

THIRD DIVISION

[G.R. No. 159460, November 15, 2010]

SOLIDBANK CORPORATION (NOW KNOWN AS FIRST METRO INVESTMENT CORPORATION), PETITIONER, VS. ERNESTO U. GAMIER, ELENA R. CONDEVILLAMAR, JANICE L. ARRIOLA AND OPHELIA C. DE GUZMAN, RESPONDENTS.

[G.R. NO. 159461]

SOLIDBANK CORPORATION AND/OR ITS SUCCESSOR-IN-INTEREST, FIRST METRO INVESTMENT CORPORATION, DEOGRACIAS N. VISTAN AND EDGARDO MENDOZA, JR., PETITIONERS, VS. SOLIDBANK UNION AND ITS DISMISSED OFFICERS AND MEMBERS, NAMELY: EVANGELINE J. GABRIEL, TERESITA C. LUALHATI, ISAGANI P. MAKISIG, REY S. PASCUA, EVELYN A. SIA, MA. VICTORIA M. VIDALLON, AUREY A. ALJIBE, REY ANTHONY M. AMPARADO, JOSE A. ANTENOR, AUGUSTO D. ARANDIA, JR., JANICE L. ARRIOLA, RUTH SHEILA MA. BAGADIONG, STEVE D. BERING, ALAN ROY I. BUYCO, MANALO T. CABRERA, RACHE M. CASTILLO, VICTOR O. CHUA, VIRGILIO Y. CO, JR., LEOPOLDO S. DABAY, ARMAND V. DAYANG-HIRANG, HUBERT V. DIMAGIBA, MA. LOURDES CECILIA B. EMPARADOR, FELIX D. ESTACIO, JR., JULIETA T. ESTRADA, MARICEL G. EVALLA, JOSE G. GUIADADIO, JOSE RAINARIO C. LAOANG, ALEXANDER A. MARTINEZ, JUAN ALEX C. NAMBONG, JOSEPHINE M. ONG, ARMANDO B. OROZCO, ARLENE R. RODRIGUEZ, NICOMEDES P. RUIZO, JR., DON A. SANTANA, ERNESTO R. SANTOS, JR., EDNA M. SARONG, GREGORIO S. SECRETARIO, ELLEN M. SORIANO, ROSIE C. UY, ARVIN D. VALENCIA, FERMIN JOSSEPH B. VENTURA, JR., EMMANUEL C. YAPTANCO, ERNESTO C. ZUNIGA, ARIEL S. ABENDAN, EMMA R. ABENDAN, PAULA AGNES A. ANGELES, JACQUILINE B. BAQUIRAN, JENNIFER S. BARCENAS, ALVIN E. BARICANOSA, GEORGE MAXIMO P. BARQUEZ, MA. ELENA G. BELLO, RODERICK M. BELLO, MICHAEL MATTHEW B. BILLENA, LEOPE L. CABENIAN, NEPTALI A. CADDARAO, FERDINAND MEL S. CAPULING, MARGARETTE B. CORDOVA, MA. EDNA V. DATOR, RANIEL C. DAYAO, RAGCY L. DE GUZMAN, LUIS E. DELOS SANTOS, CARMINA M. DEGALA, EPHRAIM RALPH A. DELFIN, KAREN M. DEOCERA, CAROLINA C. DIZON, MARCHEL S. ESQUEJJO, JOCELYN I. ESTROBO, MINERVA S. FALLARME, HERNANE C. FERMOCIL, RACHEL B. FETIZANAN, SAMUEL A. FLORENTINO, MENCHIE R. FRANCISCO, ERNESTO U. GAMIER, MACARIO RODOLFO N. GARCIA, JOEL S. GARMINO, LESTER MARK Z. GATCHALIAN, MA. JINKY P. GELERA, MA. TERESA G. GONZALES, GONZALO G. GUINIT, EMILY H. GUINO-O, FERDINAND S. HABIJAN, JUN G. HERNANDEZ, LOURDES D.

**IBEAS, MA. ANGELA L. JALANDONI, JULIE T. JORNACION,
MANUEL C. LIM, MA. LOURDES A. LIM, EMERSON V. LUNA,
NOLASCO B. MACATANGAY, NORMAN C. MANACO, CHERRY LOU
B. MANGROBANG, MARASIGAN G. EDMUNDO, ALLEN M.
MARTINEZ, EMELITA C. MONTANO, ARLENE P. NOBLE, SHIRLEY
A. ONG, LOTIZ E. ORTIZ LUIS, PABLITO M. PALO, MARY JAINÉ D.
PATINO, GEOFFREY T. PRADO, OMEGA MELANIE M. QUINTANO,
ANES A. RAMIREZ, RICARDO D. RAMIREZ, DANIEL O. RAQUEL,
RAMON B. REYES, SALVACION N. ROGADO, ELMOR R. ROMANA,
JR., LOURDES U. SALVADOR, ELMER S. SAYLON, BENHARD E.
SIMBULAN, MA. TERESA S. SOLIS, MA. LOURDES ROCEL E.
SOLIVEN, EMILY C. SUY AT, EDGAR ALLAN P. TACSUAN,
RAYMOND N. TANAY, JOCELYN Y. TAN, CANDIDO G. TISON, MA.
THERESA O. TISON, EVELYN T. UYLANGCO, CION E. YAP, MA.
OPHELIA C. DE GUZMAN, MA. HIDELISA P. IRA, RAYMUND
MARTIN A. ANGELES, MERVIN S. BAUTISTA, ELENA R.
CONDEVILLAMAR, CHERRY T. CO, LEOPOLDO V. DE LA ROSA,
DOROTEO S. FROILAN, EMMANUEL B. GLORIA, JULIETEL JUBAC
AND ROSEMARIE L. TANG, RESPONDENTS.**

