

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**CHINA BANKING CORPORATION,  
*Petitioner,***

***-versus-***

**G.R. No. 156515  
October 19, 2004**

**MARIANO M. BORROMEIO,  
*Respondent.***

**X-----X**

**DECISION**

**CALLEJO, SR., J.:**

Before the Court is the Petition for Review on Certiorari filed by China Banking Corporation seeking the reversal of the Decision<sup>[1]</sup> dated July 19, 2002 of the Court of Appeals in CA-G.R. SP No. 57365, remanding to the Labor Arbiter for further hearings the complaint for payment of separation pay, mid-year bonus, profit share and damages filed by respondent Mariano M. Borrromeo against the petitioner Bank. Likewise, sought to be reversed is the appellate court's Resolution dated January 6, 2003, denying the petitioner Bank's motion for reconsideration.

The factual antecedents of the case are as follows:

Respondent Mariano M. Borromeo joined the petitioner Bank on June 1, 1989 as Manager assigned at the latter's Regional Office in Cebu City. He then had the rank of Manager Level I. Subsequently, the respondent was laterally transferred to Cagayan de Oro City as Branch Manager of the petitioner Bank's branch thereat.

For the years 1989 and 1990, the respondent received a "highly satisfactory" performance rating and was given the corresponding profit sharing/performance bonus. From 1991 up to 1995, he consistently received a "very good" performance rating for each of the said years and again received the corresponding profit sharing/performance bonus. Moreover, in 1992, he was promoted from Manager Level I to Manager Level II. In 1994, he was promoted to Senior Manager Level I. Then again, in 1995, he was promoted to Senior Manager Level II. Finally, in 1996, with a "highly satisfactory" performance rating, the respondent was promoted to the position of Assistant Vice-President, Branch Banking Group for the Mindanao area effective October 16, 1996. Each promotion had the corresponding increase in the respondent's salary as well as in the benefits he received from the petitioner Bank.

However, prior to his last promotion and then unknown to the petitioner Bank, the respondent, without authority from the Executive Committee or Board of Directors, approved several DAUD/BP accommodations amounting to P2,441,375 in favor of Joel Maniwan, with Edmundo Ramos as surety. DAUD/BP is the acronym for checks "Drawn Against Uncollected Deposits/Bills Purchased." Such checks, which are not sufficiently funded by cash, are generally not honored by banks. Further, a DAUD/BP accommodation is a credit accommodation granted to a few and select bank clients through the withdrawal of uncollected or uncleared check deposits from their current account. Under the petitioner Bank's standard operating procedures, DAUD/BP accommodations may be granted only by a bank officer upon express authority from its Executive Committee or Board of Directors.

As a result of the DAUD/BP accommodations in favor of Maniwan, a total of ten out-of-town checks (7 PCIB checks and 3 UCPB checks) of various dates amounting to P2,441,375 were returned unpaid from

September 20, 1996 to October 17, 1996. Each of the returned checks was stamped with the notation "Payment Stopped/Account Closed."

On October 8, 1996, the respondent wrote a Memorandum to the petitioner Bank's senior management requesting for the grant of a P2.4 million loan to Maniwan. The memorandum stated that the loan was "to regularize/liquidate subject's (referring to Maniwan) DAUD availments." It was only then that the petitioner Bank came to know of the DAUD/BP accommodations in favor of Maniwan. The petitioner Bank further learned that these DAUD/BP accommodations exceeded the limit granted to clients, were granted without proper prior approval and already past due. Acting on this information, Samuel L. Chiong, the petitioner Bank's First Vice-President and Head-Visayas Mindanao Division, in his Memorandum dated November 19, 1996 for the respondent, sought clarification from the latter on the following matters:

- 1) When DAUD/BP accommodations were allowed, what efforts, if any, were made to establish the identity and/or legitimacy of the alleged broker or drawers of the checks accommodated?
- 2) Did the branch follow and comply with operating procedure which require that all checks accommodated for DAUD/BP should be previously verified with the drawee bank and history if not outright balances determined if enough to cover the checks?
- 3) How did the accommodations reach P2,441,375.00 when our records indicate that the borrowers B/P-DAUD line is only for P500,000.00? When did the accommodations start exceeding the limit of P500,000.00 and under whose authority?
- 4) When did the accommodated checks start bouncing?
- 5) What is the status of these checks now and what has the branch done so far to protect/ensure collectibility of the returned checks?

