

THIRD DIVISION

[G.R. No. 166096, September 11, 2008]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. RAMON
BRIGIDO L. VELASCO, RESPONDENT.**

DECISION

REYES, R.T., J.:

THIS is a tale of a bank officer-depositor clinging to his position after violating bank regulations and falsifying his passbook to cover up a false transaction.

Before the Court is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure seeking the reversal of the Decision^[1] and Resolution^[2] of the Court of Appeals (CA). The appealed decision reversed those of the National Labor Relations Commission (NLRC)^[3] and the Labor Arbiter^[4] which dismissed the complaint for illegal dismissal and damages of Ramon Brigido L. Velasco against Philippine National Bank (PNB).

The Facts

Ramon Brigido L. Velasco, a PNB audit officer, and his wife, Belen Amparo E. Velasco, maintained Dollar Savings Account No. 010-714698-9^[5] at PNB Escolta Branch. On June 30, 1995, while on official business at the Legazpi Branch, he went to the PNB Ligao, Albay Branch and withdrew US\$15,000.00 from the dollar savings account. At that time, the account had a balance of US\$15,486.07. The Ligao Branch is an off-line branch, i.e., one with no network connection or computer linkage with other PNB branches and the head office. The transaction was evidenced by an Interoffice Savings Account Withdrawal Slip, also known as the Ticket Exchange Center (TEC).^[6]

On July 10, 1995, PNB Escolta Branch received the TEC covering the withdrawal. It was included among the proofsheets of Cashier IV Ruben Francisco, Jr. The withdrawal was not, however, posted in the computer of the Escolta Branch when it received said advice. This means that the withdrawal was not recorded. Thus, the account of Velasco had an overstatement of US\$15,000.00.

Sometime in September 1995, while Velasco was on a provincial audit, he claimed calling through phone a kin in Manila who just arrived from abroad. This kin allegedly told him that his New York-based brother, Gregorio Velasco, sent him various checks through his kin totaling US\$15,000.00 and that the checks would just be deposited in time in Velasco's account.

On October 6, 1995, Velasco updated his dollar savings account by depositing US\$12.78, reflecting a balance of US\$15,486.01. He was allegedly satisfied with

the updated balance, as he thought that the US\$15,000.00 in his account was the amount given by his brother.

On different dates, Velasco made several inter-branch withdrawals from the dollar savings account, to wit:

PNB Branch	Date	Amount
PNB Legaspi	November 7, US 1995	\$2,000.00
PNB Legaspi	November 13, 1995	3,329.97
Cash Dept.	November 23, 1995	4,000.00
Total		US \$9,329.97

Mrs. Belen Velasco also withdrew several amounts on the dollar account, viz.:

PNB Branch	Date	Amount
PNB CEPZ	December 6, US 1995	\$11,494.00
PNB Frisco	January 2, 1996	1,292.32
Total		US\$12,786.32

Subsequently, the dollar savings account of the spouses was closed.

On February 6, 1996, in the course of conducting an audit at PNB Escolta Branch, Molina D. Salvador, a member of the Internal Audit Department (IAD) of PNB, discovered that the inter-branch withdrawal made on June 30, 1995 by Velasco at PNB Ligao, Albay Branch in the amount of US\$15,000.00 was not posted; and that no deposit of said amount had been credited to the dollar savings account.

On February 7, 1996, Velasco was notified of the glitch when he reported at the IAD. He said it was only in the evening that he was able to verify from his kin that the latter was not able to deposit in his account the US\$15,000.00.^[7]

The following day, or on February 8, 1996, Velasco went to Dolorita Donado, assistant vice president of the Internal Audit Department and team leader of the Escolta Task Force, and delivered three (3) checks in the amount of US\$5,000.00 each or a total of US\$15,000.00. However, Donato returned the checks to Velasco and instructed him that he should personally deposit the checks.

On February 14, 1996, he deposited the checks and the amount was consequently applied to his unposted withdrawal of US\$15,000.00.

