

## SECOND DIVISION

[ G.R. No. 172812, February 12, 2008 ]

**AMELIA R. ENRIQUEZ and REMO SIA, Petitioners, vs. BANK OF THE PHILIPPINE ISLANDS and LUIS A. PUENTEVELLA, AVP, Respondents.**

### D E C I S I O N

**TINGA, J.:**

In this petition for review on certiorari, petitioners Amelia R. Enriquez (Enriquez) and Remo L. Sia (Sia) assail the Decision<sup>[1]</sup> of the Court of Appeals dated 30 November 2005 affirming in *toto* the Decision<sup>[2]</sup> of the Fourth Division of the National Labor Relations Commission (NLRC), Cebu City which dismissed their complaint for illegal dismissal and money claims. The NLRC had earlier reversed and set aside the decision of Executive Labor Arbiter Danilo C. Acosta finding that petitioners were illegally dismissed by respondent Bank of the Philippine Islands (BPI).

The antecedents, as culled from the records, are as follows:

Enriquez and Sia were the branch manager and assistant branch manager, respectively, of the BPI-Bacolod Singcang Branch. Enriquez was first employed by respondent bank in 1971 and had been an employee thereof for 32 years at the time of her termination,<sup>[3]</sup> whereas Sia had been in respondent bank's employ since 1974, or for a total of 29 years at the time of his dismissal.<sup>[4]</sup> Respondent Luis A. Puentevella (Puentevella) is one of respondent's principal officers and was impleaded in his personal capacity.

Petitioners maintain that on 27 December 2002, their branch experienced a heavy volume of transactions owing to the fact that it was the last banking day of the year. When banking hours came to a close, teller Geraldine Descartin (Descartin) purportedly discovered that she had a cash shortage of P36,000.00 and informed Sia about it. Sia, in turn, informed Enriquez of the problem and was directed to review the day's transactions to trace its cause.<sup>[5]</sup>

Descartin claimed that the discrepancy was due to an innocent oversight and recalled that the unaccounted shortage was due to the failure of her mother-in-law, Remedios Descartin (Remedios), to sign the withdrawal slip when the latter withdrew P36,000.00 earlier that day. With that explanation, Enriquez directed Descartin and her co-teller Evelyn Fregil (Fregil) to submit their written memorandum of the incident. Descartin was permitted to leave the bank to look for Remedios so that the latter could sign the withdrawal slip. At around 7:00 p.m., she returned to the bank with the signed withdrawal slip and debited the amount from the client's account. Thus, petitioners aver, the transaction was regularized before

the end of the day.<sup>[6]</sup>

It is the position of petitioners that as there was neither shortage nor loss to the bank because the initial discrepancy was accounted for and that it was due to a mere oversight, they put the matter to rest. In the meantime, Sia began to wind up his affairs as 27 December 2002 was his last working day with the bank before going on terminal leave prior to his optional retirement.

Respondents, however, have a different version of what transpired on 27 December 2002. According to them, teller Descartin's shortage of P36,000.00, which she confided to her co-teller Fregil, was incurred because she had temporarily borrowed the money that week to pay her financial obligations but intended to return the same on the first week of January. Teller Fregil reported the matter to Sia and Enriquez, both of whom suggested that teller Descartin fill the shortage with a loan from her family. Teller Descartin replied that her family did not have the money, she instead borrowed the amount from her in-laws. Thus, at 5:21 p.m., teller Descartin posted the unsigned withdrawal slip for the amount of P36,000.00 against the joint account of her parents-in-law. As the amount exceeded the floor limit for tellers which would require the approval of a superior officer, either Enriquez or Sia approved the transaction at 5:22 p.m. as reflected on the account records. Teller Descartin thereafter left the bank to secure the signature of her mother-in-law Remedios and returned at past 7:00 p.m. with the signed withdrawal slip.<sup>[7]</sup>