- 6) What about client Joel Maniwan and surety Edmund Ramos, what steps have they done to pay the checks returned?<sup>[2]</sup>

In reply thereto, the respondent, in his Letter dated December 5, 1996, answered the foregoing queries in seriatim and explained, thus:

1. None
2. No
3. The accommodations reach P2.4 million upon the request of Mr. Edmund Ramos, surety, and this request was subsequently approved by undersigned. The excess accommodations started in July '96 without higher management approval.
4. Checks started bouncing on September 20, 1996.
5. Checks have remained unpaid. The branch sent demand letters to Messrs. Maniwan and Ramos and referred the matter to our Legal Dept. for filing of appropriate legal action.
6. Mr. Maniwan, thru his lawyer, Atty. Oscar Musni has signified their intention to settle by Feb. 1997.

Justification for lapses committed (Item nos. 1 to 3).

The account was personally endorsed and referred to us by Mr. Edmund Ramos, Branch Manager of Metrobank, Divisoria Br., Cagayan de Oro City. In fact, the CASA account was opened jointly as &/or (Maniwan &/or Ramos). Mr. Ramos gave us his full assurance that the checks that we intend to purchase are the same drawee that Metrobank has been purchasing for the past one (1) year already. He even disclosed that these checks were verified by his own branch accountant and that Mr. Maniwan's loan account was being co-made by Mr. Elbert Tan Yao Tin, son of Jose Tan Yao Tin of CIFIC. To show his sincerity, Mr. Ramos signed as surety for Mr. Maniwan for

P2.5MM. Corollary to this, Mr. Ramos applied for a loan with us mortgaging his house, lot and duplex with an estimated market value of P4.508MM. The branch, therefore, is not totally negligent as officer to officer bank checking was done. In fact, it is also for the very same reason that other banks granted DAUD to subject account and, likewise, the checks returned unpaid, namely:

Solidbank	P1.8 Million
Allied Bank	.8
Far East Bank	2.0
MBTC	5.0

The attached letter of Mr. Ramos dated 19 Nov. 1996 will speak for itself. Further to this, undersigned conferred with the acting BOH VSYap if these checks are legitimate 3<sup>rd</sup> party checks.

On the other hand, Atty. Musni continues to insist that Mr. Maniwan was gypped by a broker in the total amount of P10.00 Million.

Undersigned accepts full responsibility for committing an error in judgment, lapses in control and abuse of discretion by relying solely on the word, assurance, surety and REM of Mr. Edmund Ramos, a friend and a co-bank officer. I am now ready to face the consequence of my action.<sup>[3]</sup>

In another Letter dated April 8, 1997, the respondent notified Chiong of his intention to resign from the petitioner Bank and apologized “for all the trouble I have caused because of the Maniwan case.”<sup>[4]</sup> The respondent, however, vehemently denied benefiting therefrom. In his Letter dated April 30, 1997, the respondent formally tendered his irrevocable resignation effective May 31, 1997.<sup>[5]</sup>

In the Memorandum dated May 23, 1997 addressed to the respondent, Nancy D. Yang, the petitioner Bank’s Senior Vice-President and Head-Branch Banking Group, informed the former that his approval of the DAUD/BP accommodations in favor of Maniwan without authority and/or approval of higher management violated the petitioner Bank’s Code of Ethics. As such, he was directed to restitute the amount of P1,507,736.79 representing 90% of the total loss of P1,675,263.10 incurred by the petitioner Bank.

However, in view of his resignation and considering the years of service in the petitioner Bank, the management earmarked only P836,637.08 from the respondent's total separation benefits or pay. The memorandum addressed to the respondent stated:

After a careful review and evaluation of the facts surrounding the above case, the following have been conclusively established:

1. The branch granted various BP/DAUD accommodations to clients Joel Maniwan/Edmundo Ramos in excess of approved lines through the following out-of-town checks which were returned for the reason "Payment Stopped/Account Closed":

