



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

XAVIER C. RAMOS,

Petitioner,

G.R. No. 203186

Present:

- versus -

**BPI FAMILY SAVINGS BANK
INC. and/or ALFONSO L.
SALCEDO, JR.,**

Respondents.

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

DEC 04 2013 *HA Calaycay*

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R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated November 12, 2010 and Resolution³ dated August 6, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 104161 which modified the Decision⁴ dated March 31, 2008 and Resolution⁵ dated May 30, 2008 of the National Labor Relations Commission (NLRC) in NLRC NCR 00-09-07510-06 finding petitioner Xavier C. Ramos (Ramos) concurrently negligent with respondent BPI Family Savings Bank, Inc. (BPI Family) and thus ordering the equitable reduction of his retirement benefits from ₱546,000.00 to ₱200,000.00.

¹ *Rollo*, pp. 13-50.

² *Id.* at 52-65. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dicdican and Michael P. Elbinias, concurring.

³ *Id.* at 67-69.

⁴ *Id.* at 119-135. Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Victoriano R. Calaycay and Angelita A. Gacutan, concurring.

⁵ *Id.* at 64.

The Facts

Ramos was employed by BPI Family in 1995 and eventually became its Vice-President for Dealer Network Marketing/Auto Loans Division,⁶ the duties and responsibilities of which were to: (a) receive applications for auto loans from auto dealers and salesmen;⁷ (b) analyze market demands⁸ and formulate marketing strategies; and (c) enhance dealer and manufacturer relations.⁹

During his tenure, a client named Trezita¹⁰ B. Acosta (Acosta) entered into and obtained several auto and real estate loans from BPI Family which were duly approved and promptly paid.¹¹ On December 15, 2004, Acosta purportedly secured another auto loan from BPI Family in the amount of ₱3,097,392.00 for the purchase of a Toyota Prado vehicle (subject loan) which had remained unpaid. As it turned out, Acosta did not authorize nor personally apply for the subject loan, rendering the transaction fraudulent.¹²

After investigation, BPI Family discovered that: (a) a person misrepresented herself as Acosta and succeeded in obtaining the delivery of a Toyota Prado from the Toyota-Pasong Tamo Branch, pursuant to the Purchase Order (PO) and Authority to Deliver (ATD) issued by Ramos; (b) Ramos released these documents without the prior approval of BPI Family's credit committee; and (c) Ramos was grossly remiss in his duties since his subordinates did not follow the bank's safety protocols, particularly those regarding the establishment of the loan applicant's identity, and that the promissory note was not even signed by the applicant in the presence of any of the marketing officers.¹³

As a consequence, BPI Family lost ₱2,294,080.00, which amount was divided between Ramos and his three (3) other subordinates, with Ramos shouldering the proportionate amount of ₱546,000.00.¹⁴ The foregoing amount was subsequently deducted from Ramos's benefits which accrued upon his retirement on May 1, 2006.¹⁵ In relation thereto, he executed a Release, Waiver and Quitclaim¹⁶ dated June 21, 2006, agreeing to release the bank from any claim or liability with respect to, *inter alia*, his separation pay or retirement benefits.¹⁷

⁶ Id, at 53.

⁷ Id. at 31.

⁸ Id.

⁹ Id. at 17.

¹⁰ "Terezita" in some parts of the records.

¹¹ *Rollo*, p. 54.

¹² Id.

¹³ Id. at 55.

¹⁴ Id. at 121-123.

¹⁵ Id. at 56.

¹⁶ Id. at 101.

¹⁷ Id. at 56.

Claiming that the deductions made by BPI Family were illegal, Ramos filed a complaint for underpayment of retirement benefits and non-payment of overtime and holiday pay and premium pay against BPI Family and/or its President at that time, Alfonso L. Salcedo, Jr., before the Regional Arbitration Branch of the NLRC,¹⁸ docketed as NLRC NCR 00-09-07510-06.

The LA Ruling

In a Decision¹⁹ dated June 27, 2007, the Labor Arbiter (LA) dismissed Ramos's complaint, ruling that the deduction made on his retirement benefits was "legal and even reasonable"²⁰ since Ramos was negligent in running his department. In particular, the LA found that Ramos failed to ensure that his subordinates complied with the bank's Know Your Customer (KYC) safety protocols, and that he issued the PO and ATD without the prior approval of the credit committee.²¹ The LA further noted that the quitclaim executed by Ramos must be given the force and effect of law, effectively barring any future claim by him against BPI Family.²²

The NLRC Ruling

On appeal, the NLRC reversed the LA in a Decision²³ dated March 31, 2008, holding that the deduction complained of was "illegal and unreasonable"²⁴ in that: (a) the alleged negligence committed by Ramos was not substantially proven as he was not expected to personally examine all loan documents that pass through his hands or to require the client to personally appear before him because he has subordinates to do those details for him;²⁵ (b) the issuance of the PO and ATD prior to the loan's approval is not an irregular procedure, but an ordinary occurrence in BPI Family;²⁶ and (c) the deduction does not fall under the exceptions prescribed under Article 113²⁷ of the Labor Code on allowable deductions.²⁸ Further, it found Ramos's consequent signing of the quitclaim to be without effect.²⁹

¹⁸ Id. at 53.

