

## FIRST DIVISION

[ G.R. No. 166581, December 07, 2015 ]

**SOLIDBANK CORPORATION, PETITIONER, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, AND DANILO H. LAZARO, RESPONDENTS.**

[G.R. No. 167187]

**DANILO H. LAZARO, PETITIONER, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND SOLIDBANK CORPORATION, RESPONDENTS.**

### DECISION

**SERENO, C.J.:**

We resolve the Petitions for Review filed by Solidbank Corporation (Solidbank) in G.R. No. 166581, and Danilo H. Lazaro (Lazaro) in G.R. No. 167187 from the 19 January 2004 Decision,<sup>[1]</sup> 01 July 2004 Amended Decision,<sup>[2]</sup> and 14 January 2005 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R.SP No. 73629.

#### The Facts

As culled from the CA, the antecedent facts are as follows:

Petitioner Danilo H. Lazaro (Lazaro) joined respondent Solidbank Corporation on December 21, 1992. He rose from the ranks until he became Vice President, Head of the Branch Banking Group, Region 6 (Southern Luzon branches).

On August 21, 1995, the Imus branch, one of the bank's branches under Lazaro, was audited for the first time by the bank's internal auditors, known as the Audit and Credit Examination Services (ACES). The audit uncovered certain irregularities committed by the branch manager and the accountant involving loan releases without proper documentation and approval of the Region Head and other appropriate approving bodies. Respondent bank was allegedly defrauded in the amount of P43 million through the fraudulent acts and/or activities allegedly committed by some officers of the said branch office, in connivance with some individual borrowers.

Lazaro immediately tendered his resignation effective February 15, 1996, out of delicadeza, when his name was dragged by the ACES Audit Report into the Imus branch loan anomaly with a sweeping allegation "that he has given blanket authority to all the Branch Managers in his region to commit loans up to P1 Million subject to his confirmation." He was not

however included among those criminally charged by the bank.

Lazaro's resignation was not accepted by respondent bank president Vistan who categorically cleared him of any liability on the Imus case with the assurance that he (Vistan) personally, does not believe that petitioner Lazaro has anything to do with the said irregularity. Respondent Vistan persuaded Lazaro to stay and help resolve the Imus case. Thus was then assigned in a special project attached to the office of the legal counsel.

Pursuant to respondent Vistan's instruction to concentrate on the Imus branch loans, Lazaro worked and coordinated closely with the bank's legal counsel. The bank filed criminal charges against several persons including the Imus Branch Manager, the accountant and four borrowers.

Petitioner's Christmas bonus which was credited to his account on November 13, 1996 was ordered reversed by a debit memo from respondent's bank Human Resource Department (HRD) on November 15, 1996. Aggrieved, Lazaro wrote a letter to respondent Vistan seeking clarification. There was no response from respondent Vistan.

On December 13, 1996, petitioner Lazaro was told by Ed Buenaventura of the Motorpool Section to surrender his service car. Later, Lazaro found out that his payroll for December 1-15, 1996 was not credited to his payroll account. He thus wrote another letter to respondent Vistan reiterating his earlier request for clarification. Again, there was no answer.

Lazaro requested for a meeting with respondent Vistan. On January 7, 1997, they met together with respondent SVP Jazmines at the latter's office. Ten (10) months and twenty two (22) days after Lazaro was assigned to special projects, respondent bank president Vistan verbally dismissed petitioner Lazaro upon the recommendation of and after consultation with respondent Senior Vice President Jazmines because his (Lazaro's) continued presence "might be used as a basis to accuse the bank of abetting a senior officer who has been implicated by a "customer" in a case of public inquiry." The dismissal was made retroactive November 30, 1996, more that [sic] a month before he was informed of his dismissal.

On April 24, 1997, petitioner Lazaro filed a complaint for illegal dismissal, non-payment of earned wages and bonus, reinstatement, backwages including moral and exemplary damages and attorney's fees.<sup>[4]</sup>

### **The Labor Arbiter Ruling**

On 8 November 2001, Labor Arbiter (LA) Geobel Bartolabac issued a Decision<sup>[5]</sup> dismissing the Complaint filed by Lazaro. The LA pointed out that absent any evidence that Lazaro was still performing the functions of a banker is tantamount to the bank's implied acceptance of his voluntary and irrevocable resignation. However, considering that he was "reasonably made to believe that his job would be given back to him by virtue of his earnest effort to recover whatever losses that

respondent bank may have incurred as a result of the alleged scam,"<sup>[6]</sup> and in view of the cessation of the bank's operation, Lazaro was awarded the following amounts:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for illegal dismissal.

Respondent Solid Bank Corporation is, however, ordered to pay complainant Danilo H. Lazaro the following:

1. Separation pay From 12/21/92-6/30/2000 (sic): (including the imputed service)	
P53,962.64 x 8 years	=
	<b>P431,701.12</b>
2. Compensatory benefit: From 11/30/96-6/30/2000 (temporary date)	
P53,962.64 x 42 months/2	=
	<b>1,133,215.40</b>
(But not less than P1 million nor more than P1.5 Million)	
3. 1996 Christmas bonus:	<b>53,962.64</b>
4. Moral and exemplary damages for arbitrary reversal of 1996 Christmas bonus.	<b><u>200,000.00</u></b>
<b>TOTAL</b>	<b>P1,818,879.12</b>

All other claims are also dismissed for lack of merit.

