

SECOND DIVISION

[G.R. No. 188722, February 01, 2012]

**BANK OF LUBAO, INC., PETITIONER, VS. ROMMEL J. MANABAT
AND THE NATIONAL LABOR RELATIONS COMMISSION,
RESPONDENTS.**

D E C I S I O N

REYES, J.:

Nature of the Petition

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by the Bank of Lubao, Inc. (petitioner) assailing the Decision^[1] dated April 24, 2009 and Resolution^[2] dated July 7, 2009 issued by the Court of Appeals (CA) in CA-G.R. SP No. 106419.

The Antecedent Facts

Sometime in 2001, Rommel J. Manabat (respondent) was hired by petitioner Bank of Lubao, a rural bank, as a Market Collector. Subsequently, the respondent was assigned as an encoder at the Bank of Lubao's Sta. Cruz Extension Office, which he manned together with two other employees, teller Susan P. Lingad (Lingad) and May O. Manasan. As an encoder, the respondent's primary duty is to encode the clients' deposits on the bank's computer after the same are received by Lingad.

In November 2004, an initial audit on the Bank of Lubao's Sta. Cruz Extension Office conducted by the petitioner revealed that there was a misappropriation of funds in the amount of P3,000,000.00, more or less. Apparently, there were transactions entered and posted in the passbooks of the clients but were not entered in the bank's book of accounts. Further audit showed that there were various deposits which were entered in the bank's computer but were subsequently reversed and marked as "error in posting".

On November 17, 2004, the respondent, through a memorandum sent by the petitioner, was asked to explain in writing the discrepancies that were discovered during the audit. On November 19, 2004, the respondent submitted to the petitioner his letter-explanation which, in essence, asserted that there were times when Lingad used the bank's computer while he was out on errands.

On December 11, 2004, an administrative hearing was conducted by the bank's investigating committee where the respondent was further made to explain his side. Subsequently, the investigating committee concluded that the respondent conspired with Lingad in making fraudulent entries disguised as error corrections in the bank's computer.

On August 9, 2005, the petitioner filed several criminal complaints for qualified theft against Lingad and the respondent with the Municipal Trial Court (MTC) of Lubao, Pampanga. Thereafter, citing serious misconduct tantamount to willful breach of trust as ground, it terminated the respondent's employment effective September 1, 2005.

On September 26, 2005, the respondent filed a Complaint^[3] for illegal dismissal with the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) in San Fernando City, Pampanga. In the said complaint, the respondent, to bolster his claim that there was no valid ground for his dismissal, averred that the charge against him for qualified theft was dismissed for lack of sufficient basis to conclude that he conspired with Lingad. The respondent sought an award for separation pay, full backwages, 13th month pay for 2004 and moral and exemplary damages.

For its part, the petitioner insists that the dismissal of the respondent is justified, asserting the February 14, 2006 Audit Report which confirmed the participation of the respondent in the alleged misappropriations. Likewise, the petitioner asserted that the dismissal of the qualified theft charge against the respondent is immaterial to the validity of the ground for the latter's dismissal.

The Labor Arbiter's Decision

On February 28, 2007, the Labor Arbiter (LA) rendered a decision^[4] sustaining the respondent's claim of illegal dismissal thus ordering the petitioner to reinstate the respondent to his former position and awarding the latter backwages in the amount of P111,960.00 and 13th month pay in the amount of P6,220.00. The LA opined that the petitioner failed to adduce substantial evidence that there was a valid ground for the respondent's dismissal. Further, the February 14, 2006 Audit Report that was adduced by the petitioner in evidence was disregarded by the LA since it was unsigned.

The petitioner appealed the foregoing disposition to the NLRC, submitting a new audit report dated April 30, 2007. Pending appeal, the petitioner sent the respondent a letter^[5] dated April 30, 2007 requiring him to report for work on May 4, 2007 pursuant to the reinstatement order of the LA. The said letter was served to the respondent on May 3, 2007 but he refused to receive the same.

The NLRC's Decision

On July 21, 2008, the NLRC rendered a Decision^[6] affirming the February 28, 2007 Decision of the LA. The NLRC held that it was sufficiently established that only Lingad was the one responsible for the said misappropriations. Further, the NLRC asserted that the February 14, 2006 and April 30, 2007 audit reports presented by the petitioner could not be given evidentiary weight as the same were executed after the respondent had already been dismissed. The petitioner sought reconsideration of the said July 21, 2008 Decision but it was denied by the NLRC in its Resolution^[7] dated September 22, 2009.