1. PCIB Cebu Check No. 86256	P251,816.00
2. PCIB Cebu Check No. 86261	235,880.00
3. PCIB Cebu Check No. 8215	241,443.00
4. UCPB Tagbilaran Check No.	277,630.00
5. PCIB Bogo, Cebu Check No. 6117	267,418.00
6. UCPB Tagbilaran Check No. 216070	197,467.00
7. UCPB Tagbilaran Check No. 216073	263,920.00
8. PCIB Bogo, Cebu Check No. 6129	253,528.00
9. PCIB Bogo, Cebu Check No. 6122	198,615.00
10. PCIB Bogo, Cebu Check No. 6134	253,658.00

2. The foregoing checks were accommodated through your approval which was in excess of your authority.
3. The branch failed to follow the fundamental and basic procedures in handling BP/DAUD accommodations which made the accommodations basically flawed.
4. The accommodations were attended by lapses in control consisting of failure to report the exception and failure to cover the account of Joel Maniwan with the required Credit Line Agreement.

Since the foregoing were established by your own admissions in your letter explanation dated 5 December 1996, and the Audit Report and

findings of the Region Head, Management finds your actions in violation of the Bank's Code of Ethics:

Table 6.2., no. 1: Compliance with Standard Operating Procedures

- "Infraction of Bank procedures in handling any bank transactions or work assignment which results in a loss or probable loss."

Table 6.3., no. 6: Proper Conduct and Behavior -

"Willful misconduct in the performance of duty whether or not the bank suffers a loss," and/or

Table 6.5., no. 1: Work Responsibilities -

"Dereliction of duty whether or not the Bank suffers a loss," and/or

Table 6.6., no. 2: Authority and Subordination -

"Failure to carry out lawful orders or instructions of superiors."

Your approval of the accommodations in excess of your authority without prior authority and/or approval from higher management is a violation of the above cited Rules.

In view of these, you are directed to retribute the amount of P1,507,736.79 representing 90% of the total loss of P1,675,263.10 incurred by the Bank as your proportionate share. However, in light of your voluntary separation from the Bank effective May 31, 1997, in view of the years of service you have given to the Bank, management shall earmark and segregate only the amount of P836,637.08 from your total separation benefits/pay. The Bank further directs you to fully assist in the effort to collect from Joel Maniwan and Edmundo Ramos the sums due to the Bank.<sup>[6]</sup>

In the Letter dated May 26, 1997 addressed to the respondent, Remedios Cruz, petitioner Bank's Vice-President of the Human Resources Division, again informed him that the management would withhold the sum of P836,637.08 from his separation pay, mid-year bonus and profit sharing. The amount withheld represented his proportionate share in the accountability vis-à-vis the DAUD/BP accommodations in favor of Maniwan. The said amount would be released upon recovery of the sums demanded from Maniwan in Civil Case No. 97174 filed against him by the petitioner Bank with the Regional Trial Court in Cagayan de Oro City.

Consequently, the respondent, through counsel, made a demand on the petitioner Bank for the payment of his separation pay and other benefits. The petitioner Bank maintained its position to withhold the sum of P836,637.08. Thus, the respondent filed with the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. 10, in Cagayan de Oro City, the complaint for payment of separation pay, mid-year bonus, profit share and damages against the petitioner Bank.

The parties submitted their respective position papers to the Labor Arbiter. Thereafter, the respondent filed a motion to set case for trial or hearing. Acting thereon, the Labor Arbiter, in the Order dated January 29, 1999, denied the same stating that:

This Branch views that if complainant finds the necessity to controvert the allegations in the respondent's pleadings, then he may file a supplemental position paper and adduce thereto evidence and additional supporting documents, the soonest possible time. All the evidence will be evaluated by the Branch to determine whether or not a clarificatory hearing shall be conducted.<sup>[7]</sup>

On February 26, 1999, the Labor Arbiter issued another Order submitting the case for resolution upon finding that he could judiciously pass on the merits without the necessity of further hearing.

On even date, the Labor Arbiter promulgated the Decision<sup>[8]</sup> dismissing the respondent's complaint. According to the Labor

Arbiter, the respondent, an officer of the petitioner Bank, had committed a serious infraction when, in blatant violation of the bank's standard operating procedures and policies, he approved the DAUD/BP accommodations in favor of Maniwan without authorization by senior management. Even the respondent himself had admitted this breach in the letters that he wrote to the senior officers of the petitioner Bank.