On 28 December 2002, teller Fregil was allegedly informed that teller Descartin was going to prepare a "white lie" report, to be signed by both of them, stating that teller Descartin had inadvertently misplaced the withdrawal slip of her mother-in-law and that the transaction was regularized within the same day. On 2 January 2003, teller Fregil signed the report. However, in February 2003, teller Fregil bumped into a colleague assigned to the BPI-Bacolod Main Branch and confided to the latter her uneasiness about the 27 December 2002 incident. The matter was reported and ultimately brought to the attention of respondent Puentevella.<sup>[8]</sup>

Thus, sometime in February 2003, respondent Puentevella initiated further investigation on the incident. Later, on 3 March 2003, teller Fregil retracted her original statement and instead executed another letter claiming that there was a cover-up of the shortage on the day in question. Respondents assert that the investigation conducted by the Auditing Division of BPI bolstered teller Fregil's claims of irregularity as the audit report disclosed that petitioners failed to make the necessary report on the shortage and instead assisted in covering-up teller Descartin's wrongdoing.

On 25 April 2003, petitioners were instructed to report to the BPI head office for polygraph testing. While they expressed their willingness to be interviewed, petitioners objected to the polygraph test. On 27 June 2003, petitioners received show-cause memos directing them to explain in writing why they should not be sanctioned for conflict of interest and breach of trust. Petitioners submitted their respective replies in which they denied the charges against them. On 14 July 2003, a committee of respondent bank conducted a hearing of the case and as part of the investigation, separately interviewed petitioners and tellers Descartin and Fregil. On 3 September 2003, petitioners were dismissed from employment on grounds of breach of trust and confidence and dishonesty.

Hence, on 4 September 2003, petitioners filed their respective Complaints<sup>[9]</sup> for illegal dismissal against respondents and prayed for reinstatement or, in lieu thereof, payment of separation pay. Additionally, they sought backwages, retirement pay, attorney's fees and moral and exemplary damages in the amount of P10,000,000.00.

After the submission by the parties of their position papers, Labor Arbiter Acosta rendered a Decision<sup>[10]</sup> on 29 March 2004 finding that petitioners had been illegally dismissed. The dispositive portion of the decision states:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. DECLARING that complainants were illegally dismissed by respondents;
2. ORDERING respondents to reinstate complainants to their former position without loss of seniority rights and to pay them their corresponding full back wages inclusive of allowances and other benefits as computed, in the sum of Pesos: **ONE MILLION ONE HUNDRED SEVENTY-THREE THOUSAND, FOUR HUNDRED THIRTY-FOUR AND 50/100 ONLY (P1,173,434.50);**
3. ORDERING respondents to jointly and severally pay complainants moral and exemplary damages in the amount of **P3,000,000.00** each or a total of **P6,000,000.00;**
4. ORDERING respondents to jointly and severally pay attorney's fees in the amount of **P717,343.45** which is equivalent to 10% of the total judgment award, thereby making a total of **SEVEN MILLION EIGHT HUNDRED NINETY THOUSAND, SEVEN HUNDRED SEVENTY-SEVEN AND 95/100 ONLY (P7,890,777.95)**, the same to be deposited with the Cashier of this Office within ten (10) calendar days from receipt of this Decision;
5. ORDERING respondents to jointly and severally pay complainants in case they reach the compulsory retirement age of 60 years old pending final resolution of this case, their Retirement pay equivalent to two (2) months latest salary for every year of service and their Separation pay equivalent to one (1) month salary for every year of service computed from the time they were hired up to their retirement period.<sup>[11]</sup>

Aggrieved, respondents appealed to the NLRC. Finding that the records substantiated the conclusion that petitioners tried to cover up teller Descartin's infraction instead of taking the appropriate action thereon, the NLRC ruled that respondents had just cause to terminate their employment. Hence, the NLRC reversed and set aside the challenged decision and although it dismissed the complaint, it ordered respondents to give petitioners financial assistance equivalent to one-half month's pay for every year of service.<sup>[12]</sup>

Petitioners thereafter elevated the case to the Court of Appeals. The appellate court,

agreeing with the NLRC, denied petitioners' appeal and affirmed in *toto* the latter's assailed decision.

Before us, petitioners raise the following assignment of errors:

THE COURT OF APPEALS ERRED IN NOT DECLARING THAT RESPONDENTS' APPEAL TO THE NLRC WAS DEFECTIVE FOR FAILING TO COMPLY WITH RULE VI, SECTION 4 OF THE NLRC RULES OF PROCEDURE.

