

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**CHARLES JOSEPH U. RAMOS,
*Petitioner,***

-versus-

**G.R. No. 145405
June 29, 2004**

**HONORABLE COURT OF APPEALS and
UNION BANK OF THE PHILIPPINES,
*Respondents.***

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DECISION

CORONA, J.:

This is a Petition to Review the Decision^[1] of the Court of Appeals^[2] in CA-GR SP No. 55056 which held that the NLRC did not commit grave abuse of discretion in finding that petitioner Charles Ramos (Ramos) was lawfully dismissed by respondent Union Bank of the Philippines (Bank). The dispositive portion read:

WHEREFORE, considering the foregoing premises, the petition is hereby DISMISSED.^[3]

The facts of the case, as culled from the records, follow.

Petitioner Ramos was an employee of respondent Bank from 1987 to 1996. He started out as a post audit clerk and eventually became branch manager of respondent's J.P. Rizal Branch, Makati City.

Sometime in 1993, respondent Bank was in the thick of preparations for its approved merger with Interbank. Mr. Jose Morales, then branch manager of the J.P. Rizal branch, was detailed to the head office to help out with the merger. Petitioner, being then the branch cashier, automatically assumed the functions of branch manager, since the branch cashier was next in rank.

In October 1993, Mr. Ricardo Gonda, Area Head, verbally designated petitioner as the OIC branch manager of the J.P. Rizal Branch and assigned Mr. Rudy Paras from the reserve pool as branch cashier.

On March 15, 1994, petitioner was formally appointed as branch manager of the J.P. Rizal Branch through a notice of personnel movement dated March 9, 1994.

On August 21, 1995, the Central Accounting Division of the Bank reported certain unreconciled statements of cash deliveries from the Central Cash Unit to the J.P. Rizal Branch. Based on the bank's investigation, branch cashier Paras was found accountable for the alleged loss of P10.1 million. Paras did not record certain cash deliveries which enabled him to sponge a total of P10.1 million from October 1, 1993 to February 15, 1994. However, by the time the act was discovered, Paras had long resigned from respondent Bank and could no longer be found by the National Bureau of Investigation (NBI). A case for qualified theft was filed against him by the respondent Bank.

On August 29, 1995, petitioner was appointed as Area Operations Officer of Legaspi Village, Makati and Quezon City while the investigation was going on.

Sometime in September 1995, the investigation committee issued a memorandum to the staff of the J.P. Rizal branch to explain what happened. On April 12, 1996, petitioner was dismissed due to gross negligence/serious dereliction of duty resulting in loss of trust and confidence by management.

Petitioner wrote several letters to respondent Bank's officers denying liability but these were not answered. So on January 8, 1997, petitioner filed with the NLRC-NCR Arbitration Branch, Quezon City a complaint for illegal dismissal, payment of 13th month pay, damages and attorney's fees.

The labor arbiter, NLRC and later the Court of Appeals all agreed that the main issue was whether petitioner was functioning as the branch manager of the J.P. Rizal branch during the time Paras perpetrated his scam.

The labor arbiter ruled that petitioner was illegally dismissed since he was not the branch manager from October 1993 to February 1994. The arbiter gave credence to petitioner's claim that he was assigned as the branch's marketing officer and was thus not responsible for overseeing the work of Paras. The arbiter found it hard to believe that a big bank like respondent would allow the mere verbal appointment of a branch manager, a position carrying much responsibility. Also, the documents submitted by respondent did not show that petitioner assumed the responsibilities of branch manager during the period in question. Thus, the labor arbiter awarded backwages, 13th month pay and attorney's fees to petitioner. The dispositive portion of his ruling read:

WHEREFORE, judgment is hereby rendered declaring the dismissal of CHARLES JOSEPH M. RAMOS as illegal and ordering the UNION BANK OF THE PHILIPPINES, through its President, ARMAND F. BRAUN to reinstate him to his previous position without loss of seniority rights and other privileges and pay him the following amounts:

Backwages from his dismissal on April 12, 1996 up to the date of his reinstatement which computed as of today amounts to (P19,600 x 30 months) = P588,000.00

13th Month Pay for this period (P588,400 over 12) = 49,000.00

13th Month Pay from January to April 12, 1996 = P 5,716.60

TOTAL AWARD:

P 642,716.60

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plus 10% of the total award by way of attorney's fees.

SO ORDERED.^[4]

On appeal, however, the NLRC reversed the finding of the labor arbiter and ruled that petitioner did in fact assume the responsibilities of branch manager and was thus responsible for overseeing the work of the branch cashier Paras. Even if petitioner was not formally appointed as branch manager, this did not negate the fact that he acted as branch manager during the period in question. He performed the duties of a branch manager such as marketing to increase the Current Account and Savings Account Deposit (CASA) of the branch. He also signed numerous documents as branch manager. Thus, his failure to discover the scam of Paras constituted gross negligence and his dismissal was justified. The NLRC thus dismissed his complaint for lack of merit. The dispositive portion read:

WHEREFORE, premises considered, judgment is hereby rendered reversing and setting aside the October 12, 1998 Decision of the Labor Arbiter and a new one is issued dismissing the complaint for lack of merit.

