

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**GENERAL BANK & TRUST COMPANY,
CLARENCO S. YUJUICO, SALVADOR
D. TENORIO, IRINEO P. SAN LUIS and
JOSE SANTOS,**

Petitioners,

-versus-

**G.R. No. L-42724
April 9, 1985**

**THE COURT OF APPEALS (Ninth
Division) and MANUEL E. BATUCAN,
*Respondents.***

X-----X

DECISION

GUTIERREZ, JR., J.:

SEPARATE OPINIONS:

TEEHANKEE, J., concurring.:

MELENCIO-HERRERA, J., concurring.:

This is a Petition for Review on *Certiorari* of the Court of Appeals' Decision which affirmed the Decision of the Court of First Instance of Cebu ordering the petitioners to pay private respondent Manuel E.

Batucan, jointly and severally certain sums of money and attorney's fees.

The undisputed facts are as follows:

“This case starts with the employment of plaintiff-appellee with the Cebu Branch of the First National City Bank of New York for 18 years, where he rose to the position of Chief Clerk, Accounting Department (Exhibit O); that on January 11, 1965, plaintiff-appellee joined the defendant bank in its Cebu branch as accountant with an annual compensation of P6,000.00 (Exhibit A); that on April 26, 1965, the Cebu Branch of defendant bank began operating and doing business with the public; that on January 1, 1966, plaintiff received an increase of P50.00 bringing his monthly salary to P550.00 (Exhibit D); that on April 11, 1967 defendant bank appointed the plaintiff to the position of Acting Manager of its Cebu Branch, with the corresponding increase of salary to P700.00 a month (Exhibit E); that effective September 1, 1967, defendant bank granted plaintiff a monthly housing allowance of P200.00 in addition to his monthly salary (Exhibit F); that on October 3, 1967 defendant bank appointed plaintiff as the regular Manager of its Cebu Branch (Exhibit G) effective May 1, 1968; that defendant bank increased plaintiff's salary to P800.00 a month (Exhibit H); that on May 16, 1969 while the plaintiff was on vacation leave, he happened to visit the bank and learned that three tellers of defendant bank's branch in Cebu City, namely, Miss Crystal Enriquez, Miss Yolanda Chu, and Miss Sonia Chiu, had been transferred to the head office in Manila by defendant Jose D. Santos; that the plaintiff went to Manila on May 18, 1969 to make personal representation with the head office for the retention of the said tellers in Cebu; that on May 26, 1969 the plaintiff reported back for duty with defendant bank's branch in Cebu and reinstated immediately the three tellers to their respective positions in the Cebu branch of defendant bank; that on May 28, 1969 defendant Jose D. Santos submitted a report to defendant Salvador D. Tenorio alleging that there was excess personnel in the Cebu Branch; that on the same date defendant Jose D. Santos submitted a supplementary report to defendant Salvador D. Tenorio charging the plaintiff of over-appraising

the real estate offered by Domingo Chua as collateral for his credit accommodation (Exhibit 34); that defendant Salvador D. Tenorio immediately dispatched a letter to the plaintiff dated May 30, 1969 requiring him to explain within twenty-four hours why no disciplinary action should be taken against him for alleged repeated violation of defendant bank's policies and directives regarding credit accommodations and for over-appraisal of the real estate collateral for Domingo Chua's account, among others (Exhibit 8); that on June 6, 1969, the plaintiff received the said letter of defendant Salvador D. Tenorio but found it impossible to render the required explanation in 24 hours; that on June 19, 1969 defendant Jose D. Santos went to Cebu City and served plaintiff with the letter of defendant Salvador D. Tenorio, dated June 18, 1969, suspending the plaintiff; and that on July 22, 1969 plaintiff was served with the order of his termination signed by defendant Clarencio S. Yujuico, dated July 18, 1969."

The Court of First Instance of Cebu, Branch X rendered a decision, the dispositive portion of which reads:

"WHEREFORE, based on all the foregoing considerations, and after taking into account the business, financial and social standing of both plaintiff and defendants, judgment is hereby rendered, finding the dismissal of plaintiff as without just cause or otherwise illegal arbitrary, oppressive and malicious, and ordering defendants to pay to the plaintiff, jointly and severally, the following sums: (a) P1,000.00 a month, as consequential damages for the loss of his salaries and allowances, from the date of his dismissal until the judgment shall have become final and executory; (b) P2,500.00 as termination pay; (c) P106.63 representing unpaid salaries from the 16th to 19th of June 1969; (d) P200,000.00 in concept of moral damages; (e) P50,000.00 as exemplary or corrective damages; (f) P15,000.00 as attorney's fees; and to pay the costs of the suit."

The Court of Appeals, affirmed the decision of the lower court but modified the judgment by reducing moral damages to P150,000.00 and exemplary damages to P30,000.00.

The petitioners made the following assignments of errors against the Court of Appeals in their brief:

(FIRST ASSIGNMENT OF ERROR)

THE RESPONDENT COURT CLEARLY IGNORED UNDISPUTED DOCUMENTARY EVIDENCE SHOWING THAT RESPONDENT BATUCAN WAS DISMISSED FOR JUST CAUSE.

(SECOND ASSIGNMENT OF ERROR)

ASSUMING ARGUENDO THAT RESPONDENT BATUCAN'S DISMISSAL WAS WITHOUT JUST CAUSE, THE RESPONDENT COURT ERRED AS A MATTER OF LAW IN GRANTING EXCESSIVE DAMAGES IN THE FORM OF COMPENSATORY, MORAL AND EXEMPLARY DAMAGES, PLUS ATTORNEY'S FEES — IN ADDITION TO SEPARATION PAY.

(THIRD ASSIGNMENT OF ERROR)

THE INDIVIDUAL PETITIONERS, YUJUICO, TENORIO, SANTOS AND SAN LUIS, DID NOT INCUR ANY PERSONAL LIABILITY IN CONNECTION WITH THE DISMISSAL OF RESPONDENT BATUCAN BY PETITIONER BANK.

The main issue in this case is whether or not the dismissal of Manuel E. Batucan was justified on the ground that he repeatedly failed to uphold the interests of the bank thus leading to his employer's loss of confidence on him.

After a careful review of the case, we find no error in the finding of the Court of Appeals that Mr. Batucan was indeed illegally dismissed.

The petitioners' claim that "undisputed documentary evidence show that prior to his dismissal, specifically from March 1968 to January 1969, respondent Batucan had been repeatedly cited, warned and finally threatened with dismissal by his superior, petitioner Tenorio, for his practice of granting credit accommodations without authority

during his tenure.” They support such claim with six memoranda addressed to Mr. Batucan, to wit: Exh. “22” dated April 17, 1968 by Tenorio; Exh. “23” dated March 12, 1968 by Tenorio; Exh. “24” dated March 14, 1968 by Tenorio; Exh. “29” dated December 9, 1968 by Tenorio; Exh. “30” dated December 27, 1968 by Tenorio; Exh. “34” dated January 28, 1969 by Tenorio.

Petitioners’ argument is devoid of merit. We agree with the respondent that these communications are “nothing more than routinary acts and/or privileged acts of top management officials which could not in any way affect or erode petitioners’ confidence in respondent Batucan.”

After the first three aforementioned exhibits were dispatched to Cebu on March 12, 1968, March 14, 1968, and April 17, 1968, petitioner San Luis cleared Mr. Batucan from all exceptions reported by the Central Bank examiners in connection with their examination conducted in March, 1968. In his report to the President of the bank in about the first week of March 1968, San Luis commended Mr. Batucan for the good image enjoyed by the bank in the locality because clients, customers, and depositors spoke well and highly of Mr. Batucan for his dedication, sincere and upright dealing with people. Because of such commendation, the president of the bank, the late Senator Quintin Paredes gave Mr. Batucan an increase of P100.00 in his monthly salary effective May 1, 1968. Mr. Batucan was also asked to speak at the manager’s meeting on October 19, 1968 on his “Techniques in Effective Solicitation of Deposits or New Accounts.” Batucan was also given a free hand in the prosecution of a defalcating head teller relying on his good judgment to protect the interests of the bank.