Meanwhile, on February 9, 1996, PNB vice president, B.C. Hermoso, required^[8] Velasco to submit a written explanation concerning the incident.

On February 12, 1996, he submitted his sworn letter-explanation.^[9] He described the inter-branch withdrawal at PNB Ligao, Albay Branch on June 30, 1995 as "no-book," i.e., without the corresponding presentation to the bank teller of the savings passbook. He stated, among others, that his withdrawal was accommodated as the statement of account showed a balance of US\$15,486.01, and that he is personally known to the officers and staff, being a former colleague at the PNB Ligao, Albay Branch.

On February 27, 1996, PNB Ligao, Albay Branch division chief III, Rexor Quiambao, financial specialist II, Emma Gacer, and division chief II, Renato M. Letada, confirmed the "no-book" withdrawal.^[10]

On March 5, 1996, PNB formally charged Velasco with "*Dishonesty, Grave Misconduct, and/or Conduct Grossly Prejudicial to the Best Interest of the Service for the irregular handling of Dollar Savings Account No. 010-714698-9.*"^[11] The administrative charge alleged that: (1) he transacted a no-book withdrawal against his Dollar Savings Account No. 010-714698-9 at PNB Ligao, Albay Branch in violation of Section 1216 of the Manual of Regulations for Banks; (2) in transacting the no-book withdrawal, he failed to present any letter of introduction as required under General Circular 3-72/92; (3) the irregular inter-branch withdrawal was aggravated by the failure of Escolta Branch to post/enter the withdrawal into the computer upon receipt of the TEC advice, resulting in the overstatement of the account balance by US\$15,000.00; and (4) since he was presumed to be fully aware that neither the deposit nor withdrawal of the US\$15,000.00 was reflected on the passbook, he was able to appropriate the amount for his personal benefit, free of interest, to the damage and prejudice of PNB.^[12]

On April 8, 1996, PNB withheld his rice and sugar subsidy, dental/optical/outpatient medical benefits, consolidated medical benefits, commutation of hospitalization benefits, clothing allowance, longevity pay, anniversary bonus, Christmas bonus and cash gift, performance incentive award, and mid-year financial assistance.^[13] On April 10, 1996, he was placed under preventive suspension for a period of ninety (90) days.^[14]

On May 2, 1996, Velasco submitted his sworn Answer^[15] to the administrative charge against him. Unlike his previous answer, he here claimed that his withdrawal on June 30, 1995 was "with passbook." As proof, he attached a copy of his passbook^[16] bearing the withdrawal entry of US\$15,000.00 on June 30, 1995. Explaining the inconsistency with his sworn letter-explanation on February 12, 1996, he said his initial answer was made under pressing circumstances. He was unable to find his passbook which was then kept by his wife who could not be contacted at that moment.

On October 2, 1996, the Administrative Adjudication Office (AAO) of PNB composed of Fernando R. Mangubat, Jr., Wilfredo S. Verzosa, Celso D. Benologa, and Jesse L. Figueroa exonerated Velasco of the charges of dishonesty and conduct prejudicial to the best interest of service. However, he was found guilty of grave misconduct, mitigated by length of service and absence of actual loss to PNB. Thus, he was meted the penalty of forced resignation with benefits.^[17]

On October 31, 1996, Velasco was formally notified of the findings of the AAO after its approval by the management. As of that time, he had been employed with PNB for eighteen (18) years, holding the position of Manager 1 of the IAD. He was earning P14,932.00 per month plus a monthly allowance of P3,940.00 or a total salary of P18,872.00 per month.

On December 22, 1997, he filed a Complaint^[18] against PNB for illegal suspension, illegal dismissal, and damages before the NLRC.

Labor Arbiter, NLRC, and CA Dispositions

On July 9, 1999, Labor Arbiter Pablo C. Espiritu gave judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Dismissing the complaint for illegal dismissal against respondents for want of merit.
2. Ordering PNB to pay complainant unpaid wages for the period May 12, 1996 to October 31, 1996 in the amount of P103,796.00.
3. Dismissing complainant's claims for damages and other monetary claims for lack of merit.

SO ORDERED.^[19]

In his ruling, the Labor Arbiter opined that as an employee and officer of PNB for eighteen (18) years, Velasco is expected to know bank procedures, including the expected entries in a savings passbook. Even if it should be assumed that he presented his passbook when he withdrew US\$15,000.00 at the PNB Ligao Branch on June 30, 1995, he should have known that there was something wrong with the amounts credited to his account when he made an update on October 6, 1995. Being an audit officer, and fully aware of his withdrawal of US\$15,000.00, he should have made inquiries on the inconsistency of the entries in his passbook.^[20]

The Labor Arbiter also found as flimsy the argument that the additional US\$15,000.00 was the amount given to Velasco by his brother from the United States. As early as October 6, 1995, when he updated his passbook, Velasco should have known that (1) his brother's checks in the amount of US\$15,000.00 have not been deposited in his dollar savings account and (2) he appears to have been improperly credited with US\$15,000.00.^[21]

Moreover, the Labor Arbiter held that the entry in the passbook purportedly reflecting the withdrawal of US\$15,000.00 is a forgery. It was done to conform to the defense of Velasco that he presented his passbook on June 30, 1995.^[22]

On the charge of illegal suspension, the Labor Arbiter held that the preventive suspension of Velasco was reasonable in view of the sensitive nature of his position. It was also necessary to protect the records of PNB.^[23] It follows that the withholding of his company benefits is reasonable.^[24] Nonetheless, he should be

paid his salary from May 12, 1996 up to October 31, 1996.^[25]

His claim for damages and attorney's fees must be denied because PNB did not violate his rights.^[26]

Dissatisfied with the decision of the Labor Arbiter, both Velasco^[27] and PNB^[28] appealed to the NLRC.

On July 31, 2000, the NLRC affirmed with modification the Labor Arbiter decision, disposing, thus:

WHEREFORE, the decision appealed from is hereby MODIFIED to the extent that the award of unpaid salaries is hereby REDUCED to the complainant's salaries from May 27, 1996 to July 31, 1996. Other dispositions in the appealed decision stands (*sic*) affirmed.^[29]

In sustaining the Labor Arbiter, the NLRC held that Velasco's lack of knowledge of the non-posting of his withdrawal is not credible. Even a cursory look at his passbook shows that no deposit of US\$15,000.00 was ever made. That there was still a balance of more than US\$15,000.00 in his account after the withdrawal he made on June 30, 1995 could only mean that the withdrawal was never posted. Worse, based also on the entries in his passbook, it is clear that the withdrawal on June 30, 1995 was a "no-book" transaction. The withdrawal of US\$15,000.00 was not taken into consideration in the determination of the balance of June 30, 1995 and the succeeding dates. Thus, it is clear that the entry in question was falsified. It was made merely to bolster his subsequent claim that he presented his passbook when he withdrew on June 30, 1995.^[30]

The NLRC concluded that the falsification of the passbook shows deceit on the part of Velasco. He took advantage of his position. The posting of the falsified entry could not have been made without, or was at least facilitated by, his being an employee of the bank. Thus, his subsequent withdrawals amounted to losses on the part of the bank. He made those withdrawals from his account with full knowledge that the balance of his passbook of more than US\$15,000.00 was attributed to the non-posting of the June 30, 1995 withdrawal.^[31]

The NLRC also held that he had been preventively suspended for more than thirty (30) days as of May 27, 1996. Since he was paid his salaries from August 1, 1996 to October 31, 1996, he may recover only his salary from May 27, 1996 to July 31, 1996.^[32]

Like the Labor Arbiter, the NLRC held that Velasco may not recover damages. His dismissal was not done oppressively or in bad faith. Neither was he subjected to unnecessary embarrassment or humiliation.^[33]

His motion for reconsideration having been denied, Velasco elevated the matter to the CA by way of petition for review on *certiorari* under Rule 43 of the Rules of Court.^[34] On April 22, 2004, the CA rendered the assailed decision, the *fallo* stating, thus: