

## THIRD DIVISION

**[ G.R. NO. 160618, November 02, 2006 ]**

**DENNIS D. SY, PETITIONER, VS. METROPOLITAN BANK & TRUST COMPANY, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

For review on certiorari is the Decision<sup>[1]</sup> dated June 7, 2002 of the Court of Appeals in CA-G.R. SP No. 68149, which reinstated the Decision<sup>[2]</sup> dated June 19, 2000 of the Labor Arbiter dismissing petitioner's complaint for illegal suspension, illegal dismissal, and money claims.

The pertinent facts are as follows:

Petitioner Dennis D. Sy, herein substituted by his heirs Soledad Y. Sy, Ronald Allan Y. Sy, and Melinda S. Pompenada, was the branch manager in Bajada, Davao City, of respondent Metropolitan Bank and Trust Company.

Under the bank's Retirement Plan, an employee must retire upon reaching the age of 55 years or after rendering 30 years of service, whichever comes first. Sy would have rendered 30 years of service by August 18, 1999.<sup>[3]</sup> However, on February 5, 1999, he was reappointed as branch manager for a term of one year starting August 18, 1999 until August 18, 2000.<sup>[4]</sup> His monthly compensation was accordingly increased from P50,400 to P54,500, effective August 16, 1999.<sup>[5]</sup>

Meanwhile, on November 10 and 15, 1999, the bank released the results of the audit conducted in its Bajada branch. On November 15, 1999, Sy tendered an irrevocable letter of retirement.<sup>[6]</sup> In his letter, he requested the timely release of his retirement pay and other benefits. His request was denied.<sup>[7]</sup>

The bank alleged that Sy allowed spouses Gorgonio and Elizabeth Ong to conduct "kiting" activities in their account with the bank, to wit:

1. Approving DBP accommodations beyond the authority limits established by Management;
2. Approving DBP accommodations against accounts already found to be engaged (sic) in irregular and unsound banking practice;
3. Releasing/renewing loans without Head Office approval;
4. Allowing persons other than the depositor to purchase Cashier's Checks without authority;

5. Ignoring previous Bank's warning to discontinue granting such accommodations; and
6. Debit of the depositor's account as payment for the purchase of Cashier's Check without conformity or authority.<sup>[8]</sup>

Thus, the bank placed Sy under preventive suspension and gave him 48 hours to submit a written explanation. In response, Sy wrote a letter explaining that he only made a wrong credit judgment.<sup>[9]</sup> Not satisfied with his answer, the bank notified Sy of other alleged violations of company policies, to wit:

1. Granting of DBP-Clean accommodations totaling [P9.11M] from March to April 1999 to Sps. Samuel Aquino and Charito Sy-Aquino, your [brother-in-law] and sister, respectively. This is in patent abuse of authority as you have knowledge that your branch's lending authority has been suspended since January 1998.
2. Purchasing checks, Philam Bank and Bank of Commerce under Account Nos. 001103-00467 and 00-9014-31103-4 which are payable to Landcraft Transport Services a company owned by your aforementioned relatives. Please note that the signatories to the said checks are also your aforementioned sister and [brother-in-law]. This has allowed your relatives to conduct kiting activities through your branch with your knowledge and consent.<sup>[10]</sup>

In reply, Sy explained in writing that the accommodation granted to spouses Samuel Aquino and Charito Sy-Aquino was only P650,000, not P9.11M as claimed by the bank. He added that the spouses even offered a parcel of land as collateral and were willing to sell a vehicle in settlement of their obligation with the bank.<sup>[11]</sup>

Unconvinced, the bank dismissed Sy on December 15, 1999. The termination letter reads in part:

#### **SPS. GORGONIO & ELIZABETH ONG ACCOUNT**

1. Your wanton violations of Bank rules as stated in our November 17, 1999 letter have allowed the above clients to do kiting activities in your branch and have resulted to a possible loss of over TEN MILLION PESOS (P10,000,000.00)
2. The account has already become past due and the clients involved have already absconded.

#### **SPS. SAMUEL & CHARITO SY-AQUINO (Your Brother-in-law And Sister)**

1. As stated in our letter dated December 3, 1999 evidence shows that you have allowed your brother-in-law and sister to conduct kiting activities through your branch. Their DBP accommodations of SIX HUNDRED FIFTY THOUSAND PESOS (P650,000.00) rolled over daily from March to April 1999 accumulates to over NINE MILLION PESOS

(P9,000,000.00);

2. The above account has already become past due in the principal amount of SIX HUNDRED FIFTY THOUSAND PESOS (P650,000.00).

[12]

Sy filed against the bank a complaint for illegal suspension, illegal dismissal and money claims, docketed as RAB-11-01-00024-0. However, the Labor Arbiter dismissed the case for lack of merit.[13]

On appeal, the National Labor Relations Commission (NLRC) deemed Sy compulsorily retired. Thus, the NLRC awarded him retirement benefits, unpaid salary, monetary value of unused leave credits, 13th month pay, Christmas bonus, and refund of provident fund.

The parties sought reconsideration, which were both denied for lack of merit. Respondent bank elevated the matter to the Court of Appeals, which set aside the ruling of the NLRC and reinstated the Decision of the Labor Arbiter. On motion for reconsideration, however, the Court of Appeals modified its ruling and ordered the bank to reimburse Sy's contribution to the provident fund.[14]

Hence, the instant petition raising the following issues:

(1) WHETHER OR NOT AN EMPLOYEE WHOSE COMPULSORY RETIREMENT DATE HAD ALREADY ELAPSED CAN STILL BE DISMISSED FROM HIS EMPLOYMENT BY HIS EMPLOYER?

(2) WHETHER OR NOT, IF AN EMPLOYEE'S SERVICE WAS UNILATERALLY EXTENDED BY HIS EMPLOYER BEYOND HIS COMPULSORY RETIREMENT DATE, THEN SUBSEQUENTLY HE WAS DISMISSED, HIS DISMISSAL WOULD PERTAIN TO THE "EXTENDED PERIOD" ONLY OR ALSO TO HIS PREVIOUS TENURE OF EMPLOYMENT FROM WHICH HE WAS SUPPOSED TO COMPULSORILY RETIRE?

(3) WHETHER OR NOT THE EMPLOYMENT OF AN EMPLOYEE WHO IS MERELY PLACED UNDER PREVENTIVE SUSPENSION IS DEEMED SEVERED?

(4) WHETHER OR NOT METROBANK IS IN ESTOPPEL CONSIDERING THAT IT UNILATERALLY EXTENDED DENNIS SY'S SERVICE BY REASON OF HIS EXEMPLARY PERFORMANCE, AND ON AUGUST 16, 1999 (I.E. TWO DAYS BEFORE DENNIS SY'S COMPULSORY RETIREMENT DATE – AUGUST 18, 1999) IT INCREASED DENNIS SY'S COMPENSATION?

(5) WHETHER OR NOT AN EMPLOYEE CAN BE DEPRIVED OF HIS RETIREMENT BENEFITS AND OTHER FRINGE BENEFITS AFTER RENDERING THE 30-YEAR EMPLOYMENT, A CONDITION *SINE QUA NON* FOR COMPULSORY RETIREMENT AS STIPULATED IN HIS EMPLOYER'S RETIREMENT PLAN?[15]

Petitioner Sy contends that his dismissal pertains solely to his extended one-year term of employment and should not affect the benefits owing to his 30-year tenure.