

RURAL BANK OF BAAO, INC., AND ERMELO ALMEDA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND EDUARDO FROYALDE, RESPONDENTS.

G.R. No. 90527. March 23, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

In this petition for certiorari the petitioners seek the annulment of:

- (1) the Resolution dated November 29, 1988 of respondent National Labor Relations Commission (NLRC, for short) in connection with NLRC-RAB-V-Case No. 0266-86 entitled, "Eduardo O. Froyalde vs. Rural Bank of Baao, Inc., Ermelo M. Almada," which affirmed the Labor Arbiter's decision dated September 25, 1987; and
- (2) the NLRC's Resolution dated September 4, 1989 which denied petitioners' motion for reconsideration.

The private respondent, Eduardo Froyalde, was, prior to his discharge, the manager of the Rural Bank of Baao, Inc. for 13 years or from October 3, 1973 until July 29, 1986 when his services were terminated by the bank.

On July 15, 1986, he received a memorandum from Ermelo M. Almada, president of the bank, together with a copy of an audit report of the bank's External Auditors, Banaria, Banaria and Company. Almada's memorandum informed private respondent that he was being placed under preventive suspension for a period of 15 days and given the same period to show cause in writing why he should not be dismissed. Almada likewise informed private respondent that criminal and/or civil actions may be filed against him.

On July 17, 1986, private respondent submitted a reply to Almada's memorandum.

On July 29, 1986, private respondent was dismissed on the grounds of loss of confidence, breach of trust, and violation of existing banking laws.

Believing that his dismissal was without just cause, private respondent filed a complaint for illegal dismissal.

On February 25, 1987, the Special Task Force of NLRC Regional Arbitration Branch No. 5, presided over by Labor Arbiter Potenciano S. Cañizares, rendered a decision, the dispositive portion of which reads:

"WHEREFORE, the respondents are hereby ordered to pay the petitioner two years fixed backwages in the amount of NINETY ONE THOUSAND FOUR HUNDRED FORTY FOUR (P91,440.00) (sic) PESOS; P13,315.00 as separation pay; and P30,000.00 as moral and exemplary damages; the respondents are further ordered to pay 10% of the awarded amount as attorney's fee to the petitioner." (p. 113, Rollo.)

Dissatisfied with the decision of the Labor Arbiter, the bank elevated the case to the NLRC.

On November 29, 1988, the NLRC affirmed the appealed decision.

The bank filed a motion for reconsideration but it was denied by the NLRC in a Resolution dated September 4, 1989. Hence, this petition for certiorari.

The lone issue in this case is whether or not Froyalde was dismissed without due process of law. The answer is yes.

Section 3, Rule XIV, Book IV, Omnibus Rules Implementing the Labor Code, provides:

"Section 3. 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 of his co-workers."

The Labor Arbiter observed that while the implementing rule of the law provides that the employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life and property of the employer or of his co-worker, in the case of Froyalde, the external auditor did not make any such pronouncement. In fact, he only made the following recommendations:

"(1) immediate liquidation be undertaken to afford the availability of funds for the bank's operational needs;

"(2) cash advances not paid or liquidated be converted into loan subject to regular interest charged by the bank; and

"(3) strict compliance should be observed as per bank's policy that cash advances must not be extended to persons with overdue or unliquidated balances to prevent accumulation." (p. 26, Rollo.)

Similarly, President Ermelo M. Almeda, in his memorandum of July 15, 1986 to Froyalde, did not make any finding that the continued employment of the latter would pose a serious and imminent threat to the lives of his co-workers, or to property of the bank.

Sections 2, 5, 6, and 7 of Rule XIV, Book IV of the Implementing Regulations of the Labor Code require that before an employer may dismiss an employee, the latter must be given a written notice stating the particular acts or omissions constituting the grounds for his dismissal. The employee may answer the allegations within a reasonable period and the employer shall afford him ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires. It is only then that the employer may dismiss the employee by notifying him of the decision in writing, stating clearly the reasons therefor.

The Labor Arbiter observed from the records, that the bank failed to comply with the above procedure (p. 26, Rollo). Although the bank served a notice of termination to Froyalde, it did not cite the particular acts of misconduct or dishonesty committed by the latter. The notice of termination reads:

"Anent your preventive suspension as Manager of the Rural Bank of Baao, Inc. since July 14, 1986, and finding your written explanation dated July 17, 1986 to be unsatisfactory, please be advised that in adherence to the decision of its Board of Directors, due to breach of trust, loss of confidence, and violations of existing banking laws, you are hereby terminated and/or dismissed permanently from your position as Manager thereto effective this date.

"Consequently, ancillary to this incident, your position as Director and/or Secretary to the Board is therefore considered vacated.

"Hoping for your usual understanding in this regard. I remain." (pp. 93-94, Rollo.)

The Labor Arbiter observed that: "if the respondents had solid grounds upon which to base their loss of trust and confidence in the petitioner, the records does (sic) not show it (sic). The record is spattered with allegations, manifestations and comments as well as documentary evidence without proper identifications or qualifications or statements of purposes for which they are submitted. Hence, no valid conclusion can ever be made from them. Consequently, the respondents have failed to prove just cause to dismiss the petitioner" (p. 27, Rollo).

On July 20, 1986, or only three days after Froyalde had answered the notice of suspension dated July 15, 1986, the bank informed him of the termination of his employment, without giving him a chance to be heard nor even waiting for the period of his suspension to expire.

Section 1, Rule XIV, Book IV of the Implementing Regulations of the Labor Code, provides that "No worker shall be dismissed except for a just or authorized cause provided by law and after due process." The rule is explicit. The dismissal of an employee must be for just or authorized cause and after due hearing.

In *Philippine Movie Pictures Workers' Association vs. Premiere Productions, Inc.*, 92 Phil. 843, 848, this Court explained the rationale behind the right of every worker to due process of law:

"The right to labor is a constitutional as well as statutory right. Every man has a natural right to the fruits of his own industry. A man who has been employed to undertake certain labor and has put into it his time and effort is entitled to be protected. The right of a person to his labor is deemed to be property within the meaning of constitutional guarantees. This is his means of livelihood. He cannot be deprived of his labor or work without due process x x x." (Underscoring supplied.)

The guarantee of due process applies to all workers, including managerial employees. (*Dosch vs. National Labor Relations Commission*, 123 SCRA 296.)

WHEREFORE, the petition for certiorari is DISMISSED for lack of merit. The appealed resolution of respondent NLRC is hereby affirmed in toto. This decision is immediately executory. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, and Medialdea, JJ., concur.

Bellosillo, J., no part; did not take part in deliberation.

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