¹⁹ Id. at 103-118. Penned by Labor Arbiter Aliman D. Mangandog.

²⁰ Id. at 115.

²¹ Id. at 117.

²² Id. at 116.

²³ Id. at 119-135.

²⁴ Id. at 134.

²⁵ Id. at 129-130.

²⁶ Id. at 131.

²⁷ Article 113. Wage Deduction. No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:

a. In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;

b. For union dues, in cases where the right of the worker or his union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and

c. In cases where the employer is authorized by law or regulations issued by the Secretary of Labor and Employment.

²⁸ *Rollo*, p. 132.

²⁹ Id. at 133.

Accordingly, it ordered BPI Family to return/refund to Ramos the amount of ₱546,000.00, with additional payment of 10% thereof as attorney's fees.³⁰

BPI Family moved for reconsideration which was, however, denied by the NLRC on May 30, 2008;³¹ hence, it filed a petition for *certiorari* before the CA. Pending resolution thereof, Ramos submitted a manifestation that he had caused the execution of the NLRC decision and the sum amounting to ₱600,000.00 was released in satisfaction of his claim.³²

The CA Ruling

In a Decision³³ dated November 12, 2010, the CA affirmed the finding of negligence on the part of Ramos, holding that Ramos was remiss in his duty as head of Dealer Network Marketing/Auto Loans Division in failing to determine the true identity of the person who availed of the auto loan under the name "Trezita Acosta".³⁴ It observed that Ramos should have forwarded the documents for approval to the Loan's Review Section and/or the Credit Evaluation Section of the bank and should not have authorized the release of the car loan without clearance from the credit committee.³⁵ However, it also attributed negligence on the part of BPI Family since it sanctioned the practice of issuing the PO and ATD prior to the approval of the credit committee.³⁶ Such relaxed supervision over its divisions contributed to a large extent to its defraudation.³⁷ Thus, finding BPI Family's negligence to be concurrent with Ramos, the CA found it improper to deduct the entire ₱546,000.00 from Ramos's retirement benefits and, instead, equitably reduced the same to the amount of ₱200,000.00.³⁸

Ramos moved for reconsideration which was, however, denied in a Resolution³⁹ dated August 6, 2012. Hence, this petition.

The Issue Before the Court

The essential issue in this case is whether or not the CA erred in attributing grave abuse of discretion on the part of the NLRC when it found the deduction made from Ramos's retirement benefits to be illegal and unreasonable.

³⁰ Id. at 134.

³¹ Id. at 57 & 64.

³² Id. at 136-139.

³³ Id. at 52-65.

³⁴ Id. at 58.

³⁵ Id. at 60.

³⁶ Id. at 61.

³⁷ Id. at 62.

³⁸ Id. at 63-64.

³⁹ Id. at 67-69.

The Court's Ruling

The petition is meritorious.

To justify the grant of the extraordinary remedy of *certiorari*, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon them. Grave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction.⁴⁰ To be considered “grave,” the discretionary authority must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law.⁴¹

In labor disputes, the NLRC's findings are said to be tainted with grave abuse of discretion when its conclusions are not supported by substantial evidence. As held in the case of *Mercado v. AMA Computer College-Parañaque City, Inc.*,⁴² citing *Protacio v. Laya Mananghaya & Co.*:⁴³

The CA only examines the factual findings of the NLRC **to determine whether or not the conclusions are supported by substantial evidence whose absence points to grave abuse of discretion amounting to lack or excess of jurisdiction.** In the recent case of *Protacio v. Laya Mananghaya & Co.*, we emphasized that:

As a general rule, in *certiorari* proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. **However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if the same are not supported by substantial evidence. The Court has not hesitated to affirm the appellate court's reversals of the decisions of labor tribunals if they are not supported by substantial evidence.**⁴⁴ (Emphases supplied; citations omitted)

The requirement that the NLRC's findings should be supported by substantial evidence is clearly expressed in Section 5, Rule 133 of the Rules of Court which provides that “[i]n cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.”

⁴⁰ See *Global Business Holdings, Inc. v. Surecomp Software, B.V.*, G.R. No. 173463, October 13, 2010, 633 SCRA 95, 102.

