

## FIRST DIVISION

[ G.R. No. 151349, October 20, 2010 ]

**LEANDRO M. ALCANTARA, PETITIONER, VS. THE PHILIPPINE  
COMMERCIAL AND INTERNATIONAL BANK, RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Resolution<sup>[1]</sup> issued on September 27, 2001 by the former Special Sixth Division of the Court of Appeals in CA-G.R. SP No. 66405, entitled "*Leandro M. Alcantara vs. Philippine Commercial and International Bank, et al.*" The Court of Appeals Resolution dismissed petitioner's petition for *certiorari* under Rule 65 of the Rules of Court assailing the Resolution<sup>[2]</sup> issued by the then Third Division of the National Labor Relations Commission (NLRC), which in turn affirmed the Decision<sup>[3]</sup> of Labor Arbiter Eduardo J. Carpio in NLRC-NCR Case No. 03-02573-98. The instant petition likewise seeks to annul and set aside the subsequent Court of Appeals Resolution<sup>[4]</sup> issued on December 20, 2001, which denied petitioner's motion for reconsideration of the aforesaid dismissal.

The NLRC succinctly outlined the pertinent facts of this case as follows:

The [petitioner], Leandro M. Alcantara, had been an employee of PCIB from August 15, 1974. He rose from the ranks until he became a branch manager of the PCIB's branch in Rizal Avenue, Manila. It is not disputed that prior to the present controversy, the [petitioner] had never been subjected to disciplinary action by his employer. The last basic monthly salary of the complainant as branch manager was allegedly P43,900.00.

Respondents alleged that on December 12, 1997, a certain Romy Espiritu called the office of Ms. Ana Lim of its Customer Care reporting the alleged involvement of the [petitioner] with a big syndicate. Two Certificates of Time Deposit (CTD) issued by PCIB were allegedly being used by the syndicate in their illegal activities.

It appears that on December 23, 1997, the [petitioner] prepared two (2) CTD's with an aggregate amount of P538,000.00 and P360,000.00. The CTDs were signed by the [petitioner] and Guillerma F. Alcantara, the head of Sales. However, the CTDs were unbooked and the duplicate control copy and PCIAV Input Document Copy do not state the due dates and term of the two (2) CTDs. [Petitioner] was the one who prepared and processed the CTDs.

The [petitioner] was dismissed from employment because it was

allegedly determined that the [petitioner] took advantage of the trust and confidence reposed in his position as branch manager and "falsified Bank records in order to facilitate a transaction amounting to P538,360,000.00 that was prejudicial to the welfare and interest of the Bank" (Annex 4 of Respondent's Position Paper). Thus, the respondent stated in its Memorandum:

"Please be informed that, after investigation, deliberation and a review of the records of the case against you, the BEC has determined that contrary to your duty and precisely taking advantage of the trust and confidence reposed in your position as Branch Manager, you falsified Bank records in order to facilitate a transaction amount to P538,360,000.00 that was prejudicial to the welfare and interest of the Bank.

The following factual circumstances were considered by the BEC as evidence clearly showing that you acted contrary to your duties as an officer of the Bank for your personal benefit and gain and consequently to the prejudice and damage of the Bank's interests:

1. You personally processed two (2) Irregular Peso Certificates of Time Deposit at 8% interest rate, as follows:

ACCOUNT NAME	CTD NO.	AMOUNT	TERM	DUE DATE
Ampa Trading	003015	P238.36MM	360 days	Dec. 18/98
Madelyn Benco	C. 003016	300.00MM	360 days	Dec. 18/98

2. As you admitted before your Area Manager, you photocopied said Certificates and gave them to the client knowing fully well that they are unfunded and therefore, spurious.

3. You deliberately failed to indicate on the duplicate Control Copy and PCIAC Document Copy its due date and term which proves your malicious intent to conceal the transaction and which itself is tantamount to tampering of Bank records.

