

FIRST DIVISION

[G.R. No. 123492, August 21, 1997]

DANILO A. YAP, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND CHINA BANKING CORPORATION (CBC), RESPONDENTS.

D E C I S I O N

PADILLA, J.:

In this petition for certiorari under Rule 65, Rules of Court, petitioner Danilo A. Yap seeks to annul 1) the Decision, dated 14 June 1995, of public respondent National Labor Relations Commission (NLRC) in NLRC-NCR-CA-No. 000260 (NLRC NCR Case No. 00-04-01395-87) entitled Danilo A. Yap v. China Banking Corporation, which affirmed in toto the labor arbiter's Decision, dated 2 April 1990, dismissing therein petitioner's complaint for illegal dismissal; and 2) the Order, dated 6 September 1995, of the same public respondent, denying petitioner's motion for reconsideration of the aforesaid Decision.

The antecedent facts of this case are as follows:

Petitioner Danilo A. Yap obtained his Bachelor of Science Degree in Business Administration, magna cum laude, from the University of the East in 1973. That same year, he took and passed the Board Examination for Accountants. After his graduation, petitioner joined the accounting firm of Sycip, Gorres, Velayo and Co., initially as a member of the Junior Audit Staff, and later on , the Semi-Senior Audit Staff, Audit Division.

Sometime in 1976 he joined Nippon Paint, Phils. as Assistant Finance Manager, and Personal Assistant to the Vice President.

In January 1978, petitioner was employed by private respondent, China Banking Corporation, as Special Project Coordinator assigned to its Auditing Department. From 1978 to October 1986, he occupied various positions in the bank, to wit: from 1 January 1978 to 31 January 1979, he was Special Project Coordinator; from 1 February 1979 to 15 March 1980, Audit Supervisor; from 16 March 1980 to 15 May 1981, Official Assistant, Auditing Department; from 16 May 1981 to 29 May 1984, Senior Official Assistant; from 30 May 1984 up to 23 November 1985, Branch Accountant, Balut Branch; and from 25 November 1985 up to his dismissal on 1 October 1986, he was the Branch Accountant of respondent bank's Valenzuela Branch. Petitioner also claims to have been a member of the Editorial Board for Branches Operations Manila Project at the bank's head office (from July to August 1984); the Internal Audit representative of respondent bank to the first CBC Capital (Asian) Limited in Hongkong (in February 1982 and March 1983); the respondent bank's representative to the Presidential Task Force of the Ministry of Human Settlements, headed by Hon. Herminio Aquino (from March 8 to May 10, 1986);

and, the Head of the Presidential Task Force for Bliss Development Corporation. At the time of his termination from the service, petitioner was receiving a monthly salary of P6,300.00 plus P1,100.00 as monthly allotment.

Records show that sometime in April 1981, petitioner applied for and availed of a housing loan in the amount of P117,977.73, under the bank's Financing Plan for Officers and Employees, purportedly to be used exclusively for the construction of his house in Tandang Sora Park Subdivision in Quezon City. Petitioner received the full proceeds of the loan that same year.

Sometime in 1986, respondent bank discovered that the loan proceeds were not used for the construction of petitioner's house, in violation of the pertinent provisions of the aforesaid Plan, as follows:

"A. Types/ Purposes of Financial Assistance.

1. Real Estate – for the purchase or acquisition of a residential house and lot and/or construction, renovation or repair of a residential house to be occupied by the officer or employee of the bank.

xxx xxx xxx

I. Types/ Purposes –

A. xxx xxx

B. Conditions

xxx xxx xxx

D. No part of the loan shall be used for any purpose other than the one applied for:

II. Limitation and Terms.

xxx xxx xxx

D. Should an applicant leave, retire or be discharged from service, all outstanding obligations under this program shall become due and payable immediately and all sums of fringe benefits accruing to him/her shall also be withheld to answer for the full settlement of said obligations.

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V. Penalty

Should the applicant be found to have used, partially or entirely, the proceeds of the loan for purposes other than those specified in his application, it shall constitute sufficient ground for the bank to cancel his loan which thus becomes due and repayable immediately and/or disciplinary action against the applicant. The same sanction will apply should the officer or employee be found to violate items I-A-2(e) and I-B-3 of the "Implementing Rules" of the Plan."^[1]

On 5 June 1986, respondent bank, thru Miss Nancy Dee Yang, Vice President for Branches Administration, required the petitioner to explain within ten (10) days why he did not comply with the terms and conditions of the Financing Plan.

