

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**MARIA LINDA FUENTES,  
*Petitioner,***

**-versus-**

**G.R. No. L-75955  
October 28, 1988**

**NATIONAL LABOR RELATIONS  
COMMISSION (NLRC), PHILIPPINE  
BANKING CORPORATION and JOSE  
LAUREL IV, as its President,  
*Respondents.***

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**D E C I S I O N**

**FERNAN, C.J.:**

Petitioner Maria Linda Fuentes seeks to set aside the Resolution dated November 28, 1985 of the National Labor Relations Commission (NLRC for brevity) affirming the Labor Arbiter's dismissal of her complaint for illegal dismissal against private

respondent Philippine Banking Corporation (Philbanking for brevity).

Petitioner was employed as a teller at the Philbanking's office at Ayala Avenue, Makati, Metro Manila. On May 28, 1982, at about 10:30 a.m., petitioner, who was acting as an overnight teller, received a cash deposit of P200,000.00. She counted the money with the assistance of a co-teller, finishing the task at 10:40 a.m. or ten (10) minutes after her closing time. Before she could start balancing her transactions, the Chief Teller handed her several payroll checks for validation. Finding the checks to be incomplete, petitioner left her cage to get other checks, without, however, bothering to put the P200,000.00 cash on her counter inside her drawer. When she returned to her cubicle after three (3) to five (5) minutes, she found that the checks for validation were still lacking, so she went out of her cubicle again to get the rest of the checks. On her way to a co-teller's cubicle, she noticed that the P200,000.00 pile on her counter had been rearranged. She thus returned to her cage, counted the money and discovered that one (1) big bundle worth P50,000.00 was missing therefrom. She immediately asked her co-teller about it and getting a negative reply, she reported the matter to the Chief Teller. A search for the P50,000.00 having proved unavailing, petitioner was asked to explain why she should not be held liable for the loss. She submitted her explanation on June 24, 1982.

Subsequently, on June 3, 1983, petitioner was dismissed for gross negligence. On June 21, 1983, she filed a complaint for illegal dismissal with reinstatement and backwages.

Private respondent bank seasonably filed an answer with counterclaim that petitioner be ordered to restitution the amount of P50,000.

On January 31, 1984, Labor Arbiter Bienvenido Hermogenes rendered a decision dismissing the complaint as well as the counterclaim but without prejudice as to the latter.<sup>[1]</sup> Petitioner's appeal to the NLRC was dismissed for lack of merit<sup>[2]</sup> and her motion for reconsideration was denied.<sup>[3]</sup> Hence, this petition.

The issue in this case is whether petitioner's dismissal on the ground of gross negligence was justified under Art. 282 of the Labor Code.

Upon a thorough consideration of the facts of this case, the Court finds no cogent reason for reversing the conclusion of the Labor Arbiter and the NLRC that petitioner was grossly negligent in the performance of her duties as a teller, which negligence resulted in the loss of P50,000.00.

Applying the test of negligence, we ask: did the petitioner in doing the alleged negligent act use reasonable care and caution which an ordinarily prudent person would have used in the same situation? If not, she is guilty of negligence.

The circumstances surrounding the loss in question lend us no sympathy for the petitioner. It was established that petitioner simply left the pile of money within the easy reach of the crowd milling in front of her cage, instead of putting it in her drawer as required under the private respondent bank's General Memorandum No. 211 (Teller's Manual of Operations) which she was expected to know by heart.<sup>[4]</sup> Moreover, she left the P200,000.00 on two occasions.<sup>[5]</sup>

Her irresponsibility is nowhere made apparent than in her response to the following question:

“Q Noong lumabas ka sa iyong cage para pumunta sa iyong Chief Teller, hindi mo ba ipinagbilin itong pera sa iyong kasamahan?

“A Hindi ko na ho ipinagbilin kasi masyadong maraming tao noon, at iyong aking teller's counter ay nilagyan ko ng sign na nakasulat ng ‘next teller please’ na ang ibig sabihin ay kung meron mang mga cliente doon sa akin ay doon muna sila maki-pagtransact ng negosyo sa kabilang teller o kung sino man ang bakante, kasi busy ako.”<sup>[6]</sup>

As a teller, petitioner must realize that the amount of care demanded by reasonable conduct is that proportionate to the apparent risk. Since it was payday and depositors were milling around, petitioner should have been extra cautious. At no time than the occasion under consideration was the need to be extra careful more obvious. It was certainly not the time to breach the standard operating procedure of

keeping one's cash in the drawer as a precautionary and security measure.