The Labor Arbiter, likewise, made the finding that the respondent offered to assign or convey a property that he owned to the petitioner Bank as well as proposed the withholding of the benefits due him to answer for the losses that the petitioner Bank incurred on account of unauthorized DAUD/BP accommodations. But even if the respondent had not given his consent, the Labor Arbiter held that the petitioner Bank's act of withholding the benefits due the respondent was justified under its Code of Ethics. The respondent, as an officer of the petitioner Bank, was bound by the provisions of the said Code.

Aggrieved, the respondent appealed to the National Labor Relations Commission. After the parties had filed their respective memoranda, the NLRC, in the Decision dated October 20, 1999, dismissed the appeal as it affirmed in toto the findings and conclusions of the Labor Arbiter. The NLRC preliminarily ruled that the Labor Arbiter committed no grave abuse of discretion when he decided the case on the basis of the position papers submitted by the parties. On the merits, the NLRC, like the Labor Arbiter, gave credence to the petitioner Bank's allegation that the respondent offered to pledge his property to the bank and proposed the withholding of his benefits in acknowledgment of the serious infraction he committed against the bank. Further, the NLRC concurred with the Labor Arbiter that the petitioner Bank was justified in withholding the benefits due the respondent. Being a responsible bank officer, the respondent ought to know that, based on the petitioner Bank's Code of Ethics, restitution may be imposed on erring employees apart from any other penalty for acts resulting in loss or damage to the bank. The decretal portion of the NLRC decision reads:

WHEREFORE, the decision of the Labor Arbiter is Affirmed.  
The appeal is Dismissed for lack of merit.

SO ORDERED.<sup>[9]</sup>

The respondent moved for a reconsideration of the said decision but the NLRC, in the Resolution of December 20, 1999, denied his motion.

The respondent then filed a petition for certiorari with the Court of Appeals alleging that the NLRC committed grave abuse of discretion when it affirmed the findings and conclusions of the Labor Arbiter. He vehemently denied having offered to pledge his property to the bank or proposed the withholding of his separation pay and other benefits. Further, he argued that the petitioner Bank deprived him of his right to due process because it unilaterally imposed the penalty of restitution on him. The DAUD/BP accommodations in favor of Maniwan allegedly could not be considered as a “loss” to the bank as the amounts may still be recovered. The respondent, likewise, maintained that the Labor Arbiter should not have decided the case on the basis of the parties’ position papers but should have conducted a full-blown hearing thereon.

On July 19, 2002, the CA rendered the Decision<sup>[10]</sup> now being assailed by the petitioner Bank. The CA found merit in the respondent’s contention that he was deprived of his right to due process by the petitioner Bank as no administrative investigation was conducted by it prior to its act of withholding the respondent’s separation pay and other benefits. The respondent was not informed of any charge against him in connection with the Maniwan DAUD/BP accommodations nor afforded the right to a hearing or to defend himself before the penalty of restitution was imposed on him. This, according to the appellate court, was contrary not only to the fundamental principle of due process but to the petitioner Bank’s Code of Ethics as well.

The CA further held that the Labor Arbiter, likewise, failed to afford the respondent due process when it denied his motion to set case for trial or hearing. While the authority of the Labor Arbiter to decide a case based on the parties’ position papers and documents is indubitable, the CA opined that factual issues attendant to the case, including whether or not the respondent proposed the withholding of

his benefits or pledged the same to the petitioner Bank, necessitated the conduct of a full-blown trial. The appellate court explained that:

Procedural due process, as must be remembered, has two main concerns, the prevention of unjustified or mistaken deprivation and the promotion of participation and dialogue by affected individuals in the decision-making process. Truly, the magnitude of the case and the withholding of Borromeo's property as well as the willingness of the parties to conciliate, make a hearing imperative. As manifested by the bank, it did not contest Borromeo's motion for hearing or trial inasmuch as the bank itself wanted to fully ventilate its side.<sup>[11]</sup>

Accordingly, the CA set aside the decision of the NLRC and ordered that the records of the case be remanded to the Labor Arbiter for further hearings on the factual issues involved.

