to be withdrawn prior to clearing. The CA ruled that it is a clear admission that Mauricio is given discretion regarding these matters provided that if hitches resultantly come up, he should personally answer for the damages. Thus, the CA held that Mauricio cannot be charged for having violated the trust and confidence reposed in him. The CA went on to hold that personal responsibility and accountability referred in the Office Order could only mean the reimbursement of the value of the dishonored checks but certainly not termination of the manager's services on the ground of breach of trust and confidence.

Lastly, the CA ruled that the declaration of the Supreme Court in the civil case that the CA did not commit reversible error only meant that the CA correctly applied the law in holding that Mauricio did not abuse his discretion to an extent sufficient to terminate his services.

Aggrieved, the Bank filed the instant petition anchored on the following grounds:

I.

THE COURT OF APPEALS' RELIANCE ON THE CIVIL CASE (CA-G.R. CV No. 73447 x x x) IS ERRONEOUS BECAUSE THERE ARE DIFFERENCES BETWEEN THE ISSUE AND THE CAUSE OF ACTION IN THE SAID CIVIL CASE AND IN THE INSTANT LABOR CASE.

II.

MR. MAURICIO WAS DISMISSED FOR A JUST CAUSE AND WAS AFFORDED DUE PROCESS; AS SUCH, THE NLRC DID NOT COMMIT GRAVE ABUSE OF DISCRETION IN AFFIRMING THE DECISION OF LABOR ARBITER AZARRAGA.

III.

MR. MAURICIO IS NOT ENTITLED TO GRATUITY BACKWAGES, ALLOWANCE, BENEFITS, GRATUITY, RETIREMENT PENSION AND PROVIDENT FUND.[22]

The Bank argues that the CA erred in adopting the findings in the civil case to the illegal dismissal case because the issues and the quantum of evidence required in those two cases are different. The Bank contends that in the civil case, the issue was whether the foreclosure of the properties of the Spouses Cruz was valid while in the instant case, the issue is whether the dismissal of Mauricio is valid. The issues being different, the CA likewise erred in applying the principle of the law of the case. And even if Mauricio was exonerated in the civil case which requires preponderance of evidence, the instant case merely requires substantial evidence for the Bank to substantiate its basis to lose its trust and confidence in him.

The Bank adds that the NLRC did not commit grave abuse of discretion in affirming the labor arbiter's decision upholding Mauricio's dismissal as the said decision was in accord with facts and applicable law and jurisprudence. The Bank insists that what Mauricio did cannot be considered as mere accommodation to the Spouses Cruz but outright connivance. It asserts that Mauricio violated every rule on safe banking practices so he could just accommodate them. Mauricio, as Bank Manager, was in charge of transactions involving millions of pesos and thus, a great degree of responsibility, care and trustworthiness was expected of him. His failure to exercise the required extraordinary diligence and prudence resulted in substantial loss and prejudice to the Bank. And even assuming he was not acting in bad faith, the Bank argues that Mauricio's failure to be vigilant in protecting its interests is enough reason for it to lose its trust and confidence in him.

Considering that Mauricio's dismissal was valid, the Bank contends that he is not entitled to back wages, allowance, benefits, gratuity retirement benefits and pension fund benefits. Having been separated for cause, he is not entitled to gratuity or the provident fund contributions of the employer pursuant to the Bank's Retirement Plan. Furthermore, Mauricio is not entitled to pension because he was below 65 when he was terminated for cause even if he had rendered 30 years of service. More, entitlement to pension requires satisfactory service.

Mauricio, on the other hand, counters that the decision in the civil case must be accorded greater weight and respect because a higher quantum of evidence has sufficiently established that he acted within the confines of his managerial powers and duties. He further argues that the issues in the civil case and in the instant case are closely intertwined such that the issue in the labor case was also passed upon and resolved in the civil case.

Mauricio likewise argues that the circumstances cited by the Bank negate any indication of willfulness to breach the trust reposed in him. The circumstances in fact show that he acted in complete good faith when he dealt with the Spouses Cruz.

Mauricio also insists that Office Order No. 1516-A, which he allegedly violated, is not a restriction but rather a cautionary measure. Office Order No. 1516-A reads:

The approving officer shall refrain from encashing US Treasury Warrants whenever the presenter is not the payee and the last endorser of the check.[23]

Considering that it is merely a cautionary measure, the bank officer is still given the prerogative to exercise his sound judgment under the circumstances.

Mauricio likewise contends that the Bank cannot feign ignorance of the accommodation to the Spouses Cruz as all the subject transactions were reported to the Head Office. Had it found anything irregular about them, the Head Office should have ordered him to cease from doing such transactions or at the very least called his attention on the matter.

Mauricio further argues that as testified in the civil case, USTWs are presumed to be cleared as to funding, within

forty-five (45) days from its date of deposit. By the Bank's own admission, they were returned only at the very least over one (1) year after they were deposited to the accounts of the Spouses Cruz. Thus, Mauricio contends that until the time the USTWs and/or checks were returned, he could not have known that they were already facing problems.

Mauricio also asserts that the additional service he provided to the Spouses Cruz as valued clients, i.e., bringing checks to the teller with the prepared deposit and withdrawal slips, does not in any way prove that he favored them over the Bank. The Bank cannot close its eyes to the reality that bank managers go out of their way to assist important and valued clients.

As to the alleged violation of Office Order No. 1516-A, Mauricio insists that he cannot be held liable on a vague and/or uncertain policy. The senior supervising examiner of the bank's audit department, Mangahas, declared that the "encashment of and/or withdrawal against [USTWs] by valued clients is not prohibited though it is not exactly encouraged" while Philip Madrigal, former branch manager of petitioner, declared that the encashment of USTWs by persons who are not the payees is not at all unusual. Mauricio argues that clearly, said rule is susceptible to different interpretations.

Mauricio also stresses that he did not recklessly enter into the subject transactions as he made sure that the interests of the Bank were amply protected.

Mauricio further argues that he was separated from service without due process. The Bank filed a counterclaim against him in the civil case alleging that he conspired with the spouses to defraud the Bank even prior the termination of the investigation of the charges against him. Thus, his guilt was already pre-determined even if he was still presenting his defense to the Hearing Committee.

Mauricio also maintains that he was constructively dismissed. When he was transferred to the Head Office on October 16, 1992, no tasks were assigned to him. He was given no office and given not even a table or a chair. He bore such treatment for more than five years until his dismissal was formalized in 1997.

As his dismissal was illegal, Mauricio insists that he is entitled to gratuity, back wages, allowances, benefits and retirement pension and provident fund.

We affirm the appellate court's decision.

The Court need not be reminded of the fact that civil and labor cases require different quanta of proof - the former requiring preponderance of evidence while the latter only calls for substantial evidence. Despite the dissimilarity, however, this does not spell closing our eyes to facts conclusively determined in one proceeding when the determination of the very same facts are crucial in resolving the issues in another proceeding pursuant to the doctrine of res judicata.

The doctrine of res judicata is provided in Section 47, Rule 39 of the Rules of Court:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have

been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

The doctrine of *res judicata* thus lays down two main rules which may be stated as follows: (1) The judgment or decree of a court of competent jurisdiction on the merits concludes the parties and their privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action either before the same or any other tribunal; and (2) Any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which a judgment or decree is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether the claim or demand, purpose, or subject matter of the two suits is the same or not. These two main rules mark the distinction between the principles governing the two typical cases in which a judgment may operate as evidence. In speaking of these cases, the first general rule above stated, and which corresponds to the aforequoted paragraph (b) of Section 47,[24] is referred to as "bar by former judgment" while the second general rule, which is embodied in paragraph (c) of the same section, is known as "conclusiveness of judgment." [25]

In *Lopez v. Reyes*, [26] we further elaborated the distinction between the two:

The doctrine of *res judicata* has two aspects. The first is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The second aspect is that it precludes the relitigation of a particular fact or issues in another action between the same parties on a different claim or cause of action.

The general rule precluding the relitigation of material facts or questions which were in issue and adjudicated in [a] former action [is] commonly applied to all matters essentially connected with the subject matter of the litigation. Thus, it extends to questions "necessarily involved in an issue, and necessarily adjudicated, or necessarily implied in the final judgment, although no specific finding may have been made in reference thereto, and although such matters were directly referred to in the pleadings and were not actually or formally presented. Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties, and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself. x x x" [27] (Italics supplied.)

The foregoing finds application to the instant case. Irrefutably, the present labor case is closely related to the civil case that was decided with finality. In the civil case, the Bank's counterclaim for actual and exemplary damages against Mauricio was grounded on his alleged violations of office policies when he allowed the encashment and/or withdrawal prior to clearing of numerous USTWs and dollar checks and allegedly tried concealing from the Bank the fact that said instruments were returned. Said violations allegedly caused undue damage and prejudice to the Bank. The Bank, in its Amended Answer with Counterclaim and Application for Writ of Preliminary Attachment [28] filed before the Makati RTC, wherein it impleaded Mauricio as defendant, alleged:

19. Plaintiff and defendant Mauricio, in the period spanning from 1990-1992 inclusive, conspired and confederated with each other to defraud defendant Bank in the total amount of Fourteen Million Nine Hundred Sixty Nine Thousand Two Hundred Sixty Seven and 53/100 Pesos (P14,969, 267.53).

20. The defraudation was effected in connection with the encashment and/or withdrawal prior to clearing of numerous U.S. Treasury Warrants and dollar checks.

21. The defraudation was accomplished essentially in the following manner:

FXSD/MAG 357/221-6

21.1 Plaintiffs opened FXSD No. 221-6 on 25 June 1990 in defendant Bank's Magallanes Branch with an

initial deposit of US\$500.00.

21.2 The succeeding credits on the account were mostly dollar check deposits composed of U.S. Treasury Warrants whose payees were residents of far-flung provinces and foreigners.

21.3 Immediate withdrawals (prior to clearing) against these checks were allowed by the Branch Manager, defendant Mauricio.

21.4 These checks were subsequently returned by their respective drawee banks for various reasons such as: forged endorsement, amount altered, no sufficient fund, and refer to maker.

21.5 In order that these returned checks could be debited to plaintiffs' account, the personal checks of the plaintiffs and their children were deposited to their account.

x x x x

SA No. 3396-0

21.7 Plaintiffs opened Peso Savings Account No. 3396.

21.8 Most of the cash deposited to SA No. 3396 were proceeds from the encashments of U.S. Treasury Warrants (USTWs).

21.9 Subsequently, these USTWS were returned for the reasons "forged endorsement" and "amount altered." [29]

The RTC, however, did not give merit to the above-quoted allegations of the Bank and absolved Mauricio from liability. The RTC ruled:

Further, this court finds that PRUDENTIAL's branch manager MAURICIO's act of allowing SPOUSES CRUZ to immediately withdraw [the] above instruments is well within his functions as a branch manager. A person occupying such position exercises a certain degree of discretion with respect to the accommodations extended [to] certain valued clients such as herein plaintiffs SPOUSES CRUZ. Having been recommended by the legal counsel himself of PRUDENTIAL and in view of the fact that they have substantial deposit with the same bank, it cannot be doubted that SPOUSES CRUZ were valued clients. (TSN dated 8, November 1999 p. 14; TSN dated 27 January 1999, p. 10; and TSN dated 12 January 2000, pp. 7-10)[.]

Further, as testified to by Andres Mangahas, witness of PRUDENTIAL, encashment of and/or withdrawal against US Treasury Warrants by valued client is not prohibited though it is not exactly encouraged. (TSN dated 27 January 1999, p. 10) This court moreover holds that MAURICIO was not in anyway prompted by any malicious motive in approving the encashment and/or withdrawal; he not only tried to collect from herein plaintiffs SPOUSES CRUZ, (Exhibit 8 - Mauricio) he made sure that worst comes to worst, the withdrawals were covered (TSN dated 8 November 1999, p. 95) and that all the transactions were reported to the head office. (TSN dated 8 November 1999, pp. 17-18) In fact, before MAURICIO allowed the encashment of the dollar checks and as testified by SPOUSES CRUZ, a condition was imposed. (TSN dated 22 July 1998, pp. 10-13) So, if indeed such transaction was irregular or worse, prohibited, the Head Office of PRUDENTIAL should have immediately called MAURICIO's attention to the same. Instead, PRUDENTIAL continued to credit the account of the spouses for the value of the returned checks.[30] (Emphasis supplied.)

As mentioned above, the above findings were affirmed not only by the CA but also by this Court.

Undeniably, the acts and omissions alleged by the Bank in the civil case as basis of its counterclaim against Mauricio, are the very same acts and omissions which were used as grounds to terminate his employment. The Bank, however, now wants this Court to disregard altogether the factual findings in the civil case concerning the very same acts and omissions and re-evaluate the same pieces of evidence and make new factual findings in the

hopes that the same will, this time, be in its favor. This would definitely run contrary to the foundation principle upon which the doctrine of *res judicata* rests - the parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.[31]

Moreover, as correctly held by the CA, Mauricio cannot be held to have abused the discretion he was clothed with absent some semblance of parameters. In the absence of such guidelines, the validity of Mauricio's acts can be tested by determining whether they were justified under the circumstances. Mauricio was faced with a dilemma whether to accommodate the request for immediate encashment and/or withdrawals against USTWs by a valued client, knowing that under the Bank's rules refund of any returned check shall be the personal accountability of the approving officer. In exercising his discretion to allow the questioned withdrawals, Mauricio took into consideration the fact that the Spouses Cruz have substantial deposit and security, and enjoyed a favorable credit standing with the Bank. And, as found by the RTC, no malice can be inferred from Mauricio's acts who tried to collect from the Spouses Cruz and reported all the transactions to the head office; in fact, the Bank never called his attention to any irregularity in the transactions but even continued to credit the account of the spouses for the value of the returned checks. Under the circumstances, Mauricio indeed fully considered the interest of his employer before approving the questioned transactions.

The Bank should be reminded that for a dismissal based on loss of trust and confidence to be valid, the breach of trust must be willful, meaning it must be done intentionally, knowingly, and purposely, without justifiable excuse.[32] Loss of trust and confidence stems from a breach of trust founded on dishonest, deceitful or fraudulent act.[33] This is obviously not the case here.

Besides, Office Order No. 1596, one of the office orders allegedly violated by Mauricio, provides:

Approving officers shall exercise extreme caution in allowing deposit of, encashment or withdrawals against foreign and out-of-town checks. Refund to the bank of the amount involved shall be the personal responsibility and accountability of the officer who authorized the deposit or encashment over the counter when the check should be returned by the drawee bank for any reason whatsoever.[34] (Emphasis supplied.)

The above company directive is an explicit admission that Mauricio was clothed with such discretion to enter into the questioned transactions as well as a forewarning that in case the foreign and out-of-town checks were returned for whatever reason, the approving officer, in this case, Mauricio, shall be personally responsible and accountable. We subscribe to the CA's interpretation that "personal responsibility and accountability" could only mean the reimbursement of the value of any dishonored check but does not mean termination of the approving officer's employment for breaching the bank's trust and confidence.

Considering that it has already been conclusively determined with finality in the civil case that the questioned acts of Mauricio were well within his discretion as branch manager and approving officer of the Bank, and the same were sanctioned by the Head Office, we find that the CA did not err in holding that there was no valid or just cause for the Bank to terminate Mauricio's employment.

WHEREFORE, the petition for review on certiorari is DENIED. The Decision dated January 30, 2008 and Resolution dated June 16, 2008 of the Court of Appeals in CA-G.R. SP No. 82908 are AFFIRMED.

Costs against the petitioner.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

[1] Rollo, pp. 8-24. Penned by Associate Justice Ricardo R. Rosario with Associate Justices Rebecca de Guia-Salvador and Magdangal M. de Leon concurring.

[2] Id. at 26-27.

[3] Id. at 122-125, 129-131.

[4] Id. at 126-127.

[5] Id. at 128.

[6] Id. at 133-134.

[7] Id. at 137-138.

[8] CA rollo, Vol. I, p. 87. Cited in the RTC decision.

[9] Id. at 88. Cited in the RTC decision.

[10] Rollo, pp. 132-139.

[11] Id. at 140.

[12] Id. at 141.

[13] CA rollo, Vol. I, pp. 98-124.

[14] Id. at 102-104.

[15] Id. at 87-94.

[16] Id. at 93-94.

[17] Id. at 304-315. Penned by Associate Justice Eugenio S. Labitoria with Associate Justices Mercedes Gozo-Dadole and Rosmari D. Carandang concurring.

[18] Id. at 453.

[19] Rollo, pp. 359-372.

[20] Id. at 452-458.

[21] Id. at 23.

[22] Id. at 46.

[23] Rollo, p. 928.

[24] Formerly Section 49 of the old Rules of Court.

[25] Vda. de Cruz v. Carriaga, Jr., G.R. Nos. 75109-10, June 28, 1989, 174 SCRA 330, 338.

[26] No. L-29498, March 31, 1977, 76 SCRA 179.

[27] Id. at 186-187.

[28] CA rollo, Vol. I, pp. 56-77.

[29] Id. at 72-73.

[30] Id. at 92-93.

[31] *Nabus v. Court of Appeals*, G.R. No. 91670, February 7, 1991, 193 SCRA 732, 738-739, citing *Philippine National Bank v. Barreto*, 52 Phil. 818, 824 (1929); *Escudero, et al. v. Flores, et al.*, 97 Phil. 240, 243 (1955); *Navarro v. The Director of Lands*, 115 Phil. 824, 831 (1962).

[32] *Bank of the Philippine Islands v. National Labor Relations Commission (First Division)*, G.R. No. 179801, June 18, 2010, 621 SCRA 283, 293.

[33] *M+W Zander Philippines, Inc. v. Enriquez*, G.R. No. 169173, June 5, 2009, 588 SCRA 590, 606.

[34] Rollo, p. 20.

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