

SIXTEENTH DIVISION

[CA-G.R. SP NO. 123847, June 19, 2014]

**RICARDITO R. AQUINO AND NELIA M. SARMIENTO,
PETITIONERS, VS. RURAL BANK OF PINAMALAYAN, INC., MARIA
CHRISTINA L. DELOS REYES, RONALD I. PHI, GEOFFREY V.
RUBIA, AVA MARCIA A. ALIMURONG, ARTURO M. DELOS REYES,
ANTONIO M. DELOS REYES, NATIONAL LABOR RELATIONS
COMMISSION, AND HON. LABOR ARBITER ENRICO ANGELO C.
PORTILLO, RESPONDENTS.**

DECISION

VILLON, J.:

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing, on grounds of grave abuse of discretion amounting to lack or excess of jurisdiction, the decision^[1] dated October 25, 2011 and resolution^[2] dated December 29, 2011 issued by public respondent National Labor Relations Commission (NLRC), Sixth Division, in NLRC LAC No. 05-001335-11. The assailed issuances affirmed the March 10, 2011 decision^[3] of Labor Arbiter Enrico Angelo C. Portillo in NLRC-RAB-IV-09-01801-10-M dismissing the complaint for illegal dismissal filed by petitioners Ricardito R. Aquino (or "Aquino") and Nelia Sarmiento (or "Sarmiento") against private respondents Rural Bank of Pinamalayan, Inc. (or "RBPI") and its corporate officers.

The factual and procedural antecedents of the case are as follows:

Petitioners are former employees of RBPI-Gloria Branch. Aquino, who occupied the position of Officer-in-Charge, and Sarmiento, the bookkeeper, started their employment with RBPI in 1995 and 2002, respectively.

Sometime in 2010, an audit examination of the books and records of RBPI-Gloria Branch covering the years 2007 and 2008 was conducted. Thereafter, a report^[4] dated June 3, 2010 was prepared by independent auditor Melchor T. Vanguardia (or "Vanguardia") and his audit team which disclosed several irregularities and anomalies committed by petitioners in the performance of their duties, to wit:

"The following have been noted and is now refer (sic) to the Board of Directors of the Rural Bank of Pinamalayan, Inc. for action, viz:

1. Issuing an Official Receipt by the custodian without cash inflow or cash received. This has been confirmed by an officer of the bank and the auditors who conducted the audit. This was part of the operation on how they were able to conceal fraud and manipulated the records. The summary of the auditor of cash clearly explain (sic) how they were able to reconcile the book balances versus the teller's and bookkeeper's proof sheet and yet the bank balances which is (sic) presumed to be correct

does (sic) not reconcile with the book balances at least for the years ending December 31, 2008 and 2007. xxx

2. There were irregular deposit slip (sic) and withdrawal slip (sic) that were part of the file of the bank but virtually not official because they were observed to be manipulated and was (sic) not taken in the passbook of the bank because it (sic) was never accepted by the bank. The manager of the said bank was even shocked upon seeing the same. That needs legal consultation perhaps and the documents are being kept by an officer of the bank for safety.

3. There were deliberate attempts to postpone, delay, over foot or underfoot entries and transactions as a part of the grand plan to manipulate the records/books of the bank: e.g. postponement or delaying of deposits tantamount to lapping/kitting of transaction, over footing/under footing of the transactions in the proof sheet to force balance the same and in order to conceal the effects of fraud.

4. There were violations of the standard operating : procedures as regards the following:

1. Procedures in the operations of the CTD, Cashiers Checks, Cash Advances. x x x
2. The deliberate attempt not to sign the accountable papers like the cashier's and teller's proof sheet by persons required to do so.
3. No courtesy and cooperation to the auditors when conducting inquiry on operations.
4. The subject amount of fraud of the subject employees can not be established yet but I am presenting to you amounts and transactions which needs (sic) to be verified by collaboration with management perhaps or other regulatory agencies as regards acceptable explanations from those people involved.”^[5]

On June 9, 2010, petitioners received a copy of the foregoing audit report, along with a demand letter^[6] from RBPI, through its President, private respondent Christina T. Delos Reyes (or “Delos Reyes”), requiring them to “present a detailed explanation of the 'unexplainable transactions' amounting to Php14,478,436 and/or remit payment of approximately Php5,000,000.00 which constituted the “unaccounted difference.” Petitioners returned Vanguardia's report on the following day for the reason that the same was unsigned.^[7]

On June 30, 2010, petitioners made a reply^[8] to RBPI's demand letter, questioning Vanguardia's findings and denying any discrepancy in the books of RBPI-Gloria Branch. Nevertheless, petitioners were placed under a thirty-day preventive suspension beginning July 16, 2010.^[9] Petitioners also appeared at the hearing conducted by the Audit Committee which was scheduled on July 27, 2010, though they refused to answer any question concerning the allegations made against them.^[10] On August 17, 2010, petitioners were found guilty of serious misconduct, fraud and willful breach of trust, for which their employment were terminated.^[11]

On September 27, 2010, petitioners instituted the instant case before the arbitration branch of the NLRC.^[12] On March 10, 2011, the Labor Arbiter (LA) dismissed

petitioners' complaint for lack of merit. Aggrieved, petitioners interposed an appeal to the NLRC which, in turn, rendered the assailed decision dated October 25, 2011 affirming the findings of the LA. Thus:

"WHEREFORE, the Appeal for lack of merit is DISMISSED and the Assailed Decision of the Labor Arbiter dated March 10, 2011, AFFIRMED.

