

## SECOND DIVISION

[ G.R. No. 182475, November 21, 2012 ]

**LENN MORALES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND METROPOLITAN BANK AND TRUST COMPANY, RESPONDENTS.**

### D E C I S I O N

**PEREZ, J.:**

Filed pursuant to Rule 45 of the *1997 Rules on Civil Procedure*, the Petition for Review on *Certiorari* at bench primarily assails the Decision<sup>[1]</sup> dated 20 September 2007 rendered by the then Nineteenth Division of the Court of Appeals (CA) in CA-G.R. SP No. 02405,<sup>[2]</sup> the dispositive portion of which states:

WHEREFORE, the petition for certiorari filed by [Morales] is hereby xxx DENIED for lack of merit. Accordingly, the assailed decision and resolution of the NLRC dated June 28, 2006 and September 15, 2006, are hereby UPHELD respectively.

SO ORDERED.<sup>[3]</sup>

The facts are not in dispute.

Sometime in August 1992, petitioner Lenn *Morales* was hired by Solidbank as Teller for its Rizal Avenue Branch in Tacloban City. With said bank's merger with respondent Metropolitan Bank & Trust Company (*Metrobank*) in September 2000, the latter, as surviving entity, absorbed Morales and assigned him to its Customer Service Relations-Reserve Pool (CSR-RP) which was composed of employees who, with no permanent places of assignment, acted as relievers whenever temporary vacancies arise in other branches. Designated as reliever for Metrobank's Main Branch in Tacloban City, Morales was likewise assigned to work in the same capacity for the bank's other Visayas Region III branches. From a job with a grade four rank, Morales was subsequently promoted in April 2003<sup>[4]</sup> to the position of Customer Service Representative (CSR), with a job grade 6 rank and a gross monthly salary of P16,250.00. It was while occupying the latter position that Morales was informed by Federico **Mariano**, the Senior Manager of Metrobank's Tacloban City Main Branch, that he was covered by the bank's Special Separation Program (SSP) and that, in accordance therewith, his employment was going to be terminated on the ground of redundancy.<sup>[5]</sup>

On 27 August 2003, Morales was furnished a copy of a memorandum of the same date informing him that, after a review of its organizational structure, Metrobank had found his services redundant and will consider him separated effective 1

October 2003. Assured that his termination was through no fault of his own but mainly due to business exigencies and developments in the banking industry, Morales was notified that he shall be paid the following: (a) a redundancy premium/separation pay, on top of his entitlements under the bank's retirement plan; (b) proportionate 13th month pay; (c) cash conversion of his outstanding vacation and sick leave credits; and, if applicable, (d) the return of his Provident Fund contributions; and, (e) cash surrender value of his Insurance.<sup>[6]</sup> Having signed a form on the same day signifying his unqualified and unconditional acceptance of Metrobank's decision to terminate his employment,<sup>[7]</sup> Morales executed on 10 November 2003 a *Release, Waiver and Quitclaim* acknowledging receipt of the sum of P158,496.95 as full payment of his monetary entitlements.<sup>[8]</sup>

On 20 February 2004, Morales filed against Metrobank a complaint for illegal dismissal, separation pay, backwages, moral and exemplary damages as well as attorney's fees.<sup>[9]</sup> Together with a similar complaint filed by one Raymundo **Piczon**, Morales' complaint was docketed as NLRC RAB Case No. 2-0046-04 before the Regional Arbitration Branch No. VIII of the National Labor Relations Commission (NLRC). In support of his complaint, Morales alleged that, despite being an organic member of the Rizal Avenue Branch, he was assigned to Metrobank's Zamora St. Branch in view of his having signed a petition against the driver of the armored car who was eventually dismissed. With his actions suddenly closely watched and blown out of proportion, Morales claimed that he started receiving directives for him to explain his unauthorized absences and out of town allowances which, far from being infractions, were simply the results of miscommunication. Arbitrarily singled out for termination, he was supposedly forced to sign the *Release, Waiver and Quitclaim* by Mariano who embarrassed him by announcing that his services had already been terminated and that he was no longer required to report for work.<sup>[10]</sup>

In its position paper, Metrobank averred that it had adopted the SSP since 1995 as a way of addressing worsening economic conditions and stiff competition with strategies designed to make its operations efficient but cost-effective. Towards said end, it claimed to have embarked on a major component of SSP called the Headcount Rationalization Program (HRP) which, taking into consideration the volume of its transactions vis-à-vis the massive computerization and automation of its operating systems, targeted the reduction of its existing workforce by 10% by the end of 2003. Having created and/or consolidated branches, centralized loan processing and adopted a branch headcount reduction scheme, Metrobank asserted that it identified 291 positions as superfluous, utilizing as criteria such factors as performance, work attitude and cost. Among the areas where the HRP was conducted was Visayas Region III which was directed to reduce the manpower of its 13 branches spread out in three provinces by 15 employees. Affected was its eight-man reserve pool which was composed of former Solidbank employees who acted as relievers whenever temporary vacancies occurred in the Region's branches.<sup>[11]</sup>

