

SECOND DIVISION

[G.R. NO. 159119, March 14, 2006]

ATTY. ANDREA UY AND FELIX YUSAY, PETITIONERS, VS. AMALIA A. BUENO, RESPONDENT.

DECISION

PUNO, J.:

The finding of illegal dismissal against petitioner Atty. Andrea Uy made by the Court of Appeals is challenged in this petition for review on certiorari under Rule 45 of the Rules of Court.

The facts are as follows:

Countrywide Rural Bank of La Carlota, Inc. (Countrywide Rural Bank) in Marbel, Koronadal City, South Cotabato, is a private banking corporation duly licensed and organized to engage in rural banking operations that offers a wide-range of deposit, financial and lending services through its network of branches nationwide. In April 1998, Countrywide Rural Bank experienced liquidity problems. A group of its depositors, alarmed at the imminent prospect of not being able to recover their deposits and other investments, organized themselves into a committee of depositors. The committee elected petitioner Felix Yusay as Chairman, petitioner Andrea Uy as Secretary, Manu Gidwani as Vice-Chairman and Pompeyo Querubin as Treasurer. [1]

On January 18, 1999, the depositors of Countrywide Rural Bank (not the committee of depositors led by petitioner Yusay) met at the Marbel Branch. Marlon V. Juesna, the Vice-Chairman of the Board of Countrywide Rural Bank, presided over the meeting. In the course of the meeting, respondent Amalia A. Bueno stood up and announced that her services as Branch Manager of Marbel Branch were terminated by petitioner Uy. Petitioner Uy, who was in the meeting, confirmed respondent Bueno's declaration. She did not elaborate on the basis of the termination explaining that it involved internal problems that could not be discussed with the depositors. [2]

The day after or on January 19, 1999, respondent Bueno filed a case for illegal dismissal and prayed for reinstatement with payment of full back wages, damages and attorney's fees against Countrywide Rural Bank, Miguel Mendoza, Primo Esleyer, Marlon Juesna, and petitioners Uy and Felix Yusay before the Labor Arbiter of the Sub-Regional Arbitration Branch No. XI of the National Labor Relations Commission (NLRC) in General Santos City. Petitioners Uy and Yusay were sued in their capacity as Interim President and Corporate Secretary, and Interim Board Chairman, respectively. Miguel Mendoza, Primo Esleyer and Marlon Juesna were sued as Chairman, Vice-Chairman and Executive Vice-President, respectively, of the Board of Countrywide Rural Bank. [3] Respondent Bueno alleged that she was employed by

Countrywide Rural Bank on November 12, 1996 until her termination on January 18, 1999. [4]

An amicable settlement of the case failed. On September 28, 1999, respondent Bueno filed a Manifestation for the early resolution of her complaint alleging that Countrywide Rural Bank was already under receivership with the Philippine Deposit Insurance Commission (PDIC) and she wanted the favorable decision submitted to the PDIC for consideration. On November 18, 1999, with only the position paper of respondent Bueno and without awaiting the reply of the Postmaster of Bacolod City as to whether Countrywide Rural Bank and its co-respondents received the order to submit their respective position papers, [5] the Labor Arbiter rendered a decision in favor of respondent Bueno. He found the verbal and summary termination of the services of respondent Bueno to be without valid cause and in violation of Article 277(b) of the Labor Code. Also, the Labor Arbiter held that as a regular employee of Countrywide Rural Bank, respondent Bueno was protected by the security of tenure provision or Article 279 of the Labor Code. He awarded separation pay in lieu of reinstatement and back wages. In addition, he granted moral and exemplary damages for the bad faith and/or malice that attended the manner of termination of respondent Bueno. Finally, for being forced to litigate, the Labor Arbiter awarded attorney's fees of 10% in accordance with Article 111 of the Labor Code. He disposed, viz: [6]

WHEREFORE, premises considered, respondent Countrywide Rural Bank of La Carlota, Inc. and individual respondent Atty. Andrea Uy are solidarily liable [to] complainant Amalia Bueno to pay the sum of PESOS EIGHT HUNDRED ELEVEN THOUSAND TWO HUNDRED (P811,200.00) ONLY representing her monetary awards and attorney's fees.

All other claims are dismissed for lack of merit.

On May 24, 2000 petitioner Uy filed her Notice of Appeal and Memorandum of Appeal with the Fifth Division of the NLRC in Cagayan de Oro City. She assailed the decision of the Labor Arbiter on the grounds of denial of due process and serious errors in the findings of fact. Finding that the appealed decision was received on February 10, 2000 but only appealed on May 18, 2000, the NLRC in its resolution dated July 31, 2000, dismissed the appeal for being filed out of time. It ruled that the decision had become final and executory. [7]

On August 28, 2000, petitioners Uy and Yusay [8] filed a Motion for Reconsideration alleging that they never held office where a copy of the decision was served and that they only received their copy of the decision on May 9, 2000. On December 21, 2001, the NLRC granted their motion and absolved petitioner Uy from liability as it found petitioners Uy and Yusay to be mere depositors of Countrywide Rural Bank on the basis of the evidence submitted by respondent Bueno herself, i.e., the minutes of the meeting of the depositors of Countrywide Rural Bank's Marbel Branch held on January 18, 1999. [9] It disposed, viz:

WHEREFORE, the above resolution is Reversed and Set Aside. In lieu thereof, a new judgment is rendered modifying the appealed decision of the Labor Arbiter, dated November 18, 1999, in that the portion thereof

directing individual Atty. Andrea Uy to personally pay complainant Amalia Bueno her monetary award is deleted for lack of factual and legal basis.