4. In spite of the fact that at time of the placement there was no "available quote" for a 360 day term, you unilaterally went thru the process of placement and which only shows that said placement will not materialize or therefore, spurious.

[Petitioner] admitted that he was the one who processed and prepared the CTDs. He claims that the CTDs were not booked or recorded completely because the same were already cancelled. [Petitioner] alleged that no bank policy nor rules and regulations prohibit a Branch Manager from assisting a depositor or depositors of the bank. Nothing was done in

secrecy and CTDs were allegedly promptly cancelled owing to the failure of the clients to come up with the money within the time frame given by [petitioner].<sup>[5]</sup>

On August 12, 1998, petitioner filed with the Regional Arbitration Branch of the NLRC a complaint for illegal dismissal; illegal suspension; payment of backwages; and non-payment of salaries/wages, allowance, separation pay, retirement benefits, service incentive leave pay, and accrued/unused sick leave and vacation leaves against respondent. In addition, petitioner asked for the payment of moral and exemplary damages, the suspension of his payment on his housing loan, and the return of his equity on his car loan.

Unable to reach an amicable settlement, the parties were ordered to submit their respective position papers.<sup>[6]</sup> Afterwards, the Labor Arbiter dismissed petitioner's complaint for illegal dismissal for lack of merit in a Decision dated February 1, 2000 wherein it was held that there was substantial evidence that petitioner manipulated the records of respondent to facilitate the anomalous transactions of the members of the alleged criminal syndicate. The dispositive portion of the said ruling states:

WHEREFORE, judgment is hereby rendered dismissing the complaint for lack of merit.<sup>[7]</sup>

Petitioner appealed the Labor Arbiter's Decision. However, the NLRC affirmed the same and dismissed petitioner's appeal for lack of merit in a Resolution dated March 26, 2001, the dispositive portion of which states:

WHEREFORE, premises considered, the decision appealed from is hereby AFFIRMED and the appeal DISMISSED for lack of merit.<sup>[8]</sup>

Undaunted, petitioner filed a Motion for Reconsideration but the same was denied by the NLRC in a Resolution<sup>[9]</sup> dated June 20, 2001. Thus, petitioner filed a petition for *certiorari* under Rule 65 of the Rules of Court with the Court of Appeals assailing the aforementioned NLRC resolutions which denied his appeal and motion for reconsideration. This petition was dismissed by the Court of Appeals in a Resolution dated September 27, 2001 on account of petitioner's failure to attach the material portions of the records of the NLRC case, and various relevant or pertinent documents, in accordance with paragraph 3, Section 3, Rule 46 of the 1997 Revised Rules of Civil Procedure.<sup>[10]</sup> The Court of Appeals held that due to the unavailability of the aforementioned portions of the record and relevant or pertinent documents, it was unable to resolve the issues presented to it and thus was constrained to dismiss the petition on account of the last paragraph of Section 3, Rule 46 of the 1997 Revised Rules of Civil Procedure, to wit:

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Petitioner subsequently filed a Motion for Reconsideration but this was denied by the Court of Appeals in a Resolution dated December 20, 2001, to wit:

The instant motion for reconsideration of the Resolution dated September 27, 2001, wherein petitioner pleads for a relaxation of the rules in his favor, deserves scant consideration.

The petition for certiorari which was dismissed via the resolution sought to be reconsidered, did not substantially comply with paragraph 3, Section 3 of Rule 46 of the Revised Rules of Civil Procedure. Even if petitioner were to subsequently comply with said rule at this stage, the petition can no longer be reinstated for per Resolution dated September 5, 2001, petitioner was given only until September 16, 2001 within which to file a valid petition, that is, one that conforms with the rules. As matters stand, the decision dated February 1, 2000 rendered by the National Labor Relations Commission in NLRC NCR CASE No. 03-02573-98 which he proposes to assail has already become final and executory.

WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.<sup>[11]</sup>

Thus, petitioner filed this instant petition wherein he raised the following issues:

I.

THE HONORABLE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT IT WAS SEASONABLY FILED WITHIN THE PRESCRIBED PERIOD BEFORE THE SAID COURT AND AFTER SUBMITTING THEREWITH ALL THE RELEVANT DOCUMENTS IN SUPPORT OF THE SAID PETITION VIA MOTION FOR RECONSIDERATION.

II.

THE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) IN AFFIRMING *IN TOTO* THE RESOLUTION OF THE LABOR ARBITER ACTED WITH GRAVE ABUSE OF DISCRETION WHEN THE ASSAILED RESOLUTION FAILED TO CONFORM WITH THE REQUIREMENT OF ARTICLE III SECTION 14 OF THE CONSTITUTION AS WELL AS RULE V SECTION 16 OF THE NLRC RULES OF PROCEDURE BY EXPRESSLY CLEARLY AND DISTINCTLY FAILING TO STATE THE FACTS AND THE LAW ON WHICH THE SAID DECISION IS BASED.

III.

THE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE

PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT THE NLRC IN AFFIRMING THE RESOLUTION OF THE LABOR ARBITER COMMITTED SERIOUS REVERSIBLE ERRORS IN HIS FINDING OF FACTS, CONSEQUENTLY IN ARRIVING AT ERRONEOUS CONCLUSIONS OF LAW - WHICH ERRORS, IF NOT CORRECTED WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO PETITIONER - IN HOLDING THAT PETITIONER MANIPULATED THE RECORDS OF THE BANK TO FACILITATE THE ANOMALOUS TRANSACTIONS OF THE CLIENTS; IN HOLDING THAT PETITIONER WAS OVERLY SOLICITOUS OF THE CLIENTS TO THE DETRIMENT OF PRIVATE RESPONDENT PCIB, THEREBY LENDING FULL FAITH AND CREDIT TO THE LATTER'S (PRIVATE RESPONDENTS') SELF-SERVING, UNFOUNDED AND BASELESS EVIDENCE TO THE EXCLUSION OF PETITIONER'S EVIDENCE.

IV.

THE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT CONTRARY TO THE IMPRESSION OF THE NATIONAL LABOR RELATIONS COMMISSION, THERE WAS INDEED NO SUBSTANTIAL EVIDENCE TO WARRANT FOR THE CONSEQUENT DISMISSAL OF HEREIN PETITIONER FOR THE SO CALLED "LOSS OF TRUST AND CONFIDENCE."

V.

THE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT THE NATIONAL LABOR RELATIONS COMMISSION IN AFFIRMING *IN TOTO* THE RESOLUTION OF THE HONORABLE LABOR ARBITER ACTED WITH GRAVE ABUSE OF DISCRETION AND REVERSIBLE ERROR IN NOT HOLDING PRIVATE RESPONDENT GUILTY FOR HAVING COMMITTED A VIOLATION OF PROCEDURAL DUE PROCESS AGAINST HEREIN PETITIONER.

VI.

THE PUBLIC RESPONDENT COURT OF APPEALS IN DISMISSING THE PRESENT PETITION FAILED TO APPRECIATE THE FACT THAT THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) IN AFFIRMING *IN TOTO* THE RESOLUTION OF THE HONORABLE LABOR ARBITER ACTED WITH GRAVE ABUSE OF DISCRETION AND REVERSIBLE ERROR IN NOT AWARDING THE PETITIONER OF HIS ACCRUED VACATION LEAVE, SICK LEAVE AND OTHER LABOR STANDARD BENEFITS EVEN ASSUMING FOR THE SAKE OF ARGUMENT THAT PETITIONER'S DISMISSAL IS FOUNDED ON LEGAL, VALID AND JUST CAUSE.<sup>[12]</sup>

The instant petition is partly meritorious.

In essence, this case revolves around two core issues:

I.