With the foregoing circumstances, we cannot reconcile the management’s alleged loss of confidence in Mr. Batucan with the latter’s commendations for efficient performance, his having been given an increase in salary and his being asked to speak to other colleagues on effective banking techniques shortly after the supposed loss of confidence.

In an analogous case, *Dosch vs. NLRC* (123 SCRA 296) this Court said:

“Neither is the other ground alleged by Northwest in dismissing petitioner which is loss of confidence, supported by evidence. On the contrary, the fact that Northwest wanted to promote petitioner to Director of International Sales ‘as the Company feels there is need for an executive of (his) experience to fill the position of Director of International Sales’ as well as its Manifestation dated March 23, 1976 that Northwest ‘offered to rehire petitioner as Director of International Sales with office of Minneapolis, U.S.A.’ clearly indicate that Northwest had full confidence in petitioner.” (Emphasis supplied)

Loss of confidence in a managerial employee can not be deemed present where he was in fact being promoted. In the case at bar, though Mr. Batucan may not in fact have been promoted in position, all the privileges, commendations, and salary increases negate the allegation that the management had lost confidence in him. Moreover, there is no evidence that Mr. Batucan granted unauthorized credit accommodations because after the last three exhibits were sent, an internal audit examination was conducted on February 11, 1969 by petitioner Santos together with the Internal Auditor, Mr. Rosauro Macalagay. In this examination, no unauthorized credit accommodations were found and brought to the attention of Mr. Batucan.

We agree with the Court of Appeals in its finding that:

“The preponderance of the evidence, however, shows that the alleged unauthorized extension of temporary over-draft or credit accommodations referred to credit accommodations which were granted by and already existing during the term of the previous management. Thus, defendant Tenorio himself admitted:

“Q In other words, this past due obligations in which you requested Mr. Batucan to have been settled, all these accounts mentioned in your memorandum of April 27, memorandum of May 3rd, 1967,

memorandum of May 16, 1967, were all accounts existing during the time of the previous management, is that correct?

“A Yes, sir.

“Q Could you recall whether this is an authorized accommodations mentioned in your memorandum marked Exhibits ‘11’, ‘12’, ‘13’ and ‘14’ existing since the opening of the bank in 1965 up to the time Mr. Campillan was replaced by Mr. Batucan?

“A All these accounts as far as I recall came from the books of the branch of Cebu during that period from the beginning up to the time of the transfer of Mr. Campilan.’ (t.s.n., July 13, 1971, pp. 16-17.)

“Moreover, it was established by the testimony of defendant Tenorio himself that the plaintiff-appellee was able to regularize the previous unauthorized accounts and to effect collection of outstanding obligations. The pertinent portion of the testimony of defendant Tenorio reads as follows:

X X X

“Q And the account of Atty. Deen during the time of Mr. Campilan when he left was unauthorized then subsequently regularized?

“A Correct.

“Q Could you say that it was Mr. Batucan who regularized the account of Atty. Deen?

“A I think he was able to regularize.

“Q How about the account of Mr. Uy, is it unauthorized until now?

“A I think it was regularized.

“Q And it was Mr. Batucan who regularized his account?

“A Yes, sir.

“Q The same is true with Mrs. Augustine’s?

“A She is a head office client. In fact Mrs. Augustines have paid the outstanding obligation in Cebu but her outstanding in the head office is still unpaid.

“Q This outstanding obligation of Mrs. Augustines, it was Mr. Batucan who collected that account?

“A Correct.

“Q And also the account of Alvarez, it was unauthorized account of the past management, that was also collected?

“A Yes, sir.

“Q And it was also Mr. Batucan who effected the collection of that account?

“A Yes, sir.

“Q And the same is true with the account of Green Year Textiles, this was unauthorized accommodation but Mr. Batucan collected full payment thereof?

“A Eventually, yes.”

Not only did the Court of Appeals establish that there were no improper credit accommodations granted during Mr. Batucan’s term as manager but his competence at being able to regularize these accounts and his contributions to the improvement of the bank were clearly ascertained.

There is no question that managerial employees should enjoy the confidence of top management. This is especially true in banks where officials handle big sums of money and engage in confidential or fiduciary transactions. However, loss of confidence should not be simulated. It should not be used as a subterfuge for causes which are improper, illegal, or unjustified. Loss of confidence may not be arbitrarily asserted in the face of overwhelming evidence to the contrary. It must be genuine, not a mere afterthought to justify earlier action taken in bad faith.

We now come to the issue of damages. Petitioners question the propriety of awarding moral and exemplary damages to the respondent. Under Article 2217 of the Civil Code:

“Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant’s wrongful act or omission.”

Mr. Batucan left a stable job with a reputable bank to join the petitioner bank. He had been an employee of the First National City Bank of New York for eighteen (18) years. Undoubtedly, before he accepted petitioner Tenorio’s invitation, he must have thought the matter over several times. And from the time he joined the petitioner bank, the records show that Mr. Batucan has indeed worked his way up from accountant to permanent branch manager of the bank. During his term as manager, he was able to increase the income and resources of the bank. He raised the image of petitioner bank in the business and banking community and placed its operations on a good and competitive basis. His peremptory dismissal from the bank was certainly a shock to him and damaged his moral feelings and personal pride after all the loyalty and hard work he had dedicated to the bank. We agree with the respondent court when it said:

X X X

“We did not encounter any difficulty in finding that had the defendants not invited the plaintiff-appellant to join defendant

bank, then he would have continued working with the first National City Bank of New York branch in Cebu City or found some other desirable and new employment. Undoubtedly, the plaintiff would now be occupying a high responsible position in the Cebu branch of the First National City Bank of New York.”

The only reason for his dismissal found in the records is his failure to follow top-management orders with regards to the transfer of the three tellers. Petitioners alleged it to be insubordination. Nevertheless, insubordination must be proven to justify dismissal (St. Luke’s Hospital vs. Ministry of Labor and Employment, 116 SCRA 240). And we do not think that his earnest efforts in making representations to retain the three tellers warrant his dismissal. A manager or supervisor must stand up for his subordinates unless the latter are guilty of wrongdoing or some conduct prejudicial to the employer. Only after his representations was Mr. Batucan questioned on the several “unauthorized credit accommodations.” His failure to explain within 24 hours which, in the light of the circumstances, was too short, caused his suspension and later, his dismissal retroactive to the date of suspension.

There was no valid reason for his dismissal, much less for all the charges and accusations made against him. The dismissal followed by the efforts to justify it was tainted by bad faith or malice on the part of the petitioners who wanted Mr. Batucan removed from his post.

The petitioners cite the case of Gutierrez vs. Bachrach Motor Co., (105 Phil. 10) where this Court stated:

X X X

“In the absence of a contract of employment for a specific period, just as an employee in a commercial or industrial establishment may quit at any time, singly or collectively, with or without cause, so the employer can dismiss any employee at any time and without cause. This right of the employer is commonly referred to as his right to hire and fire his employee in the same way that the employee can stop working by himself or go on strike with his fellow employees.”

However, in the case of *Phil. Refining Co., Inc. vs. Garcia* (18 SCRA 107), this Court through Justice J.B.L. Reyes made a distinction:

“The employer’s right to dismiss his employee, however, differs from, and should not be confused with the manner in which the right is exercised. The manner in which the company exercised its right to dismiss in the case at bar was abusive; hence, it is liable for moral damages, as previously discussed.”

Moreover, the Court made a statement which is applicable to the circumstances of this case:

X X X

“The company’s conduct violated Article 1701, which prohibits acts of oppression by either capital or labor against the other, and Article 21 on human relations, the sanction of which by way of moral damages, is provided for in Article 2219, No. 10, all of the Civil Code.

“Moral damages may be recovered in the following and analogous cases:

X X X

“(10) Acts and actions referred to in articles 21, 26.’

“ART. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.”

In view of the foregoing, we find that moral damages may be justly awarded. Moral damages being justified, exemplary damages may also be awarded. (*Bert Osmeña & Associates vs. Court of Appeals*, 120 SCRA 395)

In the case of *Nadura vs. Benguet Consolidated Inc.* (5 SCRA 879), the Court stated:

“We also believe that Nadura is entitled to exemplary or corrective damages which, as well known, are imposed by way of example or correction for the public good. These damages are required by public policy, because wanton acts must be suppressed and discouraged. From what we have said heretofore, the conclusion is inevitable that Benguet had no plausible reason to resist Nadura’s claim for severance pay. While it had the right to discharge him because his employment was without a definite period, it was in duty bound to give him either one month’s notice in advance or pay the corresponding severance pay. Instead of complying with its obligation in this respect, it resisted Nadura’s claim and forced him to litigate these many years. We are, therefore, of the opinion, and so hold, that Benguet must pay exemplary damages.”

