

SECOND DIVISION

[G.R. No. 204750, July 11, 2016]

SUSAN D. CAPILI, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari* assails the July 25, 2012 Decision^[1] of the Court of Appeals (CA) in CA-GR. SP No. 121824. The CA set aside the May 31, 2011 Decision^[2] and July 22, 2011 Resolution^[3] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 07-002293-08 (RA-U-10), which affirmed the September 11, 2010 Decision^[4] of the Labor Arbiter (LA) in NLRC NCR Case No. 08-09149-07. Likewise challenged 'is the December 5, 2012 CA Resolution^[5] denying Susan D. Capili's (Capili) Motion for Reconsideration.

Factual Antecedents

From December 29, 1994^[6] until, her dismissal on August 9, 2007, Capili was the Assistant Vice President - Systems and Methods Division (AVP-SMD) of

the Philippine National Bank (PNB).^[7] On October 8, 2005, PNB President, Omar Byron Mier (Pres. Mier) received information from Hyun Duk Cho (Hyun), a Korean national, that Capili was engaged in anomalous transactions.^[8] Resultantly, PNB created a Fact Finding Committee to verify the matter. On March 31, 2006, the Committee reported^[9] that Capili owned a private company named Sandino Builders (SB); Capili, representing SB, and Hyun, representing I-Gen. Multi-Trading Corporation, entered into a contract of sale of scrap metals; and the signing and payment thereof were made within PNB premises. It also reported that the NBI^[10] record^[11] showed that Capili's name was listed for tax liabilities, and violation of Batas Pambansa Blg. 22 (BP 22).

Later, PNB gave Capili a notice^[12] to explain her alleged violations of its Code of Conduct for a) "Doing personal work during office hours or abuse of company time for personal or unauthorized business [; b)] Unauthorized use of Bank name or misrepresenting authority that may cause damage to the Bank[; and, c) Commission of a criminal offense involving moral turpitude or that which results in breach of trust or loss of confidence[.]^[13]

In her Sworn Answer,^[14] Capili claimed that while there were times she met Hyun during work days, these meetings were made during her personal time at lunch: she never concealed that she owned SB as she even had a PNB bank account for it; she informed Hyun that it was Hydro Resources Contractors Coiporation (HRCC), which

owned the scrap metals; and had she represented that it was PNB which owned them, then PNB would be a party to her contract with Hyun.

Also, Capili confirmed that in-1999, Francisco Motor Corporation (FMC) filed a BP 22 case against her relating to two checks she issued as part of the installment payment for a car she purchased from it (Makati case); when she was notified of the dishonor, she paid the value of the checks in cash but the sales agent did not turn over it to FMC; she clarified the matter with FMC, which, in turn, had desisted^[15] in pursuing the case. She further asserted that she came to know that in 2000, a BP 22 case was also filed against her arising from her aborted purchase of a truck (Bulacan case). She insisted that the pendency of the Bulacan case should not be taken against her as she was not convicted of any offense or that which will result in breach of PNB's trust. She added that other than these BP 22 cases, there are no cases filed or are pending against her.

Later, PNB's Investigation, Evaluation and Charging Division (IECD), served upon Capili a Memorandum^[16] charging her of committing: "(a) Acts which Tend to Show Questionable Moral Character, Integrity or Honesty, Constituting Loss of Confidence (Paragraph 2.4 [General Circular] No. 2-1345/2004 dated February 24, 2004 re: Policy on Loss of Confidence);" and "(b) Falsification of Personnel Records or Other Bank Records (Item X-C, Table 1, Bank's Code of Conduct." The IECD opined that as a PNB officer, Capili was in the best position to understand that the issuance of worthless checks disrupts banking transactions, trading and commerce; also, Capili's failure to inform PNB that she owned SB violated its Manual on Personnel and Manpower Development, and its Employee Handbook; and her untruthful statement in her "Statement of Equity Holdings and/or Connections"^[17] that as of December 31, 2003, she had nothing to report even if she owned SB is a concealment of fact amounting to falsification of personnel and bank records.

