

FIFTEENTH DIVISION

[CA-G.R. SP NO. 90713, August 16, 2006]

**BANK OF THE PHILIPPINE ISLANDS. PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, MA. PAZ CORAZON
D. LLORIN, RESPONDENTS.**

D E C I S I O N

REYES, JR., J., J.:

This is a Petition for Certiorari filed pursuant to Rule 65 of the 1997 Rules of Court assailing the November 19, 2004 Resolution (Rollo, pp. 32-38) and the April 20, 2005 Order (Rollo, pp. 29-30) of the National Labor Relations Commission (NLRC) in SUB-RAB Case No. 05-07-00306-02 (NLRC NCR CA No. 035656-03).

The undisputed facts are as follows:

Sometime in December 1996, herein private respondent Ma. Paz Corazon D. Llorin started her employment on a probationary basis with petitioner Bank of the Philippine Islands (BPI) as bank teller in the latter's Iriga City Branch. By March 1998, she became permanent employee for the same position. She was then assigned in petitioner's Naga City Branch, holding the same position as a bank teller until December 1999, where she was re-assigned as new accounts clerk.

Such re-assignment was brought about by reason of a withdrawal transaction made on September 30, 1999 at private respondent's teller cage involving an amount of Php 450,000.00 from the Gold Savings Account No. 0823-30623-42 of Sps. Edmundo and Eden Tam. Sometime in October 1999, Mr. Edmundo Tam contested the said unauthorized withdrawal stating that the signature appearing on the withdrawal slip on file with petitioner BPI is a forgery.

Petitioner BPI, thru its Bank manager, Jesus Valenciano directed private respondent to submit a written explanation on the circumstances and detailed procedure of the subject withdrawal (See: Rollo, p. 88). Private respondent, in her written explanation dated October 27, 1999 (Rollo, p. 89), declared that it was Mrs. Eden Tam who signed and personally withdrew the amount of Php 450,000.00 from their Gold Savings Account, where the bank officers themselves approved said withdrawal.

Insisting that there was indeed a forgery, Sps. Edmundo and Eden Tam instituted a civil action (See: Complaint, Rollo, pp. 97-100) before the Regional Trial Court of Naga City against petitioner BPI, praying among others, for the recovery of the unauthorized withdrawn amount. Petitioner BPI, claiming that there was positive identification made by private respondent (as contained in the latter's written explanation), filed an Answer with Counterclaim (Rollo, pp. 90-96) to the complaint of the spouses Tam insisting that there was genuine and authorized withdrawal.

Nevertheless, petitioner BPI submitted the signed withdrawal slip with the PNP Crime Laboratory for expert examination and at the same time, conducted an in-house investigation. Petitioner's Senior Manager, Clemente U. Banson, merely found procedural lapses thus, recommending that private respondent, together with its senior bank officers, Jesus Valenciano and Fe O. Ramos, should each be made to pay Php150,000.00 and a suspension of five (5) banking days, although erasing any fraud on the part of private respondent.

Surprisingly thereafter, another bank teller, in the person of Joanna Alcarioto, claiming to have been tormented by her conscience knowing that innocent persons now suffer from her wrong doings, admits and confesses, the anomaly behind the Php450,000.00 unauthorized withdrawal. Thus, through a letter dated October 24, 2001 (Rollo, pp. 101-102), Ms. Alcarioto explained to petitioner BPI, that she was the one who manipulated the successful withdrawal of Php450,000.00 from the Gold Savings Account No. 0823-30623-42, by forging the signature of Ms. Eden Tam and personally obtaining the subject amount.

By reason of said admission, petitioner BPI decided and in fact entered into a settlement with the spouses Tams by paying a compromised amount of Php1,050,000.00. Subsequently, petitioner BPI sued criminally said Joanna Alcarioto and at the same time, issued a show cause memo (Rollo, p. 103) to private respondent to explain why no disciplinary action shall be instituted against her in falsely declaring that it was Ms. Eden Tam herself who signed and personally withdrawn the amount of P450,000.00. In her written explanation (Rollo, p. 104) dated November 6, 2001, private respondent alleged among others, that she too became a victim of manipulation of Joanna Alcarioto, hence asked apologies thereto to the officers of petitioner bank.

On this score, petitioner BPI, through its high officer verbally requested private respondent to resign from her employment otherwise the disciplinary action against her will be pursued. For fear, private respondent followed and in fact involuntarily submitted a resignation letter dated July 1, 2002 (Rollo, p. 72). Thus, starting July 2, 2002, private respondent's employment with petitioner BPI was severed.

On July 10, 2002, private respondent Llorin filed with the arbitration branch of the NLRC a complaint (Rollo, p. 42) for constructive illegal dismissal with prayer for reinstatement, backwages and damages.

On July 17, 2002, petitioner BPI, alleging that it was not satisfied with the contents of the resignation letter, refused to accept the said letter and instead issued a Notice of Termination (Rollo, p. 106). The Notice of Termination is grounded on private respondent's dishonesty when she made a false declaration and/or testimony during an investigation conducted by the bank regarding the alleged unauthorized withdrawal from the account of the spouses Tam.

In resolving the case, the Labor Arbiter, in a Decision dated (Rollo, pp. 111-123) March 31, 2003 ruled in favor of private respondent Llorin. The dispositive portion of the Labor Arbiter's decision reads as follows:

"WHEREFORE, finding merit on the causes of action set forth by the complainant, judgment is hereby rendered declaring her termination or

dismissal from employment by the respondent bank as ILLEGAL and thereby ORDERING the latter the following:

- A. To reinstate the complainant within ten (10) days upon receipt of this Decision to her former position without loss of seniority rights and other privileges.
- B. To pay backwages, inclusive of allowances and other benefits or his monetary equivalent, computed from the date of her dismissal on July 1, 2002 up to the time of his actual reinstatement, which as of the date of this decision amounted to P94,950.00 at the rate of P10,550.00 per month.
- C. To pay Moral and Exemplary damages in the total amount of P200,000.00 and
- D. To pay Attorney's Fees corresponding to 10% of the total amount of P294,950.00 due to the complainant which is equivalent to the sum of P29,495.00.

Other than the above, all other claims are hereby ordered DISMISSED for lack of merit.

SO ORDERED (Rollo, pp. 122-123).

Dissatisfied with the foregoing decision, petitioner BPI filed a Memorandum of Appeal (Rollo, pp. 124-137) with public respondent NLRC. Thus, on November 19, 2004, public respondent NLRC rendered the now assailed Resolution affirming the decision of the labor arbiter and deleting the award of moral and exemplary damages for lack of basis. Thus:

"WHEREFORE, for want of grave abuse of discretion or serious error in the findings of fact, the assailed decision of 31 March 2003 is AFFIRMED subject to modification discussed above" (Rollo, p. 37).

Petitioner BPI filed a Motion for Reconsideration (Rollo, pp. 139-146) of the foregoing resolution. Just the same, the NLRC, for lack of merit, denied the Motion in the assailed Order (Rollo, pp. 29-30) dated April 20, 2005.

Feeling aggrieved with the findings of public respondent NLRC, petitioner BPI elevated the case to this Court via Petition for Certiorari under Rule 65 of the 1997 Rules of Court, raising the following issues, to wit:

1. WHETHER OR NOT PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT UPHELD THE FINDING OF THE LABOR ARBITER THAT HEREIN PETITIONER ILLEGALLY DISMISSED PRIVATE RESPONDENT LLORIN.
2. WHETHER OR NOT PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OR