**SO ORDERED.** (Emphasis in the original)

Both parties appealed to the National Labor Relations Commission (NLRC), for which a Decision<sup>[7]</sup> promulgated on 17 April 2002 was issued. The NLRC affirmed with modifications the Decision rendered by LA Bartolabac, by deleting the award of moral and exemplary damages, as follows:

WHEREFORE, in the light of the foregoing, the two (2) appeals assailing the Decision in this case are hereby, DISMISSED for lack of merit.

The appealed Decision is hereby, AFFIRMED with MODIFICATION by deleting the award of moral and exemplary damages.

SO ORDERED.

Both parties moved for the reconsideration of the April 2002 Decision, but the motions were denied by the NLRC in a Resolution<sup>[8]</sup> promulgated on 22 August 2002, as follows:

Accordingly, the motion for reconsideration filed by complainant-appellant and partial motion for reconsideration filed by respondents-appellants are denied for lack of merit.

No further motion for reconsideration shall be entertained.

SO ORDERED.

### THE CA RULING

Upon appeal of Lazaro, the CA, in its 19 January 2004 Decision,<sup>[9]</sup> ruled that reassignment does not sever the tie between the employer and the employee. The fact that Solidbank still exercised control over Lazaro and assigned him to tasks that was deemed necessary for the bank indicates that there was no severance of the employer-employee relationship. Nonetheless, considering the cessation of the bank's operation, the appellate court was constrained to award Lazaro separation pay, backwages and other amounts due him, to wit:

WHEREFORE, the petition is **GRANTED**. The NLRC resolution and decision dated August 22, 2002 and April 17, 2002, respectively, are hereby **SET ASIDE**. Finding petitioner Danilo Lazaro illegally dismissed, the November 8, 2001 decision of the Labor Arbiter is hereby **MODIFIED**. Respondent Solidbank Corporation is hereby ordered to pay petitioner Lazaro the following:

1. Separation pay for every year of service starting December 21, 1992 up to the promulgation of this decision to be computed based on 150% of the gross monthly pay for every year of service per Category 2 of the Solidbank-Metrobank Merger  
(11 years) P80,943.96x11 = P890,383.56
2. Backwages computed from the time of illegal dismissal  
P53,962.64x 6 years = 323,775.84
3. Compensatory benefit computed from November 1996 up to June 2000 at the rate of  
P53,962.64x 42 months/2 = 1,133,215.40
4. Payment of 1996 Christmas bonus = 53,962.64
5. Payment of unpaid salary for December 1996 = 53,962.64
6. Moral and exemplary damages = 200,000.00
- TOTAL = 2,655,300.08

7. Attorneys fees equivalent to ten percent (10%) of the sum of all the above = 265,530.00

**GRAND TOTAL** = **P2,920,830.08**

SO ORDERED. (Emphasis in the original)

On 3 February 2004 and 5 May 2004, Solidbank filed its Motion for Reconsideration<sup>[10]</sup> and Supplemental Motion for Reconsideration<sup>[11]</sup> respectively. Lazaro also filed his Motion for Clarification and/or Partial Motion for Reconsideration<sup>[12]</sup> on 27 January 2004.

On 1 July 2004, the appellate court issued an Amended Decision,<sup>[13]</sup> correcting the amount of separation pay, backwages and unpaid salary for December 1996, as follows:

[On separation pay]

However, We agree with Solidbank's assertion that petitioner is no longer entitled to an increase in the original award for separation pay given by the NLRC considering that petitioner did not question the same in his petition. Hence, the amount of P890,383.56 shown in **Item No. 1 (decretal portion of our January 19, 2004 Decision)** representing petitioner's separation pay starting December 21, 1992 up to the promulgation of this decision is hereby **corrected and reverted** to the sum awarded by the NLRC in the total amount of **P431,701.12**.

x x x x

[On backwages]

We hold that petitioner was illegally dismissed and is therefore entitled to backwages. However, We admit error in the computation of the same (**Item No. 2, decretal portion, January 19, 2004 Decision**) due to **inadvertence**. This Court multiplied his monthly salary of **P53,962.64** by **6 years instead of 43 months**, thus awarding only **P323,775.84**. To arrive at the correct amount of petitioner's backwages, we have to **multiply his monthly salary by 43 months, viz: P53,962.64 x 43 = P2,320,993.52 less P40,375.10 = P2,280,018.42**. This answers petitioner's motion for clarification and/or partial motion for reconsideration.

[On the unpaid salary for December 1996]

This Court also noticed a typographical error in encoding the amount of petitioner's unpaid salary for December 1996 as **P53,962.64** when it should only be **P40,375.10** representing his basic salary, as prayed for in the petitioner before Us. (Emphasis in the original)