D E C I S I O N

VILLARAMA, JR., J.:

The consolidated petitions before us seek to reverse and set aside the Decision^[1] dated March 10, 2003 of the Court of Appeals (CA) in CA-G.R. SP Nos. 67730 and 70820 which denied the petitions for certiorari filed by Solidbank Corporation (Solidbank) and ordered the reinstatement of the above-named individual respondents to their former positions.

The Antecedents

Sometime in October 1999, petitioner Solidbank and respondent Solidbank Employees' Union (Union) were set to renegotiate the economic provisions of their 1997-2001 Collective Bargaining Agreement (CBA) to cover the remaining two years thereof. Negotiations commenced on November 17, 1999 but seeing that an agreement was unlikely, the Union declared a deadlock on December 22, 1999 and filed a Notice of Strike on December 29, 1999.^[2] During the collective bargaining negotiations, some Union members staged a series of mass actions. In view of the impending actual strike, then Secretary of Labor and Employment Bienvenido E. Laguesma assumed jurisdiction over the labor dispute, pursuant to Article 263 (g) of the Labor Code, as amended. The assumption order dated January 18, 2000 directed the parties "to cease and desist from committing any and all acts that might exacerbate the situation."^[3]

In his Order^[4] dated March 24, 2000, Secretary Laguesma resolved all economic and non-economic issues submitted by the parties, as follows:

WHEREFORE, premises considered, judgment is hereby issued:

- a. Directing Solidbank Corporation and Solidbank Union to conclude their Collective Bargaining Agreement for the years 2000 and 2001, incorporating the dispositions above set forth;
- b. Dismissing the unfair labor practice charge against Solidbank Corporation;
- c. Directing Solidbank to deduct or check-off from the employees' lump sum payment an amount equivalent to seven percent (7%) of their economic benefits for the first (1st) year, inclusive of signing bonuses, and to remit or turn over the said sum to the Union's authorized representative, subject to the requirements of check-off;
- d. Directing Solidbank to recall the show-cause memos issued to employees who participated in the mass actions if such memos were in fact issued.

SO ORDERED.^[5]

Dissatisfied with the Secretary's ruling, the Union officers and members decided to protest the same by holding a rally in front of the Office of the Secretary of Labor and Employment in Intramuros, Manila, simultaneous with the filing of their motion for reconsideration of the March 24, 2000 Order. Thus, on April 3, 2000, an overwhelming majority of employees, including the individual respondents, joined the "mass leave" and "protest action" at the Department of Labor and Employment (DOLE) office while the bank's provincial branches in Cebu, Iloilo, Bacolod and Naga followed suit and "boycotted regular work."^[6] The union members also picketed the bank's Head Office in Binondo on April 6, 2000, and Paseo de Roxas branch on April 7, 2000.

As a result of the employees' concerted actions, Solidbank's business operations were paralyzed. On the same day, then President of Solidbank, Deogracias N. Vistan, issued a memorandum^[7] addressed to all employees calling their absence from work and demonstration in front of the DOLE office as an illegal act, and reminding them that they have put their jobs at risk as they will be asked to show cause why they should not be terminated for participating in the union-instigated concerted action. The employees' work abandonment/boycott lasted for three days, from April 3 to 5, 2000.

On the third day of the concerted work boycott (April 5, 2000), Vistan issued another memorandum,^[8] this time declaring that the bank is prepared to take back employees who will report for work starting April 6, 2000 "provided these employees were/are not part of those who led or instigated or coerced their co-employees into participating in this illegal act." Out of the 712 employees who took part in the three-day work boycott, a total of 513 returned to work and were accepted by the bank. The remaining 199 employees insisted on defying Vistan's directive, which included herein respondents Ernesto U. Gamier, Elena R. Condevillamar, Janice L. Arriola and Ophelia C. De Guzman. For their failure to return to work, the said 199 employees were each issued a show-cause memo directing them to submit a written explanation within twenty-four (24) hours why they should not be dismissed for the

"illegal strike x x x in defiance of x x x the Assumption Order of the Secretary of Labor x x x resulting [to] grave and irreparable damage to the Bank", and placing them under preventive suspension.^[9]