Subsequently, the petitioner filed a Petition for *Certiorari*^[8] with the CA alleging that

the NLRC and the LA gravely abused their discretion in ruling that the respondent had been illegally dismissed.

The CA Decision

On April 24, 2009, the CA rendered the herein assailed decision^[9] denying the petition for *certiorari* filed by the petitioner. However, the CA held that the respondent is entitled to separation pay equivalent to one-month salary for every year of service in lieu of reinstatement and backwages to be computed from the time of his illegal dismissal until the finality of the said decision.

The CA agreed with the LA and the NLRC that the petitioner failed to establish by substantial evidence that there was indeed a valid ground for the respondent's dismissal. Nevertheless, the CA held that the petitioner should pay the respondent separation pay since the latter did not pray for reinstatement before the LA and that the same would be in the best interest of the parties considering the animosity and antagonism that exist between them. The CA stated the following:

With respect to monetary awards, a finding that an employee has been illegally dismissed ordinarily entitles him to reinstatement to his former position without loss of seniority rights and to the payment of backwages. In this case, however, private respondent did not pray for reinstatement before the Labor Arbiter. This being the case, the employer should pay him separation pay in lieu [of] reinstatement. This is only just and practical because reinstatement of private respondent will no longer be in the best interest of both parties considering the animosity and antagonism that exist between them brought about by the filing of charges in the criminal as well as in the labor proceedings. Consequently, private respondent is entitled to separation pay equivalent to one month pay for every year of service up to the finality of this judgment, as an alternative to reinstatement. With respect to his backwages, where reinstatement is no longer possible, it shall be computed from the time of the employee's illegal termination up to the finality of this decision, without qualification or deduction.^[10] (citations omitted)

Hence, the *fallo* of the CA Decision reads:

WHEREFORE, the petition is **DENIED**. The assailed Decision and Resolution of the NLRC are **AFFIRMED** with the **MODIFICATION** that private respondent is entitled to separation pay equivalent to one month salary for every year of service in lieu of reinstatement and backwages to be computed from the time of his illegal dismissal until the finality of this Decision.

SO ORDERED.^[11]

The petitioner's Motion for Reconsideration^[12] was denied by the CA in its Resolution^[13] dated July 7, 2009.

Undaunted, the petitioner instituted the instant petition for review on *certiorari* before this Court asserting the following arguments: (1) the CA erred in awarding separation pay in favor of the respondent in lieu of reinstatement considering that the appeal before it only involved the issue of the legality or illegality of the respondent's dismissal; (2) an award of separation pay to the respondent is not proper in this case considering that, in his complaint, he merely prayed for reinstatement and not payment of separation pay; and (3) the CA erred in awarding backwages in favor of the respondent since it acted in good faith when it terminated the respondent's employment.

In his Comment,^[14] the respondent asserted that the CA did not err in ordering the payment of separation pay in his favor in lieu of reinstatement since there is already a strained relationship between him and the petitioner. He intimated that the petitioner had previously filed various criminal charges against him for qualified theft thus effectively rendering his reinstatement to his former position in the Bank of Lubao impracticable.

Issues

In sum, the issues to be resolved by this Court in the instant case are the following: (1) whether the CA erred in ordering the petitioner to pay the respondent separation pay in lieu of reinstatement; and (2) whether the respondent is entitled to payment of backwages.

The Court's Ruling

This Court notes that the LA, the NLRC and the CA unanimously ruled that the respondent was illegally dismissed. Factual findings of quasi-judicial bodies like the NLRC, if supported by substantial evidence, are accorded respect and even finality by this Court, more so when they coincide with those of the LA. Such factual findings are given more weight when the same are affirmed by the CA. We find no reason to depart from the foregoing rule.

First Issue: Separation Pay in Lieu of Reinstatement

At the outset, it should be stressed that a determination of the applicability of the doctrine of strained relations is essentially a factual question and, thus, not a proper subject in the instant petition.^[15]

The well-entrenched rule in our jurisdiction is that only questions of law may be entertained by this Court in a petition for review on *certiorari*. This rule, however, is not ironclad and admits certain exceptions, such as when, *inter alia*, the findings of fact are conflicting.^[16]

Here, in view of the conflicting findings of the NLRC and the CA, this Court is constrained to pass upon the propriety of the application of the doctrine of strained relations to justify the award of separation pay to the respondent in lieu of reinstatement.

The law on reinstatement is provided for under Article 279 of the Labor Code of the