On February 8, 2002, respondent Bueno filed a Motion for Reconsideration on grounds of serious errors in the findings of fact and in the application of law. On March 22, 2002, the NLRC denied the motion for lack of merit as the issues raised had been "extensively treated and discussed in the resolution sought to be reconsidered." [10] Thus, respondent Bueno appealed to the Court of Appeals (CA) imputing on the part of the NLRC grave abuse of discretion amounting to lack of or in excess of jurisdiction for (1) admitting the appeal and exculpating petitioner Uy from monetary liability, and (2) declaring that petitioner Uy was not an officer of Countrywide Rural Bank.

The CA resolved both issues in favor of respondent Bueno. Anent the first, it held that petitioners Uy and Yusay filed their appeal out of time emphasizing the rules on perfection of appeals, presumption of regularity in the performance of official duties and substantiation by competent evidence on allegation of non-receipt of pleadings. It observed that Countrywide Rural Bank and its co-respondents received the initial processes relative to the case. Anent the second, the CA found the individual respondents in the complaint that included petitioners Uy and Yusay to be officers of Countrywide Rural Bank. Its bases were (a) the categorical admission in their appeal before the NLRC that they were officers of Countrywide Rural Bank, (b) the October 10, 2000 resolution of the NLRC in another case, [11] which "already settled the issue" of their being officers of Countrywide Rural Bank, (c) the termination of respondent Bueno by petitioner Uy, which the latter did not dispute, and (d) the issuance of a Memorandum of Termination in an attempt to legitimize the verbal dismissal of respondent Bueno. Thus, the CA disposed on January 24, 2003, [12] viz:

WHEREFORE, premises considered, the instant petition is hereby GRANTED. The assailed resolutions of public respondent Commission dated December 21, 2001 and March 22, 2002, are ordered SET ASIDE and NULLIFIED. The resolution of public respondent Commission dated July 31, 2000 [13] is AFFIRMED in its entirety.

Aggrieved, petitioners Uy and Yusay [14] filed their February 12, 2003 Motion for Reconsideration, which the CA denied on May 26, 2003. Hence, this petition for review before the Court, which presents the following issues:

WHETHER OR NOT THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN ITS FINDINGS THAT THE NATIONAL LABOR RELATIONS COMMISSION HAS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ISSUING THE RESOLUTIONS DATED 21 DECEMBER 2001 AND 22 MARCH 2002.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN ITS FINDING THAT SUMMONS WAS PROPERLY SERVED ON THE PETITIONERS.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN AFFIRMING THAT THE PETITIONERS ARE OFFICERS OF THE BANK.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN

FINDING THAT THE DISMISSAL OF PRIVATE RESPONDENT WAS DONE IN BAD FAITH.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN ITS FINDING THAT PETITIONERS ARE SOLIDARILY LIABLE WITH THE COUNTRYWIDE RURAL BANK OF LA CARLOTA INC.

We immediately note that the Countrywide Rural Bank failed to appeal its liability over the illegal dismissal of the respondent before the NLRC, the CA and this Court. Such failure to perfect an appeal has the effect of rendering the judgment final and executory as to it. [15]

We now come to the liability of petitioner Uy. The findings of the Labor Arbiter, the NLRC and the CA as to the liability of petitioner Uy are conflicting, thus, the application of the exception to the rule that only legal issues may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court. [16]

First, the Labor Arbiter found her solidarily liable with Countrywide Rural Bank, thus:

x x x Record reveals that she was verbally and summarily terminated on January 18, 1999 in an unconventional manner by individual respondent ATTY. ANDREA UY (Interim President and Corporate Secretary) by announcing and confirming said termination during the depositors meeting held at the Marbel Branch office, without valid cause and in violation of the procedures outlined in Art. 277(b) of the Labor Code in terminating the services of an employee.

x x x

Corporate directors and officers are solidarily liable with the corporation for the termination of employment of employees only if the termination is done with malice or in bad faith (Progress Homes vs. NLRC, 269 SCRA 274). The dismissal of complainant was attended with malice or bad faith when she was summarily terminated and announced during the depositors meeting by individual respondent Atty. Andrea Uy (Interim President and Corporate Secretary). [17]

Second, the NLRC, after reconsidering its earlier pronouncement that petitioner Uy had lost her appeal for filing it beyond the mandatory reglementary period, held her not liable with Countrywide Rural Bank, thus:

From her own evidence, the minutes of depositors meeting held on January 18, 1999 at the bank's Marbel Branch (Annex "C", complainant's position paper), it was shown clearly that individual respondents were mere depositors of respondent bank. They were only elected as officers of the Interi[m] Board of Directors created by the group or association of depositors with the sole task to rehabilitate respondent bank. The excerpts from the minutes of meeting are quoted hereunder, to wit:

x x x

Mr. Michael Viray asked Atty. Uy — who are you by the way? What group