The petitioner Bank filed a motion for reconsideration of the said decision but the CA, in the assailed Resolution of January 6, 2003, denied the same as it found no compelling ground to warrant reconsideration.<sup>[12]</sup> Hence, its recourse to this Court alleging that the assailed CA decision is contrary to law and jurisprudence in that:

## I.

THE FACTUAL FINDINGS OF THE LABOR ARBITER AS AFFIRMED BY THE NATIONAL LABOR RELATIONS COMMISSION ARE SUPPORTED BY SUBSTANTIAL EVIDENCE AND SHOULD HAVE BEEN ACCORDED RESPECT AND FINALITY BY THE COURT OF APPEALS IN ACCORDANCE WITH GOVERNING JURISPRUDENCE.

## II.

AT ALL TIMES, THE LABOR ARBITER ACTED IN ACCORDANCE WITH THE REQUIREMENTS OF DUE PROCESS IN THE PROCEEDINGS A QUO.

### III.

THERE WAS NO VIOLATION BY PETITIONER BANK OF RESPONDENT'S RIGHT TO DUE PROCESS AS NO ADMINISTRATIVE INVESTIGATION WAS NEEDED TO BE CONDUCTED ON HIS ADMITTED MISCONDUCT.<sup>[13]</sup>

The petitioner Bank posits that the sole factual issue that remained in dispute was whether the respondent pledged his benefits as guarantee for the losses the bank incurred resulting from the unauthorized DAUD/BP accommodations in favor of Maniwan. On this issue, both the Labor Arbiter and the NLRC found that the respondent had indeed pledged his benefits to the bank. According to the petitioner Bank, this factual finding should have been accorded respect by the CA as the same is supported by the evidence on record. By ordering the remand of the case to the Labor Arbiter, the CA allegedly unjustifiably analyzed and weighed all over again the evidence presented.

The petitioner Bank insists that the Labor Arbiter acted within his authority when he denied the respondent's motion to set case for hearing or trial and instead decided the case on the basis of the position papers and evidence submitted by the parties. Due process simply demands an opportunity to be heard and the respondent was not denied of this as he was even given the opportunity to file a supplemental position paper and other supporting documents, but he did not do so.

The petitioner Bank takes exception to the findings of the appellate court that the respondent was not afforded the right to a hearing or to defend himself by the petitioner Bank as it did not conduct an administrative investigation. The petitioner Bank points out that it was poised to conduct one but was preempted by the respondent's resignation. In any case, respondent himself in his Letter dated December 5, 1996, in reply to the clarificatory queries of Chiong, admitted that the DAUD/BP accommodations were granted "without

higher management approval” and that he (the respondent) “accepts full responsibility for committing an error of judgment, lapses in control and abuse of discretion.” Given the respondent’s admission, the holding of a formal investigation was no longer necessary.

For his part, the respondent, in his Comment, maintains that the DAUD/BP accommodations in favor of Maniwan were approved, albeit not expressly, by the senior management of the petitioner Bank. He cites the regular reports he made to Chiong, his superior, regarding the DAUD/BP transactions made by the branch, including that of Maniwan, and Chiong never called his attention thereto nor stopped or reprimanded him therefor. These reports further showed that he did not conceal these transactions to the management.

The respondent vehemently denies having offered the withholding of his benefits or pledged the same to the petitioner Bank. The findings of the Labor Arbiter and the NLRC that what he did are allegedly not supported by the evidence on record.

The respondent is of the view that restitution is not proper because the petitioner Bank has not, as yet, incurred any actual loss as the amount owed by Maniwan may still be recovered from him. In fact, the petitioner Bank had already instituted a civil case against Maniwan for the recovery of the sum and the RTC rendered judgment in the petitioner Bank’s favor. The case is still pending appeal. In any case, the respondent argues that the petitioner Bank could not properly impose the accessory penalty of restitution on him without imposing the principal penalty of “Written Reprimand/Suspension” as provided under its Code of Ethics. He, likewise, vigorously avers that, in contravention of its own Code of Ethics, he was denied due process by the petitioner Bank as it did not conduct any administrative investigation relative to the unauthorized DAUD/BP accommodations. He was not informed in writing of any charge against him nor was he given the opportunity to defend himself.

The petition is meritorious.