SO ORDERED.^[5]

The Court of Appeals upheld the decision of the NLRC, hence this petition raising the following issues:

I

Whether or not the Honorable Court of Appeals gravely erred in dismissing the petition for certiorari filed by petitioner assailing the decision of the NLRC when the latter reversed the decision of the Labor Arbiter declaring the termination of petitioner as illegal, or without just or lawful cause, and ordering his reinstatement to his former position without loss of seniority rights and privileges and the payment of his full backwages;

II

Whether or not the Honorable Court of Appeals gravely erred in denying petitioner's motion for reconsideration which clearly discussed and argued that loss of trust and confidence cannot be used to justify improper causes for terminating an employee, like herein petitioner, in line with established rulings enunciated by the Honorable Supreme Court.^[6]

The petition has no merit. The issues raised by petitioner go into the factual findings of the court a quo and are thus beyond this Court's jurisdiction in a petition for review.

Petitioner essentially raises questions of fact regarding the Court of Appeals' finding that petitioner Ramos assumed the duties and responsibilities of branch manager. This Court is not a trier of facts. Well-settled is the rule that the jurisdiction of this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record or the assailed judgment is based on a gross misapprehension of facts.^[7] Besides, factual findings of quasi-judicial agencies like the NLRC, when affirmed by the Court of Appeals, are conclusive upon the parties and binding on this Court.^[8]

In the case at bar, there is no need to review the factual findings of the court a quo since these are amply supported by the evidence. We find no reason to disturb the findings of the Court of Appeals that the NLRC did not commit grave abuse of discretion in ruling that petitioner was lawfully dismissed by respondent. We quote with approval the findings of the Court of Appeals:

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The absence of a formal memorandum designating him as officer-in-charge of the Branch does not alter the fact that he was still designated verbally by Bank Officer Ricardo Gonda as OIC/Branch Manager in the absence of Jose Morales III who was pulled out of the J.P. Rizal Branch. Undeniably, by virtue

of such verbal designation, petitioner performed the functions and duties of a Branch Manager including that of marketing which he stresses to be his sole function at the J.P. Rizal Branch. Likewise, the pieces of evidence presented by the respondent Bank clearly indicate that petitioner (sic) indeed, signed in several document as officer-in-charge of the Bank.

Petitioner cannot rightfully argue that he was not the officer-in-charge of the branch and that he only functions as marketing officer at the time when Rudy Paras was committing the fraud. The records of the case show the absence of such position in the organization chart of the Bank. Categorically speaking, only three senior positions exist in the Bank, namely: Branch Manager, Branch Cashier and Branch Accountant. Indubitably, the petitioner's marketing function is just a part of the numerous functions of a Branch Manager. His function as the marketing officer was performed in his capacity as Branch Manager and no other.

Moreover, the petitioners' argument that Jose Morales III should also be held liable for the scam because he was the regular Branch Manager and he goes to the J.P. Rizal Branch to check documents and organize matters cannot hold water. Assuming that it was Morales who was the de facto Branch Manager at the time, the fact still remains that it was the petitioner who had direct supervision over the transactions and activities of the Bank. With his failure to supervise Rudy Paras by not looking into and checking his activities, it is undeniable that the petitioner was negligent in the performance of his functions which was enough reason for the Bank to lose the trust and confidence reposed on him. Had he been diligent in the performance of his job, the loss of P10.1 Million cash abstraction could not have occurred to the prejudice (sic) of the Bank's interest.

The Supreme Court, on several occasions, upheld the dismissal of bank employees for loss of trust and confidence and gross neglect of responsibilities. In view of the nature of its business, banks have every reason to demand that the conduct of their employees holding sensitive positions be fully deserving of their

trust. If bank employees will be allowed to do their work without the exercise of due diligence, no bank will survive.^[9]

To validly dismiss an employee on the ground of loss of trust and confidence, the following guidelines must be followed:

1. the loss of confidence must not be simulated;
2. it should not be used as a subterfuge for causes which are illegal, improper or unjustified;
3. it may not be arbitrarily asserted in the face of overwhelming evidence to the contrary;
4. it must be genuine, not a mere afterthought, to justify earlier action taken in bad faith; and
5. the employee involved holds a position of trust and confidence.^[10]

In the case at bar, petitioner held a position of trust and confidence as the regular branch cashier and acting branch manager of respondent's J.P. Rizal branch. Petitioner was utterly negligent in performing his duties as acting branch manager. The scam perpetrated by Paras could have been easily detected had petitioner conscientiously done his job in carefully overseeing the branch's operations. Respondent bank therefore had reason to lose its trust and confidence and to impose the penalty of dismissal on him.

WHEREFORE, the petition is hereby **DISMISSED**.

SO ORDERED.

Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

Vitug, J., (Chairman), on official leave.

[1] Penned by Associate Justice Romeo A. Brawner and concurred in by Associate Justices Quirino Abad Santos and Andres B. Reyes, Jr.; Rollo, pp. 152-157.

- [2] Third Division.
- [3] Rollo, p. 156.
- [4] LA's Decision, Rollo, pp. 84-85.
- [5] NLRC Decision, Rollo, p. 129.
- [6] Petitioner's Memorandum, Rollo, p. 438.
- [7] Magellan Capital Management Corporation vs. Zosa, 355 SCRA 157 [2001];
Sarmiento vs. Court of Appeals, 291 SCRA 656 [1997].
- [8] Miralles vs. Go, 349 SCRA 596 [2001].
- [9] CA Decision, Rollo, pp. 154-155.
- [10] Midas Touch Food Corp. vs. NLRC, 259 SCRA 652, 659-660 [1996].

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