

## EN BANC

**[ G.R. No. 175276, May 31, 2011 ]**

**ISABELO L. GALANG, PETITIONER, VS. LAND BANK OF THE  
PHILIPPINES, RESPONDENT.**

**[G.R. NO. 175282]**

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. ISABELO L.  
GALANG, RESPONDENT.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

These are two consolidated petitions for review on certiorari<sup>[1]</sup> filed by Isabelo L. Galang and Land Bank of the Philippines (Land Bank) to assail the Decision<sup>[2]</sup> dated May 25, 2006 and Resolution<sup>[3]</sup> dated October 25, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 91910. The CA had reversed and set aside Resolution Nos. 040894<sup>[4]</sup> and 051256<sup>[5]</sup> of the Civil Service Commission (CSC) denying Galang's Motion for Issuance of Writ of Execution<sup>[6]</sup> and motion for reconsideration.

The facts of the case are undisputed.

On June 20, 1988, Isabelo L. Galang, the Branch Manager of Land Bank Baliuag, Bulacan was charged with Dishonesty, Misconduct, Conduct Prejudicial to the Best Interest of the Service, Gross Neglect of Duty, Violation of Rules and Regulations, and Receiving for Personal Use a Fee, Gift or Other Valuable Thing in the Course of Official Duties or in Connection Therewith when such Fee is Given by Any Person in the Hope or Expectation of Receiving a Favor or Better Treatment than that Accorded Other Persons or Committing Acts Punishable Under the Anti-Graft Laws.

The case was docketed as Administrative Case No. 88-002.<sup>[7]</sup>

Allegedly, Galang demanded money from four borrowers of the bank, namely, Ceferino Manahan, Gregorio Modelo, Sotero Santos and Feliza de Vera, in return for a reduction of interest rates and condonation of penalty charges on their overdue loans. The complaint further accuses Galang of making unauthorized disbursements for the repair of the company car. Along with Galang, the borrowers also charged Conrado Ocampo, a Project Analyst in the same branch, for his alleged participation in soliciting money from them.

On November 3, 1989, the Hearing Officer of Land Bank issued a Joint Resolution dismissing both charges for insufficiency of evidence. This was later reversed by Land Bank's General Counsel, Corazon P. Del Rosario, who recommended Galang and Ocampo's dismissal to the Board of Directors.

On April 26, 1990, the Board of Directors issued Resolution No. 90-043<sup>[8]</sup> which approved Del Rosario's recommendation but modified the penalty to forced resignation with forfeiture of all benefits. Aggrieved, Galang and Ocampo appealed to the Merit Systems Protection Board (MSPB).

In a Decision<sup>[9]</sup> dated March 8, 1991, the MSPB sustained the penalty imposed upon Galang and Ocampo but found them liable only for Dishonesty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Receiving for Personal Use a Fee, Gift or Other Valuable Thing in the Course of Official Duties or in Connection Therewith when such Fee is Given by Any Person in the Hope of Receiving a Favor or Better Treatment than that Accorded Other Persons. The MSPB, however, absolved Galang of the charges of Gross Neglect of Duty and Violation of Rules and Regulations. Galang and Ocampo filed a motion for reconsideration, which was denied in a Decision<sup>[10]</sup> dated June 11, 1991.

Before the CSC, Galang and Ocampo's appeal was dismissed for lack of merit through Resolution No. 93-1001<sup>[11]</sup> dated March 12, 1993. Their motion for reconsideration was likewise denied in Resolution No. 93-3812.<sup>[12]</sup>

Galang alone filed a petition for certiorari<sup>[13]</sup> with the Supreme Court alleging grave abuse of discretion committed by the CSC. In a Resolution<sup>[14]</sup> dated June 20, 1995, the Court referred the matter to the CA pursuant to Revised Administrative Circular No. 1-95.<sup>[15]</sup>

On November 21, 1996, the CA rendered a Decision<sup>[16]</sup> in CA-G.R. SP No. 37791 nullifying Resolution Nos. 93-1001 and 93-3812. The appellate court excluded the affidavits of the complainants as inadmissible in evidence for lack of cross-examination. Without them, it found no substantial evidence to hold Galang administratively liable.

Subsequently, Galang filed a Motion for Clarification and/or Reconsideration<sup>[17]</sup> with a prayer for the CA to order his reinstatement and the payment of his back wages, bonuses and other fringe benefits reckoned from the date of his dismissal. Land Bank, likewise, moved for reconsideration.

In a Resolution<sup>[18]</sup> dated September 5, 1997, the CA granted Galang's motion and directed Land Bank to reinstate him and to pay him back salaries not exceeding five years. Land Bank received notice of said resolution on September 15, 1997, but filed no appeal.

Consequently, Galang filed a Motion to Effect Entry of Judgment.<sup>[19]</sup> On November 14, 1997, Land Bank filed before this Court a Petition for Certiorari<sup>[20]</sup> which was docketed as G.R. No. 131186.

In a Resolution<sup>[21]</sup> dated January 17, 2001, this Court dismissed the petition. This Court concluded that Land Bank's petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, was merely an afterthought considering that it failed to file a petition for review on certiorari under Rule 45 of said Rule. The bank moved for reconsideration but was denied. Thus, on August 7, 2001, this

Court issued an Entry of Judgment.<sup>[22]</sup>

In the meantime, Galang was reinstated in the payroll on August 16, 2001. However, on December 14, 2001, Galang wrote Land Bank's President, Margarito Teves, complaining that he has yet to receive Personnel Economic Relief Allowance (PERA), Representation and Travel Allowance (RATA), Meal Allowance and Rice Subsidy. He claimed that since this Court found Land Bank's petition for certiorari to be a mere afterthought, he should have been reinstated on October 1, 1997 - after the fifteen (15)-day period to appeal the Resolution dated September 5, 1997 had lapsed. Galang also insisted that his back salaries be computed based on the current salary rate prescribed for his previous position.<sup>[23]</sup>

In a letter<sup>[24]</sup> dated February 8, 2002, Land Bank expressed its willingness to pay Galang Meal Allowance and Rice Subsidy. It, however, refused to include PERA and RATA as part of his back salaries for 1990 to 1995; the former, because it was authorized to be paid to LBP employees only in 1997 and the latter, because he was unable to discharge the functions of his office. Land Bank further explained that Galang could not be reinstated, or his back wages paid from October 1, 1997 since there was yet no final and executory decision of the court then. The bank maintained that his salaries were computed correctly, based on the prevailing rate for the period when he was unable to work in accordance with the Court's ruling in *Bangalisan v. Court of Appeals*.<sup>[25]</sup>

On June 7, 2002, Galang filed a Motion for Clarification<sup>[26]</sup> with this Court to settle the following issues:

9.1 Whether Respondent is entitled to Meal and Rice Allowances, Representation and Travel Allowance and Housing Allowance, and the basis thereof;

9.2 Whether the payment of Provident Fund is limited to five (5) years only;

9.3 The basis for computing the 5-year backwages;

9.4 Whether Respondent should have been reinstated since October 1, 1997.<sup>[27]</sup>

On July 24, 2002, this Court issued a Resolution<sup>[28]</sup> which noted without action Galang's motion for clarification in view of the Entry of Judgment<sup>[29]</sup> on August 7, 2001.

On May 15, 2003, Galang filed a Motion for Issuance of Writ of Execution<sup>[30]</sup> with the CSC to enforce the November 21, 1996 Decision of the CA in CA-G.R. SP No. 37791, which ordered his reinstatement and the payment of his backwages for five years.

The Commission denied said motion in Resolution No. 040894 dated August 9, 2004. Galang moved for reconsideration, but his motion was denied in Resolution

No. 05-1256 dated September 13, 2005. The CSC held that execution will not lie because Land Bank had complied with the appellate court's decision.

On November 5, 2005, Galang filed a Petition for Review<sup>[31]</sup> under Rule 43 with the CA.