In her Answer^[18] to IECD Memorandum, Capili asserted that the Makati case was already dismissed^[19] with finality; the Bulacan case was still pending, but it had no reasonable connection to her function as PNB officer; she did not falsify any personnel or bank records because on November 30, 2005, she disclosed her ownership of SB;^[20] and, she did not indicate in her 2003 Statement of Equity Holdings and/or Connections her interest in SB because it was a dormant business that had only engaged in 2 transactions since 1999.

In its Decision^[21] dated January 16, 2007, PNB's Administrative Adjudication Panel (AAP) declared that Hyun's accusation, and the charge of falsification against Capili were without basis; and that the issue on her purported questionable integrity lost its basis relative to the Makati case that was already dismissed. However, it stated that with respect to the Bulacan case, the decision therein would be necessary in resolving the issue on her character. Thus, AAP provisionally dismissed the administrative complaint against her.

On February 20, 2007, Capili informed PNB that in its August 24, 2006 Order,^[22] the Municipal Trial Court of Santa Maria, Bulacan already dismissed the Bulacan case; as such, she requested that she be excluded from the list of employees with pending administrative cases and that the benefits due her be released.^[23] On February 22, 2007, Edgardo T. Nallas (Nallas), PNB's First Senior VP (FSVP),

informed her that since the dismissal of the Bulacan case was provisional and PNB's decision is contingent upon its outcome, then its January 16, 2007 Decision remains.
[24]

On May 16, 2007, Capili attended the administrative hearing^[25] conducted by the AAP.

On August 1, 2007, the AAP rendered its Decision^[26] finding Capili guilty of violating PNB General Circular No. 2-1345^[27] (Policy on Loss of Confidence in relation to Article 282(e) of the Labor Code) and dismissing her effective August 9, 2007.^[28] It explained that Capili's issuance of worthless checks put her character in question. It also explained that under the BSP^[29] Circular No. 513, Series of 2006,^[30] the directors, officers or employees are disqualified when they have derogatory records with the NBI, among others, affecting their integrity and/or ability to discharge their duties; since Capili's NBI record indicated that she was a respondent in several criminal cases, then this gives basis to disqualify her from her work.

On August 23, 2007, Capili filed a Complaint^[31] against PNB, and its officers, Pres. Mier, Nallas, Anthony O. Chua, John D. Medina, Diego A. Allena, Jr., Carmela A. Pama, Ricardo C. Ramos and Ma. Luisia S. Toribio^[32] for illegal dismissal; non-payment of salary, service incentive leave, 13th month pay, retirement benefits; actual, moral and exemplary damages, attorney's fees, among other claims.

In her Position Paper,^[33] Reply,^[34] and Rejoinder,^[35] Capili argued that her termination was without cause because all the charges supporting PNB's loss of confidence had been dismissed by the proper courts. She stated that in PNB's Decision dated January 16, 2007 (First Decision), the AAP held that Hyun's complaint and the charge of falsification against her were without sufficient basis. She also insisted that the BP 22 cases against her were not work-related and were already dismissed with finality. She added that she submitted to PNB court clearances^[36] showing that there were no pending cases against her.

Capili claimed that she was singled out by PNB since there were other PNB managerial employees, who had cases in court like her; but unlike her, they were not administratively charged. Lastly, she averred that notwithstanding the administrative case, she was given a rating^[37] of "Very Good" in her latest performance appraisal report, which showed that she consistently and completely met the demands of her work.

On November 16, 2007, the MTC dismissed with finality the Bulacan case.^[38]

For their part, PNB and its officers argued in their Position Paper,^[39] Reply^[40] and Rejoinder^[41] that as AVP - SMD, Capili occupied a position requiring PNB's trust and confidence. According to them, Capili's questionable activities and/or conduct were revealed through the complaint of Hyun, the BP 22 cases, and her 2003 Statement of Equity and/or Connections. They also affirmed that its Second Decision dismissing Capili from her work is valid because it emanated from the administrative charges pending at the time of its rendition. They further declared that Capili was notified of the charges against her and was given the chance to answer them; she also was

given a second notice informing her of the penalty of dismissal imposed against her.