SO ORDERED."^[13]

Petitioners' motion for reconsideration was likewise denied in the assailed resolution dated December 29, 2011.

Hence the present recourse, petitioners raising the following issues:

WHETHER OR NOT THE HONORABLE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN:

- A. IT RULED THAT THE PRIVATE RESPONDENTS DID NOT VIOLATE SECTION 2 OF RULE XIV OF THE OMNIBUS RULES IMPLEMENTING THE LABOR CODE IN THE DISMISSAL OF THE PETITIONERS.**
- B. IT RULED ON VANGUARDIA'S ERRONEOUS AUDIT REPORT IN UPHOLDING THE DISMISSAL OF THE PETITIONERS.**
- C. IT RULED THAT THERE WAS BASIS FOR THE PRIVATE-RESPONDENTS ALLEGATIONS THAT PETITIONERS COMMITTED UNSAFE BANKING PRACTICES;**
- D. IT RULED THAT THERE WAS BASIS FOR THE PRIVATE-RESPONDENTS ALLEGATIONS THAT THE PETITIONERS MANIPULATED THE EMPLOYEES CASH ADVANCES THROUGH ISSUANCE OF FALSIFIED CASHIER'S CHECKS AND OFFICIAL RECEIPTS**
- E. IT RULED THAT PETITIONER AQUINO VIOLATED THE DOSRI RULE.**
- F. IT RULED THAT PRIVATE RESPONDENTS ARE NOT LIABLE TO PAY PETITIONERS FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.**^[14]

Petitioners contend that they were denied their right to procedural due process; that the audit report upon which their dismissal was based was full of erroneous findings; that there was no proof that they defrauded RBPI; that they did not falsify any cashier's checks and official receipts to grant cash advances to employees; and that the cash advances that Aquino obtained from RBPI were not covered by the DOSRI rule.

RBPI, for its part, maintains that petitioners were afforded their right to due process; that their acts and omissions constituting the bases for their dismissal were clearly specified in Vanguardia's audit report; that petitioners' allegations on the inaccuracy of the said audit report were unfounded; and that petitioners' serious misconduct and willful breach of their employer's trust were sufficient bases for their termination from employment.

First, the procedural issues raised by petitioners. It is fundamental that in order to validly dismiss an employee, the employer is required to observe both substantive

and procedural due process – the termination of employment must be based on a just or authorized cause and the dismissal must be effected after due notice and hearing.^[15] Procedural due process requires that the employee be given a notice of the charge against him, an ample opportunity to be heard, and a notice of termination. Even if the aforesaid procedure is conducted after the filing of the illegal dismissal case, the legality of the dismissal, as to its procedural aspect, will be upheld provided that the employer is able to show that compliance with these requirements was not a mere afterthought.^[16]

Applying the foregoing standards, the Court finds petitioners' plea of denial of due process to be unsubstantiated. Records show that they were duly informed of the charges made against them through RBPI's demand letter dated June 5, 2010, which letter was accompanied by Vanguardia's audit report specifying the most minute detail of each and every anomaly in the books of RBPI-Gloria Branch. Petitioners were also given the chance to explain their side at the July 27, 2010 hearing conducted by the Audit Committee. It was only after their persistent refusal to cooperate with the required processes that petitioners were duly informed of their termination from service. Thus, they cannot feign denial of due process where they had been afforded the opportunity to present their side.^[17]

This brings Us to the issue on the validity of petitioners' dismissal. Article 282^[18] of the Labor Code enumerates the just causes for the valid termination of an employee. The burden of proving that the termination of an employee was for a just or authorized cause lies with the employer. If the employer fails to meet this burden, the conclusion would be that the dismissal was unjustified and, therefore, illegal.^[19] RBPI asserts serious misconduct and willful breach of trust as grounds for petitioners' dismissal. We find that RBPI was able to establish by substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,^[20] that indeed, petitioners were guilty of the said offenses. At this juncture, We quote with affirmation the following ratiocination of the NLRC:

"xxx In the auditor's report, first quarter of 2007, as reported by Ronald M. Aliwalas, the audit noted anomalies in the advances of employees, irregularity in the account Cash and other Cash Items, missing CTD's Cashier's checks issued with no deposit slip, accumulated documentary stamp taxes and withheld taxes, personal cash advance of employees exceeding their one month pay and other violations of ICS and MORB. The advances to employees are composed of personal cash advances which are made at the first week of each month by means of Cashier's Check [CC] and are paid at the end of the month evidenced by an Official Receipt [OR]. It was found out that the balances of the advances which was paid at the end of each month, evidenced by an OR, suggests that such were not actually paid and that such balances have been carried outstanding to the next months. Further, detailed examination of the advances to employees revealed that Complainant-Aquino made advances of P10,000.00 on January 8, 2007 and P40,000,000 on January 9, 2007 without the written approval of the Board of Directors. In the succeeding months both the Complainants-Aquino and Sarmiento made additional advances without authority from the Board in violation of Section 36 of the GBL and Section X334 of MORB. That the audit team