Metrobank further asserted that the volume of the Region's transactions required only six employees in the reserve pool, thereby rendering two positions superfluous. As a member of the reserve pool, Morales allegedly had a record of unauthorized absences as well as complaints for undesirable and unprofessional conduct from various Branch Heads. In view of the absence of redeployment opportunities for him, Metrobank claimed Morales was included in the SSP and was eventually considered for termination on the ground of redundancy. Aside from the

fact that Morales was duly informed of the management's decision more than one month ahead of his actual severance from service, Metrobank claimed to have served the Department of Labor and Employment (DOLE) the required Establishment Termination Report on 29 August 2003. Likewise accorded the separation benefits included in the SSP, Morales supposedly expressed his unqualified and unconditional acceptance of his termination and, upon receipt of his monetary entitlements, voluntarily executed the aforesaid *Release, Waiver and Quitclaim*. Claiming good faith in the implementation of its redundancy program, Metrobank prayed for the dismissal of Morales' complaint for lack of merit.<sup>[12]</sup>

On 11 November 2005, Executive Labor Arbiter Jesselito Latoja rendered a decision finding Morales' termination from service illegal on the ground that his promotion in April 2003 contradicted Metrobank's claim that his poor work performance contributed to his inclusion in the SSP. Brushing aside the *Release, Waiver and Quitclaim* for having been prepared by Metrobank, the Labor Arbiter ruled that Morales was entitled to reinstatement without loss of seniority rights, backwages assessed at P390,005.00 at the time of the rendition of the decision, 13th month pay in the sum of P32,500.50, quarterly bonus in the sum of P130,002.00 and CBA signing bonus in the sum of P120,000.00. On the ground that Morales' dismissal from service was tainted with bad faith and malice, the Labor Arbiter likewise held Metrobank liable to pay said employee P100,000.00 in moral damages, P100,000.00 in exemplary damages and attorney's fees which, at 10% of the total award, was computed at P87,250.65. From the grand total of P959,757.15 in monetary awards, the Labor Arbiter decreed the deduction of the sum of P158,496.95 which Morales had acknowledged to have received by way of separation benefits.<sup>[13]</sup>

On appeal, the foregoing decision was reversed and set aside in the 20 July 2006 Decision rendered by the Fourth Division of the NLRC in NLRC Case No. V-000200-2006. Finding that Metrobank validly implemented the HRP on a nationwide scale in connection with the SSP, the NLRC ruled that Morales termination in accordance therewith belied the latter's claim that he was arbitrarily singled out for dismissal from service. Given that the reserve pool in Visayas Region III was overstaffed, Morales was legitimately terminated in view of his poor work performance and negative attitude which, at one point, gravely jeopardized the operations of the branch to which he was temporarily assigned. Applying the general rule that the characterization of an employee's services as redundant is a management prerogative which should not be interfered with absent showing of abuse, the NLRC also upheld the validity of the *Release, Waiver and Quitclaim* on the ground that the P158,496.95 Morales received represented a reasonable settlement of his claims.<sup>[14]</sup> Morales' motion for reconsideration of the decision was denied for lack of merit in the NLRC's Resolution dated 15 September 2006.<sup>[15]</sup>

Aggrieved, Morales filed the Rule 65 Petition for *Certiorari* docketed before the CA Cebu City Station as CA-G.R. SP No. 02405, on the ground that the NLRC gravely abused its discretion in reversing the Labor Arbiter's decision. Maintaining that Metrobank's claim of redundancy was belied by its hiring of one Abigail Perez as replacement for his position, Morales also argued that Metrobank did not comply with the notice requirement for a termination of employment on the ground of redundancy.<sup>[16]</sup> On 20 September 2007, however, the CA's Nineteenth Division rendered the herein assailed decision, denying the foregoing petition for lack of merit. Upholding the validity of Morales' termination from employment, the CA

discounted the grave abuse of discretion imputed against the NLRC for ruling that Metrobank's redundancy program legitimately entailed reduction of its workforce to make it more responsive to the actual demands and necessities of its business. Considering that Abigail Perez was hired as a clerk on a permanent status for the bank's Ormoc Branch, the CA also ruled that said employee could not be considered as Morales' replacement. Finding that Metrobank complied with the notice requirement under Article 283 of the *Labor Code*, the CA ultimately sustained the validity of the *Release, Waiver and Quitclaim* executed by Morales.<sup>[17]</sup>

Dissatisfied, Morales filed the Rule 45 petition for review at bench,<sup>[18]</sup> seeking the reversal of the CA's 20 September 2007 Decision on the following grounds:

(a)