Ruling of the Labor Arbiter

On September 11, 2010, the LA rendered a Decision^[42] finding PNB guilty of illegally dismissing Capili. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered ordering respondent Philippine National Bank to:

1. Immediately reinstate complainant (*Capili*) to her former position without loss of seniority rights and benefits;
2. Pay complainant full backwages which as of this Decision is now P2,146,000.00 subject to further computation up to the time of her actual reinstatement;
3. Pay complainant P20,076.92 (P2,230.76 x 9 days), representing her salaries for the period August 1-9,2007;
4. Pay complainant P58,000.00 representing her 13th month pay for the year 2007;and
5. Pay complainant attorney's fees equivalent to 10% of the total award. All other claims are dismissed for lack of factual and legal basis.

SO ORDERED.^[43]

The LA decreed that despite PNB's compliance with the required procedural due process, its claim of loss of trust and confidence on Capili is unfounded as the latter committed no derogatory act against PNB, and even had impressive work performance appraisal. He also pointed out that the dismissal of the administrative case under PNB's First Decision was only provisional because of the Bulacan case, which PNB viewed as a prejudicial issue to the administrative case. He added that all the BP 22 cases against Capili were already dismissed by the courts; thus, she enjoys the presumption of innocence. Finally, he stressed that Capili issued the subject checks a long time ago, in her personal dealings that were unrelated to her work.

PNB and its officers appealed the LA Decision.

Pending appeal in the main case, Capili moved for the execution of the LA Decision on her immediate reinstatement. On December 22, 2010, the LA approved Capili's payroll reinstatement ordering PNB to deposit her accrued salaries with the NLRC Cashier until the case is decided with finality.^[44] On March 24, 2011, acting on Capili's motion, the LA ordered the release in her favor P328,666.67 that PNB deposited to the NLRC Cashier.^[45]

PNB and its officers appealed^[46] the March 24, 2011 LA Order arguing that the

December 22, 2010 Order only granted the deposit of Capili's payroll salary, and not the release thereof to Capili while the main case is pending.

Ruling of the National Labor Relations Commission

On May 31, 2011, the NLRC affirmed^[47] the September 11, 2010 LA Decision. It held that to be a ground for dismissal, loss of trust and confidence must refer to work-related acts, which make the concerned employee unfit to continue with his work. It ruled that Capili's issuance of checks was personal in nature and did not pertain to her duties as AVP. It also declared that the BP 22 cases against her were already dismissed with finality. Hence, PNB's loss of confidence is without basis.

The NLRC also clarified that BSP Circular No. 513 relied upon by PNB pertained to the disqualification of officers or employees from holding a director position; there being no proof that Capili was a PNB Director, then this circular is not applicable here. It added that the NBI record under "Capili, Susan" does not show that its entire information pertained to Capili herself. It likewise noted that Capili in fact submitted to PNB court clearances showing that she was not convicted of any offense nor was there any pending case against her. It also ruled that in PNB's First Decision, Capili was absolved of the charge of falsification arising from her purported non-disclosure of business interest, and its Second Decision did not discuss such accusation at all.

Meanwhile, on July 15, 2011, the NLRC denied^[48] the appeal on the March 24, 2011 LA Order. Later, it also denied^[49] PNB and its officers' Motion for Reconsideration.

On July 22, 2011, the NLRC denied^[50] the Motion for Reconsideration on its May 31, 2011 Decision.

Ruling of the Court of Appeals

Undeterred, PNB filed with the CA a Petition for *Certiorari* essentially reiterating that it validly dismissed Capili. It stated that Capili's issuance of worthless checks violated its policy on loss of confidence; there is reasonable relation between her work and her purported dishonest conduct since she was expected to uphold bank-related laws more than an ordinary employee. It also faulted Capili for transacting with Hyun within its premises because it gave the semblance of a work-related deal. PNB likewise insisted that its First Decision was subject to the revival of the charges, and its Second Decision was a mere continuation of the proceedings in the administrative case.

In its Supplemental Petition, PNB ascribed grave abuse of discretion to the NLRC for ordering the release of the deposited salaries to Capili because it contravenes the December 22, 2010 NLRC Order that merely required the deposit of such salaries to the NLRC Cashier.

For her part, Capili alleged that PNB's First Decision dismissed all charges against her with finality, except the charge arising from the then pending Bulacan case. She also explained that the BP 22 cases against her did not involve PNB, and PNB merely used these dormant cases to illegally dismiss her. She also affirmed that these BP 22 cases were all dismissed; hence, they cannot be the basis of her termination.