The Court shall first resolve the procedural issue raised in the petition, i.e., whether the CA erred in remanding the case to the Labor Arbiter. The Court rules in the affirmative. It is settled that

administrative bodies like the NLRC, including the Labor Arbiter, are not bound by the technical niceties of the law and procedure and the rules obtaining in courts of law.<sup>[14]</sup> Rules of evidence are not strictly observed in proceedings before administrative bodies like the NLRC, where decisions may be reached on the basis of position papers.<sup>[15]</sup> The holding of a formal hearing or trial is discretionary with the Labor Arbiter and is something that the parties cannot demand as a matter of right.<sup>[16]</sup> As a corollary, trial-type hearings are not even required as the cases may be decided based on verified position papers, with supporting documents and their affidavits.<sup>[17]</sup>

Hence, the Labor Arbiter acted well within his authority when he issued the Order dated February 26, 1999 submitting the case for resolution upon finding that he could judiciously pass on the merits without the necessity of further hearing. On the other hand, the assailed CA decision's directive requiring him to conduct further hearings constitutes undue interference with the Labor Arbiter's discretion. Moreover, to require the conduct of hearings would be to negate the rationale and purpose of the summary nature of the proceedings mandated by the Rules and to make mandatory the application of the technical rules of evidence.<sup>[18]</sup> The appellate court, therefore, committed reversible error in ordering the remand of the case to the Labor Arbiter for further hearings.

Before delving on the merits of the case, it is well to remember that factual findings of the NLRC affirming those of the Labor Arbiter, both bodies being deemed to have acquired expertise in matters within their jurisdiction, when sufficiently supported by evidence on record, are accorded respect, if not finality, and are considered binding on this Court.<sup>[19]</sup> As long as their decisions are devoid of any arbitrariness in the process of their deduction from the evidence proffered by the parties, all that is left is for the Court to stamp its affirmation.<sup>[20]</sup>

In this case, the factual findings of the Labor Arbiter and those of the NLRC concur on the following material points: the respondent was a responsible officer of the petitioner Bank; by his own admission, he granted DAUD/BP accommodations in excess of the authority given to him and in violation of the bank's standard operating procedures; the petitioner Bank's Code of Ethics provides that

restitution/forfeiture of benefits may be imposed on the employees for, inter alia, infraction of the bank's standard operating procedures; and, the respondent resigned from the petitioner Bank on May 31, 1998. These factual findings are amply supported by the evidence on record.

Indeed, it had been indubitably shown that the respondent admitted that he violated the petitioner Bank's standard operating procedures in granting the DAUD/BP accommodations in favor of Maniwan without higher management approval. The respondent's replies to the clarificatory questions propounded to him by way of the Memorandum dated November 19, 1996 were particularly significant. When the respondent was asked whether efforts were made to establish the identity and/or legitimacy of the drawers of the checks before the DAUD/BP accommodations were allowed,<sup>[21]</sup> he replied in the negative.<sup>[22]</sup> To the query "did the branch follow and comply with operating procedure which require that all checks accommodated for DAUD/BP should be previously verified with the drawee bank and history, if not outright balances, determined if enough to cover the checks?"<sup>[23]</sup> again, the respondent answered "no."<sup>[24]</sup> When asked under whose authority the excess DAUD/BP accommodations were granted,<sup>[25]</sup> the respondent expressly stated that they were "approved by undersigned (referring to himself)" and that the excess accommodation was granted "without higher management approval."<sup>[26]</sup> More telling, however, is the respondent's statement that he "accepts full responsibility for committing an error in judgment, lapses in control and abuse of discretion by relying solely on the word, assurance, surety and REM of Mr. Edmundo Ramos."<sup>[27]</sup> The respondent added that he was "ready to face the consequence of his action."<sup>[28]</sup>

The foregoing sufficiently establish that the respondent, by his own admissions, had violated the petitioner Bank's standard operating procedures. Among others, the petitioner Bank's Code of Ethics provides:

**Table 6.2. COMPLIANCE WITH STANDARD OPERATING PROCEDURES**

VIOLATIONS	PENALTIES			
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	4 <sup>TH</sup>
1. Infraction of Bank procedures in handling any Bank transaction or work assignment which results in a loss or probable loss	Written Reprimand/ Suspension*	Suspension/ Dismissal*	Dismissal*	

\* With restitution, if warranted.

Further, the said Code states that:

#### 7.2.5. Restitution/Forfeiture of Benefits

Restitution may be imposed independently or together with any other penalty in case of loss or damage to the property of the Bank, its employees, clients or other parties doing business with the Bank. The Bank may recover the amount involved by means of salary deduction or whatever legal means that will prompt offenders to pay the amount involved. But restitution shall in no way mitigate the penalties attached to the violation or infraction.

Forfeiture of benefits/privileges may also be effected in cases where infractions or violations were incurred in connection with or arising from the application/availment thereof.

It is well recognized that company policies and regulations are, unless shown to be grossly oppressive or contrary to law, generally binding and valid on the parties and must be complied with until finally revised or amended unilaterally or preferably through negotiation or by competent authority.<sup>[29]</sup> Moreover, management has the prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations.<sup>[30]</sup> With more reason should these truisms apply to the respondent, who, by reason of his position, was required to act

judiciously and to exercise his authority in harmony with company policies.<sup>[31]</sup>

Contrary to the respondent's contention that the petitioner Bank could not properly impose the accessory penalty of restitution on him without imposing the principal penalty of "Written Reprimand/Suspension," the latter's Code of Ethics expressly sanctions the imposition of restitution/forfeiture of benefits apart from or independent of the other penalties. Obviously, in view of his voluntary separation from the petitioner Bank, the imposition of the penalty of reprimand or suspension would be futile. The petitioner Bank was left with no other recourse but to impose the ancillary penalty of restitution. It was certainly within the petitioner Bank's prerogative to impose on the respondent what it considered the appropriate penalty under the circumstances pursuant to its company rules and regulations.

Anent the issue that the respondent's right to due process was violated by the petitioner Bank since no administrative investigation was conducted prior to the withholding of his separation benefits, the Court rules that, under the circumstances obtaining in this case, no formal administrative investigation was necessary. Due process simply demands an opportunity to be heard and this opportunity was not denied the respondent.<sup>[32]</sup>

Prior to the respondent's resignation, he was furnished with the Memorandum<sup>[33]</sup> dated November 19, 1996 in which several clarificatory questions were propounded to him regarding the DAUD/BP accommodations in favor of Maniwan. Among others, the respondent was asked whether the bank's standard operating procedures were complied with and under whose authority the accommodations were granted. From the tenor thereof, it could be reasonably gleaned that the said memorandum constituted notice of the charge against the respondent.

Replying to the queries, the respondent, in his Letter<sup>[34]</sup> dated December 5, 1996, admitted, inter alia, that he approved the DAUD/BP accommodations in favor of Maniwan and the amount in excess of the credit limit of P500,000 was approved by him without higher management approval. The respondent, likewise, admitted

non-compliance with the bank's standard operating procedures, specifically, that which required that all checks accommodated for DAUD/BP be previously verified with the drawee bank and history, if not outright balances determined if enough to cover the checks. In the same letter, the respondent expressed that he "accepts full responsibility for committing an error in judgment, lapses in control and abuse of discretion" and that he is "ready to face the consequence of his action."

Contrary to his protestations, the respondent was given the opportunity to be heard and considering his admissions, it became unnecessary to hold any formal investigation.<sup>[35]</sup> More particularly, it became unnecessary for the petitioner Bank to conduct an investigation on whether the respondent had committed an "[I]nfraction of Bank procedures in handling any Bank transaction or work assignment which results in a loss or probable loss" because the respondent already admitted the same. All that was needed was to inform him of the findings of the management<sup>[36]</sup> and this was done by way of the Memorandum<sup>[37]</sup> dated May 23, 1997 addressed to the respondent. His claim of denial of due process must perforce fail.

Significantly, the respondent is not wholly deprived of his separation benefits. As the Labor Arbiter stressed in his decision, "the separation benefits due the complainant (the respondent herein) were merely withheld."<sup>[38]</sup> The NLRC made the same conclusion and was even more explicit as it opined that the respondent "is entitled to the benefits he claimed in pursuance to the Collective Bargaining Agreement but, in the meantime, such benefits shall be deposited with the bank by way of pledge."<sup>[39]</sup> Even the petitioner Bank itself gives "the assurance that as soon as the Bank has satisfied a judgment in Civil Case No. 97174, the earmarked portion of his benefits will be released without delay."<sup>[40]</sup>

