

FIRST DIVISION

[G.R. No. 163788, August 24, 2009]

ESTER B. MARALIT, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition^[1] for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 31 May 2004 Decision^[2] of the Court of Appeals in CA-G.R. SP No. 72540. The Court of Appeals set aside the 27 August 2001 Resolution^[3] of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 027826-01, affirming with modification the 22 January 2001 Decision^[4] of the Labor Arbiter in Sub-RAB Case No. 05-09-00316-00.

The Facts

Petitioner Ester B. Maralit (Maralit) worked for respondent Philippine National Bank (PNB) from 27 August 1968 to 31 December 1998. She began as a casual clerk and climbed her way to become branch manager.

In February 1998, PNB offered its personnel an early retirement plan. In its 25 February 1998 Board Resolution No. 1, PNB approved the Special Separation Incentive Plan (SSIP). On 7 July 1998, PNB issued General Circular No. 1-355/98^[5] laying down the guidelines for the availment of the SSIP. Under the Circular, personnel with pending administrative cases or who are under preliminary investigation may avail of the SSIP. However, payment of their benefits shall be made only after the resolution of their cases and only if they are not disqualified from receiving such benefits. The Circular stated:

A. Period for Submission of Prescribed Forms Under the Plan

Officers and employees who will retire or will be separated from the service under the Plan shall accomplish the attached prescribed form for availment of the separation benefits under the SSIP (Annex A). The duly accomplished forms shall be submitted directly to the Personnel Administration and Industrial Relations Division (PAIRD). These forms will only be received and acknowledged by PAIRD starting 8:00 AM of July 13, 1998 up to but not later than 5:00 PM of September 30, 1998.

The deadline for submission will strictly be observed and submissions made after 5:00 PM of September 30, 1998 will no longer be accepted.

All duly accomplished forms received by PAIRD during the prescribed period can no longer be withdrawn.

x x x x

D. Personnel With Administrative Cases/Exclusions

1. Personnel with pending administrative cases or those who are under preliminary investigation can also submit duly accomplished forms for availment of benefits under the SSIP but payment thereof shall be made only upon final resolution of their cases provided that the decision in said case does not disqualify them from the enjoyment of said benefits.^[6] (Emphasis supplied)

In its 8 September 1998 memorandum,^[7] PNB's Internal Audit Group (IAG) found that Maralit violated bank policies, which resulted in the return of unfunded checks amounting to P54,950,000. The IAG stated that:

BASIS OF THIS REPORT

Memorandum of VP Florencio C. Lat of Branch Operations and Consumer Banking Division -- Southern Luzon/Bicol dated July 9, 1998 referring to IAG for an immediate investigation the possible kiting operation in Pili Branch as reported in the memorandum dated July 8, 1998 of Per Pro Gay Ophelia T. Alano of Pili Branch addressed to SAM Ben-Hur Relativo of Branch Accounting Supervision Division on DAUD accommodation (Annexes A & B).

x x x x

VIOLATIONS OF BANK POLICIES AND PRESCRIBED PROCEDURES

Sanao Marketing Corporation was allowed drawings against uncollected deposits contrary to the provisions of Gen. Cir. 3-335/97 of May 15, 1997 Re: Drawings Against Uncollected Deposits (DAUD) which provides, among others, that (Annex W):

"In view of the inherent risk involved and the sanction that may be imposed by BSP in allowing DAUDs, concerned officers are enjoined to strictly observe the BSP and the Bank's policy on DAUD."

The following personnel allowed these DAUDs which resulted in the return of unfunded checks for P54.950 MM and its debit to Accounts Receivable -- Others:

1) Manager Ester B. Maralit

a. For approving (as co-signatory) the issuance of five Manager's Checks totalling P49.550 MM against the uncleared five Maybank checks for the same amount which she approved for deposit on the same day.

b. For Failure to stop the apparent kiting operation of Sanao Marketing Corporation wherein Manager's Checks payable to Amado Sanao were purchased against uncleared check deposits drawn by Mr. Sanao against his current account maintained at Maybank -- Naga Branch where the Manager's Checks purchased were negotiated.

In her memorandum dated July 9, 1998, addressed to VP Florencio Lat of Branch Operations & Consumer Banking Division -- SOL/Bicol, Manager Maralit stated, among others, that (Annex X):

x x x x

ACTIONS TAKEN

1. SVP Leopoldo A. Manuel approved the recommendation of AVP Milagros Pastrana of Branch Administrative Office -- Southern Luzon and Bicol dated July 9, 1998, for the 60-day temporary assignment of Manager Ester B. Maralit to Naga Branch vice Per Pro Ildefonso T. Lizaso, Unit Head -- Loans, Naga Branch who was assigned as Officer-In-Charge of Pili Branch, effective upon assumption of duties upon approval, without change in salary and allowances and without per diems (Annex Y).

Manager Maralit and Per Pro Lizaso assumed assumed their new assignments on July 15, 1998.

2. Branch Manager Lizaso furnished IAG, with a copy of Pili Branch report to Bangko Sentral ng Pilipinas dated July 28, 1998 on the "Report on Crime/Losses -- P54,950,000.00 Drawings Against Uncollected Deposits - - Sanao Marketing Corporation" (Annex Z). The report is in compliance with Gen Cir. 7-26/90 dated March 1, 1990 prescribing the format and requiring the submission of the report within five days from knowledge of crimes (Annex AA).^[8]

The IAG recommended that Maralit be required to submit her written explanation under oath.