THE APPEALED DECISION AND RESOLUTION OF THE COURT OF APPEALS ARE MANIFESTLY ERRONEOUS AND RENDERED IN DISREGARD OF THE EVIDENCE IN RECORD AND EXISTING JURISPRUDENCE.

THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN CONCLUDING THAT PETITIONERS WERE VALIDLY TERMINATED FROM EMPLOYMENT.

THE COURT OF APPEALS ERRED IN AFFIRMING THE NLRC'S DECISION AND RESOLUTION THAT ARE IRREGULAR AND ANOMALOUS.<sup>[13]</sup>

The petition should be denied.

Petitioners maintain that the Memorandum of Appeal<sup>[14]</sup> filed by respondents before the NLRC should have been dismissed due to a defect in its verification. In particular, petitioners assert that the document was signed by Puentevella alone, who did not show any board resolution authorizing him to represent the corporation on appeal, in violation of Rule VI, Section 4 of the NLRC Rules of Procedure which provides:

Section 4. REQUISITES FOR PERFECTION OF APPEAL. A) The appeal shall be filed within the reglementary period as provided in Section 1 of this Rules, shall be verified by appellant himself in accordance with Section 4, Rule 7 of the Rules of Court x x x.

For their part, respondents argue that the board of directors of a corporation, in vesting authority to another person or body, does not necessarily have to be express and in writing at all times. They cited the following excerpt from the case of *People's Aircargo and Warehousing Co., Inc. v. Court of Appeals*<sup>[15]</sup> to support their contention:

The general rule is that, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation. A corporation is a juridical person, separate and distinct from its stockholders and members, "having xxx powers, attributes and properties expressly authorized by law or incident to its existence."

Being a juridical entity, a corporation may act through its board of directors, which exercises almost all corporate powers, lays down all corporate business policies and is responsible for the efficiency of management, as provided in Section 23 of the Corporation Code of the Philippines:

x x x

Under this provision, the power and the responsibility to decide whether the corporation should enter into a contract that will bind the corporation is lodged in the board, subject to the articles of incorporation, bylaws, or relevant provisions of law. However, just as a natural person may authorize another to do certain acts for and on his behalf, the board of directors may validly delegate some of its functions and powers to officers, committees or agents. The **authority of such individuals** to bind the corporation is generally derived from law, corporate bylaws or authorization from the board, either expressly or impliedly by habit, custom or **acquiescence in the general course of business**, viz.:

“A corporate officer or agent may represent and bind the corporation in transactions with third persons to the extent that [the] authority to do so has been conferred upon him, and this includes powers which have been intentionally conferred, and also such powers as, in the usual course of the particular business, are incidental to, or may be implied from, the powers intentionally conferred, powers added by custom and usage, as usually pertaining to the particular officer or agent, and such apparent powers as the corporation has caused persons dealing with the officer or agent to believe that it has conferred.”

x x x **Apparent authority** is derived not merely from practice. Its existence may be ascertained through (1) the general manner in which the corporation holds out an officer or agent as having the power to act or, in other words, the apparent authority to act in general, with which it clothes him; or (2) the **acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his ordinary powers**. x x x<sup>[16]</sup>

Therefore, according to respondents, there was acquiescence on the part of BPI which amounted to a valid authority as it never showed any indication that it had not given its authority to respondent Puentevella to act on its behalf in the filing of the appeal with the NLRC.

After assiduously weighing the arguments of the parties, we find that a liberal construction of the rules is in order. To serve the interest of justice, compelling reason obtains to address respondents’ arguments and brush aside technicality. The Court frowns upon the practice of dismissing cases purely on procedural grounds. <sup>[17]</sup> Instructive is our pronouncement in the case of *Bank of the Philippine Islands v. Court of Appeals*,<sup>[18]</sup> thus:

Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. x x x **We see no circumvention of these objectives by the vice president’s signing the verification and certification without express authorization from any existing board resolution.**

As explained in BPI’s Motion for Reconsideration, he was actually