THE COURT OF APPEALS ERRONEOUSLY UPHELD THE DISMISSAL OF HEREIN PETITIONER ON AUTHORIZED CAUSE OF REDUNDANCY WHICH WAS MADE KNOWN TO PETITIONER ON [THE] SAME DATE HE WAS INFORMED HE [WAS] NO LONGER REQUIRED TO REPORT FOR OFFICE AND WITHOUT SUBJECTING OTHER SIMILARLY SITUATED EMPLOYEES OF THE SAME POSITION AND RESPONSIBILITIES TO THE STANDARD OF TERMINATION ON REDUNDANCY

(b)

THE COURT OF APPEALS ERRONEOUSLY UPHELD THE DISMISSAL OF HEREIN PETITIONER THOUGH THE DISMISSAL IS TAINTED WITH ARBITRARINESS AND BAD FAITH AS FOUND BY THE LABOR ARBITER AS THE HEREIN PETITIONER WAS EVEN PROMOTED FIVE MONTHS BEFORE HIS TERMINATION CONTRARY TO THE CRITERIA IN THE SSP OR HRP ON NON-PROMOTION WITHIN THE PERIOD OF FIVE YEARS

(c)

THE COURT OF APPEALS ERRONEOUSLY UPHELD THE DISMISSAL ON AMBIVALENT AND EQUIVOCAL PROGRAMS WHICH ON ANALYSIS ARE ACTUALLY RETRENCHMENT PROGRAM[S] AND THE REQUISITES FOR VALID TERMINATION BY RETRENCHMENT NOT HAVING BEEN COMPLIED WITH

(d)

THE COURT OF APPEALS ERRONEOUSLY UPHELD THE VALIDITY OF THE QUITCLAIM ALTHOUGH IT [IS] APPARENT THAT THE PETITIONER WAS COMPELLED TO ACCEDE TO IT BY ECONOMIC REASONS.<sup>[19]</sup>

We find the petition bereft of merit.

One of the authorized causes for the dismissal of an employee,<sup>[20]</sup> redundancy exists when the service capability of the workforce is in excess of what is reasonably

needed to meet the demands of the business enterprise.<sup>[21]</sup> A position is redundant when it is superfluous, and superfluity of a position or positions could be the result of a number of factors, such as the overhiring of workers, a decrease in the volume of business or the dropping of a particular line or service previously manufactured or undertaken by the enterprise.<sup>[22]</sup> Time and again, it has been ruled that an employer has no legal obligation to keep more employees than are necessary for the operation of its business.<sup>[23]</sup> For the implementation of a redundancy program to be valid, however, the employer must comply with the following requisites: (1) written notice served on both the employees and the DOLE at least one month prior to the intended date of termination of employment; (2) payment of separation pay equivalent to at least one month pay for every year of service; (3) good faith in abolishing the redundant positions; and (4) fair and reasonable criteria in ascertaining what positions are to be declared redundant and accordingly abolished.<sup>[24]</sup>

Contrary to the first and second errors Morales imputes against the CA, our perusal of the record shows that Metrobank has more than amply proven compliance with the third and fourth of the above-enumerated requisites for the validity of his termination from service on the ground of redundancy. Under the SSP which Metrobank adopted in 1995, employees who voluntarily gave up their employment were paid the amount of separation pay they were entitled under the law and a premium equivalent to 50%-75% of their salaries. It appears that employees "whose work evaluation showed consistent poor performance and/or those who had not been promoted for five years" were also considered primary candidates for optional separation from service.<sup>[25]</sup> In order to meet the challenges of the business and to make its operations efficient and cost effective, however, it was shown that Metrobank further conducted a bank-wide operational review and study which resulted in the adoption in March 2003 of the HRP, a major component of the SSP which was designed to reduce its workforce by 10%. Entailing various initiatives like conversion of regular branches into mini-branches, consolidation of branches, centralization of loans processing and branch headcount reduction, the HRP yielded 291 employees who could no longer be redeployed, fifteen (15) of whom belonged to Visayas Region III.<sup>[26]</sup>

In implementing a redundancy program, it has been ruled that the employer is required to adopt a fair and reasonable criteria, taking into consideration such factors as (a) preferred status; (b) efficiency; and (c) seniority,<sup>[27]</sup> among others. Consistent with this principle, Metrobank established that, as a direct result of the adoption of the HRP, it was determined that the volume of transactions in Visayas Region III required the further reduction of its eight-man reserve pool by two employees.<sup>[28]</sup> As these employees had no permanent place of assignment and merely acted as relievers whenever temporary vacancies arise in other branches, they were the most logical candidates for inclusion in the SSP. Already lacking preferred status in Metrobank's hierarchy of positions, Morales was included in the SSP because of his poor work performance which reportedly caused complaints from the branches where he was temporarily assigned as reliever.<sup>[29]</sup> To our mind, the foregoing circumstances contradict Morales' claim that he was arbitrarily singled out for termination by Metrobank which, having validly determined the surplus in its manpower complement, appears to have appropriately identified him as a candidate for the SSP on account of his work attitude.