⁴¹ *Balois v. CA*, G.R. No. 182130 & 182132, June 19, 2013.

⁴² G.R. No. 183572, April 13, 2010, 618 SCRA 218.

⁴³ G.R. No. 168654, March 25, 2009, 582 SCRA 417.

⁴⁴ *Mercado v. AMA Computer College-Parañaque City, Inc.*, supra note 42, at 232.

Applying the foregoing considerations, the Court finds the CA to have erred in attributing grave abuse of discretion on the part of the NLRC in finding that the deduction made from Ramos's retirement benefits was improper. Two (2) reasons impel the foregoing conclusion:

First, as correctly observed by the NLRC, BPI Family was not able to substantially prove its imputation of negligence against Ramos. Well-settled is the rule that the burden of proof rests upon the party who asserts the affirmative of an issue.⁴⁵ In this case, BPI Family failed to establish that the duty to confirm and validate information in credit applications and determine credit worthiness of prospective loan applicants rests with the Dealer Network Marketing Department, which is the department under the supervision of Ramos. Quite the contrary, records show that these responsibilities lie with the bank's Credit Services Department, namely its Credit Evaluation Section and Loans Review and Documentation Section,⁴⁶ of which Ramos was not part of.

Second, as similarly observed by the NLRC, Ramos merely followed standing company practice when he issued the PO and ATD without prior approval from the bank's Credit Services Department. In fact, as the CA itself notes, BPI Family adopted the practice of processing loans with extraordinary haste in order to overcome arduous competition with other banks and lending institutions, despite compromising procedural safeguards, viz.:⁴⁷

In a separate audit report (herein appended as Annex "E"), it was noted that marketing officers regularly issue or release purchase orders and authorities to deliver to car dealers (in case of dealer generated auto loan wherein a loan originates from the automobile dealer who submits the financing transactions, down payment and mortgage fee by the debtor-car purchaser to the bank) before the approval of the documents. **The report further noted that the practice has been adopted due in part to the stiff competition with other banks and lending institutions. Resultantly, in 2005 alone, approximately 111 car loan applications were released ahead of the approval of the credit evaluation section.**

Such findings of the auditing division have not been rebutted or countered as erroneous. **In fact, in all 111 instances, the bank did not attempt to rectify the flaw by calling the respondent's attention to the manner by which he disregarded important bank procedure or protocol in accommodating car loan applications.** It would seem unthinkable that respondent bank has had no knowledge thereof when its credit evaluation committee could have easily relayed the variations to the management for expedient solution. Any conscientious, well-meaning banking institution (such as respondent bank, We imagine) would have raised the red flag the moment the violation is first discovered. However, in the case before Us, respondent bank did not sound alarm until the

⁴⁵ *National Union of Workers in Hotels, Restaurants and Allied Industries-Manila Pavilion Hotel Chapter v. NLRC*, G.R. No. 179402, September 30, 2008, 567 SCRA 291, 305.

⁴⁶ *Rollo*, pp. 31-32.

⁴⁷ *Id.* at 62.


discovery of the first defraudation. **Without doubt, its uncharacteristically relaxed supervision over its divisions contributed to a large extent to the unfortunate attainment of fraud.** x x x
(Emphases supplied)

Based on the foregoing, it is readily apparent that Ramos's action of issuing the PO and ATD ahead of the approval of the credit committee was actually conformant to regular company practice which BPI Family itself sanctioned. As such, Ramos cannot be said to have been negligent in his duties. To this end, it is well to note that in loan transactions, banks are mandated to ensure that their clients wholly comply with all the documentary requirements in relation to the approval and release of loan applications.⁴⁸ As BPI Family "uncharacteristically relaxed supervision over its divisions," yielding as it did to the demands of industry competition, it is but reasonable that it solely bears the loss of its own shortcomings.

All told, absent any showing that the NLRC's decision was tainted with capriciousness or any semblance of whimsicality, the Court is wont to grant the present petition and accordingly reverse the CA decision.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 12, 2010 and Resolution dated August 6, 2012 of the Court of Appeals in CA-G.R. SP No. 104161 are **REVERSED** and **SET ASIDE**. The National Labor Relations Commission's Decision dated March 31, 2008 and Resolution dated May 30, 2008 in NLRC NCR 00-09-07510-06 are hereby **REINSTATED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

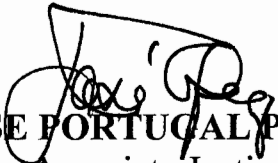


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


⁴⁸ *Far East Bank and Trust Company v. Tentmakers Group, Inc.*, G.R. No. 171050, July 4, 2012, 675 SCRA 546.



JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION


I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice