JESUS E. DYCOCO, JR., PETITIONER, VS. EQUITABLE PCI BANK (NOW BANCO DE ORO), RENE BUENAVENTURA AND SILES SAMALEA, RESPONDENTS.

G.R. No. 188271. August 16, 2010

Ponente: CORONA, C.J.

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CORONA, C.J.:

Petitioner Jesus E. Dycoco, Jr. seeks reconsideration of the August 26, 2009 resolution denying his petition[1] wherein he assailed the February 16, 2009 decision and May 12, 2009 resolution of the Court of Appeals (CA) in CA-G.R. SP No. 105126.

The CA affirmed the decision and resolution of the National Labor Relations Commission (NLRC) in Jesus Dycoco, Jr. v. Equitable PCI Bank / Rene Buenaventura, et al., docketed as LAC No. 01-000390-08. The NLRC, on the other hand, reversed and set aside the July 24, 2007 decision of the labor arbiter of the Regional Arbitration Branch No. V, Legazpi City, in RAB-V Case No. 09-00407-06 which held that petitioner was illegally dismissed by respondents Equitable PCI Bank (now Banco de Oro), Rene Buenaventura and Siles Samalea.

In reversing the labor arbiter, the NLRC ruled that petitioner's dismissal was for just cause. He was guilty of serious misconduct, willful disobedience and gross negligence for not performing his duty to complete the documentary requirements in the opening of accounts pursuant to the bank's internal procedures. This directly resulted in the unauthorized abstraction of bank funds.

The pertinent facts are as follows.

In February 1997, petitioner was hired by respondent bank as Assistant Manager and/or OIC Branch Head of its Legazpi City Branch, Region V (Legazpi branch). In 2000, petitioner became Branch Head and in September 2003, respondent bank underwent an internal reorganization. Pursuant thereto, petitioner became the Personal Banking Manager (PBM) of the Legazpi branch.

In June 2005, several clients of the Legazpi branch filed complaints for alleged unauthorized abstractions of various trust funds, treasury placements and deposits. Respondent bank promptly commenced an investigation. Consequently, "show cause" letters were issued to the officers of the Legazpi branch, including Branch Center Head Glena Orogo, former Service Officer respondent Siles Samalea, Service Officer Irene Tabuzo, Operations Officers Imelda Espiritu and Maria Fe Gianan, Investment Clerk Carlo Quirong and the petitioner as the PBM.

The November 14, 2005 "show cause" letter[2] addressed to petitioner stated the results of the investigation, as follows:

- . On the Abstraction of Trust Placement of Client, Ma. Carolina V. Villegas

- On 01.30.04, when you approved the opening of PLI account for P7.5M of Ms. Villegas:

- You did not require Ms. Villegas to accomplish/submit the account opening requirements such as Revocable

Trust Agreement, Investment Guidelines and Trust Compensation Agreement.

- You did not require Ms. Villegas to sign on the LOI-Contribution for P7.5M (as initial contribution) to acknowledge the validity and correctness of contribution made, despite your notation "signature to follow" on the cited LOI.

- You did not enroll in your Sales Portal the PLI account of Ms. Ma. Carolina V. Villegas opened with an initial placement of P7.5M on 01.30.04 upon your approval.

- You did not secure the required account opening documents (i.e. Revocable Trust Agreements, Investment Guidelines, Trust Compensation Agreement) on the PLI account opened on 01.30.04 by Ms. Villegas, despite e-mail follow ups by Ms. Ma. Nelisa M. Trajano/AO-Personal Trust and Agencies Division on 5.13.04 and 02.23.05.

- Based on statements of branch personnel, you prevented the BCH and her branch personnel from going to the residence of Carlo B. Quirong to make inquiry/investigation about the Villegas case.

- On the Abstraction of Trust Placement of Clients, Fr. Roberto Crisol or Benita Crisol (PLI No. 117-78825-2)

- On 10.29.03, you did not require Fr. Roberto Crisol or Benita Crisol to sign on the LOI-Contribution for P285K to acknowledge the validity and correctness of contribution made, despite your notation "signature to follow" on the cited LOI.

- On the Abstraction of Trust Placement of Clients, Fr. Roberto Crisol or Anna Lea Borromeo (PLI No. 117-78828-7)

- On 10.29.06, you did not require Fr. Roberto Crisol or Anna Lea Borromeo to sign on the LOI-Contribution for P235K to acknowledge the validity and correctness of contribution made, despite your notation "signature to follow" on the cited LOI.

- On the Abstraction of Trust Placement of Clients, Fr. Roberto Crisol or Ma. Celio Sabareza (PLI No. 117-78829-5)

- On 7.31.03, you co-approved the payment of spurious withdrawal for P100K from the PLI account of Fr. Roberto Crisol or Maria Celio Sabareza:

- Despite the signatures of Fr. Roberto Crisol on the LOI-Withdrawal for P100K were forged.

- Although you did not verify the signatures of Fr. Roberto Crisol on the spurious LOI-Withdrawal for P100K against the specimen signatures on file. Instead, you allowed Carlo B. Quirong do the signature verification.

- Without requiring the PLI processor (Ailene C. Perfecto) to prepare Manager's Check under the name of Fr. Roberto Crisol or Ma. Celio Sabareza (Trustor/client) or credit memo (CM) for client's account as mode of payment of said PLI withdrawal as required by policy. Instead, you approved the validation of cited withdrawal as "miscellaneous payout".

- Allowing Carlo B. Quirong/CSA to pay via "miscellaneous payout" the LOI-Withdrawal for P100K instead of the teller.

- You did not enroll in your Sales Portal the five PLI accounts of Fr. Roberto Crisol et al. outstanding with the branch as of 01.31.04.

- On the Abstraction of Trust Placements of Sps. Cesario Israel/Josephine Bandong

- You did not immediately notify or report the fraudulent act of Carlo B. Quirong, Sales Assistant to his superior officer, BCH upon your knowledge of the incident on 06.15.05. The BCH could have immediately

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> placed under preventive suspension Carlo B. Quirong effective 06.15.05, thereby preventing the complaint of Mayor Dick Galicia, client on the alleged withdrawal for P810K by Carlo B. Quirong on 06.16.05.
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> - You did not report the Cesario Israel/Josephine Bandong (Abstraction of CTF placement for P2,371,620.43 on 12.09.03 by Carlo Quirong) incident to Internal Audit Division (IAD) within two working days from the date of your knowledge of the incident on 06.15.05.
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> xxx
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> As a result, the fraudulent withdrawal was not detected/prevented exposing the Bank to financial loss of P100K.

In August 2006, respondent bank issued a second "show cause" letter[3] to petitioner charging him with involvement in alleged dollar-trading activities. Petitioner was preventively suspended from September 20, 2006 to October 20, 2006.

On September 22, 2006, while petitioner was under preventive suspension, he filed a complaint in the NLRC Regional Arbitration Branch No. V alleging constructive dismissal and illegal suspension, and demanding reinstatement/separation pay and payment of incentives, 13[th] month pay, bonuses, moral and exemplary damages and attorney's fees.

However, on October 10, 2006, respondent bank rendered a decision[4] with respect to the first "show cause" letter finding petitioner guilty of violating Articles IV (F) (Class C) (1), IV (D) (Class D) (1) and IV (E) (Class C) (13) of the bank's Code of Conduct, and Article 282 (b) of the Labor Code. The penalty of dismissal was imposed on him. Petitioner was, however, exonerated from the charge of dollar-tradingas specified in the second "show cause" letter.

On July 24, 2007, the labor arbiter held that petitioner was illegally dismissed. He ordered respondent bank to pay separation pay, backwages, incentives, bonuses, 13[th] month pay and attorney's fees in the total amount of P1,147,216.00.[5]

On appeal, the NLRC reversed the labor arbiter's decision. The CA subsequently affirmed the NLRC.

Petitioner insists that he was illegally dismissed. We already rejected his position but petitioner seeks reconsideration.

The motion for reconsideration is denied.

Jurisprudence[6] has repeatedly outlined how diligence in the banking industry should be observed:

> By its very nature, the business of the petitioner bank is so impressed with public trust; banks are mandated to exercise a higher degree of diligence in the handling of its affairs than that expected of an ordinary business enterprise. Banks handle transactions involving millions of pesos and properties worth considerable sums of money. The banking business will thrive only as long as it maintains the trust and confidence of its customers/clients. Indeed, by the very nature of their work, the degree of responsibility, care and trustworthiness expected of officials and employees of the bank is far greater than those of ordinary officers and employees in the other business firms. Hence, no effort must be spared by banks and their officers and employees to ensure and preserve the trust and confidence of the general public and its customers/clients as well as the integrity of its records and the safety and well-being of its customers/clients while in its premises.

As the banking industry is impressed with public interest, all bank personnel are burdened with a high level of responsibility insofar as care and diligence in the custody and management of funds are concerned. Petitioner miserably failed to discharge this burden.

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Petitioner violated his duties and responsibilities as PBM when he signed and approved the subject transactions without the necessary signatures of the concerned clients. As PBM, it was his obligation to ensure "that all documentary requirements (were) complied with by clients being handled and that the bank's interest (was) at all times protected." It was incumbent on him to enforce "strict compliance with bank policies and internal control procedures while maintaining the highest level of service quality."[7]

It is significant that petitioner did not even deny that it was he who signed, approved and facilitated the subject transactions relating to the various abstractions committed by a bank employee. It was an implied admission that he was the one who opened the door for the commission of the unlawful abstractions by failing to ensure that all requirements for the opening of accounts were complied with. This constituted gross negligence.

As a PBM, petitioner should have exercised much care in performing his functions. Petitioner's failure on three separate occasions to require clients to sign the requisite documents (a vital and standard procedure in all banking transactions) was a clear manifestation of serial negligence. Because of this gross negligence, Carlo Quirong, respondent bank's Customer Sales Assistant, was able to filch millions of pesos from respondent bank by manipulating clients' accounts.

Petitioner's assertion that neither Quirong nor any of the bank operations personnel was under his supervision and that the day-to-day operations of his branch were the responsibility of the Banking Center Head does not exonerate him from liability. He was duty-bound to make certain that such documentary requirements were complied with in accordance with respondent bank's rules.

Gross negligence connotes "want of care in the performance of one's duties."[8] Petitioner's failure to observe basic procedure constituted gross negligence. His repeated failure to carefully observe his duties as PBM clearly showed utter want of care.

After committing gross negligence, petitioner surprisingly still expects respondent bank to retain him. Nothing can compel an employer to continue availing of the services of an employee guilty of acts inimical to its interests as this is a ground for loss of confidence.[9] Petitioner's breach of respondent bank's policies intended to safeguard the bank and its clients' funds was clearly inimical to the interests of his employer. Loss of confidence and dismissal from employment were therefore justified.

Loss of confidence applies to situations where the employee is routinely charged with the care and custody of employer's money or property.[10] "If the employees are cashiers, managers, supervisors, salesmen or other personnel occupying positions of responsibility, the employer's loss of trust and confidence in said employees may justify termination of their employment."[11]

The CA was thus correct in upholding the dismissal of petitioner.

WHEREFORE, the motion for reconsideration is DENIED with FINALITY.

Costs against petitioner.

No further pleadings or motions shall be entertained. Let entry of judgment be made in due course.

SO ORDERED.

Velasco, Jr., Leonardo-De Castro, Del Castillo and Perez, JJ., concur.

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[1] Under Rule 45 of the Rules of Court.

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[2] Rollo, p. 365.

[3] Rollo, p. 392.

[4] Rollo, p. 414.

[5] Equivalent to 10% of the total award as computed above.

[6] United Coconut Planters Bank v. Basco, G.R. No. 142668 (2004). Citing Lim Sio Bio v. Court of Appeals, 221 SCRA 307 (1993) and Philippine Commercial and International Bank v. Court of Appeals, 350 SCRA 446 (2001).

[7] Rollo, p. 74.

[8] JGB and Associates, Inc. v. National Labor Relations Commission, 254 SCRA 457 (1996).

[9] EEI v. National Labor Relations Commission, 133 SCRA 752.

[10] Azucena, Jr. C.A. Everybody's Labor Code, 2007 Ed., p. 330.

[11] Azucena, Jr. C.A. Everybody's Labor Code, 2007 Ed., p. 331 (Emphasis supplied).

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