It bears stressing that the respondent was not just a rank and file employee. At the time of his resignation, he was the Assistant Vice-President, Branch Banking Group for the Mindanao area of the petitioner Bank. His position carried authority for the exercise of independent judgment and discretion, characteristic of sensitive posts in corporate hierarchy.<sup>[41]</sup> As such, he was, as earlier intimated,

required to act judiciously and to exercise his authority in harmony with company policies.<sup>[42]</sup>

On the other hand, the petitioner Bank's business is essentially imbued with public interest and owes great fidelity to the public it deals with.<sup>[43]</sup> It is expected to exercise the highest degree of diligence in the selection and supervision of their employees.<sup>[44]</sup> As a corollary, and like all other business enterprises, its prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations must be respected.<sup>[45]</sup> The law, in protecting the rights of labor, authorized neither oppression nor self-destruction of an employer company which itself is possessed of rights that must be entitled to recognition and respect.<sup>[46]</sup>

**WHEREFORE**, the petition is **GRANTED**. The Decision dated July 19, 2002 of the Court of Appeals and its Resolution dated January 6, 2003 in CA-G.R. SP No. 57365 are **REVERSED AND SET ASIDE**. The Resolution dated October 20, 1999 of the NLRC, affirming the Decision dated February 26, 1999 of the Labor Arbiter, is **REINSTATED**.

**SO ORDERED.**

**PUNO, J., Chairman, AUSTRIA-MARTINEZ and TINGA, JJ., concur.**

**CHICO-NAZARIO, JJ., On Leave.**

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[1] Penned by Associate Justice Oswaldo D. Agcaoili, with Associate Justices Eriberto U. Rosario, Jr. and Danilo B. Pine, concurring; Rollo, pp. 69-90..

[2] Rollo, p. 200.

[3] Id. at 201-202.

[4] Id. at 205.

[5] Id. at 206.

[6] Id. at 209-210.

[7] CA Rollo, p. 145.

[8] Id. at 148-152.

[9] Id. at 237.

[10] Rollo, pp. 69-90.

[11] Id. at 89. (Citations omitted).

- [12] *Id.* at 92.
- [13] *Id.* at 45.
- [14] *Bantolino vs. Coca-Cola Bottlers Phils., Inc.*, 403 SCRA 699 (2003).
- [15] *Rabago vs. NLRC*, 200 SCRA 158 (1991).
- [16] *Columbus Philippines Bus Corp. vs. NLRC*, 364 SCRA 606 (2001).
- [17] *Bantolino vs. Coca-Cola Bottlers Phils., Inc.*, *supra*.
- [18] *Id.* at 704.
- [19] *Ignacio vs. Coca-Cola Bottlers Phils., Inc.*, 365 SCRA 418 (2001).
- [20] *Id.* at 424.
- [21] See Note 2.
- [22] See Note 3.
- [23] See Note 2.
- [24] See Note 3.
- [25] See Note 2.
- [26] See Note 3.
- [27] *Ibid.*
- [28] *Id.*
- [29] *Alcantara, Jr. vs. Court of Appeals*, 386 SCRA 370 (2002).
- [30] *Philippine Airlines, Inc. vs. NLRC (4th Division)*, 337 SCRA 286 (2000).
- [31] *Philippine Long Distance Telephone Company vs. NLRC*, 303 SCRA 9 (1999).
- [32] *Ginete vs. Sunrise Manning Agency*, 359 SCRA 404 (2001).
- [33] See Note 2.
- [34] See Note 3.
- [35] *Pampanga II Electric Cooperative, Inc. vs. NLRC*, 250 SCRA 31 (1995). See also *Bernardo vs. NLRC*, 255 SCRA 108 (1996); and *Magos vs. NLRC*, 300 SCRA 484 (1998).
- [36] *Ibid.*
- [37] See Note 6.
- [38] *Rollo*, p. 97.
- [39] *Id.* at 106.
- [40] *Id.* at 190.
- [41] *Dayan vs. Bank of the Philippine Islands*, 369 SCRA 712 (2001).
- [42] See Note 31.
- [43] *Dayan vs. Bank of the Philippine Islands*, *supra*.
- [44] *Philippine Commercial International Bank vs. Court of Appeals*, 350 SCRA 446 (2001).
- [45] See Note 30.
- [46] *Dayan vs. Bank of the Philippine Islands*, *supra*.