In a letter, dated 23 June 1986, petitioner explained that he used a substantial portion of the proceeds of the loan to repay the installments advanced by his brother on the lot where he intended to build his house. He also claimed that he incurred pre-construction expenses leaving a balance of only P14,000.00, which amount was no longer enough for the construction of a house.

Apparently not satisfied with petitioner's explanation, respondent bank, thru Ms. Yang, issued another memorandum, dated 30 June 1986, directing petitioner to pay back/refund the amount of the loan within thirty (30) days, otherwise, disciplinary action will be taken against him for violation of the rules and regulations of the Financing Plan.^[2]

In a memorandum, dated 11 August 1986, addressed to Ms. Yang, petitioner reiterated his prior explanation on the use and disposition of the loan proceeds, maintaining that he did not violate said rules and regulations.

On 26 September 1986, Ms. Yang issued a memorandum informing petitioner that for gross violation of the rules and regulations of the Financing Plan for Bank Officers and Employees, his employment would be terminated effective 1 October 1986.

On 15 April 1987, petitioner filed a complaint for illegal dismissal against respondent bank with the arbitration branch of the NLRC, National Capital Region. He prayed for reinstatement and payment of backwages, moral and exemplary damages and attorney's fees.

On 2 April 1990, labor arbiter Dominador M. Cruz rendered a decision, the dispositive part of which reads:

"Wherefore, in view of all the foregoing considerations, judgment is hereby rendered, dismissing the complaint for lack of merit. Considering however, the length of service of the complainant in the bank and for humanitarian reasons, the respondent is hereby ordered to pay complainant the amount of P25,000.00 by way of financial assistance.

So Ordered."^[3]

On 28 May 1990, petitioner appealed the aforesaid decision to the NLRC. On 14 June 1995, the First Division of the NLRC rendered a decision, the dispositive part of which reads as follows:

"In view of the foregoing, the instant appeal is hereby dismissed for lack of merit and the decision of Labor Arbiter Dominador M. Cruz, dated 2 April 1990, is affirmed in toto.

So Ordered."^[4]

In reaching the above decision, public respondent NLRC reasoned thus:

"The Real Estate Finance Assistance extended by the Bank to its employess was intended for the purchase or acquisition of a residential house and lot and/or construction, renovation or repair of a residential house to be occupied by the officer or employee of the Bank. One of the conditions for the grant thereof is that no part of the loan shall be used for any purpose other than the one applied for. Should the applicant be found to have used, partially or entirely, the proceeds of his loan for purposes other than those specified in his application, it shall constitute sufficient ground for the Bank to cancel his loan which thus becomes due and repayable immediately and/or disciplinary action against the applicant.

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When he was therefore found to have used the proceeds of his loan for purposes other than those specified in his application, he knowingly, consciously and fraudulently violated said implementing rules, and the Bank was well within its rights to penalize him.

Thus, we agree with the labor arbiter as he made the following findings:

'The record clearly shows that despite full knowledge of the Implementing Rules for Financing Plans for Bank Officers/Employees (Exhibit "5" for respondent), the complainant knowingly, consciously and fraudulently violated the rules to make use of the respondent's funds for unauthorized purpose and avail of the preferential rate of interest under such plan. His gratuitous claim, that he used the amount to pay the installments advanced by his brother on the lot where he is supposed to build his house has remained unsubstantiated. Moreover, the complainant's allegation that he was prevented by the 'major peso devaluation' in 1981-1983 from building his house was unsupported by evidence. x x x'

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The receipts he presented (Exhibit "9-1-9-9") evidencing partial payment for architectural fees, designs, plans, drawings x x x are inadmissible for lack of proper authentication by proper government agencies x x x. What is clear is that he failed to properly account for the proceeds of the loan, and for this, he deserved to be sanctioned by the Bank."^[5]

On 24 July 1995, petitioner filed a motion for reconsideration which the NLRC, in an order, dated 6 September 1995, likewise denied for lack of merit.

Hence, this petition, where petitioner Danilo A. Yap raises the following issues:

"I

Public respondent NLRC committed grave abuse of discretion amounting to lack of jurisdiction when it affirmed the decision of labor arbiter Dominador Cruz, that