"A teller's relationship with the bank is necessarily one of trust and confidence. The teller as a trustee is expected to possess a high degree of fidelity to trust and must exercise utmost diligence and care in handling cash. A teller cannot afford to relax vigilance in the performance of his duties."<sup>[7]</sup>

Petitioner argues that there was contributory negligence on the part of private respondent bank consisting in its failure to conduct an investigation minutes after the loss. We do not agree with petitioner. The failure of private respondent bank to conduct an investigation minutes after the loss was totally distinct and independent of, as well as remotely related to the fact of loss itself.

Petitioner Fuentes cannot invoke private respondent's alleged contributory negligence as there was no direct causal connection between the negligence of the bank in not conducting the investigation and the loss complained of. In a legal sense, negligence is contributory only when it contributes proximately to the injury, and not simply a condition for its occurrence.

In the case at bar, the bank's inaction merely created a condition under which the loss was sustained. Regardless of whether there was a failure to investigate, the fact is that the money was lost in the first place due to petitioner's gross negligence. Such gross negligence was the immediate and determining factor in the loss.

Besides, the petitioner's position is anathema to banking operations. By conducting an instant search on its depositors for every loss that occurs, management holds suspect each depositor within its premises. Considering that currency in the form of money bills bears no distinct earmarks which would distinguish it from other similar bills of similar denominations except as to its serial numbers, any innocent depositor with P50,000 in his possession would be a likely suspect. Such act would do violence to the fiduciary relationship between a bank and its depositors. Ultimately it will result in the loss of valued depositors.

Petitioner argues further that the NLRC failed to consider that petitioner left her cage at the instance of the Chief Teller. Again we are not persuaded. The findings of the NLRC are clear. Petitioner left at her own volition to approach her Chief Teller to ask for the remaining checks to ascertain their authenticity and completeness. Besides, irrespective of who summoned her, her responsibility over the cash entrusted to her remained.

Although petitioner's infraction was not habitual, we took into account the substantial amount lost. Since the deposit slip for P200,000.00 had already been validated prior to the loss, the act of depositing had already been complete and from thereon, the bank had already assumed the deposit as a liability to its depositors. Cash deposits are not assets to banks but are recognized as current liabilities in its balance sheet.

It would be most unfair to compel the bank to continue employing petitioner. In Galsim vs. PNB,<sup>[8]</sup> we upheld the dismissal of a bank teller who was found to have given money to a co-employee in violation of bank rules and regulations. Said act, which caused prejudice to the bank, was a justifiable basis for the bank to lose confidence in the employee.

Similarly, in the case at bar, petitioner, as aforesaid, violated private respondent bank's General Memorandum, No. 211 (Teller's Manual of Operations) which strictly says:

"Cash should never be left exposed. The coins and currencies should be kept in drawers where they are not accessible to someone through the windows with the aid of a stick or other devices."<sup>[9]</sup>

An employer cannot legally be compelled to continue with the employment of a person admittedly guilty of gross negligence in the performance of his duties and whose continuance in his office is patently inimical to the employer's interest. "For the law in protecting the rights of the employee/laborer authorizes neither oppression nor self-destruction of the employer."<sup>[10]</sup>

**WHEREFORE**, the instant Petition is hereby **DISMISSED**. The assailed decision dated November 28, 1985 of the National Labor Relations Commission is affirmed in toto.

**Gutierrez, Jr., Feliciano, Bidin and Cortes, JJ., concur.**

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- [1] Annex "B," Petition, pp. 47-52, Rollo.
  - [2] Annex "F," Petition, pp. 76-81, Rollo.
  - [3] Annex "H," p. 85, Rollo.
  - [4] P. 51, Rollo.
  - [5] P. 50 and 79, Ibid.
  - [6] P. 62, Rollo.
  - [7] Galsim vs. PNB, G.R. No. 23921, August 24, 1969, 29 SCRA 293; Allied Banking Corporation vs. Castro, et al., G.R. No. 70608, December 22, 1987.
  - [8] Supra.
  - [9] P. 97, Rollo.
  - [10] Manila Trading Supply vs. Zulueta, 69 Phil. 435.
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