On 15 September 1998, Maralit filed with PNB's Personnel Administration and Industrial Relations Division her application^[9] for early retirement.

In its 29 September 1998 memorandum,^[10] PNB charged Maralit with serious misconduct, gross violation of bank rules and regulations, and conduct prejudicial to the best interest of the bank. PNB stated:

You are hereby charged with Serious Misconduct, Gross Violation of Bank Rules and Regulations, and Conduct Grossly Prejudicial to the Best Interest of the Service consisting of giving undue and unwarranted preference, advantage or benefit to a private party through manifest partiality and evident bad faith committed by you while performing your duties as Manager of Pili Branch as follows:

1. On July 1, 1998, you approved five (5) unfunded Maybank-Naga Branch checks aggregating P49.550 MM for deposit to Current Account No. 377-830027-8 of Sanao Marketing Corporation and were used to purchase five Manager's Checks for the same amount against uncleared balance.

On July 2, 1998, the said Maybank checks were returned for reason drawn against uncollected deposits (DAUD). On the following day, these checks were redeposited. On July 6, 1998, said checks were again returned for reason "DAIF".

2. On July 6, 1998, you consented tolerated, and abetted the approval of four (4) unfunded Maybank-Naga Branch checks aggregating P5.4 MM for deposit to the abovementioned account to cover the over-the-counter encashment of "on-us" checks and incoming clearing checks on the day of the deposit, which eventually were returned on July 7, 1998 for reason "DAIF".

3. On July 7, 1998, you approved five (5) unfunded PCIBank-Paseo de Roxas Branch checks aggregating P54.950 MM for deposit to CA #377-830027-8 to fund the previously returned unfunded Maybank checks for P52.950 MM. The said PCIBank checks were likewise returned for reason "Payment Stopped" and "Insufficient Fund".

4. As a consequence of your foregoing acts, Bank funds were used for the benefit of the above-named private party to the damage and prejudice of the Bank.

BANK LOSS

As of July 10, 1998, the Bank stands to suffer losses in the total amount of P54.950 MM representing unpaid amount of the aforesaid returned checks, exclusive of interest and other charges.

In view of the foregoing, please submit to the Inspection and Investigation Unit (IIU) of the Internal Audit Group (IAG) your written answer under oath to the above charges together with whatever affidavits and other documentary evidence you may wish to submit within five (5) days from receipt of this memorandum why you should not be penalized for Serious Misconduct, Willful Breach of Trust and Gross Violation of Bank Rules and Regulations under Article 282 of the Labor Code.

Further, you are hereby informed that you have the right to be assisted by a representative in the preparation of your answer and you are

entitled to all the rights you have under the labor laws.

Attached is the Internal Audit report dated September 8, 1998.

PNB directed Maralit to submit her written answer under oath, together with affidavits and other documentary evidence, explaining why she should not be punished under Article 282 of the Labor Code for serious misconduct, willful breach of trust, and gross violation of bank rules and regulations.

In its 16 October 1998 memorandum,^[11] PNB placed Maralit under preventive suspension. PNB stated:

In connection with the Special Audit report of Internal Audit Group dated September 8, 1998 re: Unfunded Returned Checks for P54.950 MM of Sanao Marketing Corporation -- Pili Branch, which cited you as one of the personnel who allowed/approved drawings against uncollected deposits (DAUD) that resulted in the return of unfunded checks for P54.950 MM, you are hereby placed under preventive suspension for thirty (30) days effective upon receipt hereof pursuant to Section 3, Rule XIV of the Omnibus Rules Implementing the Labor Code.

On 20 November 1998, PNB conditionally approved Maralit's application for early retirement effective at the close of business hours on 31 December 1998. PNB stated that, "Payment of Special Separation Incentive and other Benefits shall be made only upon final resolution of the administrative case against you, provided that the decision in said investigation does not disqualify you from the enjoyment of said benefits." Under the SSIP, Maralit was entitled to P1,359,086.02 retirement benefits.

Maralit submitted her answer dated 11 January 1999. She stated that "The favorable accommodations granted to (a certain) Mr. Amado A. Sanao were made in good faith and intended for the higher interests of the Bank," and that "Said accommodations was [sic] a business decision, bearing in mind the consequential interests beneficial to the Bank." She admitted that the accommodations were "deviation[s] from Bank's policies."

In its report dated 22 September 1999, PNB's Inspection and Investigation Unit found that (1) Maralit did not deny the irregular transactions imputed against her, (2) Maralit's approval of drawings against uncollected deposits was a wanton violation of the policy of the Bangko Sentral ng Pilipinas (BSP) and PNB, (3) Maralit was fully aware of the prohibition against drawings against uncollected deposits, (4) Maralit's actions prejudiced PNB, (5) Maralit had no discretion to do prohibited acts, and (6) PNB's interest was unreasonably put at risk.

On 14 April 2000, Maralit received a letter^[12] dated 23 March 2000 together with a copy of PNB's Administrative Adjudication Panel's decision^[13] dated 14 February 2000 finding her guilty of serious misconduct, gross violation of bank rules and regulations, and conduct prejudicial to the best interest of the bank. PNB dismissed Maralit from the service with forfeiture of her retirement benefits effective at the