In the assailed Decision dated May 25, 2006, the appellate court granted said petition and declared Galang entitled to PERA, RATA and other benefits attached to his position. However, it upheld his reinstatement on August 16, 2001 and sustained the computation of his back wages based on the prevailing rate at the time of his dismissal. The motions for reconsideration respectively filed by Galang and Land Bank were likewise denied by the appellate court in its Resolution dated October 25, 2006.

Hence, on December 8, 2006, Galang filed a petition for review on certiorari with this Court raising the following issues:

I.

THE HONORABLE COURT ERRED IN NOT RULING THAT THE COMPUTATION OF PETITIONER'S BACKWAGES SHOULD BE BASED ON HIS CURRENT SALARY LEVEL; AND

II.

THE HONORABLE COURT ERRED IN NOT RULING THAT PETITIONER IS ENTITLED TO REINSTATEMENT AS EARLY AS 01 OCTOBER 1997.<sup>[32]</sup>

For its part, Land Bank filed a petition for review on certiorari on December 22, 2006 based on the following assignment of errors:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS HAS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT RULED THAT [PERSONNEL] ECONOMIC RELIEF ALLOWANCE (PERA) AND REPRESENTATION AND [TRANSPORTATION] ALLOWANCE (RATA) SHOULD BE INCLUDED IN THE PAYMENT OF RESPONDENT'S BACKWAGES.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS HAS LIKEWISE COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT HELD THAT RESPONDENT GALANG IS STILL ENTITLED TO THE PAYMENT OF MEAL ALLOWANCE AND RICE SUBSIDY.<sup>[33]</sup>

In order to resolve these twin petitions, the Court must address the following questions: (1) When should Galang be reinstated? (2) What should be the basis of

computing his back salaries? and (3) Is he entitled to PERA, RATA, Meal Allowance and Rice Subsidy?

Citing the case of *Cristobal v. Melchor*,<sup>[34]</sup> Galang contends that his back wages should be computed based on the rate of his salary at reinstatement. He argues that since Land Bank availed of the wrong remedy, his reinstatement should be reckoned from October 1, 1997 or after the reglementary period to appeal had lapsed.

Land Bank, on the other hand, disputes Galang's demand for PERA and RATA. It reasons that since the five-year period for which Galang shall receive back salaries is from July 1990 to June 1995, he is not entitled to PERA, a benefit which employees of the Land Bank started receiving only in 1997. As to RATA, Land Bank maintains that the nature of such benefit precludes Galang from claiming it since he did not incur expenses for representation and transportation while he was not allowed to work. Finally, it claims that it had already paid Galang's Rice Subsidy and Meal Allowance.

We find the petition partly meritorious.

The Omnibus Rules Implementing Book V of Executive Order No. 292<sup>[35]</sup> and Other Pertinent Civil Service Laws define reinstatement as the issuance of an appointment to a person who has been previously appointed to a position in the career service and who has, through no delinquency or misconduct, been separated therefrom, or to the restoration of one who has been exonerated of the administrative charges filed against him.

In the present case, Galang was absolved of the administrative charges against him in the CA Decision dated November 21, 1996. Upon motion, the appellate court issued the Resolution dated September 5, 1997, which ordered his reinstatement and the payment of his back salaries for five years.

It is settled that an illegally terminated civil service employee is entitled to back salaries limited only to a maximum period of five years, and not full back salaries from his illegal termination up to his reinstatement.<sup>[36]</sup> Hence, in Galang's case, he is entitled to back salaries from July 1990 to June 1995. This is not disputed by the parties. Rather, the uncertainty centers on when he should be reinstated.

The records show that Galang was reinstated in Land Banks's payroll on August 16, 2001. He argues, however, that he should be reinstated on October 1, 1997, after the fifteen (15)-day period to appeal the Resolution dated September 5, 1997 had lapsed.

Galang's position on the effective date of his reinstatement is correct.

Well-entrenched is that a judgment or order becomes final upon the lapse of the period to appeal, without an appeal being perfected or a motion for reconsideration being filed.<sup>[37]</sup>

In this case, Land Bank received notice of the CA Resolution dated September 5, 1997 on September 15, 1997. Thus, it had fifteen (15) days from September 15,