The herein 129 individual respondents were among the 199 employees who were terminated for their participation in the three-day work boycott and protest action. On various dates in June 2000, twenty-one (21) of the individual respondents executed Release, Waiver and Quitclaim in favor of Solidbank.^[10]

On May 8, 2000, Secretary Laguesma denied the motions for reconsideration filed by Solidbank and the Union.^[11]

The Union filed on May 11, 2000 a Motion for Clarification of certain portions of the Order dated March 24, 2000, and on May 19, 2000 it filed a Motion to Resolve the Supervening Issue of Termination of 129 Striking Employees. On May 26, 2000, Secretary Laguesma granted the first motion by clarifying that the contract-signing bonus awarded in the new CBA should likewise be based on the adjusted pay. However, the Union's second motion was denied,^[12] as follows:

This Office cannot give due course to the Union's second motion. The labor dispute arising from the termination of the Bank employees is an issue that ought to be entertained in a separate case. The assumption order of January 18, 2000 covered only the bargaining deadlock between the parties and the alleged violation of the CBA provision on regularization. We have already resolved both the deadlock and the CBA violation issues. The only motion pending before us is the motion for clarification, which we have earlier disposed of in this Order. Thus, the only option left is for the Union to file a separate case on the matter.^[13]

In the meantime, the Monetary Board on July 28, 2000 approved the request of Metropolitan Bank and Trust Company (Metrobank) to acquire the existing non-real estate assets of Solidbank in consideration of assumption by Metrobank of the liabilities of Solidbank, and to integrate the banking operations of Solidbank with Metrobank. Subsequently, Solidbank was merged with First Metro Investment Corporation, and Solidbank, the surviving corporation, was renamed the First Metro Investment Corporation (FMIC).^[14] By August 31, 2000, Solidbank ceased banking operations after surrendering its expanded banking license to the Bangko Sentral ng Pilipinas. Petitioners duly filed a Termination Report with the DOLE and granted separation benefits to the bank's employees.^[15]

Respondents Gamier, Condevillamar, Arriola and De Guzman filed separate complaints for illegal dismissal, moral and exemplary damages and attorney's fees on April 28, May 15 and May 29, 2000, respectively (NLRC NCR Case Nos. [S]30-04-01891-00, 30-05-03002-00 and 30-05-02253-00). The cases were consolidated before Labor Arbiter Potenciano S. Cañizares, Jr. Respondent Union joined by the 129 dismissed employees filed a separate suit against petitioners for illegal dismissal, unfair labor practice and damages (NLRC NCR Case No. 30-07-02920-00 assigned to Labor Arbiter Luis D. Flores).

Labor Arbiters' Rulings

In his Decision dated November 14, 2000, Labor Arbiter Potenciano S. Cañizares, Jr. dismissed the complaints of Gamier, Condevillamar, Arriola and De Guzman. It was held that their participation in the illegal strike violated the Secretary of Labor's return to work order upon the latter's assumption of the labor dispute and after directing the parties to execute their new CBA.^[16]

On March 16, 2001, Labor Arbiter Luis D. Flores rendered a decision^[17] in favor of respondents Union and employees, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring complainants' dismissal as illegal and unjustified and ordering the respondents Solidbank Corporation and/or its successor-in-interest First Metro Investment Corporation and/or Metropolitan Bank and Trust Company and/or Deogracias Vistan and/or Edgardo Mendoza to reinstate complainants to their former positions. Concomitantly, said respondents are hereby ordered to jointly and severally pay the complainants their full backwages and other employee's benefits from the time of their dismissal up to the date of their actual reinstatement; payment of ten (10%) percent attorney's fees; payment of ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) each as moral damages and ONE HUNDRED THOUSAND PESOS (P100,000.00) each as exemplary damages which are computed, at the date of this decision in the amount of THIRTY THREE MILLION SEVEN HUNDRED NINETY FOUR THOUSAND TWO HUNDRED TWENTY TWO PESOS and 80/100 (P33,794,222.80), by the Computation and Examination Unit of this branch and becomes an integral part of this Decision.

SO ORDERED.^[18]

Respondents Gamier, Condevillamar, Arriola and De Guzman appealed the decision of Labor Arbiter Cañizares, Jr. to the National Labor Relations Commission (NLRC NCR CA No 027342-01). Petitioners likewise appealed from the decision of Labor Arbiter Flores (NLRC NCR CA No. 028510-01).

Rulings of the NLRC

On July 23, 2001, the NLRC's Second Division rendered a Decision^[19] reversing the decision of Labor Arbiter Flores, as follows:

WHEREFORE, premises considered, the decision of the Labor Arbiter is hereby VACATED and SET ASIDE and a new one entered dismissing the complaint for illegal dismissal and unfair labor practice for lack of merit. As equitable relief, respondents are hereby ordered to pay complainants separation benefits as provided under the CBA at least one (1) month pay for every year of service whichever is higher.

SO ORDERED.^[20]