A review of the records, however, indicates that the moral and exemplary damages awarded may be somewhat excessive. Hence, in the exercise of our discretion and after considering all factors, we have decided to reduce to P20,000.00 the award for moral and exemplary damages and to P5,000.00 the award for attorney’s fees.

The award of P1,000.00 a month from the time Mr. Batucan’s employment was terminated up to the date this case becomes final and executory is likewise excessive. A period of 16 years would be involved. Because of the passage of time and the strained relations with top management, Mr. Batucan does not or should not seek reinstatement to his managerial position in the bank. An award of P12,000.00 as consequential damages is fair under the circumstances.

At the same time, pursuant to Republic Act 1052 as amended by Republic Act 1787, which provides that in case of employment without a definite period, an employer may terminate an employee’s services without just cause by serving to the employee a written notice at least one month in advance or by granting him pay equivalent to one-half month salary for every year of service, whichever is longer. (Sterling Products International, Inc. vs. Sol, 7 SCRA 447). The respondent is entitled to separation pay. Since Mr. Batucan has been serving the bank for 4-1/2 years, then he is entitled to the separation

pay of 2-1/2 months salary or P2,500.00 which was justly awarded to him.

As held in the case of Jaguar Transportation Co., Inc. et al. vs. Juan Cornista, et al (83 SCRA 77):

“Granting, arguendo, that Juan Cornista was dismissed without notice and without just cause, he cannot demand reinstatement. Cornista was not dismissed as a result of a violation of the Eight-Hour Labor Law or unfair labor practice. His dismissal is covered by the Termination Pay Law under which he is not entitled to reinstatement but only to a certain compensation.”

Considering the facts and equities of this case, however, we have decided to limit compensatory damages to only P12,000.00, as explained above.

Lastly, petitioners raise the issue that “individual petitioners, having acted in their official capacities as bank officers, did not incur any personal liability in favor of Batucan.”

We quote with favor the finding of the respondent Court, to wit:

“The evidence shows that the individual defendants acted jointly in causing the illegal and unjustifiable dismissal of the plaintiff-appellee. Hence, the trial court is correct in holding the individual defendants jointly and severally liable to the plaintiff-appellee.”

Clearly, the petitioners acted beyond their authority and against what the law provides. Article 1701 of the Civil Code and the related Articles 19, 20 and 21 provide:

ART. 1701. Neither capital nor labor shall act oppressively against the other, or impair the interest or convenience of the public.

ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

ART. 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

ART. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.”

WHEREFORE, the Decision appealed from is **MODIFIED** to read as follows:

The petitioners are hereby ordered to pay to the private respondent, jointly and severally, the following sums – TWO THOUSAND FIVE HUNDRED PESOS (P2,500.00) termination pay; ONE HUNDRED SIX PESOS AND SIXTY THREE CENTAVOS (P106.63) unpaid salaries; TWELVE THOUSAND PESOS (P12,000.00) in compensatory damages; TWENTY THOUSAND PESOS (P20,000.00) in moral and exemplary damages; and FIVE THOUSAND PESOS (P5,000.00) attorney’s fees.

SO ORDERED.

Plana, Relova, De la Fuente and Alampay, JJ., concur.

SEPARATE OPINIONS

TEEHANKEE, J., concurring:

Concurs except for the reference to the Dosch case wherein he dissented and which has no similarity of facts with this case. He dissents from the imposition of joint and several liability on the individual petitioners who had merely acted in their official capacities as bank officers and should not be held personally and solidarily answerable for the corporation-bank’s sole liability to respondent employee.

MELENCIO-HERRERA, J., concurring:

I concur, except for the reference to *Dosch vs. NLRC* (123 SCRA 296) where I dissented.