

PHILIPPINE COMMERCIAL INTERNATIONAL BANK, PETITIONER, VS. NILDA S. JACINTO AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

G.R. No. 92742. May 06, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The responsibility of an employee of a bank for the loss of certain funds of the bank is the issue in this case.

Private respondent Nilda S. Jacinto is an employee of petitioner PCI Bank assigned at its Ninoy Aquino International Airport (NAIA) Branch as customer relation assistant (CRA) since August 9, 1971. Her principal duties as CRA are described in the Desk Manual signed and issued to her wherein it is also written that she acts as "alternate - FX Clerk or Teller."

On May 1, 1984, the bank discovered the loss of some travelers checks amounting to P25,325.00 in peso equivalent transacted on April 30, 1984. As private respondent acted as FX clerk on said day inasmuch as the regular FX clerk was on leave, an investigation was conducted by petitioner of private respondent and other personnel who were interviewed and allowed to explain their side.

As petitioner found private respondent to be guilty of gross negligence, she was meted ten (10) days suspension without pay on March 7 to 20, 1984 and was required to pay the amount of the loss of P25,325.00 by way of salary deductions of P200.00 a month plus 50% of mid-year bonus; Christmas bonus and profit sharing. She was transferred to the Baclaran branch of the bank on May 21, 1984.

Hence, private respondent filed a complaint with the National Labor Relations Commission (NLRC) on August 14, 1986 questioning her suspension and the penalty imposed on her as well as her transfer of assignment. After the parties filed their position papers a decision was rendered by the designated labor arbiter on February 19, 1988 the dispositive part of which reads as follows –

WHEREFORE, finding the ten (10) days suspension meted out to complainant as well as the periodic deductions on her salary, bonuses, and 13th month pay for the payment of peso equivalent of said lost travelers checks, to be unjustified, respondent PCIB should be, as it is hereby ordered to erase from the service record or 201 file of complainant Nilda S. Jacinto said suspension together with the merit increase and other benefits that she was deprived of, and to return to her the amount so far deducted from her salary, bonuses and 13th month pay. Said respondent is further directed to return complainant to her former assignment at MIA branch, if she would prefer said assignment, there being no justifiable reason shown by respondent to overcome complainant's contention that her said transfer to the Baclaran branch is due to her purported gross negligence and which we, however, find to be unfounded.

SO ORDERED.”[1]

Petitioner appealed therefrom to the public respondent NLRC wherein in due course a decision was rendered on

October 23, 1989 affirming the appealed decision with the only modification that the transfer of private respondent was found to be an appropriate prerogative of management.

Hence, this petition for certiorari with a prayer for the issuance of a writ of preliminary injunction predicated on the following grounds -

"1.

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION IN HOLDING THAT GROSS NEGLIGENCE CANNOT BE ATTRIBUTED TO RESPONDENT JACINTO AS SHE WAS NOT FORMALLY DESIGNATED TO PERFORM THE FUNCTIONS OF AN FX CLERK.

2.

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION IN SUSTAINING THE LABOR ARBITER'S FINDING OF NON-CULPABILITY IN FAVOR OF THE PRIVATE RESPONDENT, NOTWITHSTANDING THE EVIDENCE ON RECORD SHOWING THE CONTRARY."[2]

The petition is impressed with merit.

There is no question in the fact that on April 30, 1984, private respondent was requested by Mr. Gilberto C. Marquez, who was the OIC of the NAIA branch of the bank, to assume the duties of Mrs. Bromeo, FX Clerk, who was on leave. Private respondent acting as FX clerk stated that she received the travellers checks; she made the proof sheet thereof and thereafter she placed the checks and proof sheet in the FX cash box. The following day, she reported the loss of said travellers checks from the FX cash box.

In disclaiming any responsibility for the loss, she asserted that there was no memorandum or written designation for her to act as FX Clerk, and that at the time, the one acting as FX Clerk was Mr. Marquez, in the absence of Mrs. Bromeo, so that she was only verbally requested by Mr. Marquez to perform the duties of FX Clerk then. She also averred that the FX cash box was defective and should have been repaired by the bank.

What cannot be denied is the fact that private respondent actually performed the duties of the FX clerk on that fateful day of April 30, 1984 upon request of Mr. Marquez. In so doing she assumed the responsibilities of the position. Although she claimed to have prepared the proof sheet, none was found in the box. She did not microfilm the checks as a matter of course. She did not formally endorse the FX box to the night shift FX clerk or to the cashier. More so, considering that she knew the lock of the box was defective.

By and large, the Court holds that the finding of petitioner that private respondent was grossly negligent is well-taken.

Any employee who is entrusted with responsibility by his employer should perform the task assigned to him with care and dedication. The lack of a written or formal designation should not be an excuse to disclaim any responsibility for any damage suffered by the employer due to his negligence. The measure of the responsibility of an employee is that if he performed his assigned task efficiently and according to the usual standards, then he may not be held personally liable for any damage arising therefrom. Failing in this, the employee must suffer the consequences of his negligence if not lack of due care in the performance of his duties.

The Court finds that the ten (10) days suspension of private respondent without pay as a penalty is proper and in accordance with the prescribed rules of petitioner. However, the requirement that she reimburse the full value of the loss to the bank is too harsh. Petitioner has also contributed to the loss when it failed to have the lock of the

FX box fixed and to have taken other security measures in the bank premises. Hence, said penalty should be mitigated by requiring private respondent to reimburse the petitioner only one-half (1/2) of the loss by way of salary deduction.

WHEREFORE, the petition is GRANTED. The questioned decision of the public respondent dated October 23, 1989 and its resolution dated January 31, 1990 are hereby reversed and set aside, and the complaint of private respondent is dismissed. However, the penalty imposed by petitioner on private respondent is hereby modified by requiring private respondent to indemnify petitioner the amount of P12,600.00, through regular payroll deductions. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 80 to 81, Rollo.

[2] Page 10, Rollo.

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